



BRECKENRIDGE TOWN COUNCIL WORK SESSION
Tuesday, November 23, 2010; 3:00 p.m.
Town Hall Auditorium

ESTIMATED TIMES: *The times indicated are intended only as a guide. They are at the discretion of the Mayor, depending on the length of the discussion, and are subject to change.*

			Page
3:00 – 3:15 p.m.	I	<u>PLANNING COMMISSION DECISIONS</u>	2
3:15 – 4:00 p.m.	II	<u>LEGISLATIVE REVIEW*</u>	
		Mill Levy Ordinance	separate cover
		Water Ordinance – Billing-Account SU Fees	11
		Municipal Court Cost Fee Increase	16
		Sign Code Amendment	22
		Assault Ordinance Amendment	28
		Wellington Neighborhood Annexation Agreement Modification	31
		Statewide Internet Portal Authority (SIPA) Grants- Intergovernmental Agreement	47
4:00 – 4:15 p.m.	III	<u>MANAGERS REPORT</u>	
		Public Projects Update	Verbal
		Housing/Childcare Update	Verbal
		Committee Reports	57
		Financials	62
4:15 – 5:30 p.m.	IV	<u>PLANNING MATTERS</u>	
		Energy Policy	74
		Medical Marijuana Dispensaries – Location Changes	79
		Landscape Ordinance	80
5:30 – 6:30 p.m.	V	<u>OTHER</u>	
		Local Preference Bidding	89
6:30 – 7:15 p.m.	VI	<u>EXECUTIVE SESSION</u>	
		Acquisition	

****ACTION ITEMS THAT APPEAR ON THE EVENING AGENDA***

NOTE: Public hearings are not held during Town Council Work Sessions. The public is invited to attend the Work Session and listen to the Council's discussion. However, the Council is not required to take public comments during Work Sessions. At the discretion of the Council, public comment may be allowed if time permits and, if allowed, public comment may be limited. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item. The public will be excluded from any portion of the Work Session during which an Executive Session is held.

Report of Town Manager; Report of Mayor and Council members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items.

MEMORANDUM

To: Town Council

From: Peter Grosshuesch

Date: November 17, 2010

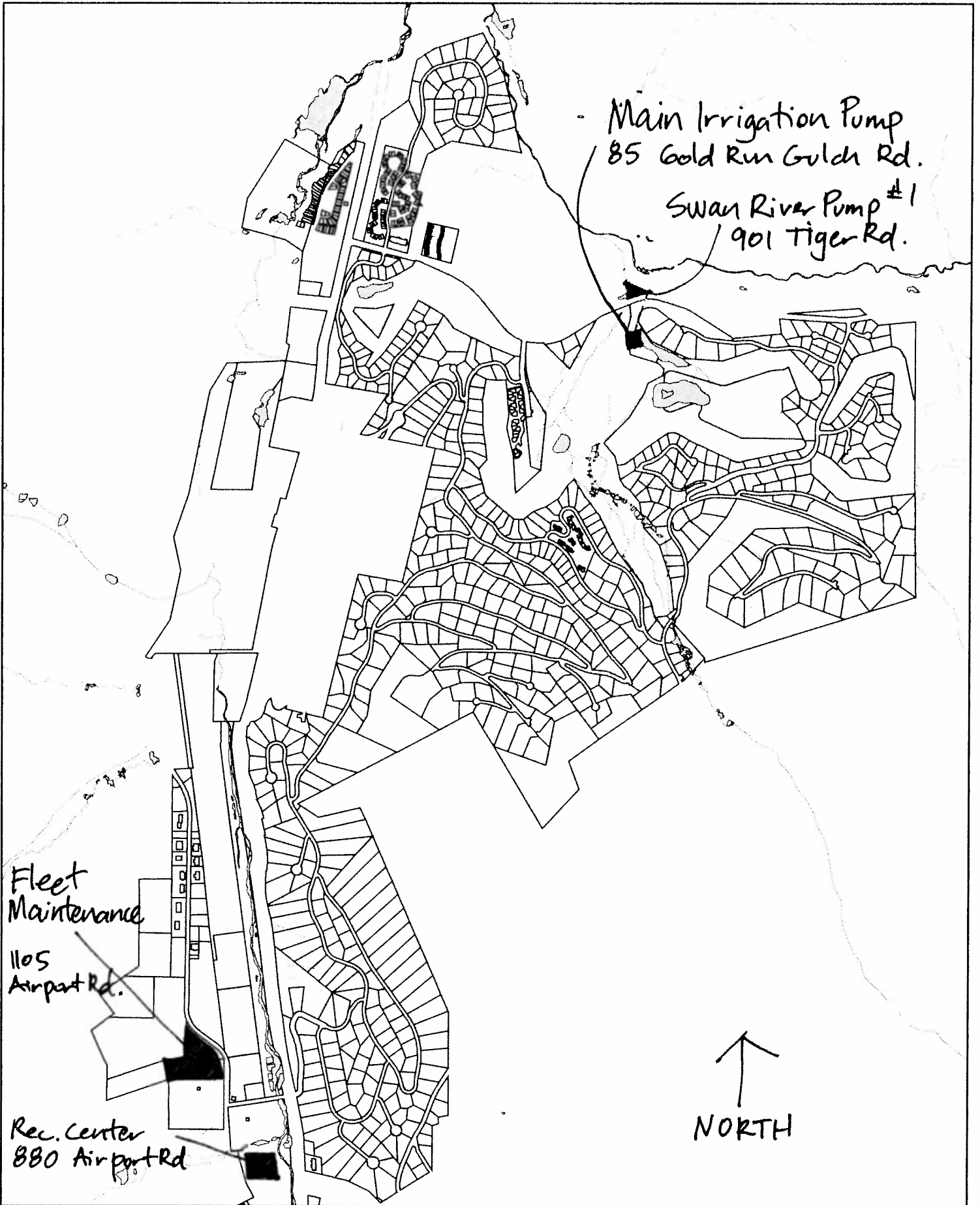
Re: Town Council Consent Calendar from the Planning Commission Decisions of the November 16, 2010, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF November 16, 2010:

CLASS C APPLICATIONS:

1. Schauder Residence Addition, PC#2010058, 87 Sunrise Point Drive

Addition to an existing single family home to create a total of 5 bedrooms, 5 bathrooms, 5,440 sq. ft. of density and 5,968 sq. ft. of mass for a F.A.R. of 1:2.40. Approved.



Town of Breckenridge and Summit County governments assume no responsibility for the accuracy of the data, and use of the product for any purpose is at user's sole risk.

Breckenridge North

printed 2007

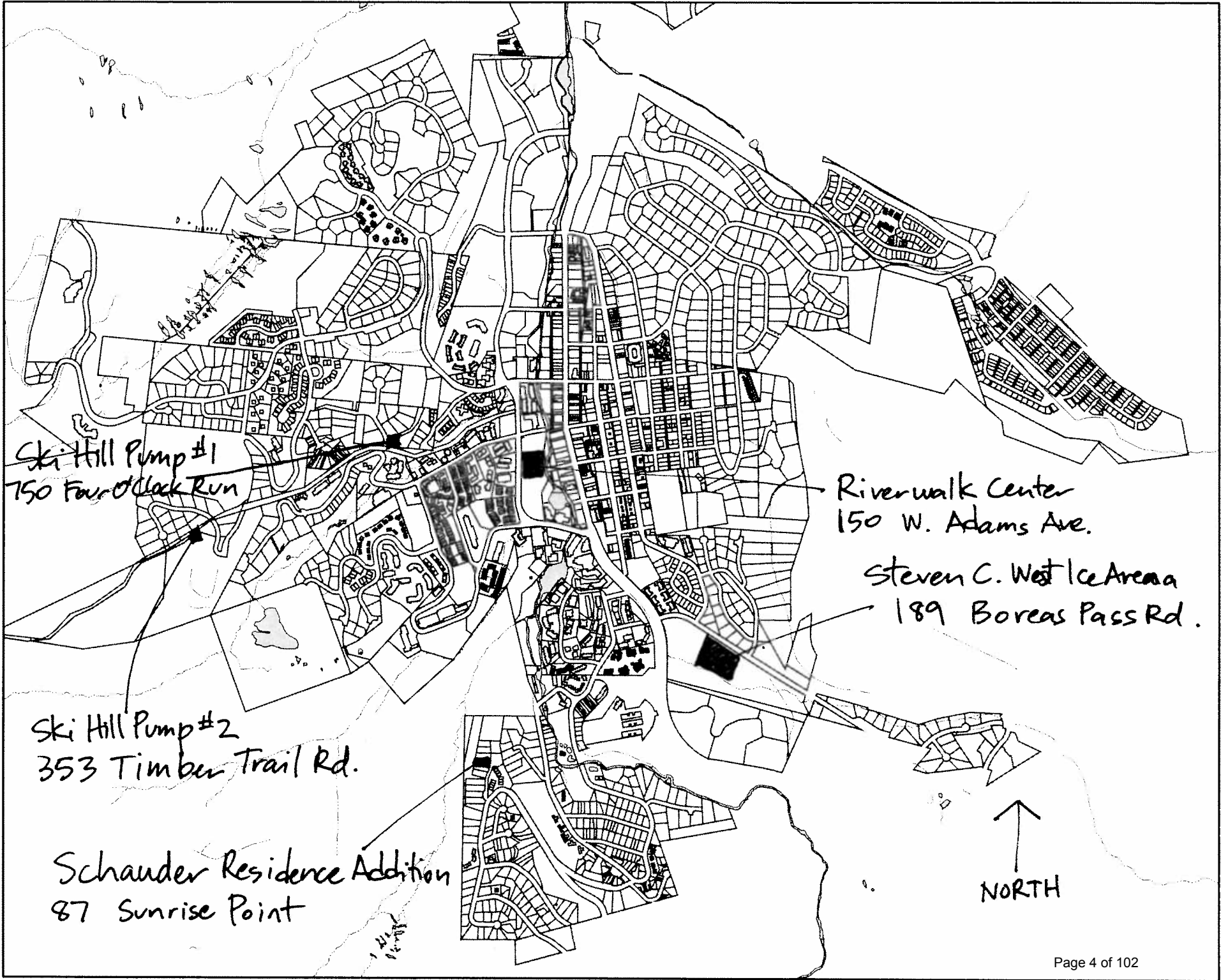




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Breckenridge South

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Ski Hill Pump #1
750 Four O'Clock Run

Riverwalk Center
150 W. Adams Ave.

Steven C. West Ice Area
189 Boreas Pass Rd.

Ski Hill Pump #2
353 Timber Trail Rd.

Schauder Residence Addition
87 Sunrise Point

NORTH

PLANNING COMMISSION MEETING

The meeting was called to order at 7:00 p.m.

ROLL CALL

Dan Schroder	Jack Wolfe	Rodney Allen
Trip Butler	Kate Christopher	Gretchen Dudney
Dave Pringle (arrived at 8:39pm)		

APPROVAL OF MINUTES

With no changes, the November 2, 2010, Planning Commission meeting minutes were approved unanimously (7-0).

APPROVAL OF AGENDA

With no changes, the Agenda for the November 16, 2010 Planning Commission meeting was approved unanimously (7-0).

CONSENT CALENDAR:

1. Schauder Residence Addition (MGT) PC#2010058, 87 Sunrise Point Drive

With no requests for call up, the Consent Calendar was approved as presented.

WORKSESSIONS:

1) Non-Natural Materials (CN)

Mr. Neubecker presented. The Town Council recently directed the staff to research the existing policy on the use of non-natural siding materials on buildings. This was in response to a citizen speaking to the Council during the Citizen's Comments period of one of their meetings this past summer. The Council indicated that it was time for the Town to reconsider its policy of assigning negative points, specifically as it relates to the use of fiber-cement siding (the industry term) outside the Conservation District. (The Council did not review the policy in detail, nor did it review samples of the products.) The use of non-natural materials is currently discouraged in the Breckenridge Development Code through the assignment of negative points for projects outside the Conservation District, when non-natural materials exceed 25% per side. (Note that the code does not specifically mention fiber-cement siding, but its application has been compared to stucco, and points have been similarly assigned based on the amount of material applied to a building's elevation.) We have received many inquiries in the past into the use materials such as Hardi-board (James Hardy Siding), CertainTeed fiber-cement siding, and other "cementicious" siding products. These products can be designed to look like wood products, and manufactures claim that they have lower maintenance costs, contain some recycled content, and are much more fire resistant. As a result, many architects, developers and property owners prefer to use these products, rather than cedar or other natural wood products.

Staff provided samples of fiber-cement siding from James Hardy and CertainTeed companies and introduced a representative from James Hardy Inc.

A few suggestions on how we could move forward on this policy include:

- Reduce the amount of negative points for the use of fiber-cement and other non-natural materials.
- Increase the allowed area (from 25% to 50%) before negative points are assigned.
- Remove the negative points altogether, recognizing the durability and improved safety of this material.

Staff welcomed the Commission's input on these ideas.

1. Does the Commission believe that fiber-cement siding looks "natural"?
2. Does the Commission believe that negative points should still be assigned?
3. Should negative points be removed, or reduced, for the use of fiber-cement siding?

Commissioner Questions / Comments:

Mr. Schroder: I don't feel we need to assign negative points to cementicious siding. They can already do 100% non-natural siding, but it will get negative points. I support the 3rd bullet (removing negative points).

- Ms. Christopher: Cementitious should be the focus. Maybe add stucco also. I prefer only wood grain finish. Likes use of safer product - wants it to look natural. Maybe loosen rules, but still assign some negative points when exceeding by 50% (or some other percentage) non-natural. A portion of the house should be natural materials - not 100% non-natural. Using natural stone on bottom and fiber cement siding above that would be ok.
- Ms. Dudney: Any special protection required for workers to install? (Mr. Dustin, Representative from James Hardy Siding: Don't want to be in an enclosed area—need proper ventilation.) Particularly interesting to condo projects because of low maintenance costs? (Mr. Dustin: Depends on products - biggest benefit is the 30 year warranty.) Not bullet #3 - maybe don't remove negative points altogether but go more with a "natural looking" test. Non-natural trim material doesn't look as good. Besides, the architects like using some wood on the building. Removing all the negative points could have unintended consequences.
- Mr. Wolfe: Are there different grains in Hardie board? (Mr. Neubecker: Maybe write to say it has a wood grain finish.) Wouldn't there still be wood trim? (Mr. Matthew Stais, Local Architect: 40 feet above ground Fire Department requires either fire-treated or composite for everything - trim, etc. On lower sections we like to go with wood trim. Wood trim easier to work with than nailing small pieces of composite, and adds natural look.) Why would we apply a percentage to it at all? Treat cementitious as wood. Should not be smooth. If it looks like wood, then ok, then allow it anywhere, if it has a grain. But use some natural wood on trim.
- Mr. Butler: Cementitious good substitute for wood - would be okay with allowing 75 percent.
- Mr. Allen: What kind of maintenance is required? (Mr. Dustin: Warranty for substrate is 30 years and 15 years to repaint.) Don't need special paint - just an acrylic. Masonite not on table for discussion - out of date. Maybe outside Conservation District composite board should have to be stained as opposed to paint (save paint for Conservation District). Could be ok with cementitious siding if there was some natural rock. Okay with no negative points as long as it appears natural.

Mr. Allen opened the worksession to public comment.

Mr. Matt Stais (Architect): Lower cost to condo projects because less need for patching and prepping prior to repainting. Clients are almost always asking for the composite product - life cycle costs are lower. Generally higher installation cost but lower overall cost savings with maintenance over time. Fire safety is another important concern. Lots of outlying buildings have composite materials. Product is better in quality now and people are very comfortable with it. Perhaps don't define the grain of the product: new products will emerge. Has had requests from some clients to go 100% with cementitious. Would like option to use all fiber cement, including trim.

Darci Hughes (Architect): Very in favor of allowing this product - 30 year warranty helps. Environmentally friendly/recycled content and lower maintenance. Likes the existing language used in the Conservation District: "new materials that appear to be the same in scale and texture."

Clark Johnson (Builder): Supports use of product. We have a home built 10 years ago - wood siding especially on south side is cracking; wood deteriorates over time whereas composite is more durable. Many builders in County are using product with success.

There was no more public comment and the worksession was closed.

Mr. Neubecker: We could write in code "a stained, rougher look" outside the Conservation District.

Commission as a whole: Like cementations product. Needs to look like wood outside the district. Agree with removing all negative points (most favor) - Ms. Kate Christopher is also okay as long as it appears like wood. Trim ok.

2) Temporary Vendor Carts (CN/MFT)

Mr. Neubecker presented. Staff has recently received many requests for temporary vendor cart permits. These are vendors selling food for immediate consumption from a small cart, wagon or booth. In addition, staff has also received requests for mobile vendor trucks. In some cases, vendors propose to travel from one construction site to another to sell their food. In other cases, vendors have proposed to serve food from a truck parked along Main

Street, or other locations within the downtown core. Staff has approved at least two vendor trucks for sales at various construction sites, but the applicants are operating primarily on private property, and are required to obtain permission from the property owner or general contractor.

Staff is finding that the current regulations for temporary vendor carts are vague and do not address all of the requests we are receiving. We would like to discuss possible modifications to these policies with the Planning Commission. Some of the questions/concerns include:

- Should the definition of a “temporary vendor cart” be modified?
- Should temporary vendor carts count as density?
- Should vendor carts be allowed to connect to utilities such as water, sewer and electric?
- Where should vendor carts be located on a lot? In the front yard? On the lawn?
- Should vendor carts be required to meet the Handbook of Design Standards for the Historic and Conservation Districts?
- Should there be different standards for vendor carts outside of the Conservation District?
- Should the vendor carts be required to meet paint colors per Policy 5 (Absolute) Architectural Compatibility?

