

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, AUGUST 24, 2010
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CALL TO ORDER and ROLL CALL

Mayor Warner called the August 24, 2010 Town Council Meeting to order at 7:37 p.m. The following members answered roll call: Ms. McAtamney, Mr. Dudick, Mr. Bergeron, Mr. Burke, Mr. Mamula, Mr. Joyce, and Mayor Warner.

APPROVAL OF MINUTES – August 10, 2010 Regular Meeting

Mr. Burke made one correction on the first page of the minutes and clarified that it was Mr. Bergeron, not Mr. Dudick who commented on Mr. Burke's statements about the tennis courts. Mayor Warner also had a correction on the second page, first paragraph where he stated the choices for tonight's meeting. He would like the wording to be changed from "to appeal, to repeal, or continue the ordinance" to "approve or continue the ordinance".

With no other changes or corrections to the meeting minutes of August 10, Mayor Warner declared the minutes were approved as corrected.

APPROVAL OF AGENDA

There were no changes.

COMMUNICATIONS TO COUNCIL

A. Citizen's Comments - (Non-Agenda Items ONLY; 3 minute limit please)

Wally Ducayet presented a cookbook to the council members.

Sherry Shelton, from the Merchants Association came to express her concern with traffic flow and how to bring more shoppers to Main Street. She understands that the Town has taken a lot of time figuring out parking issues throughout town and would like Council to help local merchants with their questions they have regarding these issues.

Deana Raitman, a local citizen stated that she is tired of people saying that Breckenridge is congested with traffic - she feels that it is not. Ms. Raitman also doesn't feel that we need to get rid of our events that we have in town due to the extra congestion. She feels that the town should look at more event possibilities in order to keep the tourists coming back to Breckenridge. Ms. Raitman loves to see the tourists coming to enjoy the town. Mayor Warner thanked her for her comments.

Sharon Edwards, owner of Heart's Delight stated that she helped Sherry Shelton organize the Merchants Association. She came to express the need for more signs in the town's free parking lots that say "Free after 3:00 p.m.". Ms. Edwards also expressed the idea of having areas for ski storage near Main Street to make it convenient for people to come into town. She thought that a winter shuttle into town would be a great idea. Mayor Warner clarified that there is a problem with buses on Main Street because they just don't move along in traffic very well. Mayor Warner stated that it's a priority for tourists to have a good place to park and then everyone else comes after that. Mr. Bergeron complimented some of the local business owners on being very good about having their employees car pool or park in outlying areas but feels the town would need a buy-in from local businesses. Mayor Warner added that we might need the Merchant Association to go along with the shuttle concept as well but that the Council is in agreement about the importance of being visible and consistent. Mr. Dudick shared information about the Breckenridge Resort Chamber board of directors meeting taking place tomorrow morning at 8:30 and suggested that Ms. Edwards attend during the guest and member comments portion of the meeting to become integrated with what the BRC is doing.

Eric Westerhoff, employee of Innovative Energy is very excited that the town is interested in the Power Purchase Agreement (PPA) solar project and would like to help out in any way possible. Of the three PPA providers that Mr. Westerhoff has talked to, most of them suggested that the request go out to companies in the form of a Request for Proposal (RFP). The incentives continue to get better and there are no up-front costs. However, due to the alpine conditions here in Breckenridge it would require different equipment and engineering than Front Range communities which might come at a higher cost and lower rate of return. Mr. Westerhoff stated that the police department building would be good option for the solar panels but had some concern regarding the ice rink since the roofs are designed to move. Mr. Westerhoff advised Council to think very carefully about where these systems will be placed and pointed out that roof-mount systems will work well. Flat roofs are difficult to do ballast masts on the roof because of the wind and snow conditions so Mr. Westerhoff suggested creating a solar garden on the ground. Mr. Mamula asked about space requirements for a solar garden. Mr. Westerhoff informed the Council that a solar garden would start off as small as a half an acre. Mr. Dudick asked if the solar garden had to be local. Mr. Westerhoff clarified that the solar garden would have to have the same service provider, such as Xcel Energy and that it has to be within the same County.

CONTINUED BUSINESS

A. **SECOND READING OF COUNCIL BILL, SERIES 2010 – PUBLIC HEARINGS**

1. **Council Bill No. 19, Series 2010 - AN ORDINANCE REPEALING ORDINANCE NO. 23, SERIES 2009, CONCERNING THE PROPOSED ANNEXATION OF A PARCEL OF LAND TO THE TOWN OF BRECKENRIDGE (Entrada – 3.98 acres, more or less)**

Town Attorney Tim Berry explained that this ordinance would repeal Ordinance No. 23, Series 2009. Mr. Berry talked to Kirk Michelson, one of the owners of the Entrada property to see if there is a realistic chance for an alternative proposal. Mr. Michelson wasn't overly optimistic about an alternate proposal. Mr. Berry felt that there was sufficient cause to

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continue the ordinance until the September 14 council meeting. Mr. Michelson understood that Council would need to make a decision regarding the ordinance at that time.