Mobile Food Trucks

- Should mobile food trucks be allowed in town? If so, where?
- Should they be allowed to park on a public street, and sell to pedestrians on the sidewalk? Does it make a difference if they operate only late at night, when most restaurants are closed and there is plenty of parking?
- What design standards, if any, should be required for food trucks?

Staff provided photos and examples of some of the carts in operation locally as well as the food trucks operating in Portland, Oregon.

Staff finds that temporary vendor carts, and even mobile food carts, can add character and animation to the sidewalk, and provide an additional dining option for guests and locals. Crêpes à la Cart is a great example of a unique business that is wildly popular, especially in the evening. But we understand that preserving the character of the community is important. Staff welcomed Commissioner feedback on these issues, which staff will bring to Town Council for their input.

Commissioner Questions / Comments:

- Mr. Schroder: Where are they allowed? (Mr. Neubecker: Code says they need permission from private property owner.) Doesn't agree on public - only on private property.
- Ms. Christopher: Are mobile trucks hooked up to power? (Taura Griffith, Food Vendor Truck Potential Applicant: Some are connected to water and electricity, but required to be mobile in Portland, OR.) Would like to exclude “booths”. Mobile food truck is different animal than mobile cart. Charge density for more permanent vendors. Time of day - don't park in our Town parking spots during day but ok at some identified locations at night time. Moving every three hours would be good.
- Ms. Dudney: Do temporary vendors have to go through a whole development review? Big difference between on private property and on public property. (Mr. Neubecker: With public property we're primarily talking about mobile vending trucks.) They should count as density: does not think a cart should be allowed on property that is already maxed out with density. Trucks: lots of problems in Washington DC with trash, underhanded activities to acquire locations; need to make sure nearby merchants will be in favor.
- Mr. Wolfe: Can't have one definition that fits all the different types of vendors. Ok with larger cart/truck depending on location - don't wedge it into a small area. Needs some type of fit test - circulation around it, etc.
- Mr. Pringle: We're going to see more of this. Does add to vitality but need to be careful. Use as a guide - it needs to be something that can be picked up and moved - not something that appears more permanent structure. Look at Portland how they allow. How about no structure added on and no outdoor seating? We should limit the addition of structures around and attached to vendor carts

and trucks. Temporary permit maybe renewed every six months or year. These larger trucks are mobile restaurants. Only allow them in larger areas - don't wedge them in. Less concerned about food trucks, because they are temporary.

Mr. Allen: Agrees temporary, if it can be moved, is okay. Doesn't like seeing the more permanent looking vendor buildings everywhere in the Historic District. They should count as density. More okay with mobile ones. Should we separate a trailer that is moved vs. one that stays in the same place all the time? Doesn't like to see these things sitting somewhere for a long time. Concerned about more permanent type carts devaluing the historic district. Council decision to allow on public property.

Commission in General: Not so worried about it being moved every night, but that it could be moved as opposed to appearing permanent. Eliminate "booth" language - don't like more permanent structure/booth. Generally wants to see the vitality downtown. Limit additional structures/add-ons. Location - leave up to applicant to propose location. If rolls away at night, it's not density, but if it stays there for a long time it is density. Don't have same concerns outside Conservation District, but don't like the permanent looking structure. Temporary roll away they don't care what it looks like. Same lighting standards apply to carts that stay longer than a day. Trucks: all Commissioners are against them locating on public property, but Ms. Dudney, Mr. Allen and Ms. Christopher might be okay with that late in the evening. Make them Class Cs so Planning Commission has opportunity to review/call up. No design standards for things that drive away every night. If they hang around for long time without moving, then we may need some design standards for these.

Mobile Food Trucks:

Mr. Wolfe: Is cart before the horse? Example, at 320 South, request is to use a parking space, but that's a Council question. There are other ways to get food, not on public land.

Mr. Allen opened the worksession to public comment.

Ms. Griffith: Wants a mobile food vending cart/truck. Very popular in big cities like Portland (over 400 vendor carts/trucks permitted there). Food truck is an attractive option, low cost for higher quality food served fast. All locally owned independent businesses - contributes to personality in the area. Some trucks going around Denver right now. Would like permission to locate on public property (i.e. parked outside 320 South Main, late at night). Town code now limits to 100 square feet in size: this creates problems for food preparation/cleaning. In Portland they must be shorter than 16' long, mobile, and located on private property. Request maximum square footage to be increased from 100 to 130 square feet and to be able to use public right of way. Trucks can do all food prep, etc. within them as opposed to preparation somewhere else. Carts adhere to same health standards as regular restaurants. Size is a huge limiting factor. Sink space and storage is an issue.

Mrs. Patty Theobald: Loves the hot dog cart they have on their property. Put some personality back into community. Purchases at food carts are impulse buys. Promotes retail sales and additional sales tax revenues. Food carts are all over the country and the world. There are no fast food options in town. Food is prepared somewhere else (commissary) where they have sinks, water, etc., and where water tap fees are paid. Carts don't need to be hooked up to water. Don't require it to look historic with siding, etc. Town allowing carts/trucks rent free would compete with private property.

Mr. Robin Theobald: Vendors also need an off-site commissary to prepare food. It's a different market than sit-down restaurants. (Mr. Thompson: Crêpes à la Carte is hooked up to water, sewer, etc. We are getting almost one person a week requesting some type of vendor cart in Planning Department lately. We need to look at allowing employees to keep warm (enclosed) in order to keep successful.) (Mr. Neubecker: How far do we go in regulating: would we require siding on a cart to be architecturally compatible?)

There was no more public comment and the worksession was closed.

3) Energy Policy (JP)

Ms. Puester presented. This is the seventh worksession on revising the existing Policy 33R *Energy Conservation*. While this relative policy has been in place for many years, the actual amount of energy conservation or production

of energy has not typically been measurable, making it difficult to determine how much energy is being saved or produced and therefore, how many points are assigned. To remedy this, staff proposes the use of a HERS (Home Energy Rating System) score as it is a universal calculation created by certified raters. The results are calculated and measurable. For commercial and multi-family buildings, a percentage above the IECC would correspond similarly to the HERS score.

Staff presented a draft policy with changes shown based on Planning Commission comments from the October 19th meeting. The primary changes are:

- Defined “large water feature” to include wattage amount.
- Increased positive points and reduced required HERS score and percentage above IECC to get points.
- Removed “deconstruction” section. (This is addressed in detail in the Sustainable Building Code-section.)
- Limited negative points for outdoor gas fireplace or fire pits to apply only to commercial or common space residential developments.
- Altered wording regarding “in perpetuity”.

Staff would like to get Commissioner comments on the proposed changes to Policy 33R. If the Commission is comfortable with the policy as drafted, staff would like direction to proceed to the Town Council.

Commissioner Questions / Comments:

Mr. Schroder: Happy with the policy as written and data presented. Wants to see water features quantified - likes wattage, leave as presented. Likes HERS tables/points as presented. Agrees with removing deconstruction section. Supports altering wording to remove ‘in perpetuity’.

Ms. Christopher: Why use HERS score instead of HERS index? (Mr. Neubecker: We’ll verify that we are using the correct term.) (Ms. Puester: The score is what the industry uses.) Agree with policy as proposed. Agree with staff that it needs to change with time as technology evolves.

Ms. Dudney: Why negative points for heated driveways and sidewalks, etc? What if someone is in a handicapped or elderly and needs to have a heated area? (Mr. Neubecker: The policy is the rule, if there is an exception such as that, we have the option to waive the requirements.) Agree with taking out deconstruction section as it belongs in the building code. Agree with negative points for outdoor fireplaces as presented. Doesn’t have other comments as this is the first time that she has been exposed to this policy.

Mr. Wolfe: Requested explanation on the background of why we are looking at this policy. Council directed based on sustainability objectives? (Ms. Puester: In part; however, it was also requested by Planning Commission as a means to quantify increased energy efficiencies on applications that had been coming forward.) (Mr. Truckey: The Planning Commission had concerns with how to assess positive points for what percentage of energy savings and asked staff and Council to look at a more measurable method.) Like IECC on commercial side. Start out easy with policy and then can make it harder later, if needed. If we find points are too easy, then maybe we ratchet down some. Don’t regulate water features, would prefer that they are taken out. They are rare. Deconstruction out, agreed. Supports the points as presented. Supports negative points for fireplaces in common space residential and commercial. OK with “perpetuity” language as proposed.

Mr. Butler: Appreciates all work staff and Commission have put into this. Fairly new to him so will defer to other Commissioners. Overall, appears to make sense.

Mr. Pringle: We shouldn’t be giving away a lot of points if things are too easy to reach. Agrees taking out deconstruction. Did like the quantitative measure of watts for water features, not sure if it should be in here or somewhere else in a code. There will be a lot more hot tubs than water features and we’re not regulating them. How do we make sure someone that gets positive points doesn’t change things out later? Still has a philosophical issue with this. Also, has an issue with an evolving code; points that could move around and an issue with positive one (+1) point for obtaining a HERS score. (Ms. Puester: The thought is that if people obtain a score, no matter what it is, it is a good educational tool for the owner and future improvements.)

Mr. Allen: Why not use wattage for water features? (Ms. Puester: We may want to stay more flexible to consider it on a case-by-case basis since we do not see water features on a regular basis.) We are there. Supports policy now, when it started did not support it all but it has come far. Prefers

getting rid of water features in the policy or if necessary going with wattage standards as proposed. Supports the HERS point system as proposed.

Mr. Allen opened the worksession to public comment.

Mr. Stais: HERS will be very easy to administer. Like the positive nine (+9) points. Happy that the Town is looking at aggressively encouraging energy conservation. Supports the policy.

There was no more public comment and the worksession was closed.

TOWN COUNCIL REPORT:

Mr. Burke: (Was absent.)

Mr. Allen: The Village at Breckenridge master sign plan variance application was called up by Council and will be subject to a “de novo” hearing at an upcoming Council meeting.

CLASS D COURTESY REVIEW:

1) Town of Breckenridge PPA Solar Project (CN)

Mr. Neubecker presented. Town is proposing to install photo-voltaic solar panels on several Town-owned buildings and properties. The installation will be done according to a Power Purchasing Agreement, with RSBF Breckenridge I, LLC (RSBF) contracting with Vibrant Solar for the installation of the panels, and the Town receiving electricity at a significantly reduced rate. This is a courtesy review for the Commission, and to allow public comment. Staff will process these applications as Class D development permits.

Locations:

Steven C. West Ice Arena, 107 Boreas Pass Road, Roof Mounted
Fleet Maintenance Building, 1107 Airport Road, Roof Mounted
Ski Hill Pump #1, Tract F, Skyway Ridge Subdivision, Ground Mounted
Ski Hill Pump #2, 247 Timber Trail Road, Roof/Carport Mounted
Recreation Center, 880 Airport Road, Roof Mounted
Golf Course Main Irrigation Pump, Tiger Road, Ground Mounted
Swan River Pump #1, Tiger Road, Ground Mounted (at Golf Course)
Riverwalk Center, 150 W. Adams Avenue, Roof Mounted

The Planning Department will approve the Power Purchasing Agreement Solar Panel Project, PC#D-361. We will continue to research Ski Hill Pump #1, and will make a decision on this site at a later date.

Commissioner Questions / Comments:

Mr. Pringle: Regarding Ski Hill Pump #1, Planning Commission needs to understand the concerns. Wetlands, other concerns, thinks the Commission agrees that there are concerns with that site.

Mr. Allen: Doesn't think building on wetlands, in LUD, on open space (Ski Hill Pump #1) is appropriate.

All commissioners agree that the wetlands, environmental impacts of the Ski Hill Pump #1 site make it inappropriate for solar panel location. Okay with other sites.

OTHER MATTERS:

Mr. Allen: Concerned about putting multiple variances together in one vote. Perhaps in future we should have a straw poll and vote on variances separately.

Mr. Pringle: We should make motion to grant variances before making motion on point analysis.

ADJOURNMENT:

The meeting was adjourned at 11:05 p.m.

Rodney Allen, Chair

MEMO

TO: Town Council
FROM: Town Attorney
RE: Council Bill No. 33 (2011 Municipal Water Rates)
DATE: November 16, 2010 (for November 23rd meeting)

The second reading of the 2011 Water Rates Ordinance is scheduled for your meeting on November 23rd. You will recall that in addition to adjusting the water rates, the ordinance: (i) establishes a fee for mailing paper billing statements; (ii) provides an exemption from such fee for billing statements delivered electronically; and (iii) establishes a fee for setting up and transferring water user accounts. There are no changes proposed to ordinance from first reading.

I will be happy to discuss this matter with you on Tuesday.

1 ***FOR WORKSESSION/SECOND READING –NOV. 23***

2
3 ***NO CHANGE FROM FIRST READING***

4
5 Additions To The Current Breckenridge Town Code Are
6 Indicated By **Bold + Dbl Underline**; Deletions By ~~Strikeout~~

7
8 COUNCIL BILL NO. 33

9
10 Series 2010

11
12 AN ORDINANCE PROVIDING FOR AN INCREASE IN MUNICIPAL WATER USER FEES
13 EFFECTIVE JANUARY 1, 2011; ESTABLISHING A FEE FOR MAILING PAPER BILLING
14 STATEMENTS; PROVIDING AN EXCEPTION FROM SUCH STATEMENT FEE FOR
15 BILLING STATEMENTS DELIVERED ELECTRONICALLY; AND ESTABLISHING A FEE
16 FOR SETTING UP AND TRANSFERRING WATER USER ACCOUNTS

17
18 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
19 COLORADO:

20
21 Section 1. The Town Council of the Town of Breckenridge hereby finds and determines
22 as follows:

23
24 A. The Town of Breckenridge is a home rule municipal corporation organized and
25 existing pursuant to Article XX of the Colorado Constitution.

26
27 B. The Town owns and operates a municipal water utility pursuant to the authority
28 granted by Section 13.1 of the Breckenridge Town Charter and §31-35-402(1)(b), C.R.S.

29
30 C. Section 13.3 of the Breckenridge Town Charter provides that "(t)he council shall by
31 ordinance establish rates for services provided by municipality-owned utilities."

32
33 D. The rates, fees, tolls and charges imposed in connection with the operation of a
34 municipal water system should raise revenue required to construct, operate, repair and replace
35 the water works, meet bonded indebtedness requirements, pay the overhead and other costs of
36 providing service. Such rates, fees, tolls and charges may also recover an acceptable rate of
37 return on investment. The rates, fees, tolls and charges imposed by this ordinance accomplish the
38 Town's goals and objectives of raising revenue required to construct, operate, repair and replace
39 the Town's water works and to service the bonded indebtedness of the Town's enterprise water
40 fund.

1 E. The action of the Town Council in setting the rates, fees, tolls, and charges to be
2 charged and collected by the Town in connection with the operation of its municipal water
3 system is a legislative matter.
4

5 Section 2. Section 12-4-11 of the Breckenridge Town Code is hereby amended so as to
6 read in its entirety as follows:
7

8 12-4-11: WATER USER FEES; RESIDENTIAL:
9

10 A. The in town base rate user fee for all residential water users, regardless of the
11 size of the water meter, includes a usage allowance of not to exceed twelve
12 thousand (12,000) gallons of water per SFE per billing cycle, and shall be
13 computed according to the following table:
14

<u>Water Use Date</u>	<u>Base User Fee</u>
Effective January 1, 2010	\$30.04 per billing cycle per SFE
<u>Effective January 1, 2011</u>	<u>\$30.34 per billing cycle per SFE</u>

15 B. In addition to the base user fee set forth in subsection A of this section, each in
16 town residential water user shall pay an excess use charge for each one thousand
17 (1,000) gallons of metered water, or fraction thereof, used per SFE per billing
18 cycle in excess of the usage allowance of twelve thousand (12,000) gallons of
19 water per SFE per billing cycle. The amount of the excess use charge shall be
20 computed according to the following table:
21
22

<u>Water Use Date</u>	<u>Excess Use Charge</u>
Effective January 1, 2010	\$2.99
<u>Effective January 1, 2011</u>	<u>\$3.02</u>

23
24 Section 3. Section 12-4-12(A) of the Breckenridge Town Code is hereby amended so as
25 to read in its entirety as follows:
26

27 12-4-12: WATER USER FEES; NONRESIDENTIAL:
28

29 A. The in town base rate user fee per SFE per billing cycle and the usage
30 allowance per SFE per billing cycle for all nonresidential water users shall be
31 determined based upon the size of the water meter which connects the water
32 using property to the water system, as follows:
33

34 For water used commencing January 1, ~~2010~~ **2011**
35

<u>Meter Size</u>	<u>Base Water Fee Per Account</u>	<u>Usage Allowance Per Account (Gallons)</u>
-------------------	---------------------------------------	--

1			
2	Less than 1 inch	\$ 34.40	13,000
3		<u>34.74</u>	
4	1 inch	<u>51.60</u>	20,000
5		<u>52.12</u>	
6	1 1/2 inch	<u>90.04</u>	35,000
7		<u>90.93</u>	
8	2 inch	<u>141.77</u>	54,000
9		<u>143.18</u>	
10	3 inch	<u>272.58</u>	105,000
11		<u>275.30</u>	
12	4 inch	<u>421.38</u>	162,000
13		<u>425.59</u>	
14	6 inch	<u>827.91</u>	318,000
15		<u>836.19</u>	
16			

17 Section 4. Section 12-4-13 of the Breckenridge Town Code is hereby amended so as to
 18 read in its entirety as follows:

19
 20 12-4-13: WATER USER FEES; MIXED USE:

21
 22 The in town base rate user fee and the usage allowance per billing cycle for all
 23 mixed use water using properties shall be calculated based upon the predominant
 24 use of the water using property as determined by the finance director. In addition
 25 to the base user fee, each in town mixed use water user shall pay an excess use
 26 charge of ~~two~~ three dollars ~~ninety nine~~ two cents (~~\$2.99~~3.02) per one thousand
 27 (1,000) gallons of metered water, or fraction thereof, used per billing cycle in
 28 excess of the applicable usage allowance.
 29

30 Section 5. Chapter 4 of Title 12 of the Breckenridge Town Code is amended by the
 31 addition of a new Section 12-4-21, which shall read in its entirety as follows:

32
 33 12-4-21: FEE FOR PAPER STATEMENTS; ACCOUNT SET UP FEE:

34
 35 A. Commencing with the periodic billing statement issued by the Town in March
 36 2011 (for water service provided during the months of January-February 2011),
 37 there shall be added to each paper billing statement mailed by the Town through
 38 the United States Postal Service, and there shall be assessed and paid by the owner
 39 of the property that is the subject of the billing statement, a statement fee in the
 40 amount of five dollars (\$5.00) per statement per billing cycle. The statement fee shall
 41 be a water charge within the meaning of section 12-1-6 of this title, and shall be due
 42 and payable to the town at the same time and in the same manner as other water
 43 charges are due and payable to the town under this chapter. There shall be no
 44 statement fee charged if the owner elects to have the billing statement delivered by
 45 electronic means.
 46

1 B. A fee of \$25.00 shall be collected from each owner to either set up a new water
2 account, or to effect a change in ownership of a water account.
3

4 Section 6. Except as specifically amended hereby, the Breckenridge Town Code, and the
5 various secondary codes adopted by reference therein, shall continue in full force and effect.
6

7 Section 7. The Town Council hereby finds, determines and declares that it has the power
8 to adopt this ordinance pursuant to the provisions of Section 31-35-402(1)(f), C.R.S., and the
9 powers possessed by home rule municipalities in Colorado.
10

11 Section 8. This ordinance shall be published as provided by Section 5.9 of the
12 Breckenridge Town Charter and shall become effective January 1, 2011.
13

14 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
15 PUBLISHED IN FULL this ____ day of _____, 2010. A Public Hearing shall be held at the
16 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
17 _____, 2010, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
18 Town.
19

20 TOWN OF BRECKENRIDGE, a Colorado
21 municipal corporation
22

23
24
25 By _____
26 John G. Warner, Mayor
27

28 ATTEST:
29
30
31

32 _____
33 Mary Jean Loufek, CMC,
34 Town Clerk
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MEMO

TO: Town Council

FROM: Town Attorney

RE: Legal Framework for Setting Municipal Court Costs

DATE: November 16, 2010 (for November 23rd meeting)

In connection with the second reading of the Municipal Court Costs Ordinance I thought it might be helpful for you to have a brief analysis of the legal issues that you should consider in adopting the ordinance.

Statutory Framework

The Town Council's authority to fix the amount of court costs to be assessed against a defendant in a municipal court proceeding is established by Colorado statute. Section 13-10-113(3), C.R.S., provides as follows:

The municipal judge is empowered in his discretion to assess costs, as established by the municipal governing body by ordinance, against any defendant who pleads guilty or nolo contendere [no contest] or who enters into a plea agreement or who, after trial, is found guilty of an ordinance violation.

Note that the statute requires that the amount of court costs be fixed by local ordinance. That indicates that the decision as to the amount of municipal court costs to be assessed is a legislative one for the Council.

You should also note that Section 13-10-115, C.R.S., directs that all costs collected from municipal court proceedings are to be paid to the treasurer of the municipality and deposited into the municipality's general fund.

Case Law

Unfortunately, there is no Colorado case law dealing specifically with the fixing of the amount of municipal court costs. However, there is some law with respect to court costs in state criminal proceedings that I think can legitimately be applied to the issue of municipal court costs.

The courts have ruled in the state criminal court setting that:

1. Costs are limited to the "actual costs incurred" in the prosecution of the criminal case.
2. Costs are not traditionally considered to be "punishment"; as such, they are not part of the criminal penalty assessed against a violator.

3. Costs are a “civil” (not criminal) sanction. They may be collected in the same manner that a civil court judgment is collected.

In other contexts the Colorado courts have held that the setting of special fees is a legislative function involving judgment and discretion by the local governing body. The courts have also said that the local government’s methodology will be approved unless the methodology is “inherently unsound.”

In determining the “actual costs incurred” in the prosecution of municipal court cases the courts have not explained which costs can properly be considered by a municipality. In other contexts, such as the fixing of fees for building permits, the courts have allowed municipalities to consider both “direct” and “indirect” costs associated with the provision of the governmental service received by the person required to pay the fee. As you can imagine, considering indirect costs will almost inevitably lead to higher fees.

In his separate memo the Municipal Court Administrator will give you his calculations of the actual costs of operating the Breckenridge Municipal Court. His memo will focus primarily on the “direct” costs of operating the court. As I understand it, the proposed increase in municipal court costs from \$15 to \$35 will not come anywhere near covering all of the “direct” operating costs of the court; to do so would result in court costs in the range of \$200 per case. Such amount greatly exceeds that recommended by the Municipal Judge; the municipal court costs assessed by other Colorado municipalities; and could be so out of proportion to the municipal court fines as to invite a legal challenge. Therefore, although I wanted to bring the “direct” vs. “indirect” cost issue to your attention, I do not think you should be concerned with it in giving second reading consideration to the Municipal Court Costs Ordinance.

In closing, I think it needs to be pointed out that to the best of my knowledge the state court system does not collect court costs sufficient to fully cover the operation of the state criminal court system, resulting in some financial support from the state’s general fund. The fact that the municipal court statute specifically requires all costs collected in the municipal court to be deposited into the Town’s general fund suggests (at least to me) that the legislature never contemplated that all costs associated with the operation of a municipal court could be offset by the imposition of court costs; some of the financial burden associated with the operation of a municipal court was expected to be treated as a general fund expense and to be paid from the other revenue sources available within the general fund. Certainly, the Town should strive to collect as much in court costs as it reasonably can in order to attempt to offset the actual costs incurred in prosecuting municipal court defendants, but it is probably not realistic to try to recoup all of such costs.

I will be happy to discuss this memo and the Municipal Court Costs Ordinance with you on Tuesday.

Memorandum

To: Breckenridge Town Council

From: Ben Wilkins – Court Administrator

Date: 11/11/2010

Re: Ordinance to Increase Court Costs

At the request of council, a review of the financial impacts of a \$35 per case court cost rate was performed. The \$35 per case rate would result in approximate total court cost revenue of \$27,125. The direct court costs budgeted for 2011 totals \$77,701. To achieve 100% direct cost recovery, the Town would need to charge approximately a \$100 per case in court costs. The proposed \$35 court cost would achieve an approximate 35% cost recovery. This is without factoring in any fines collected by the court.

Part two of the request asked for what a two tiered approach would look like to realize approximately the same as the flat \$35 per case amount. Tier one would include traffic, animal, parking, and trash violations at \$25 per case. Tier two would be all other ordinance violations at \$50 per case. This would result in approximately \$25,875 in revenue and a 33% cost recovery. The \$1,250 difference is due to the higher number of traffic citations than general ordinance violations. Judge Allen has indicated that he is more supportive of the \$35 per case rate, as it would be easier to administer.

Attached is a listing of court costs charged by other Colorado municipalities for comparison.

Municipality **Court Cost Fee**

Firestone	\$ 50
Aspen	\$ 35
Lakewood	\$ 35
Bennett	\$ 30
Glendale	\$ 30
Nederland	\$ 30
Palisade	\$ 30
Platteville	\$ 30
Silverthorne	\$ 30
Cherry Hills Village	\$ 25
Englewood	\$ 25
Fort Collins	\$ 25
Fraser/Winter Park	\$ 25
Golden	\$ 25
Greenwood Village	\$ 25
Morrison	\$ 25
Silt	\$ 25
Erie	\$ 25
Brighton	\$ 25
Superior	\$ 25
Colorado Springs	\$ 20
Commerce City	\$ 20
Fort Morgan	\$ 20
Gunnison	\$ 20
Salida	\$ 20
Parker	\$ 20
Steamboat	\$ 20
Sterling	\$ 20
Thornton	\$ 20
Durango	\$ 18
Breckenridge	\$ 15
Canon City	\$ 15
Fountain	\$ 15
Crested Butte	\$ 15
Loveland	\$ 15
Wray	\$ 15

Two Tier Municipalities

New Castle	\$16.00 for traffic and \$20.00 for non-traffic.
Federal Heights	\$20 mail in plea bargain; \$25 arraignment

1 FOR WORKSESSION/SECOND READING – NOV. 23

2
3 NO CHANGE FROM FIRST READING

4
5 Additions To The Breckenridge Town Code Are
6 Indicated By **Bold + Dbl Underline**; Deletions By ~~Strikeout~~

7
8 COUNCIL BILL NO. 34

9
10 Series 2010

11
12 AN ORDINANCE AMENDING SECTION 1-8-11 OF THE BRECKENRIDGE TOWN CODE
13 CONCERNING COSTS ASSESSED AGAINST PERSONS IN THE TOWN’S MUNICIPAL
14 COURT

15
16 WHEREAS, Section 13-10-113(3), C.R.S., authorizes the Town Council from time to
17 time to establish by ordinance the amount of the costs that may be assessed by the Municipal
18 Judge in connection with proceedings in the Town’s Municipal Court.

19
20 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
21 BRECKENRIDGE, COLORADO:

22
23 Section 1. Section 1-8-11 of the Breckenridge Town Code is amended so as to read
24 in its entirety as follows:

25 1-8-11: COSTS:

26
27 The municipal judge shall assess court costs of ~~twenty five~~ thirty five dollars
28 (~~\$25.00~~\$35.00) against any defendant who pleads guilty or nolo contendere, or
29 who enters into a plea agreement or who, after trial by the court without a jury, is
30 found guilty of a misdemeanor ordinance violation. Costs of fifty dollars (\$50.00)
31 shall be assessed against any defendant who is found guilty of a misdemeanor
32 ordinance violation following a trial by jury. The municipal judge shall assess
33 court costs of ~~twenty five~~ thirty five dollars (~~\$25.00~~\$35.00) against any defendant
34 who, after a municipal court appearance, admits liability for or is found to have
35 committed a violation of any infraction.

36
37 Section 2. Except as specifically amended hereby, the Breckenridge Town Code, and
38 the various secondary codes adopted by reference therein, shall continue in full force and effect.

39
40 Section 3. The Town Council hereby finds, determines and declares that this
41 ordinance is necessary and proper to provide for the safety, preserve the health, promote the
42 prosperity, and improve the order, comfort and convenience of the Town of Breckenridge and
43 the inhabitants thereof.

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 35 (Pedicab Sign Ordinance)

DATE: November 16, 2010 (for November 23rd meeting)

The second reading of the Pedicab Sign Ordinance is scheduled for your meeting on November 23rd.

In light of the Council's discussion at the time of first reading, staff looked at whether it was necessary to amend the ordinance to address the following issues:

1. Four-wheeled Pedicabs – Staff determined that four-wheeled pedicabs are unusual, and that it was not necessary to address them in this ordinance. If it becomes an issue, the ordinance can be amended in the future.

2. “Electric Assist” Pedicabs – The current ordinance defines a pedicab as a vehicle propelled only by human power. Staff believes that only human powered vehicles should be addressed in this ordinance, both for “green” reasons, as well as the fact that electric assisted pedicabs would go faster and could cause issues with motorized vehicles. Unless the ordinance is amended, signs could not be placed on any electrically assisted pedicab, and staff is comfortable with that legislative approach.

3. Whether New Sign Permit Is Required When Advertising Changes – The Sign Code provides that a new sign permit is required when the advertising on the pedicab changes so as to advertise a different business. Section 8-2-6(J) of the Sign Code exempts from the requirements of the Sign Code changes to a sign resulting from a “change of copy.” However, the Sign Code specifically provides that the “copy change” exemption does not apply “if the change (in copy) results in a different business, product or service being advertised by the sign.” In light of this specific language in the Sign Code it seems clear that the placement of a new sign on a pedicab that advertises a different business from the prior sign would require a new sign permit. Staff does not see any reason to change this part of the Sign Code just to address pedicab signs. The permit that would be required for a new sign on a pedicab would be a “counter permit” issued by staff, and would not require a lengthy permit review process or a large fee (the fee is currently \$45). Note that staff would not be reviewing the content of the new sign; the review would be limited to determining that the sign meets the requirements set forth in Section 3 of the new ordinance.

Although it was not raised by the Council at the time of first reading, Staff also took a look at whether the ordinance could or should prohibit pedicabs from advertising medical marijuana dispensaries/centers.

The new statewide Medical Marijuana Code prohibits the display of signs “that are inconsistent with local laws or regulations.” However, there is still substantial debate as to whether and to what extent municipal sign regulations can prohibit or restrict advertising by licensed medical marijuana centers. To date, no Colorado court has ruled on the issue, and municipalities have chosen to regulate advertising by medical marijuana centers in different ways.

The Town’s current Medical Marijuana Dispensary Ordinance provides that no signage for a medical marijuana center may contain the word “marijuana” or a graphic/image of any portion of a marijuana plant. I believe this rule would apply to signage placed on a pedicab that advertises a medical marijuana center. Thus, it appears to me that under the Town’s Medical Marijuana Dispensary Ordinance a licensed medical marijuana center will be able to advertise on a pedicab in the same way that any other lawful business can advertise, subject, however, to the specific prohibitions against the use of the word “marijuana” and any graphic/image of any portion of a marijuana plant.

Until the law becomes more settled on the power of local government to regulate advertising by medical marijuana centers, I think that the safest legal approach would be for the Pedicab Sign Ordinance not to contain any further restriction on the ability of medical marijuana centers to advertise. Because several municipal ordinances restrict advertising/signage by medical marijuana centers, I would expect the issue to be litigated and resolved in the next couple of years.

For all of these reasons, staff did not propose any changes to the Pedicab Sign Ordinance from the version that was approved on first reading.

I will be happy to discuss this ordinance with you on Tuesday.

1 **FOR WORKSESSION/SECOND READING – NOV. 23**

2
3 **NO CHANGE FROM FIRST READING**

4
5 Additions To The Current Breckenridge Town Code Are
6 Indicated By Bold + Dbl Underline; Deletions By ~~Strikeout~~

7
8 COUNCIL BILL NO. 35

9
10 Series 2010

11
12 AN ORDINANCE AMENDING CHAPTER 2 OF TITLE 8 OF THE BRECKENRIDGE
13 TOWN CODE, KNOWN AS THE “BRECKENRIDGE SIGN ORDINANCE”, BY ADOPTING
14 PROVISIONS CONCERNING SIGNS ON HUMAN-POWERED VEHICLES

15
16 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
17 COLORADO:

18
19 Section 1. The Town Council finds and determines as follows

20
21 A. The Town is a tourist-oriented community that would benefit from the presence of
22 human-powered vehicles, such as pedicabs.

23
24 B. The Town Council has been informed that the owners of pedicabs desire to be able to
25 place commercial signage on their vehicle.

26
27 C. Chapter 2 of Title 8 of the Breckenridge Town Code, known as the “Breckenridge
28 Sign Ordinance”, imposes rules and regulations governing the erection, construction,
29 enlargement, alteration, repair, display, maintenance and use of signs with the Town.

30
31 D. The Breckenridge Sign Ordinance generally prohibits “off premises signs” that do not
32 identify a business, service, product or other activity engaged in or provided upon the premises
33 where the sign is located.

34
35 E. In the context of municipal sign regulations, the on-premises versus off-premises
36 distinction has been upheld as being constitutional.

37
38 F. Attempting to regulate signage that is placed on human-powered vehicles (including
39 such vehicles as “pedicabs”) presents unique regulatory challenges because, among other factors,
40 human-powered vehicles have no fixed or permanent location, making it difficult to determine
41 the “premises” upon which such signage is located. As such, the Town Council finds there is a
42 rational basis for exempting signage on human-powered vehicles from the general prohibition
43 against off-premises signage.
44

1 G. Commercial speech, such as that anticipated to be evidenced by signs on human-
2 powered vehicles, is protected under the First Amendment to the United States Constitution, as
3 well as the Constitution of the State of Colorado, but not to the same extent as noncommercial
4 speech.
5

6 H. In adopting this ordinance that Town Council has considered the aesthetic and traffic
7 safety concerns of the Town. The Town Council concludes that because human powered vehicles
8 will travel on public streets at relatively slow speeds, there are minimal traffic safety concerns if
9 signs are allowed to be placed on such a vehicle. The Town Council also concludes that because
10 it is reasonably expected that there will be but a few human-powered vehicles operating within
11 the Town at any given time, the aesthetic impact of having signs on human powered vehicles
12 will be insignificant. For these reasons, the impact to the Town of allowing signage to be
13 displayed on human-powered vehicles in accordance with this ordinance will be de minimus.
14

15 Section 2. Section 8-2-3(M) of the Breckenridge Town Code is amended so as to read in
16 its entirety as follows:
17

18 M. Except as expressly provided in this chapter, ~~P~~prohibit off premises signs
19 ~~which that~~ do not identify a business, service, product or other activity engaged
20 in or provided upon the premises where the sign is located.
21

22 Section 3. Section 8-2-3 of the Breckenridge Town Code is amended by the inclusion of
23 the following additional definition, which shall read in its entirety as follows:
24

HUMAN-POWERED VEHICLE: A three-wheeled vehicle for hire that
regularly transports passengers for a fee
using only human power.

25
26 Section 3. The Breckenridge Town Code is hereby amended by the addition of a new
27 Section 8-2-14-1, which shall read in its entirety as follows:
28

29 8-2-14-1: SPECIFIC REGULATIONS: SIGNS ON HUMAN-POWERED
30 VEHICLES: The following regulations shall apply to signs placed on
31 human-powered vehicles. In the event of a conflict between this section and
32 any other provision of this chapter, the provisions of this section shall
33 control;
34

35 A. Number of Signs Permitted: Not more than one sign shall be placed on
36 the rear of a human powered vehicle. Not more than one sign per side shall
37 be placed on a human powered vehicle.
38

39 B. Size limitation: No individual sign on a human-powered vehicle shall
40 exceed four (4) square feet. The total signage that is placed on a human-
41 powered vehicle shall not exceed a combined total of seven (7) square feet in
42 size.
43

1 C. No Illumination: A sign that is placed on a human-powered vehicle shall
2 not be illuminated; provided, however, this provision shall not prohibit the
3 placement of lighting on a human-powered vehicle that is required for safety.

4
5 D. No Double-Sided Signage: No signage that is placed on a human-
6 powered vehicle shall be double-sided.

7
8 E. Off-Premises Signage Allowed: A sign that is placed on a human-
9 powered vehicle is exempt from the prohibition against off-premises signage
10 set forth in Section 8-2-15(F) of the chapter.

11
12 F. Permit Required: No person shall display, maintain, or use a sign on a
13 human-powered vehicle without a valid sign permit issued pursuant to this
14 chapter.

15
16 Section 4. Section 8-2-15(F) of the Breckenridge Town Code is amended so as to
17 read in its entirety as follows:

18
19 F. Off premises signs, except as specifically authorized in sections 8-2-6(I)
20 and 8-2-14-1 of this chapter.

21
22 Section 5. Except as specifically amended hereby, the Breckenridge Town Code, and the
23 various secondary codes adopted by reference therein, shall continue in full force and effect.

24
25 Section 6. The Town Council hereby finds, determines and declares that this ordinance is
26 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
27 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
28 thereof.

29
30 Section 7. The Town Council hereby finds, determines and declares that it has the power
31 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,
32 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal
33 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)
34 Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to
35 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
36 contained in the Breckenridge Town Charter.

37
38 Section 8. This ordinance shall be published and become effective as provided by
39 Section 5.9 of the Breckenridge Town Charter.

40
41 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
42 PUBLISHED IN FULL this ____ day of _____, 2010. A Public Hearing shall be held at the
43 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
44 _____, 2010, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
45 Town.

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TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By _____
John G. Warner, Mayor

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 36 (Amendment to Assault Ordinance)

DATE: November 16, 2010 (for November 23rd meeting)

The second reading of the ordinance amending the municipal Assault Ordinance is scheduled for your meeting on November 23rd. There are no changes proposed to ordinance from first reading.

I will be happy to discuss this matter with you on Tuesday.

1 *FOR WORKSESSION/SECOND READING – NOV. 23*

2
3 **NO CHANGE FROM FIRST READING**

4
5 Additions To The Current Breckenridge Town Code Are
6 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

7
8 COUNCIL BILL NO. ____

9
10 Series 2010

11
12 AN ORDINANCE REPEALING AND READOPTING WITH CHANGES SECTION 6-3A-1
13 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE MUNICIPAL OFFENSE OF
14 ASSAULT

15
16 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
17 COLORADO:

18
19 Section 1. Section 6-3A-1 of the Breckenridge Town Code is amended so as to read in its
20 entirety as follows:

21
22 ~~A. Intentionally, Without Deadly Weapon: It is unlawful for any person to~~
23 ~~intentionally cause bodily injury to another person; provided, however, that this~~
24 ~~subsection shall not apply to injury caused by means of a deadly weapon, nor~~
25 ~~shall it apply in the event of serious bodily injury.~~

26 ~~B. Recklessly: It is unlawful for any person to recklessly cause bodily injury to~~
27 ~~another person; provided, however, that this subsection shall not apply in the~~
28 ~~event of serious bodily injury caused by means of a deadly weapon.~~

29 ~~C. Criminal Negligence, Deadly Weapon: It is unlawful for any~~
30 ~~person with criminal negligence to cause bodily injury to another person by~~
31 ~~means of a deadly weapon.~~

32
33 **6-3A-1: ASSAULT: A person commits the municipal offense of assault if**
34 **the person knowingly or recklessly causes bodily injury to another person or**
35 **with criminal negligence the person causes bodily injury to another person**
36 **by means of a deadly weapon.**

37
38 Section 3. The Town Council hereby finds, determines and declares that this ordinance is
39 necessary and proper to provide for the safety, preserve the health, promote the prosperity, and
40 improve the order, comfort and convenience of the Town of Breckenridge and the inhabitants
41 thereof.

42
43 Section 4. The Town Council hereby finds, determines and declares that it has the power
44 to adopt this ordinance pursuant to the provisions of: (i) Section 31-15-103, C.R.S. (concerning

1 municipal police powers); Section 31-15-401, C.R.S. (concerning municipal police powers); and
2 (iii) the powers possessed by home rule municipalities in Colorado.

3
4 Section 5. This ordinance shall be published and become effective as provided by
5 Section 5.9 of the Breckenridge Town Charter.

6
7 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
8 PUBLISHED IN FULL this ____ day of _____, 2010. A Public Hearing shall be held at the
9 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
10 _____, 2010, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
11 Town.

12
13 TOWN OF BRECKENRIDGE, a Colorado
14 municipal corporation

15
16
17
18 By _____
19 John G. Warner, Mayor

20
21 ATTEST:

22
23
24
25 _____
26 Mary Jean Loufek, CMC,
27 Town Clerk

MEMO

TO: Breckenridge Town Council

FROM: Laurie Best

DATE: November 17, 2010 (for November 23rd)

RE: Resolution to modify Wellington Neighborhood Annexation Agreement

Enclosed in your packets is a resolution which, if approved, will modify the Wellington Neighborhood Annexation Agreement that was executed originally in 1999 and modified in 2006 (for the second phase of the Neighborhood). This proposed second amendment will allow small single family homes to be substituted for double homes and will respond to new lender requirements for construction financing. Following is a summary of the specific changes.

Small Single Family Homes in Wellington 2

The original annexation agreement provided for 48 double homes to be priced under 100% AMI. Ten of the double homes have been built, however, the demand for the double homes has decreased over time. Regarding the remaining 38 units, the developer proposes to substitute two (2) small lot single family units for any double house, such units to be sold initially for prices affordable to under 100% AMI; however, in the event that 30 year fixed interest rates go above 6%, then a maximum of 61% of the then remaining units can be sold initially for prices affordable to under 110% AMI. In any case, a minimum of 15 of the 38 units will be affordable to under 100% AMI. These small single family homes will be subject to the income qualification that was previously required of the double homes. Also, in order to insure no increase of density (SFEs) or square footage, the small single family homes will be limited to a maximum of 2,000 square feet to match the current maximum allowed for double homes.

Staff supports this conversion of double homes to single family units and has advised the developer to work thru the Planning Commission to insure the single family units can be accommodated while adhering to the required setbacks and minimum lot size.

Subordination of Restrictive Covenant

The Neighborhood is subject to a Restrictive Covenant (Deed Restriction). Lenders are requiring that the Deed Restriction be subordinate to the lender's Deed of Trust. This puts the Deed Restriction at risk in the event of a foreclosure, but it is now the common practice with lenders. We have discussed the risk with the Housing Committee and believe that the following terms will minimize the risk:

- Horizontal Subordination: aggregate principal capped at \$1,500,000 with maximum loan to appraised deed restricted value at 65%
- Vertical Subordination: aggregate principal capped at \$2,000,000 with maximum of eight units at any given time, with loan to appraised deed restricted value at 80%, and presale requirement for 75% of the units

Staff believes the subordination will allow for the continuation of construction and the completion of the neighborhood, and that the risk to the Deed Restriction has been minimized, and therefore supports this request.

Summary

Staff supports the proposed modification to the Annexation Agreement and recommends approval of the resolution.

1 **FOR WORKSESSION/ADOPTION – NOV. 9**

2
3 A RESOLUTION

4
5 SERIES 2010

6
7 A RESOLUTION APPROVING A SECOND AMENDMENT TO ANNEXATION
8 AGREEMENT WITH UNION MILL, INC.
9 (The Wellington Neighborhood)

10
11 WHEREAS, the Town and Brynn Grey V, LLC, a Colorado limited liability company,
12 entered into that certain Annexation Agreement dated August 24, 1999 and recorded in the
13 Summit County, Colorado real estate records on October 18, 1999 at Reception No. 608041
14 (“*Annexation Agreement*”); and

15
16 WHEREAS, Union Mill, Inc., a Colorado corporation (“*Union Mill*”), is the successor in
17 interest to Bryn Grey V, LLC, a Colorado limited liability company; and

18
19 WHEREAS, the Annexation Agreement pertains to the annexation to the Town and
20 development of the project known as the “Wellington Neighborhood”; and

21
22 WHEREAS, the Annexation Agreement was previously amended by that Amendment to
23 Annexation Agreement dated February 28, 2006 and recorded in Summit County, Colorado real
24 estate records on March 22, 2006 at Reception No. 817872 (“*First Amendment*”); and

25
26 WHEREAS, development of the Wellington Neighborhood is proceeding in accordance
27 with the original neighborhood vision created by Town Council in 1999, and consistent with the
28 terms and conditions of the Annexation Agreement and First Amendment; and

29
30 WHEREAS, the Town and the Union Mill are concerned that changes to the affordable
31 housing market have decreased demand for attached units in the under 100% Area Median
32 Income category while demand for single family homes has remained constant; and

33
34 WHEREAS, there are currently 19 double houses (comprising 38 attached units)
35 remaining to be built in the Wellington Neighborhood;

36
37 WHEREAS, the Town and the Union Mill are also concerned that changes to the capital
38 markets and bank financing requirements have significantly decreased the availability of
39 construction financing necessary to complete the Wellington Neighborhood; and

40
41 WHEREAS, the Town and the Union Mill are additionally concerned that failure to
42 complete the Wellington Neighborhood in a timely manner will depress residents’ property
43 values and represent a setback to the Town’s affordable housing goals; and

44
45 WHEREAS, the Town has determined that it would be in the best interest of the public
46 health, safety and welfare of its citizens to alter the unit mix in Wellington Neighborhood so as

1 to better meet the Town’s affordable housing demand, and to encourage completion of the
2 Wellington Neighborhood in a timely manner consistent with its current development standards
3 and design patterns; and
4

5 WHEREAS, the Union Mill and Town have come to agreement on the terms and
6 conditions of a Second Amendment to the Annexation Agreement that will better meet the
7 Town’s affordable housing demand, and facilitate completion of the Wellington Neighborhood
8 in a timely manner consistent with the Wellington Neighborhood’s current development
9 standards and design patterns, all as more fully set forth in the proposed Second Amendment to
10 Annexation Agreement, a copy of which is marked **Exhibit “A”**, attached hereto and
11 incorporated herein by reference; and
12

13 WHEREAS, the Town Council has reviewed the proposed Second Amendment to
14 Annexation Agreement, and finds and determines that the approval of such agreement would be
15 in the best interests of the Town and its citizens.
16

17 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
18 BRECKENRIDGE, COLORADO:
19

20 Section 1. The proposed Second Amendment to Annexation Agreement between the
21 Town and Union Mill, Inc., a Colorado corporation (Exhibit "A" hereto), is approved, and the
22 Town Manager is authorized, empowered, and directed to execute such document for and on
23 behalf of the Town of Breckenridge.
24

25 Section 2. This resolution shall become effective upon its adoption.
26

27 RESOLUTION ADOPTED AND APPROVED THIS ____DAY OF _____, 2010.
28

29 TOWN OF BRECKENRIDGE, a Colorado
30 municipal corporation
31

32
33
34 By: _____
35 John G. Warner, Mayor
36

37 ATTEST:
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41

42 _____
43 Mary Jean Loufek, CMC,
44 Town Clerk
45

1 APPROVED IN FORM

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_____ date
Town Attorney

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**SECOND AMENDMENT
TO
ANNEXATION AGREEMENT**

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This Second Amendment to Annexation Agreement (“Second Amendment”) is made and entered into as of the ____ day of _____, 2010, by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“Town”), and UNION MILL, INC. a Colorado corporation (“Owner”), to amend the Annexation Agreement dated August 24, 1999 and recorded in the Summit County, Colorado real estate records on October 18, 1999 at Reception No. 608041 (the “Annexation Agreement”) as same was amended by the Amendment to Annexation Agreement dated February 28, 2006 and recorded in Summit County, Colorado real estate records on March 22, 2006 at Reception No 817872 (the “First Amendment”).

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WHEREAS, development of the Wellington Neighborhood is proceeding in accordance with the original neighborhood vision created by Town Council in 1999 and consistent with the terms and conditions of the Annexation Agreement and First Amendment; and

WHEREAS, the Town and the Owner are concerned that changes to the affordable housing market have decreased demand for attached units in the under 100% AMI category while demand for single family homes has remained constant;

WHEREAS, there are currently 19 buildings comprising 38 attached units (“Double Houses”) remaining to be built;

WHEREAS, the Town and the Owner are concerned that changes to the capital markets and bank financing requirements have significantly decreased the availability of construction financing necessary to complete the neighborhood;

WHEREAS, the Town and the Owner are concerned that failure to complete the neighborhood in a timely manner will depress residents’ property values and represent a setback to the Town’s affordable housing goals;

WHEREAS, the Town has determined that it would be in the best interest of the public health, safety and welfare of its citizens to alter the unit mix so as to better meet the Town’s affordable housing demand and to encourage completion of the Wellington Neighborhood in a timely manner consistent with its current development standards and design patterns;

WHEREAS, the Owner and the Town have come to agreement on the terms and conditions of this Second Amendment, which terms and conditions the Owner and the Town believe will better meet the Town’s affordable housing demand and facilitate completion of the Wellington Neighborhood in a timely manner consistent with the Wellington Neighborhood’s current development standards and design patterns.

NOW, THEREFORE, in consideration of the recitals, promises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1
2 **1. DEFINITIONS.** All capitalized terms used in this Second Amendment shall have the
3 same meaning as provided in the Annexation Agreement and First Amendment, unless
4 otherwise defined in this Second Amendment. The following terms shall have the
5 following meanings:
6

7 **Horizontal Financing.** Bank or private equity debt financing for the design, permitting
8 and physical construction of infrastructure and lots;
9

10 **Project.** The improvements to be constructed on Block 9, Wellington 2, according to the
11 plat thereof recorded in the Summit County, Colorado real estate records on July 24,
12 2009 at Reception No. 918908, and Lots 1, 2, and 4, Block 6, Wellington Neighborhood,
13 according to the plat recorded in the Summit County, Colorado real estate records on
14 October 18, 1999 at Reception No. 608047;
15

16 **Restrictive Covenant.** The Phase II Wellington Neighborhood Employee Housing
17 Restrictive Covenant and Agreement recorded in the Summit County, Colorado real
18 estate records on September 22, 2006 at Reception No. 833733;
19

20 **Small Lot Single Family Unit.** A residence no smaller than 1,172 gross square feet and
21 no larger than 2,000 gross square feet, unless a smaller residence is authorized by the
22 Town in accordance with Section 3.4 of the Annexation Agreement; and
23

24 **Vertical Financing.** Bank or private equity debt financing for the design, permitting and
25 physical construction of homes (“Homes”).
26

27 **2. SMALL SINGLE FAMILY HOMES MAY BE SUBSTITUTED FOR ATTACHED**
28 **UNITS.** So long as there is no increase in density, the Developer may substitute two (2)
29 Small Lot Single Family Units for any Double House, provided that such Small Lot
30 Single Family Units as are substituted for Double Houses will:
31

32 a) be sold initially for prices affordable to under 100% AMI, but for any period of
33 time when the 30 year fixed interest rates go above 6%¹, up to sixty-one percent (61%) of
34 the then-remaining Small Lot Single Family Units that may be created by substitution for
35 Double Houses can be sold initially for prices affordable to under 110% AMI so long as a
36 minimum of 15 of the 38 Small Lot Single Family Units are sold initially for prices
37 affordable to under 100% AMI; and
38

39 b) be subject to income qualification with purchasers allowed to qualify at AMI
40 income levels ten percent (10%) higher than the AMI limit on the price, or at such
41 income level as Town’s staff, on a case by case basis, may allow.
42

43 **3. RESTRICTIVE COVENANT SUBORDINATED TO HORIZONTAL AND**
44 **VERTICAL FINANCING.** The Town agrees to subordinate its interests under the

¹ According to the Wall Street Journal national index, or successor index, or if no successor index, such other generally accepted index selected by the Town.