Mayor Warner opened the public hearing. There were no further comments and the public hearing was closed.

Mr. Dudick moved to continue Council Bill No. 19, Series 2010 as previously read into the record to the September 14 meeting. Mr. Mamula seconded the motion. The motion passed 7-0.

2. **Council Bill No. 22, Series 2010 - AN ORDINANCE ESTABLISHING THE "BRECKENRIDGE MARKETING COMMITTEE" AS AN ADVISORY BOARD OF THE TOWN OF BRECKENRIDGE**

Mr. Berry explained that this ordinance would create a marketing advisory committee that would establish the rules and regulations for their operation. There were no changes from the first reading.

Mayor Warner opened the public hearing. Toby Babich, owner of Resort Managers in Breckenridge expressed his concern about where these funds would be allocated five to ten years into the future. He felt the need for more direct language that the funds would be spent on efforts that would produce more money. Mr. Babich had a concern about using a dedicated fulfillment center for marketing dollars. Mr. Bergeron asked for clarification on what a "dedicated fulfillment center" was. Mr. Babich gave the example of Central Reservations that the Breckenridge Resort Chamber uses. Mr. Mamula added that he talked to Toby earlier and feels that these suggestions should be written into the rules and regulations once the committee is set up. Mr. Babich thanked Council for their time.

Mitchell Weiss, of the Pineridge Home Owners Association expressed that this would be a perfect opportunity for this marketing committee to combine other groups into one larger committee and focus on all assets and tools in order to be more effective. Mr. Gagen added that Kim DiLallo is accepting applications for this committee and Council will conduct interviews in September of this year.

There were no further comments and the public hearing was closed. Mr. Mamula moved to approve Council Bill No. 22, Series 2010. Mr. Joyce seconded the motion. The motion passed 7-0.

3. **Council Bill No. 23 Series 2010 - AN ORDINANCE DESIGNATING CERTAIN FUNDS FOR USE IN CONNECTION WITH THE "TOWN OF BRECKENRIDGE MARKETING FUND"**

Mr. Berry explained this ordinance would provide certain revenues and would be included in the marketing fund if approved by the voters at the November 2 election. The funds would include the money received by the elimination of the sales tax vendor's fee back in 1992, .004 accommodation tax, the Business & Occupational/Sales Tax License (BOLT) fund, all revenue collected from the one percent increase in accommodation tax if approved by voters on November 2, and an additional one-half percent public accommodation tax. There were no changes from the first reading. Mr. Dudick asked Mr. Gagen for clarification relative to how we determine the budget amount if it isn't really known until the 2011 budget is completed. Mr. Gagen explained that they start with the 2010 dollar amount as a baseline and then Council moves on from that point. They can change the budget mid-year if Council sees any performance changes or leave the budget the way it is and it will roll into the fund balance. After that, Council can decide how to spend the fund balance. Mr. Dudick expressed his opinion that it is better business to come up with actual dollar amount. Mr. Gagen explained that staff will give them a certain number ahead of time based on projections from 2010 and when it comes time for the budget retreat, Council will decide what the amount will be beyond that. Mr. Joyce added that it would be important to share what their vision is and then verify what funds are available. Mr. Gagen stated that in the past, the town has done a little better than what they originally projected.

Mayor Warner opened the public hearing. There were no further comments and the public hearing was closed.

Mr. Bergeron moved to approve Council Bill No. 23, Series 2010 with the correction on page 82, line 12, the first "that" would be stricken from the ordinance. Ms. McAtamney seconded the motion. The motion passed 7-0. Mr. Mamula thanked Mr. Dudick for getting this organized.