1 Restrictive Covenant to deed(s) of trust to pay the costs of design, permitting, marketing
2 and physical construction necessary to complete the Project, subject to the following
3 conditions:

4
5 a) with respect to the Horizontal Financing:

- 6
7 (i) the aggregate principal amount of Horizontal Financing is less than
8 \$1,500,000²; and
9 (ii) the Owner has provided the Town an MAI appraisal confirming that the
10 principal amount of the loan is not more than 65% of the appraised deed
11 restricted, completed value of the Project.
12

13 b) with respect to the Vertical Financing:

- 14
15 (i) the aggregate principal amount of Vertical Financing is less than
16 \$2,000,000³;
17 (ii) there are not more than eight Homes subject to the subordination
18 agreement at any given time, with seventy five percent (75%) of such
19 Homes having contracts with non-refundable earnest money; and
20 (iii) the Owner has provided the Town an MAI appraisal confirming that the
21 principal amount of the loan is not more than 80% of the appraised deed
22 restricted, completed value of the Homes.
23

24 Such subordination shall be in substantially the form and subject to the terms of the Deed
25 of Trust Subordination Agreements attached hereto as **Exhibits A and B**, and
26 incorporated herein by reference.
27

28 **4. CONSENSUAL LIEN; RIGHT TO REDEEM.** For the purpose of securing Owner's
29 performance under the Restrictive Covenant, and creating in favor of the Town a right to
30 redeem in accordance with Part 3 of Article 38 of Title 38, C.R.S., Developer hereby
31 grants to Town a consensual lien on Block 9, Wellington 2, according to the plat thereof
32 recorded in the Summit County, Colorado real estate records on July 24, 2009 at
33 Reception No. 918908, and Lots 1, 2, and 4, Block 6 Wellington Neighborhood
34 according to the plat recorded in the Summit County, Colorado real estate records on
35 October 18, 1999 at Reception No. 608047. Such lien shall not have a lien amount. The
36 lien granted by this Section 4 shall be subject to the Deed of Trust Subordination
37 Agreements (Exhibits "A" and "B" hereto) to the same extent as the Restrictive
38 Covenant.
39

40 **5. EFFECT OF AMENDMENT.** Except as amended by this Second Amendment, the
41 Annexation Agreement, as amended by the First Amendment, shall continue in full force
42 and effect.

² Commencing with the date of this Second Amendment, the maximum loan amount shall be increased annually by an amount equal to the increase in the Denver Consumer Price Index, All Items.

³ Commencing with the date of this Second Amendment, the maximum loan amount shall be increased annually by an amount equal to the increase in the Denver Consumer Price Index, All Items.

1
2 IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the
3 date first written above.
4

5 TOWN OF BRECKENRIDGE, a Colorado
6 municipal corporation

7 ATTEST:

8
9
10 _____
11 Mary Jean Loufek, CMC,
12 Town Clerk

By: _____
Timothy J. Gagen, Town Manager

13
14
15 UNION MILL, INC. a
16 Colorado corporation

17
18
19 By: _____
20 David G. O'Neil, President

21
22
23 STATE OF COLORADO)
24) ss.
25 COUNTY OF SUMMIT)

26
27 The foregoing instrument was acknowledged before me this ____ day of
28 _____, 2010 by Timothy J. Gagen, Town Manager, and Mary Jean Loufek, CMC,
29 Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

30
31 WITNESS my hand and official seal.
32 My commission expires: _____.

33
34
35 _____
36 Notary Public
37
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STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____,
2010 by David G. O’Neil, President of Union Mill, Inc., a Colorado corporation.

WITNESS my hand and official seal.
My commission expires: _____.

Notary Public

1 **Exhibit A**

2
3 **HORIZONTAL FINANCING**
4 **DEED OF TRUST SUBORDINATION AGREEMENT**
5

6 This Deed of Trust Subordination Agreement (the “Agreement”) dated as of
7 _____, 2010, is made by and among UNION MILL, Inc., a
8 Colorado corporation (the “Developer”), TOWN OF BRECKENRIDGE, a Colorado municipal
9 corporation (the “Town”) and _____ (the “Lender”).
10

11 **RECITALS**

12 WHEREAS, Developer is constructing affordable housing on the real property described
13 as follows (the “Property”):
14
15

16 WHEREAS, the Property is subject to the terms, covenants and conditions of that certain
17 Phase II Wellington Neighborhood Employee Housing Restrictive Covenant and Agreement
18 recorded in the Summit County, Colorado real estate records on September 22, 2006 at
19 Reception No. 833733 (the “Restrictive Covenant”);

20 WHEREAS, the Town has agreed to subordinate its rights and interests provided for in
21 the Restrictive Covenant to a deed of trust securing payment of a loan to Developer to pay the
22 costs of design, permitting and physical construction necessary to complete the infrastructure
23 improvements to the Property; and
24

25 WHEREAS, Developer desires to obtain a loan from Lender in the original principal
26 amount of \$ _____ for the purpose of design, permitting and physical
27 construction of infrastructure and lots; and
28

29 WHEREAS, Lender requires that the loan from Lender to Developer be evidenced by a
30 Promissory Note in the principal amount of \$ _____ and be secured by a
31 Deed of Trust, as well as by a security agreement and financing statement, creating interests in
32 the Property that are prior to the Restrictive Covenant, which Note and security documents
33 describing the Property and in favor of Lender together will be hereafter referred to as the “Loan
34 Documents”; and

35 NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual
36 covenants and promises of the parties, all of which constitute good and valuable consideration,
37 the receipt and sufficiency of which are hereby acknowledged, the Town, Developer and Lender
38 covenant and agree as follows:
39

40 1. As an inducement to Lender to grant the loan described in the Loan Documents to
41 Developer, the Town and the Developer hereby subordinate the Restrictive Covenant and all of

1 the Town's interests therein to the Loan Documents in favor of Lender that are being recorded in
2 the real property records of Summit County, Colorado contemporaneously with the recording of
3 this Agreement. The Town and the Developer further agree that all liens and security provided
4 for in the Loan Documents in favor of the Lender shall be and are in all respects a lien and
5 security interest prior and superior to the lien of the Restrictive Covenant, and that the Restrictive
6 Covenant shall be junior and subordinate to the lien and security interest created by the Loan
7 Documents in favor of Lender.
8

9 2. The Town and the Developer hereby acknowledge prior receipt of copies of the
10 Loan Documents, all of which are hereby approved by both the Town and Developer.
11

12 3. This Agreement shall inure to the benefit of Lender, its successors and assigns,
13 and shall be binding on the Town and the Developer and their respective successors and assigns.
14

15 4. This Agreement may be executed in counterparts which together shall constitute
16 one and the same instrument.
17

18 IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first
19 set forth above.
20

21 TOWN OF BRECKENRIDGE, a Colorado
22 municipal corporation

23 ATTEST:

24
25
26 _____
27 Mary Jean Loufek, CMC,
28 Town Clerk
29

By: _____
Timothy J. Gagen, Town Manager

30 UNION MILL, INC. a
31 Colorado corporation
32

33
34
35 By: _____
36 David G. O'Neil, President
37
38

1 STATE OF COLORADO)
2) ss.
3 COUNTY OF SUMMIT)
4

5 The foregoing instrument was acknowledged before me this ____ day of
6 _____, 2010 by Timothy J. Gagen, Town Manager, and Mary Jean Loufek, CMC,
7 Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.
8

9 WITNESS my hand and official seal.
10 My commission expires: _____.
11

12 _____
13 Notary Public

14 STATE OF COLORADO)
15) ss.
16 COUNTY OF _____)
17

18 The foregoing instrument was acknowledged before me this ____ day of _____,
19 2010 by David G. O'Neil, President of Union Mill, Inc., a Colorado corporation.
20

21 WITNESS my hand and official seal.
22 My commission expires: _____.
23

24 _____
25 Notary Public

1 **Exhibit B**

2
3 **VERTICAL FINANCING**
4 **DEED OF TRUST SUBORDINATION AGREEMENT**
5

6 This Deed of Trust Subordination Agreement (the “Agreement”) dated as of
7 _____, 2010, is made by and among POPLAR WELLINGTON,
8 Inc., a Colorado corporation (the “Developer”), TOWN OF BRECKENRIDGE, a Colorado
9 municipal corporation (the “Town”) and _____ (the
10 “Lender”).
11

12 **RECITALS**

13 WHEREAS, Developer is constructing affordable housing on the real property described
14 as follows (the “Property”):

15 WHEREAS, the Property is subject to the terms, covenants and conditions of that certain
16 Phase II Wellington Neighborhood Employee Housing Restrictive Covenant and Agreement
17 recorded in the Summit County, Colorado real estate records on September 22, 2006 at
18 Reception No. 833733 (the “Restrictive Covenant”);

19 WHEREAS, the Town has agreed to subordinate its rights and interests provided for in
20 the Restrictive Covenant to a deed of trust securing payment of a loan to Developer to pay the
21 costs of design, permitting and physical construction necessary to complete homes to be built on
22 the Property; and
23

24 WHEREAS, Developer desires to obtain a loan from Lender in the original principal
25 amount of \$ _____ for the purpose of design, permitting and physical
26 construction of homes; and
27

28 WHEREAS, Lender requires that the loan from Lender to Developer be evidenced by a
29 Promissory Note in the principal amount of \$ _____ and be secured by a
30 Deed of Trust, as well as by a security agreement and financing statement, creating interests in
31 the Property that are prior to the Restrictive Covenant, which Note and security documents
32 describing the Property and in favor of Lender together will be hereafter referred to as the “Loan
33 Documents”; and

34 NOW, THEREFORE, in consideration of the foregoing Recitals and the mutual
35 covenants and promises of the parties, all of which constitute good and valuable consideration,
36 the receipt and sufficiency of which are hereby acknowledged, the Town, Developer and Lender
37 covenant and agree as follows:
38

39 1. As an inducement to Lender to grant the loan described in the Loan Documents to
40 Developer, the Town and the Developer hereby subordinate the Restrictive Covenant and all of
41 the Town’s interests therein to the Loan Documents in favor of Lender that are being recorded in
42 the real property records of Summit County, Colorado contemporaneously with the recording of

1 this Agreement. The Town and the Developer further agree that all liens and security provided
2 for in the Loan Documents in favor of the Lender shall be and are in all respects a lien and
3 security interest prior and superior to the lien of the Restrictive Covenant, and that the Restrictive
4 Covenant shall be junior and subordinate to the lien and security interest created by the Loan
5 Documents in favor of Lender.
6

7 2. The Town and the Developer hereby acknowledge prior receipt of copies of the
8 Loan Documents, all of which are hereby approved by both the Town and Developer.
9

10 3. This Agreement shall inure to the benefit of Lender, its successors and assigns,
11 and shall be binding on the Town and the Developer and their respective successors and assigns.
12

13 4. This Agreement may be executed in counterparts which together shall constitute
14 one and the same instrument.
15

16 IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first
17 set forth above.
18
19

20 TOWN OF BRECKENRIDGE, a Colorado
21 municipal corporation

22 ATTEST:

23
24
25 _____
26 Mary Jean Loufek, CMC,
27 Town Clerk
28
29

By: _____
Timothy J. Gagen, Town Manager

30 UNION MILL, INC. a
31 Colorado corporation
32
33

34 By: _____
35 David G. O'Neil, President
36
37

1 STATE OF COLORADO)
2) ss.
3 COUNTY OF SUMMIT)
4

5 The foregoing instrument was acknowledged before me this ____ day of
6 _____, 2010 by Timothy J. Gagen, Town Manager, and Mary Jean Loufek, CMC,
7 Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.

8
9 WITNESS my hand and official seal.
10 My commission expires: _____.

11
12 _____
13 Notary Public

14 STATE OF COLORADO)
15) ss.
16 COUNTY OF _____)
17

18 The foregoing instrument was acknowledged before me this ____ day of _____,
19 2010 by David G. O'Neil, President of Union Mill, Inc., a Colorado corporation.

20
21 WITNESS my hand and official seal.
22 My commission expires: _____.

23
24
25 _____
26 Notary Public

TO: TOWN COUNCIL
FROM: BRIAN WALDES, FINACIAL SERVICES MANAGER
SUBJECT: STATE-WIDE INTERNET PORTAL AUTHORITY INTERGOVERNMENTAL AGREEMENT
DATE: 11/17/10
CC: TIM GAGEN

Attached please find exhibit A, an intergovernmental agreement (IGA) between the Town of Breckenridge and the Statewide Internet Portal Authority (SIPA). By signing this agreement, the Town will be eligible to apply for grants related to e-Government solutions that are planned for implementation in the near future. To wit;

1. Posting the Town Code on our website in a searchable format for easier public (and staff) access. This will also reduce the number of paper code books staff need to maintain, eliminating expense and saving staff time.
2. Migrating our legacy electronic public document storage software to our new financial software. The Town would save on annual costs by eliminating the legacy application, and also have more public access features on the new system.

SIPA grants are intended to assist municipalities with increasing public access to government information over the internet. The potential award of these grants to the Town could cover all costs related to these projects. Staff will apply for a grant for each project separately. We do not know the exact amount we will apply for yet, but it should total around \$10,000 for both projects.

The IGA attached references a master agreement not included in this packet. The master agreement referenced is voluminous and does not pertain to the Town's potential relationship with SIPA. If any Council member desires to review the master agreement, a copy can be provided.

Staff respectfully requests Council permission to execute the attached IGA so that we may proceed with the grant application process described above.

1 ***FOR WORKSESSION/ADOPTION – NOV. 23***

2
3 A RESOLUTION

4
5 SERIES 2010

6
7 A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE
8 STATEWIDE INTERNET PORTAL AUTHORITY

9
10 WHEREAS, governmental entities are authorized by Article XIV of the Colorado
11 Constitution and Part 2 of Article 1 of Title 29, C.R.S., to co-operate and contract with one
12 another to provide any function, service, or facility lawfully authorized to each of the co-
13 operating or contracting governmental entities; and

14
15 WHEREAS, the Statewide Internet Portal Authority of the State of Colorado (“SIPA”)
16 was created to provide access to electronic information for members of the public; and

17
18 WHEREAS, SIPA is a political subdivision of the State of Colorado; and

19
20 WHEREAS, Section 24-37.7-104(1)(q), C.R.S., authorizes SIPA and the Town (as an
21 Eligible Governmental Entity) to make and execute agreements, contracts, or instruments
22 necessary or convenient to the exercise of the powers and functions of SIPA as set forth in
23 Section 24-37.7-101 through 113, C.R.S.; and

24
25 WHEREAS, a proposed Eligible Governmental Entity Agreement between the Town and
26 SIPA has been prepared, a copy of which is marked Exhibit “A”, attached hereto, and
27 incorporated herein by reference (the “Intergovernmental Agreement”); and

28
29 WHEREAS, the Town Council has reviewed the proposed Intergovernmental
30 Agreement, and finds and determines that it would be in the best interest of the Town to enter
31 into such agreement.

32
33 NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF
34 BRECKENRIDGE, COLORADO, as follows:

35
36 Section 1. The proposed Eligible Governmental Entity Agreement between the Town
37 and the Statewide Internet Portal Authority of the State of Colorado (Exhibit "A" hereto) is
38 approved, and the Town Manager is hereby authorized, empowered, and directed to execute such
39 agreement for and on behalf of the Town of Breckenridge.

40 Section 2. This resolution shall become effective upon its adoption.

41
42
43 RESOLUTION APPROVED AND ADOPTED THIS ____ DAY OF _____, 2010.
44
45
46

TOWN OF BRECKENRIDGE

By _____
John G. Warner, Mayor

ATTEST:

Mary Jean Loufek, CMC,
Town Clerk

APPROVED IN FORM

Town Attorney date

**ELIGIBLE GOVERNMENTAL ENTITY AGREEMENT BETWEEN
THE STATEWIDE INTERNET PORTAL AUTHORITY OF THE STATE OF
COLORADO AND TOWN OF BRECKENRIDGE, COLORADO REGARDING THE
TRANSMISSION OF ELECTRONIC INFORMATION**

This Eligible Governmental Entity Agreement (this “EGE”) by and between The Statewide Internet Portal Authority of the State of Colorado (“SIPA”), and Town of Breckenridge, Colorado (the “Town”), is made and entered into on this ____ day of _____, 2010. Capitalized terms used but not defined in this EGE shall have the meanings ascribed to them in the Master Agreement (as defined below).

RECITALS

WHEREAS, SIPA and the Town wish to enter into a cooperative agreement as to the transmission of electronic information; and

WHEREAS, pursuant to § 24-37.7–105 C.R.S., SIPA operates to provide electronic access for members of the public to electronic information; and

WHEREAS, pursuant to § 24-37.7–104 C.R.S., SIPA operates as a political subdivision of the State of Colorado; and

WHEREAS, § 29-1-203, C.R.S., authorizes local governments to cooperate or contract with each other to provide any function or service lawfully authorized to each other; and

WHEREAS, § 24-37.7-104 (1)(q) authorizes SIPA and the Town, to make and execute agreements, contracts, or instruments necessary or convenient to the exercise of the powers and function of SIPA with the Town, as an Eligible Governmental Entity, as set forth in § 24-37.7-101 through 113;

WHEREAS, all Eligible Governmental Entities under § 24-37.7-104(1)(q) who enter into an Eligible Governmental Entity Agreement are intended beneficiaries under the Master Agreement dated May 2, 2005 between NIC, Inc., and SIPA, as amended by a First Amendment to the Master Agreement dated January 31, 2006 (both attached as Exhibit A and incorporated herein by reference) (the “Master Agreement”);

WHEREAS, NIC, Inc., does business in Colorado through its wholly owned subsidiary, Colorado Interactive LLC (hereinafter “Portal Contractor”);

WHEREAS, SIPA by this EGE will provide applications and services to the Town pursuant to Task Orders and work orders; and

WHEREAS, a work order will be prepared for each application involving Portal Services.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, SIPA and the Town agree as follows:

1. The Town shall make available to SIPA electronic information maintained in the general conduct of the Town's business. As mutually agreed upon in subsequent work orders, Task Orders, or corresponding statements of work, the Town will provide reasonable levels of support in placing online with SIPA certain Town-owned electronic information, as mutually agreed by the Town and SIPA, with due regard to the workload and priorities of the Town, SIPA and its Portal Contractor.

2. SIPA shall make such information available to the general public through the officially recognized statewide internet portal created pursuant to §24-37.7-105, C.R.S. and as set forth in the Master Agreement.

3. SIPA shall charge Transaction Fees and Statutory Fees in its normal course of business. SIPA shall make timely distribution of Statutory Fees received (and, if called for in a given situation, the Town's portion of any Transaction Fee received), to the Town Treasurer in a manner mutually agreed by the parties.

4. SIPA and the Town may enter into work orders and Task Orders under this EGE. Work orders shall describe specific Portal Services to be provided to the Town, and the Town acknowledges that such Portal Services shall be provided to the Town pursuant to the terms of Article 1.B. of the Master Agreement. Task Orders shall cover the purchase of goods and services from SIPA through the use of Town funds. All work orders and Task Orders may be approved by one or more of the following: (1) the Town official, or his or her designee, who is responsible for the Town department that controls access to certain Town electronic information; (2) any department that must provide resources under the work order or Task Order, such as the information technology department of the Town; (3) those persons or entities who regularly approve Town contracts, such as the Town finance department and Town legal department. Task Orders shall contain specific time or performance milestones for the Portal Contractor, timelines for completion of relevant Task Orders, statements of work, design specifications and other criteria relevant to the completion of an applicable Task Order, criteria and procedures for acceptance by the Town and remedying incomplete or inaccurate work for each phase of a relevant Task Order. Notwithstanding Article 30(b) of the Master Agreement, as amended, the Town shall be a principal beneficiary of, and entitled to enforce all covenants, representations and warranties set forth in, a Task Order when the Town purchases goods and services from SIPA through the use of Town funds.

5. SIPA shall be responsible for the operation of, and all costs and expenses associated with, establishing and maintaining electronic access to Town databases or other software applications, including but without limitation, the cost of purchasing, developing and maintaining programs used to interface with Town software applications that provide access to

Town-owned data. The Town's maximum financial obligation shall be limited to the amount set forth and appropriated pursuant to each individual work order or Task Order.

6. Subject to Section 13 below, each party shall have the right to terminate this EGE by giving the other party 60 days' written notice. Unless otherwise specified in such notice, this EGE will terminate at the end of such 60-day period, and the liabilities of the parties hereunder for further performance of the terms of this EGE shall thereupon cease, but the parties shall not be released from any duty to perform up to the date of termination.

7. None of the terms or conditions of this EGE gives or allows any claim, benefit, or right of action by any third person not a party hereto. Nothing in this EGE shall be deemed as any waiver of immunity or liability limits granted to the Town or SIPA by the Colorado Governmental Immunity Act or any similar statutory provision.

8. This EGE constitutes the entire agreement of the parties hereto and supersedes all prior negotiations, representations or agreements, either written or oral. This EGE may be amended, modified, or changed, in whole or part, only by written agreement approved by each party.

9. Neither SIPA nor Portal Contractor have responsibility for the accuracy or completeness of the data contained within the Town databases. SIPA and Portal Contractor shall be responsible only for the accurate and complete transmission of data to and from such Town databases, in accordance with the specifications of any Town-owned software.

10. This EGE and any written amendments thereto may be executed in counterpart, each of which shall constitute an original and together, which shall constitute one and the same agreement. Delivery of an executed signature page of this EGE by facsimile or email transmission will constitute effective and binding execution and delivery of this EGE.

11. The books and records accounting for all Transaction Fees and Statutory Fees due the Town shall be made available to the Town for it to audit, inspect and copy during reasonable business hours, at its own expense, upon reasonable prior notice to SIPA.

12. Confidential information for the purpose of this EGE is information relating to SIPA's, the Town's or the Portal Contractor's research, development, trade secrets, business affairs, internal operations, management procedures, and information not disclosable to the public under the Colorado Open Records Act. Confidential information does not include information lawfully obtained through third parties, which is in the public domain, or which is developed independently without reference to a party's confidential information. Neither party shall use or disclose, directly or indirectly, without prior written authorization, any confidential information of the other or confidential information of the Portal Contractor. SIPA shall use its reasonable best efforts to ensure that the Portal Contractor protects Town confidential information from unauthorized disclosure. Notwithstanding anything to the contrary herein, each party acknowledges that given the subject matter of this EGE, such party shall not disclose

confidential information of the other (whether in written or electronic form) to any third party, except as required by law or as necessary to carry out the specific purpose of this EGE; provided, however, that if such disclosure is necessary, any third party who receives such confidential information shall also be bound by the nondisclosure provisions of this Section 12. Upon termination of this EGE, the parties shall return or destroy (at the other party's request) all confidential information of the other and if such information is destroyed, each party shall demonstrate evidence of such destruction to the other.

13. Upon termination of this EGE, all rights and obligations of the parties shall terminate except that the obligations set forth in Sections 3 (concerning payment of fees due the Town), 4 (last sentence), 5, 7, 8, 10, 11 (but survival of this provision is limited to 12 months after termination), 12, 14.A and 14.D., shall survive any such expiration or termination. In addition, if the Master Agreement is terminated, the provisions of Article 8 and Section 1 of the Special Provisions of the Master Agreement shall also survive for one year, except this one-year limitation shall not apply as to intentional fraud with respect to Town matters by Portal Contractor or any of its employees in the course of their employment.

14. Miscellaneous Provisions

A. Independent Authority. SIPA SHALL PERFORM ITS DUTIES HEREUNDER AS AN INDEPENDENT AUTHORITY AND NOT AS AN EMPLOYEE OF THE TOWN. NEITHER SIPA NOR ANY AGENT OR EMPLOYEE OF SIPA SHALL BE OR SHALL BE DEEMED TO BE AN AGENT OR EMPLOYEE OF THE TOWN. SIPA AND ITS AGENTS SHALL PAY WHEN DUE ALL REQUIRED EMPLOYMENT TAXES AND INCOME TAX AND LOCAL HEAD TAX ON ANY MONIES PAID BY THE TOWN PURSUANT TO THIS EGE. SIPA ACKNOWLEDGES THAT SIPA AND ITS EMPLOYEES OR AGENTS ARE NOT ENTITLED TO TOWN EMPLOYMENT OR UNEMPLOYMENT BENEFITS UNLESS SIPA OR A THIRD PARTY PROVIDES SUCH BENEFITS AND THAT THE TOWN DOES NOT PAY FOR OR OTHERWISE PROVIDE SUCH BENEFITS. SIPA SHALL HAVE NO AUTHORIZATION, EXPRESS OR IMPLIED, TO BIND THE TOWN TO ANY AGREEMENTS, LIABILITY, OR UNDERSTANDING EXCEPT AS EXPRESSLY AUTHORIZED BY THE TOWN. SIPA AND ITS AGENTS SHALL PROVIDE AND KEEP IN FORCE WORKERS' COMPENSATION (AND PROVIDE PROOF OF SUCH INSURANCE WHEN REQUESTED BY THE TOWN) AND UNEMPLOYMENT COMPENSATION INSURANCE IN THE AMOUNTS REQUIRED BY LAW, AND SHALL BE SOLELY RESPONSIBLE FOR THE ACTS OF SIPA, ITS EMPLOYEES AND AGENTS.

B. Non-discrimination. SIPA agrees to comply with the letter and the spirit of all applicable state and federal laws respecting illegal discrimination and unfair employment practices.

C. Illegal Aliens. SIPA shall not, and by signing this EGE certifies that it does not, knowingly employ or contract with an illegal alien to perform work under this EGE. SIPA shall not enter into a subcontract with a subcontractor that fails to certify to SIPA that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this EGE. SIPA affirms that it has verified or attempted to verify through participation in the Basic Pilot Employment Verification Program administered by the United States Department of Homeland Security that SIPA does not employ illegal aliens. In the event SIPA is not accepted into the Basic Pilot Program prior to entering into this EGE, unless the Basic Pilot Program is discontinued by the federal government, SIPA shall apply to participate in the Basic Pilot Program every three months until SIPA is accepted or this EGE has terminated, whichever is earlier. SIPA is prohibited from using the Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this EGE is in effect.

In the event that SIPA obtains actual knowledge that a subcontractor performing work under this EGE knowingly employs or contracts with an illegal alien, SIPA shall be required to:

- (i) Notify the subcontractor and the Town within three days that SIPA has actual knowledge that the subcontractor is employing or contracting with an illegal alien; AND
- (ii) Terminate the subcontract with the subcontractor if, within three days of receiving such notice, the subcontractor does not stop employing or contracting with the illegal alien; except that SIPA shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

SIPA is required under this EGE to comply with any reasonable request by the Town made in the course of an investigation the Town is undertaking pursuant to its legal authority.

Violation of this Section 14.C. of this EGE shall constitute a breach of this EGE and may result in termination by the Town. SIPA shall be liable to the Town for actual and consequential damages resulting from such breach pursuant to §8-17.5-101(3) C.R.S. The Town shall also report any such breach to the Office of the Secretary of State.

SIPA acknowledges that the Town may investigate whether SIPA is complying with this Section 14.C. This may include on-site inspections and the review of documentation that proves the citizenship of any person performing work under this EGE and any other reasonable steps necessary to determine compliance with the provisions of this Section.

D. Choice of Law. The laws of the State of Colorado (except Colorado laws related to choice of law or conflict of law) and rules and regulations issued pursuant

thereto shall be applied in the interpretation, execution, and enforcement of this EGE. Any provision, whether or not incorporated herein by reference, which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with this EGE shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision, in whole or in part, shall be valid or enforceable or available in any action at law whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this EGE to the extent that this EGE is capable of being performed.

At all times during the performance of this EGE, SIPA shall strictly adhere to all applicable federal and state laws, rules, and regulations that have been or may hereafter be established.

E. Software Piracy Prohibition. No State or other public funds payable under this EGE shall knowingly be used for the acquisition, operation, or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. SIPA hereby certifies that, for the term of this EGE and any extensions, SIPA has in place appropriate systems and controls to prevent such improper use of public funds. If the Town determines that SIPA is in violation of this paragraph, the Town may exercise any remedy available at law or equity or under this EGE, including, without limitation, immediate termination of the EGE and any remedy consistent with United States copyright laws or applicable licensing restrictions.

F. Notices. All notices required or permitted under this EGE shall be in writing and delivered personally, by facsimile, by email or by first class certified mail, return receipt. If delivered personally, notice shall be deemed given when actually received. If delivered by facsimile or email, notice shall be deemed given upon full transmission of such notice and confirmation of receipt during regular business hours. If delivered by mail, notice shall be deemed given at the date and time indicated on the return receipt. Notices shall be delivered to:

If to SIPA:

Statewide Internet Portal Authority
Attn: John D. Conley, Executive Director
633 17th Street, Suite 1610
Denver, CO 80202
Phone: (303) 866-4211
Fax: (303) 866-3995
Email: sipa@cosipa.gov

If to the Town:

Town of Breckenridge

Name: Mary Jean Loufek

Title: Town Clerk

Address: PO Box 168, Breckenridge CO 80424

Phone: 970-547-3167

Fax: 970-547-4468

Email: mjl@townofbreckenridge.com

And to other address or addresses as the parties may designate in writing.

G. Employee Financial Interest. The signatories aver that to their knowledge, no employee of the State of Colorado has any personal or beneficial interest whatsoever in the service or property described herein.

This EGE is entered into as of the day and year set forth above.

John D. Conley, Executive Director
Statewide Internet Portal Authority

Date: _____

Name: Tim Gagen
Title: Town Manager
Town of Breckenridge, CO

Date: _____

MEMO

TO: Mayor & Town Council
FROM: Tim Gagen
DATE: November 16, 2010
SUBJECT: Committee Reports for 11.23.10 Council Packet

The following committee reports were submitted by Town Employees and/or the Town Manager:

Police Advisory Committee	Chief Rick Holman	November 4, 2010
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➤ **Special Guests Kathy Davis and Michelle Flake from Summit Safe Haven:** Kathy and Michelle discussed Summit Safe Haven with the group. Kathy explained that the Safe Haven is both a mental health triage and detoxification facility. There are counselors available 24/7. Counselors provide case management to all clients including those at the facility for detox. Every person in the facility for detox will have contact with a case manager at least three times. This is a full service facility providing a resource sorely needed within the county/region. In addition to clients referred from police agencies or the hospital, the facility also takes walk-in clients. The committee questioned funding for the program. Kathy explained that funding comes from grants, local government, and some revenue from billing. The committee suggested fundraising, better marketing, use of volunteers, etc. The group discussed options for law enforcement prior to using the facility, such as finding a responsible party to care for an intoxicated individual. The presentation was well received and generated a significant number of questions.

➤ **Staffing Update:** Assistant Chief Morrison discussed the recent recruitment process to hire a police officer. For the first time in years the department has been able to establish and eligibility list after interviewing several well qualified individuals.

➤ **Winter Preparations/Parking:** Commander Haynes discussed with the group progress that has been made with the ski resort regarding the purchase of variable message signs. The ski resort is in the process of purchasing the sign for the gondola loading area at Peak 8. The police department has received a grant to help with the purchase of a portable, trailer mounted variable message sign. The grant funds cannot be encumbered until after January 1st, so the department is devising a backup plan for traffic management on Hwy 9 this ski season. A committee member suggested using the SHS variable message sign as an alternative.

The department will be watching ingress/egress issues carefully at the start of the ski season in an attempt to determine the affect of widening Hwy 9 on traffic. Commander Haynes explained to the group that the department is working closely with Vail Resorts to streamline the parking process and minimize traffic backup as a result of parking the Gold Rush lot.

Committee members were updated on parking, including the installation of a pay parking machine in the ice rink lot. Parking rules for the Klack Placer and Ice Rink lots were reiterated. The group also discussed the upcoming shuttle driver meeting and the department's efforts to educate hotels and lodging establishments on front end efforts to educate visitor on alternatives to driving to and while in Breckenridge.

➤ **Investigations:** Assistant Chief Morrison discussed the outcome of recent large investigations.

➤ **Misc. Updates/Discussion:** Dick Carlton asked if the police department was participating in training programs for seasonal employees. Assistant Chief Morrison explained that for the first time this season the department was making a concerted effort to educate the incoming workers.

1. **Established guidelines for Administrative Discretion for Expending Wildfire Funds.**
2. **Discussion on Wildfire Special Projects Position.** The Council agreed that this name better described the position. However, prior to deciding how many hours a week this person would work – the Council wanted a full job description.
3. **Establishment of Priority List within Focus Areas.** A subcommittee was formed to further discuss the establishment of priority lists within Focus Areas.
4. **Update from the USFS on the Ophir Mountain Forest Health and Fuels Project.** Cutting may begin in the summer of 2011 on this project.
5. **Public Education update.** RWB Fire hosted an open house with approximately 350 attendees. Additionally, Brett Crary, Dan Gibbs and Dan Schroder hosted scavenger hunt booths. Brett and Kim taught at Breck Elem. Took Wildland rigs over to Upper Blue and Breck Elem. Trying to find ways to educate the kids. Joel did some things with SCTV 10 on Ready Set Go, does some things in print, group talks, pushing Ready Set Go program, talks a lot about Emergency Alert System, Summit County Alert, etc. Outreach with FDRD (Town of Dillon Farmer’s Market), Beetlefest with Town of Frisco, Summit and Lake County school groups, USFS Ophir Mountain field trips and public meeting, and Vail Resorts communication division to teach the resort staff so they have the tools to teach the ski resort customer.
6. **Next meeting:** January 20, 2011. 1:30-3:30pm

1. **Annual Retreat.** The Commission went on their annual retreat as scheduled on Wednesday, October 20th. The Commission met with the Carbondale Public Art Commission. They specifically discussed their rotating outdoor sculpture exhibition and compared notes on how to make each program more successful and how to continue to draw quality sculptures. It was noted that Carbondale had raised their travel stipend to \$500 per sculpture. The Commission also received a tour of the Third Street Art Center in Carbondale a new facility devoted to arts and culture in a remodeled school. The School provided great space for local cultural organizations. The facility had been remodeled in a green manner with solar panels and other amenities. The Commission also received a tour of Anderson Ranch in Snowmass.
2. **Sculpture on the Blue.** Sculptures were removed on Monday, September 20th. A Small artist reception/breakfast was also held that day. The People’s Choice was a tie between “Happy Hour” by Steve Puchek and “Tiki Crane Stance” by Mark Mahorney. There were four selections for Best of Show and the Commission is asking help from the Friends of the Arts District to select a winner from the four.
3. **Community Arts Update.** Tin Shop – Annie Fraser from New York, NY was at the Tin Shop from October 1st through the 31st. Annie is a painter and hosted an abstract painting from still life workshop on October 21st. The workshop was well attended. Currently at the Tin Shop is Joetta Maue from Brooklyn, NY. Joetta is a fiber artist and will be at the Tin Shop through November 30th. Joetta is hosting an autobiographical embroidery workshop on November 17th and will have open studio hours Wednesday through Saturdays from 2:00 pm to 6:00 pm. Friends of the Arts District – The Friends met on Monday, September 13th to get the pledge packets out. The Friends also met on Monday, November 15th at 5:30 pm at the Fuqua Livery Stable. The Friends discussed the details for the Holiday Arts Market scheduled for December 10th through the 12th. They also reviewed pledge collection status and discussed the upcoming Tin Shop Auction/Gala scheduled for January 28th.
4. **Upcoming meetings:** January 10th, June 13th

Committees	Representative	Report Status
CAST	Mayor Warner	Verbal Report
CDOT	Tim Gagen	Verbal
CML	Tim Gagen	No Meeting/Report
I-70 Coalition	Tim Gagen	No Meeting/Report
Mayors, Managers & Commissions Mtg	Mayor Warner	Verbal Report
Summit Leadership Forum	Tim Gagen	No Meeting/Report
Liquor Licensing Authority*	MJ Loufek	No Meeting/Report
Wildfire Council	Matt Thompson	Included
Public Art Commission*	Jenn Cram	Included
Summit Stage Advisory Board*	James Phelps	No Meeting/Report
Police Advisory Committee	Rick Holman	Included
Housing/Childcare Committee	Laurie Best	Verbal Report

Note: Reports by provided by the Mayor and Council Members are listed in the council agenda.