4. **Council Bill No. 24, Series 2010 – AN ORDINANCE SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF BRECKENRIDGE AT THE GENERAL ELECTION TO BE HELD ON NOVEMBER 2, 2010 THE QUESTION OF WHETHER, COMMENCING JANUARY 1, 2011, THE "TOWN OF BRECKENRIDGE PUBLIC ACCOMMODATION TAX" TAX RATE SHOULD BE INCREASED FROM 2.4% TO 3.4% ON THE PRICE PAID FOR THE LEASING OR RENTAL OF ANY HOTEL ROOM, MOTEL ROOM OR OTHER ACCOMMODATION LOCATED IN THE TOWN AS A TAX RATE INCREASE TAX PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION; REQUIRING ALL OF THE INCREASED PUBLIC ACCOMMODATION TAX REVENUES COLLECTED BY THE TOWN AS A RESULT OF THE TAX RATE INCREASE TO BE PAID INTO A SPECIAL FUND OF THE TOWN AND USED ONLY TO MARKET AND ADVERTISE THE TOWN; SETTING FORTH THE BALLOT TITLE; AND PROVIDING FOR THE CONDUCT OF THE ELECTION**

Mr. Berry explained this ordinance is actually the TABOR ordinance that was submitted to increase accommodation tax for the November 2 election. There is an amendment from first reading where the amount of post tax increase has been estimated and will go into the ordinance at \$985,000. Other than that change, there were no other changes from the first reading.

Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

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Mr. Dudick moved to approve Council Bill No. 24, Series 2010 as it appears in the agenda. Mr. Mamula seconded the motion. The motion passed 7-0.

5. **Council Bill No. 26, Series 2010** – AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 1 OF TITLE 7 OF THE BRECKENRIDGE TOWN CODE; ADOPTING BY REFERENCE THE MODEL TRAFFIC CODE FOR COLORADO, 2010 EDITION, PUBLISHED BY THE COLORADO DEPARTMENT OF TRANSPORTATION; MAKING CERTAIN AMENDMENTS TO THE MODEL TRAFFIC CODE FOR COLORADO, 2010 EDITION; AND PROVIDING PENALTIES FOR THE VIOLATION OF THE MODEL TRAFFIC CODE FOR COLORADO, 2010 EDITION

Mr. Berry explained that the town periodically adopts the State Model Traffic Code so that it can be made applicable to municipalities. The form of the ordinance included in the agenda packet has already been approved by the Colorado Department of Transportation (CDOT). There were no changes from the first reading.

Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

Mr. Joyce moved to approve Council Bill No. 26, Series 2010. Ms. McAtamney seconded the motion. The motion passed 6-1 with Mr. Burke voting in opposition to the ordinance.

6. **Council Bill No. 27, Series 2010** - AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 5 OF THE Breckenridge Town Code BY ELIMINATING THE DISTANCE RESTRICTIONS FOR HOTEL & RESTAURANT LIQUOR LICENSES ISSUED FOR THE CAMPUS OF A JUNIOR COLLEGE DISTRICT LOCATED WITHIN THE CORPORATE LIMITS OF THE TOWN OF BRECKENRIDGE

Mr. Berry explained that this ordinance would make it possible for Colorado Mountain Collage (CMC) apply for a liquor license and offer culinary cooking classes for their students. Currently, State law requires that a licensed premise can't be within 500 feet of a school. However, a local governing board can change the law. This ordinance would modify the rule and allow the town's liquor licensing authority to grant a Hotel and Restaurant liquor license to CMC. There were no changes from the first reading.

Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

Mr. Bergeron moved to approve Council Bill No. 27, Series 2010. Mr. Mamula seconded the motion. The motion passed 7-0.

7. **Council Bill No. 28, Series 2010** – AN ORDINANCE ADOPTING CHAPTER 21 OF TITLE 1 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE PUBLICATION OF TOWN ORDINANCES, NOTICES, AND OTHER DOCUMENTS

Mr. Berry explained this ordinance was approved by voters during the April 2010 election to allow the publication of town ordinances on the town website as long as it is not required by State or Federal law. If publication is not required, then the ordinances would be published for five consecutive days on town's website. The ordinance would also allow the Town Clerk to set up the administrative rules and regulations regarding publication. There were no changes from the first reading.

Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

Mr. Bergeron moved to approve Council Bill No. 28, Series 2010. Mr. Burke seconded the motion. The motion passed 7-0.

NEW BUSINESS

A. FIRST READING OF COUNCIL BILL, SERIES 2010

1. **Council Bill No. 29, Series 2010** – AN ORDINANCE AMENDING CHAPTER 12 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE CONCERNING EXTERIOR LIGHTING

Julia Puester of the Community Development Department explained that this ordinance would combine the definition of holiday and bistro lighting into one term to be called decorative lighting. It would also allow all lighting in zone one and two to be on all year. Zone three would be allowed for display from November 1 to February 1 of the following year. The ordinance also states that decorative lighting would be converted to LED lighting. Ms. Puester mentioned that the amendments made during the work session would be included for the second reading.