* Minutes to some meetings are provided in the Manager's Newsletter.



To: Mayor and Town Council Members
Cc: Town Manager and Assistant Town Manager
From: Director of Communications
Date: November 17, 2010 (*for November 23 meeting*)
RE: Breckenridge Marketing Advisory Committee Goals –refinement

The Breckenridge Marketing Advisory Committee continues to meet and provides the next draft of the Mission and Practices (formerly Goals) for Council's consideration. Based on input, the group will finalize at their next meeting on December 7.

BMAC Mission Statement

The purpose of the Breckenridge Marketing Advisory Committee (BMAC) is to advise town council on best practices that will maximize the effectiveness and efficiency of all tourism marketing investments made with town marketing funds.

BMAC Practices

1. Review and recommend to Town Council the awarding of the Marketing Contract to Destination Marketing Organization (DMO) by August 31; review benchmarks, metrics, funding levels, and effectiveness of the marketing plan on an appropriate basis and report to council.
2. Ensure town entities cooperate when developing, funding, and deploying marketing messages that involve the use of town marketing funds, leveraging individual marketing efforts into a more comprehensive and effective message.
3. Coordinate with appropriate entities to develop and implement cooperative advertising solutions to avoid redundant or confusing marketing efforts.
4. Suggest, augment, and monitor appropriate funding of all marketing efforts based on a combination of viability, past effectiveness, best practice, and performance potential to ensure maximum ROI.
5. Ensure destination marketing remains the primary focus in all aspects of the town's marketing portfolio.

6. Continually develop and refine best practices (approaches, technologies, and metrics) into the town's marketing portfolio to ensure efficiency, effectiveness, and appropriate representation in and of all town marketing efforts.
7. Encourage the creation, promotion, and appropriate funding for special events, cultural/historical programs, and local non-profit entities that will properly represent the character and brand of Breckenridge and enhance the vacation experience of our guests.
8. Vigilantly proceed as responsible stewards of public marketing funds without conflict or prejudice, and maintain funding of nonprofit producing ventures at no more than 5% of the entire marketing budget.

Thank you.

INTEROFFICE MEMORANDUM

TO: TIM GAGEN, TOWN MANAGER
FROM: CLERK AND FINANCE DIVISION
SUBJECT: OCTOBER 2010 FINANCIAL VARIANCE HIGHLIGHTS MEMO
DATE: 11/17/2010

This report highlights variations between the 2010 budget and actual figures for the Town of Breckenridge for the period ending October 31, 2010.

Fund Updates:

General Fund

Revenue continues to track ahead of budget at 112% overall. There are no new variances in October. Variations in actual to budgeted revenue attributed to prior months are summarized on page 2 of this memo.

Expenses are also favorable to the 2010 budget at 97% overall (appx. \$500k below budget). There were no new variances in October. Expense variations from prior months are recapped on page 2 of this memo.

Excise Fund: Revenue is at 110% of budget as of October 31

Sales tax collections are ahead of budget by 6% (\$485k) and accommodation tax collections exceeded budgeted revenue by 6% (\$68k).

RETT collections through October 31, 2010 exceeded budget by \$750k or 33%: \$3,007k collected vs. \$2,257k budgeted.

Excise Fund transfers were made according to the 2010 annual budget without variation.

All Funds

Golf Fund: ended the season with revenue at 98% of budget (\$49k under) and expenditures well below budget at 91% or \$164k.

Garage Fund: revenues are over budget by \$309k due to Federal Grants received.

Variations explained in prior memos that continue to appear in the reports:

General Fund:

- Revenue is favorable to the 2010 budget at 111% overall:
 - Building Services Admin is ahead of budget by \$94k or 24%. YTD revenue collected is 110% of the year-end 2010 budget. (\$482k actual vs. \$439k annual budget). Multiple small projects (remodels, etc.) as well as the large Village at Breckenridge remodel contributed to this favorable variance.
 - The full amount of the PD building settlement was reflected in the September revenue: \$1.047 million
 - Municipal Court over budget by \$52k primarily due to increase in traffic fines
 - Transit Admin is over budget for revenue by \$100k due to a Grant received
 - Planning Services over budget by \$129k due to grants.
 - Recreation Operations Program is below budget by \$232k due to changes in the product mix and slow sales of the Worker Appreciation and Non Resident passes. The actual revenue is only \$35k below prior YTD. It does not appear we will make the 2010 budget and the 2011 budget has been adjusted accordingly.

- Expenditures are below budget at 98% overall:
 - PD Patrol Services, Facilities Admin, Recreation Operations and Ice Rink Operations contribute the majority of this variance primarily due to less than budgeted utilities and staffing.
 - Advice and Litigation over budget by \$97k for the Police Facility Trial

Utility (Water) Fund:

- Revenue under budget by \$144k primarily due to Plant Investment Fees
- Expenditures are less than budget by \$2,131k primarily due to the Major System Improvements that are budgeted each year but have not yet been made.

Capital Fund: the budget amount shown on the “All Funds” report is for the entire year as Capital expenditures do not necessarily follow a predictable schedule.

Housing: revenue is under budget and expenditures are over budget due to timing.

Garage Fund: expenses are over budget by \$222k due to the timing of the purchase of equipment and vehicle repairs and maintenance.

**TOWN OF BRECKENRIDGE
GENERAL FUND
CURRENT YEAR TO PRIOR YEAR COMPARISON
FOR THE 10 MONTHS ENDING OCTOBER 31, 2010**

83 % OF THE FISCAL YEAR HAS ELAPSED

	PRIOR YEAR				CURRENT YEAR						
	YTD	YE	% OF YE	2009 ACTUAL/ 2010 ACTUAL	YTD	YTD	ACTUAL/BUDGET	ACTUAL/BUDGET	ANNUAL	% OF BUDGET	
	ACTUAL	TOTAL	REC'D/SPENT	% CHANGE	ACTUAL	BUDGET	\$ VARIANCE FAVORABLE/(UNFAVORABLE)	% VARIANCE	BUDGET	REC'D/SPENT	
REVENUE											
MUNICIPAL COURT PROGRAM	176,746	202,220	87%	86%	205,837	153,609	52,228	134%	174,605	118%	
ADVICE & LITIGATION PROGRAM	-	-	0%	0%	1,046,746	-	1,046,746	N/A	-	N/A	
ADMINISTRATIVE MGT PROGRAM	6,245	6,445	97%	395%	1,580	212	1,368	745%	302	523%	
SPECIAL EVENTS/COMM PROGRAM	114,093	132,372	86%	23%	490,637	90,581	400,056	542%	99,952	491%	
TOWN CLERK ADMIN PROGRAM	23,310	27,616	84%	79%	29,669	18,502	11,167	160%	20,751	143%	
TRANSIT ADMIN PROGRAM	95,000	95,000	100%	95%	100,000	-	100,000	N/A	-	N/A	
TRANSIT SERVICES PROGRAM	443,747	523,810	85%	85%	522,111	491,634	30,477	106%	589,065	89%	
PUBLIC SAFETY ADMIN/RECORDS	78,396	100,104	78%	101%	77,879	30,360	47,519	257%	37,244	209%	
PUBLIC SAFETY COMMNTY SVC PROG	521,017	629,566	83%	113%	459,114	415,252	43,862	111%	485,446	95%	
PLANNING SERVICES ADMIN PROGRM	152,708	178,389	86%	66%	230,472	101,221	129,251	228%	124,680	185%	
ARTS DISTRICT	-	-	0%	0%	21,288	-	21,288	0%	-	N/A	
BUILDING SERVICES ADMIN PROGRM	389,011	441,249	88%	81%	482,695	388,816	93,879	124%	438,796	110%	
PUBLIC WORKS ADMIN PROGRAM	435,765	518,338	84%	84%	519,803	460,462	59,341	113%	532,685	98%	
STREETS PROGRAM	47,450	50,558	94%	128%	37,145	31,591	5,554	118%	32,509	114%	
PARKS PROGRAM	-	-	0%	0%	25,969	-	25,969	N/A	-	N/A	
FACILITIES ADMIN PROGRAM	10,746	12,961	83%	19%	56,213	-	56,213	N/A	-	N/A	
ENGINEERING ADMIN PROGRAM	3,566	3,741	95%	218%	1,637	370	1,267	442%	404	405%	
RECREATION ADMIN PROGRAM	13,022	19,267	68%	0%	-	-	-	N/A	-	N/A	
RECREATION PROGRAM	302,198	373,049	81%	101%	300,455	327,918	(27,463)	92%	359,038	84%	
RECREATION OPERATIONS PROGRAM	1,148,064	1,473,946	78%	102%	1,125,163	1,357,215	(232,052)	83%	1,712,402	66%	
NORDIC CENTER OPERATIONS	124,372	184,784	67%	73%	170,531	141,759	28,772	120%	174,659	98%	
ICE RINK OPERATIONS PROGRAM	480,348	607,544	79%	95%	505,701	528,824	(23,123)	96%	645,709	78%	
PROPERTY TAX/EXCISE TRANSFER	15,124,297	17,495,095	86%	107%	14,069,879	13,814,010	255,869	102%	15,872,224	89%	
COMMITTEES	-	-	0%	0%	2,000	-	2,000	N/A	-	N/A	
TOTAL REVENUE	19,689,801	23,075,767	85%	96%	20,483,804	18,352,336	2,131,468	112%	21,300,571	96%	

**TOWN OF BRECKENRIDGE
GENERAL FUND
CURRENT YEAR TO PRIOR YEAR COMPARISON
FOR THE 10 MONTHS ENDING OCTOBER 31, 2010**

83 % OF THE FISCAL YEAR HAS ELAPSED

	PRIOR YEAR				CURRENT YEAR						
	YTD ACTUAL	YE TOTAL	% OF YE REC'D/SPENT	2009 ACTUAL/ 2010 ACTUAL % CHANGE	YTD ACTUAL	YTD BUDGET	ACTUAL/BUDGET \$ VARIANCE FAVORABLE/(UNFAVORABLE)	ACTUAL/BUDGET % VARIANCE	ANNUAL BUDGET	% OF BUDGET REC'D/SPENT	
EXPENDITURES											
LAW & POLICY MAKING PROGRAM	110,217	124,649	88%	111%	99,199	107,481	8,282	92%	129,070	77%	
MUNICIPAL COURT PROGRAM	144,876	178,662	81%	238%	60,961	158,373	97,412	38%	204,254	30%	
ADVICE & LITIGATION PROGRAM	316,557	668,210	47%	119%	266,481	175,453	(91,028)	152%	229,008	116%	
ADMINISTRATIVE MGT PROGRAM	457,881	536,021	85%	96%	474,756	469,902	(4,854)	101%	595,917	80%	
HUMAN RESOURCES ADMIN PROGRAM	342,068	412,117	83%	108%	317,076	350,798	33,722	90%	433,459	73%	
SPECIAL EVENTS/COMM PROGRAM	487,737	593,856	82%	54%	896,202	510,687	(385,515)	175%	610,091	147%	
TOWN CLERK ADMIN PROGRAM	201,580	248,439	81%	95%	211,847	221,677	9,830	96%	277,204	76%	
LICENSES & PERMITS PROGRAM	-	1,718	0%	0%	2,083	-	(2,083)	N/A	-	N/A	
FINANCE ADMINISTRATION PROGRAM	233,924	280,391	83%	96%	243,799	260,170	16,371	94%	317,483	77%	
ACCOUNTING PROGRAM	257,533	318,069	81%	95%	271,251	291,607	20,356	93%	353,961	77%	
TRANSIT ADMIN PROGRAM	100,151	122,251	82%	100%	99,943	101,847	1,904	98%	122,140	82%	
TRANSIT SERVICES PROGRAM	1,784,604	2,161,853	83%	97%	1,842,426	1,914,936	72,510	96%	2,356,546	78%	
PUBLIC SAFETY ADMIN/RECORDS	718,451	878,406	82%	98%	733,789	688,048	(45,741)	107%	880,098	83%	
PUBLIC SAFETY COMMUNICATN PROG	250,252	320,942	78%	79%	318,496	171,098	(147,398)	186%	333,522	95%	
PUBLIC SAFETY PATROL SVCS PROG	1,533,889	1,836,204	84%	122%	1,255,130	1,534,215	279,085	82%	1,826,775	69%	
PUBLIC SAFETY COMMNTY SVC PROG	367,576	439,598	84%	105%	348,982	353,429	4,447	99%	511,088	68%	
PLANNING SERVICES ADMIN PROGRAM	965,408	1,166,696	83%	102%	947,594	985,529	37,935	96%	1,222,253	78%	
ARTS DISTRICT	-	(120)	0%	0%	23,600	-	(23,600)	N/A	-	N/A	
BUILDING SERVICES ADMIN PROGRAM	329,180	402,077	82%	100%	330,766	340,530	9,764	97%	417,602	79%	
PUBLIC WORKS ADMIN PROGRAM	314,098	498,308	63%	79%	396,885	407,080	10,195	97%	503,464	79%	
STREETS PROGRAM	1,485,291	1,797,524	83%	100%	1,491,930	1,469,839	(22,091)	102%	1,858,768	80%	
PARKS PROGRAM	880,574	1,071,289	82%	98%	903,011	949,005	45,994	95%	1,140,838	79%	
FACILITIES ADMIN PROGRAM	1,074,124	1,392,548	77%	114%	942,445	1,107,494	165,049	85%	1,404,310	67%	
ENGINEERING ADMIN PROGRAM	359,129	333,603	108%	141%	255,519	243,905	(11,614)	105%	300,728	85%	
CONTINGENCIES	198,500	204,050	97%	150%	132,620	116,181	(16,439)	114%	122,500	108%	
RECREATION ADMIN PROGRAM	524,970	703,099	75%	102%	515,601	535,604	20,003	96%	661,727	78%	
RECREATION PROGRAM	465,230	565,985	82%	101%	462,769	540,388	77,619	86%	627,016	74%	
RECREATION OPERATIONS PROGRAM	1,432,494	1,737,236	82%	110%	1,306,266	1,513,068	206,802	86%	1,877,907	70%	
NORDIC CENTER OPERATIONS	209,502	292,260	72%	104%	200,950	191,971	(8,979)	105%	253,771	79%	
ICE RINK OPERATIONS PROGRAM	778,187	984,999	79%	100%	779,971	901,459	121,488	87%	1,116,633	70%	
LONG TERM DEBT	209,101	413,659	51%	100%	208,589	202,086	(6,503)	103%	417,120	50%	
SHORT TERM DEBT	5,929	133,274	4%	200%	2,971	3,021	50	98%	128,542	2%	
COMMITTEES	1,195	2,293	52%	14%	8,553	37,320	28,767	23%	44,784	19%	
TOTAL EXPENDITURES	16,540,208	20,823,732	79%	101%	16,354,241	16,854,201	499,960	97%	21,278,579	77%	
REVENUE LESS EXPENDITURES	(1,415,911)	(3,328,637)			4,129,563	1,498,135	2,631,428		21,992		

**TOWN OF BRECKENRIDGE
EXCISE TAX FUND
CURRENT YEAR TO PRIOR YEAR COMPARISON
FOR THE 10 MONTHS ENDING OCTOBER 31, 2010**

83 % OF THE FISCAL YEAR HAS ELAPSED

	PRIOR YEAR			2009 vs. 2010 ACTUAL % VARIANCE	CURRENT YEAR					
	YTD ACTUAL	YE TOTAL	% OF YE REC'D/SPENT		YTD ACTUAL	YTD BUDGET	ACTUAL/BUDGET \$ VARIANCE	ACTUAL/BUDGET % VARIANCE	ANNUAL BUDGET	% OF BUDGET REC'D/SPENT
TAX REVENUE										
SALES TAX	8,758,457	11,969,634	73%	102%	8,972,714	8,486,997	485,717	106%	11,411,609	79%
ACCOMODATIONS TAX	1,134,671	1,477,316	77%	104%	1,178,839	1,110,496	68,343	106%	1,358,423	87%
CIGARETTE TAX	44,955	53,698	84%	92%	41,545	51,993	(10,448)	80%	60,000	69%
TELEPHONE FRANCHISE TAX	21,531	28,708	75%	95%	20,410	22,519	(2,109)	91%	29,999	68%
PUBLIC SERVICE FRANCHISE	488,021	693,123	70%	93%	454,773	403,582	51,191	113%	549,998	83%
CABLEVISION FRANCHISE TAX	108,862	144,795	75%	69%	75,584	111,022	(35,438)	68%	149,998	50%
REAL ESTATE TRANSFER TAX	2,252,591	2,861,119	79%	133%	3,007,094	2,256,623	750,471	133%	2,499,999	120%
INVESTMENT INCOME	49,723	5,168	962%	100%	49,666	62,500	(12,834)	79%	75,000	66%
TOTAL FUND REVENUE	12,858,811	17,233,561	75%	107%	13,800,625	12,505,732	1,294,893	110%	16,135,026	86%
EXCISE TAX DEBT SERVICE										
COP FEES	383	2,100	0%	0%	650	413	(237)	157%	800	81%
2005 COP'S PRINCIPAL	0	275,000	0%	N/A	0	0	-	N/A	155,000	0%
2005 COP'S INTEREST	145,570	291,140	50%	49%	71,413	68,785	(2,628)	104%	142,825	50%
2007 COP'S PRINCIPAL	0	0	N/A	N/A	0	0	-	N/A	129,996	0%
2007 COP'S INTEREST	0	0	N/A	N/A	69,033	69,033	-	100%	138,060	50%
TOTAL EXCISE TAX DEBT SERVICE	145,953	568,240	26%	97%	141,096	138,231	(2,865)	102%	566,681	25%
TRANSFERS										
TRANSFER TO GENERAL FUND	11,225,000	12,180,000	92%	85%	9,489,730	9,489,730	-	100%	11,387,676	83%
TRANSFER TO GOLF FUND	0	0	0%	N/A	108,330	108,330	-	100%	129,996	83%
TRANSFERS TO CAPITAL FUND	739,167	2,604,002	28%	108%	796,670	796,670	-	100%	956,004	83%
TRANSFER TO MARKETING	362,500	435,000	83%	169%	611,080	611,080	-	100%	733,296	83%
TRFS TO EMPLOYEE HSG FUND	1,944,098	2,093,748	93%	100%	1,944,100	1,944,100	-	100%	2,332,920	83%
TRFS TO SPECIAL PROJECTS FUND	837,704	809,005	104%	36%	304,170	304,170	-	100%	365,004	83%
TOTAL TRANSFERS	15,108,469	18,121,755	83%	88%	13,254,080	13,254,080	-	100%	15,904,896	83%
TOTAL FUND EXPENDITURES	15,254,422	18,689,995	82%	88%	13,395,176	13,392,311	(2,865)	100%	16,471,577	81%
NET REVENUE OVER EXPENDITURES	(2,395,611)	(1,456,434)			405,449	(886,579)	1,292,028		(336,551)	