Mr. Mamula moved to approve Council Bill No. 29, Series 2010 An Ordinance Amending Chapter 12 of Title 9 of the Breckenridge Town Code Concerning Exterior Lighting. Mr. Burke seconded the motion. The motion passed 7-0.

B. RESOLUTIONS, SERIES 2010

1. A RESOLUTION APPROVING THE SALE OF THE TOWN'S RAILROAD LOCOMOTIVE #111 TO THE STATE HISTORICAL SOCIETY OF COLORADO

Mr. Berry explained that this resolution would sell railroad engine #111 to the Colorado Historical Society (CHS) for \$230,000 and would also allow the town to enter into a loan agreement with the CHS for engine No. 9.

Mr. Joyce moved to approve a Resolution Approving the Sale of the Town's Railroad Locomotive #111 to the State Historical Society of Colorado. Mr. Burke seconded the motion. The motion passed 7-0.

2. A RESOLUTION APPROVING A LOAN AGREEMENT WITH THE STATE HISTORICAL SOCIETY OF COLORADO (RAILROAD ENGINE #9)

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Mr. Berry explained that this resolution would authorize the loan agreement for engine No. 9. Mr. Berry pointed out a revision to the resolution on page one, line 12 which strikes out the words "and tender collectively" because there will be a third agreement later on dealing with the tender. Mr. Berry made Council aware that the date of delivery is November 2010 and the shelter for the engine shall be constructed no later than June 30, 2011.

Mr. Burke moved to approve a Resolution Approving a Loan Agreement with the State Historical Society of Colorado (Railroad Engine #9) according to the version that was handed out to Council from Mr. Berry. Ms. McAtamney seconded the motion. The motion passed 7-0.

A. OTHER

1. Amazing Grace Parking Variance.

The hearing on the Amazing Grace Parking Variance was held in accordance with Section 9-3-16: "Relief Procedures" of the Town's Off-Street Parking Regulations. A verbatim tape recording of the proceedings was made and will be maintained as required by law. No attempt is made in these minutes to set forth a verbatim record of the proceedings of this hearing.

Mr. Bergeron disclosed for the record that his wife is employed by the proponent to the discussion and would like to be excused. There was a discussion among the Council on whether or not Mr. Bergeron should have the ability to excuse himself from the vote.

Mayor Warner asked for discussion from the Council. The Council members took turns expressing their thoughts on the matter. Council felt that Mr. Bergeron's opinion was valued in this situation. One council member expressed respect for Mr. Bergeron's reasoning to abstain from the vote. However, they generally felt that Mr. Bergeron should stay and participate in the vote.

At the conclusion of the variance hearing, Mr. Dudick moved to approve the Amazing Grace Parking Variance to allow for a waiver of the requirement to place two (2) parking spaces on the property in the rear yard, based on the presentation by the staff and the applicant, along with the variance findings and conditions provided in the August 24, 2010 Town Council packet. Mr. Bergeron seconded. The motion passed 7-0.

PLANNING MATTERS

A. Planning Commission Decisions of August 17, 2010

There were no requests for call up. Mayor Warner declared the Planning Commission Decisions were approved as presented.

B. Town Council Representative Report

No report.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen pointed out an email from Kim DiLallo and Vanessa Agee regarding the Quiznos Pro Challenge bike race where the town would host the event next year. Mr. Gagen explained that the scope of dollars involved for the proposal would need to be submitted by September 10. The group is meeting and trying to refine those numbers. Ms. McAtamney asked how many other communities were solicited. Mr. Gagen confirmed that Aspen, Steamboat Springs, Boulder, Frisco, and Vail were some of the communities that were solicited. Mr. Gagen suggested the possibility of having a council member volunteer to be a representative.

Mr. Gagen explained that the Summit County Housing Authority discussed the letter from Sean McAllister regarding capital improvements where he was asking for a substantial increase in funds for capital improvements.

The month of June was a little weak as far as financials go. The Beaver Run Homeowners Association will buy the convention/conference services from Beaver Run. Mr. Gagen also added that the Valley Brook project is really going very well and that all of the units are spoken for with contracts process. Laurie Best of the Community Development Department reported on a particular property on Rodeo Dr in the Wellington neighborhood which sustained substantial loss on the property. Ms. Best investigated the loss on the property.

REPORT OF MAYOR AND COUNCILMEMBERS

A. CAST/MMC (Mayor Warner) – Mr. Warner reported that the next meeting of CAST is on Thursday and Friday. Mayor Warner reported that he and Ms. McAtamney met with Little Red Schoolhouse and Ms. McAtamney put together a terrific PowerPoint presentation. The commission was impressed with the amount of money that the town has allocated towards childcare. They will be reconvening their advisory committee that was initially set up and their members were interested in participating in this.