**TOWN OF BRECKENRIDGE
ALL FUNDS
CURRENT YEAR TO PRIOR YEAR COMPARISON
FOR THE 10 MONTHS ENDING OCTOBER 31, 2010**

83 % OF THE FISCAL YEAR HAS ELAPSED

	PRIOR YEAR			2009 ACTUAL/ 2010 ACTUAL % CHANGE	CURRENT YEAR					
	YTD ACTUAL	YE TOTAL	% OF YE REC'D/SPENT		YTD ACTUAL	YTD BUDGET	ACTUAL/BUDGET \$ VARIANCE FAVORABLE/(UNFAVORABLE)	ACTUAL AS A % OF BUDGET	ANNUAL BUDGET	% OF BUDGET REC'D/SPENT
REVENUE										
1 GENERAL FUND	19,689,803	23,075,766	85%	104%	20,483,801	18,352,336	2,131,465	112%	21,300,571	96%
2 UTILITY FUND	2,369,612	2,774,197	85%	105%	2,489,351	2,633,838	(144,487)	95%	3,057,733	81%
3 CAPITAL FUND	924,360	2,893,302	32%	110%	1,015,204	940,707	74,497	108%	1,123,500	90%
4 MARKETING FUND	1,076,477	1,557,764	69%	125%	1,346,902	1,296,346	50,556	104%	1,798,362	75%
5 GOLF COURSE FUND	2,019,694	2,697,807	75%	107%	2,154,058	2,202,574	(48,516)	98%	2,274,398	95%
6 EXCISE TAX FUND	12,858,811	17,233,561	75%	108%	13,828,452	12,505,732	1,322,720	111%	16,135,026	86%
7 HOUSING FUND	2,874,051	3,213,472	89%	90%	2,576,236	3,001,751	(425,515)	86%	3,712,493	69%
8 OPEN SPACE ACQUISITION FUND	1,369,274	1,767,706	77%	104%	1,426,887	1,302,183	124,704	110%	1,741,274	82%
9 CONSERVATION TRUST FUND	24,912	33,502	74%	98%	24,305	23,271	1,034	104%	32,152	76%
10 GARAGE SERVICES FUND	2,395,029	2,399,012	100%	100%	2,396,998	2,088,250	308,748	115%	2,574,193	93%
11 INFORMATION TECHNOLOGY FUND	812,367	974,841	83%	107%	869,980	869,980	-	100%	1,043,976	83%
12 FACILITIES MAINTENANCE FUND	193,675	232,410	83%	99%	192,030	192,010	20	100%	230,412	83%
13 SPECIAL PROJECTS FUND	837,580	809,081	104%	39%	323,170	304,170	19,000	106%	365,004	89%
TOTAL REVENUE	47,445,645	59,662,421	80%	104%	49,127,374	45,713,148	3,414,226	107%	55,389,094	89%
EXPENDITURES										
1 GENERAL FUND	16,540,208	21,490,316	77%	99%	16,354,241	16,854,201	499,960	97%	21,278,579	77%
2 UTILITY FUND	1,812,920	2,964,861	61%	109%	1,978,494	4,109,263	2,130,769	48%	4,991,109	40%
3 CAPITAL FUND	1,307,851	3,905,277	33%	77%	1,005,190	1,586,723	581,533	63%	1,586,723	63%
4 MARKETING FUND	1,476,822	1,752,538	84%	105%	1,545,116	1,585,062	39,946	97%	1,803,122	86%
5 GOLF COURSE FUND	1,899,172	3,324,969	57%	83%	1,583,629	1,747,182	163,553	91%	2,321,692	68%
6 EXCISE TAX FUND	15,254,423	18,689,995	82%	88%	13,395,175	13,546,658	151,483	99%	16,471,577	81%
7 HOUSING FUND	571,353	1,507,369	38%	609%	3,477,105	2,796,459	(680,646)	124%	3,231,625	108%
8 OPEN SPACE ACQUISITION FUND	1,659,657	2,183,712	76%	62%	1,022,075	1,086,527	64,452	94%	2,000,457	51%
9 CONSERVATION TRUST FUND	25,833	30,996	83%	100%	25,830	25,830	-	100%	30,996	83%
10 GARAGE SERVICES FUND	1,141,394	1,795,038	64%	128%	1,464,439	1,242,088	(222,351)	118%	1,915,967	76%
11 INFORMATION TECHNOLOGY FUND	493,609	681,542	72%	105%	518,234	603,183	84,949	86%	726,290	71%
12 FACILITIES MAINTENANCE FUND	203,193	203,193	0%	N/A	86,230	0	(86,230)	N/A	0	N/A
13 SPECIAL PROJECTS FUND	749,599	810,791	92%	45%	334,323	264,029	(70,294)	127%	364,999	92%
TOTAL EXPENDITURES	43,136,034	59,340,597	73%	99%	42,790,081	45,447,205	2,657,124	94%	56,723,136	75%
	4,309,611	321,824			6,337,293	265,943	6,071,350		(1,334,042)	

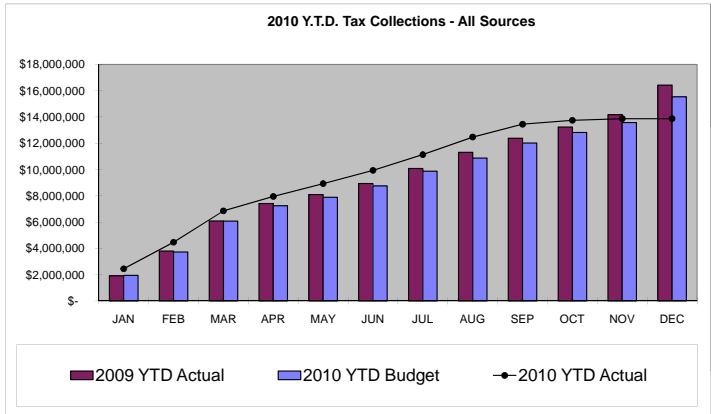
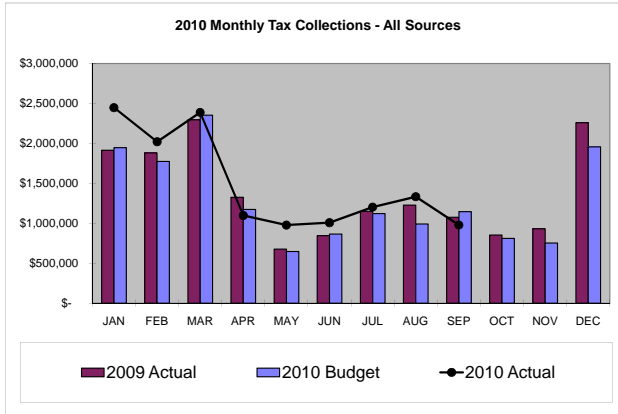
**TOWN OF BRECKENRIDGE
ALL FUNDS, NET OF TRANSFERS
CURRENT YEAR TO PRIOR YEAR COMPARISON
FOR THE 10 MONTHS ENDING OCTOBER 31, 2010**

83 % OF THE FISCAL YEAR HAS ELAPSED

	PRIOR YEAR			2009 ACTUAL/ 2010 ACTUAL % CHANGE	CURRENT YEAR					
	YTD ACTUAL	YE TOTAL	% OF YE REC'D/SPENT		YTD ACTUAL	YTD BUDGET	ACTUAL/BUDGET \$ VARIANCE FAVORABLE/(UNFAVORABLE)	ACTUAL/BUDGET % CHANGE	ANNUAL BUDGET	% OF BUDGET REC'D/SPENT
REVENUE										
1 GENERAL FUND	8,139,440	10,505,331	77%	131%	10,658,951	8,527,486	2,131,465	125%	9,510,751	112%
2 UTILITY FUND	2,369,612	2,774,197	85%	105%	2,489,351	2,633,838	(144,487)	95%	3,057,733	81%
3 CAPITAL FUND	185,193	289,300	64%	118%	218,534	144,037	74,497	152%	167,496	130%
4 MARKETING FUND	713,977	1,122,764	64%	103%	735,822	685,266	50,556	107%	1,065,066	69%
5 GOLF COURSE FUND	2,019,694	2,697,807	75%	101%	2,047,399	2,094,244	(46,845)	98%	2,144,402	95%
6 EXCISE TAX FUND	12,858,811	17,233,561	75%	108%	13,828,452	12,505,732	1,322,720	111%	16,135,026	86%
7 HOUSING FUND	929,953	1,119,724	83%	68%	632,136	1,057,651	(425,515)	60%	1,379,573	46%
8 OPEN SPACE ACQUISITION FUND	1,369,274	1,767,706	77%	104%	1,426,887	1,302,183	124,704	110%	1,741,274	82%
9 CONSERVATION TRUST FUND	24,912	33,502	74%	98%	24,305	23,271	1,034	104%	32,152	76%
10 GARAGE SERVICES FUND	462,291	79,725	580%	73%	339,347	87,510	251,837	388%	105,012	323%
11 INFORMATION TECHNOLOGY FUND	0	0	N/A	N/A	0	0	-	N/A	0	N/A
12 FACILITIES MAINTENANCE FUND	0	0	N/A	N/A	0	0	-	N/A	0	N/A
13 SPECIAL PROJECTS FUND	-124	76	-163%	-15323%	19,000	0	19,000	N/A	0	N/A
TOTAL REVENUE	29,073,033	37,623,693	77%	112%	32,420,184	29,061,218	3,358,966	112%	35,338,485	92%
EXPENDITURES										
1 GENERAL FUND	14,639,952	18,543,499	79%	98%	14,351,910	14,852,656	500,746	97%	18,876,731	76%
2 UTILITY FUND	1,459,979	2,541,332	57%	110%	1,607,964	3,738,743	2,130,779	43%	4,546,485	35%
3 CAPITAL FUND	1,307,851	3,905,277	33%	77%	1,005,190	1,586,723	581,533	63%	1,586,723	63%
4 MARKETING FUND	1,476,822	1,752,538	84%	105%	1,545,116	1,585,062	39,946	97%	1,803,122	86%
5 GOLF COURSE FUND	1,899,172	2,014,692	94%	83%	1,583,629	1,747,182	163,553	91%	2,321,692	68%
6 EXCISE TAX FUND	145,953	568,240	26%	97%	141,095	292,578	151,483	48%	566,681	25%
7 HOUSING FUND	571,353	1,507,369	38%	609%	3,477,105	2,796,459	(680,646)	124%	3,231,625	108%
8 OPEN SPACE ACQUISITION FUND	1,656,897	2,180,399	76%	61%	1,017,065	1,081,517	64,452	94%	1,994,445	51%
9 CONSERVATION TRUST FUND	0	0	N/A	N/A	0	0	-	N/A	0	N/A
10 GARAGE SERVICES FUND	1,141,394	1,795,038	64%	127%	1,451,829	1,229,488	(222,341)	118%	1,900,847	76%
11 INFORMATION TECHNOLOGY FUND	491,405	678,897	72%	105%	515,944	600,893	84,949	86%	723,542	71%
12 FACILITIES MAINTENANCE FUND	203,193	203,193	100%	42%	86230	0	(86,230)	N/A	0	N/A
13 SPECIAL PROJECTS FUND	749,599	810,791	92%	45%	334,323	264,029	(70,294)	127%	364,999	92%
TOTAL EXPENDITURES	25,743,570	36,501,265	71%	105%	27,117,400	29,775,330	2,657,930	91%	37,916,892	72%
Revenue Less Expenditures	3,329,463	1,122,428			5,302,784	(714,112)	6,016,896		(2,578,407)	

TOWN OF BRECKENRIDGE
CASH TAX COLLECTIONS - ALL SOURCES - SALES, LODGING, RETT, ACCOMMODATIONS
REPORTED IN THE PERIOD EARNED

Sales Period	2009 Collections			2010 Budget			2010 Monthly			2010 Year to Date		
	Tax Collected	Year To Date	Percent of Total	Tax Budgeted	Year To Date	Percent of Total	Actual	% Change from 2009	% of Budget	Actual	% Change from 2009	% of Budget
JAN	\$ 1,914,193	\$ 1,914,193	11.7%	\$ 1,946,599	\$ 1,946,599	12.5%	\$ 2,446,840	27.8%	125.7%	\$ 2,446,840	27.8%	125.7%
FEB	\$ 1,880,837	\$ 3,795,030	23.1%	\$ 1,773,619	\$ 3,720,218	24.0%	\$ 2,019,951	7.4%	113.9%	4,466,791	17.7%	120.1%
MAR	\$ 2,293,993	\$ 6,089,023	37.1%	\$ 2,351,856	\$ 6,072,074	39.1%	\$ 2,387,949	4.1%	101.5%	6,854,740	12.6%	112.9%
APR	\$ 1,325,730	\$ 7,414,752	45.1%	\$ 1,172,250	\$ 7,244,324	46.6%	\$ 1,097,078	-17.2%	93.6%	7,951,818	7.2%	109.8%
MAY	\$ 676,634	\$ 8,091,386	49.3%	\$ 646,259	\$ 7,890,583	50.8%	\$ 976,999	44.4%	151.2%	8,928,817	10.3%	113.2%
JUN	\$ 844,559	\$ 8,935,945	54.4%	\$ 864,354	\$ 8,754,938	56.4%	\$ 1,006,981	19.2%	116.5%	9,935,798	11.2%	113.5%
JUL	\$ 1,148,282	\$ 10,084,227	61.4%	\$ 1,121,936	\$ 9,876,873	63.6%	\$ 1,202,708	4.7%	107.2%	11,138,506	10.5%	112.8%
AUG	\$ 1,226,749	\$ 11,310,975	68.8%	\$ 991,855	\$ 10,868,729	70.0%	\$ 1,331,994	8.6%	134.3%	12,470,500	10.3%	114.7%
SEP	\$ 1,075,451	\$ 12,386,427	75.4%	\$ 1,144,450	\$ 12,013,179	77.3%	\$ 978,487	-9.0%	85.5%	13,448,987	8.6%	112.0%
OCT	\$ 853,659	\$ 13,240,086	80.6%	\$ 811,550	\$ 12,824,728	82.6%	\$ 297,809	-65.1%	36.7%	13,746,796	3.8%	107.2%
NOV	\$ 930,260	\$ 14,170,346	86.3%	\$ 751,933	\$ 13,576,661	87.4%	\$ 125,701	-86.5%	16.7%	13,872,496	-2.1%	102.2%
DEC	\$ 2,258,751	\$ 16,429,097	100.0%	\$ 1,956,122	\$ 15,532,784	100.0%	\$ -	n/a	0.0%	\$ 13,872,496	-15.6%	89.3%



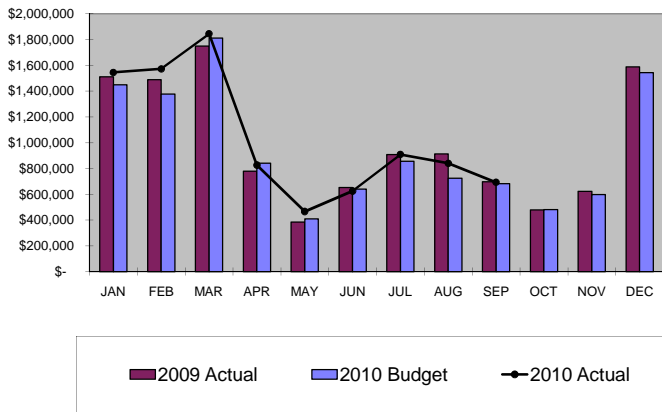
Prior Year Actual and Current Year Budget Variances

	TOTAL	Sales	Accommodations	RETT	Housing
vs. Sept 09 Actual	(96,964)	(3,576)	(8,567)	(82,262)	(2,559)
vs. Sept 10 Budget	(165,963)	11,261	(2,912)	(177,001)	2,689
vs. YTD 09 Actual	1,062,560	238,834	(6,497)	791,593	38,630
vs. YTD 10 Budget	1,435,808	533,184	79,487	749,164	73,974