B. Breckenridge Open Space Advisory Commission (Ms. McAtamney) – Ms. McAtamney stated that the meeting was cancelled this month.

C. Breckenridge Resort Chamber (Mr. Dudick) - Mr. Dudick reported that the BRC has signed a lease in the Bly Building on Ski Hill Road and will save approximately \$40,000 per year in expenses when they move to the new location.

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They asked that the contract **be three (3) years in duration** because they would need to get a line of credit and wouldn't be able to with the town being a funding source. There was a discussion between council members about this issue and it was decided that a temporary solution would be a line of credit through the town and then have the marketing committee **discuss a possible** long-term contract when the committee is formed.

D. **Summit Combined Housing Authority** (Mr. Joyce) – Mr. Joyce reported that this committee is not currently meeting.

E. **Breckenridge Heritage Alliance** (Mr. Burke) – Mr. Burke had nothing to report.

F. **Sustainability** (Mr. Bergeron, Mr. Joyce, Mayor Warner) – Mr. Bergeron stated that their next meetings were on September 2 and September 10.

OTHER MATTERS

Mr. Gagen brought up the request for reimbursement from Nicholas Farkouh of Base Building Solutions regarding the contract with Mercy Housing. Mr. Gagen stated that Town Engineer Tom Daugherty did tell Mr. Farkouh that the Council's original decision was that the Town doesn't compensate people for bidding. One of Mr. Mamula's concerns was that Mr. Farkouh was told by Mercy that he would be compensated for the preconstruction services. Mr. Burke added that it was his understanding that the contract was to be paid once construction was started. Mr. Joyce clarified that if someone is providing services for a customer, then that person would agree on a preconstruction scope of work. Mr. Joyce added that Base Building Solutions did follow the whole bidding process and felt that he should be talking to Mercy, rather than the Town if the services were provided to Mercy. Mr. Gagen stated that Mercy did negotiate the contract and that they were the preferred bidder but they chose to walk away from the contract. Mr. Mamula added that everyone knew that they were having issues with the contract and he wasn't surprised that they quit the process. Mr. Gagen clarified that Mercy was very up-front with the Town regarding changes in the contract but in the end Mercy decided to separate from the contract. Mayor Warner summarized the conversation stating that the answer to Mr. Farkouh's request for money would be denied and that the Town didn't stray from the contract.

Mr. Joyce would like to revisit the use of the bike path in town and thinks that our section in Breckenridge is the worst section of the whole system and felt that our section gets the highest use. Mr. Gagen clarified that the repaving of the bike path will be included in the budget for next year.

Mr. Mamula commented on the sign at the Sally Barber trailhead kiosk and felt that is poorly done because the "you are here" red "x" is in the wrong location. He has called the State Forest Service and has talked to Heide Andersen in the Community Development Department about the error. Mr. Mamula also added that the acrobat performance at the Riverwalk Center was amazing, especially for the price of only \$5.00 and that the Riverwalk staff did a great job. He and his family also enjoyed the Tons of Trucks exhibit and thanked the Recreation Center staff for their interaction with the kids. Mr. Mamula also thanked Scott Jackman of Public Works for being a great ambassador to the town and added that the fire department and police department also did a great job.

Mr. Dudick would like to talk to the Director of Communications for the town, Kim DiLallo about launching some mobile websites for the people entering Breckenridge. The website address would be displayed on one of the message boards outside of town and would direct people to important information such as parking, events, and activities.

Mr. Burke reminded Council about the ski lift user tax and would like to get Vail Resorts on board with it. Mr. Gagen added that Council will be receiving a memo about finances for the parking structure and consolidation of the transit system. Mr. Burke's view is that we should relieve some other funds like transportation or recreation. He would also like to look at signage issues in town for merchants. Mr. Gagen stated the possibility of bringing it back to Council and then deciding how to proceed. Mr. Mamula pointed out one concern that has happened in the past where citizens attend the Council meeting at 7:30 and fail to stay for the remainder of the evening to understand what is happening during the meeting.

Mr. Bergeron made a suggestion regarding the staffing of the Director of Recreation Center position. He suggested that the town consider filling the job and then backfill with other job tasks to other employees. Mr. Gagen clarified that the town always evaluates the situation first and then decides whether to reorganize or consolidate positions. .

Mayor Warner reminded everyone about the going-away party for Lynn Zwaagstra at Carter Park tomorrow.

SCHEDULED MEETINGS

There were none.

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 10:07 p.m.

Submitted by Jena Taylor, Administrative Specialist.

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ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor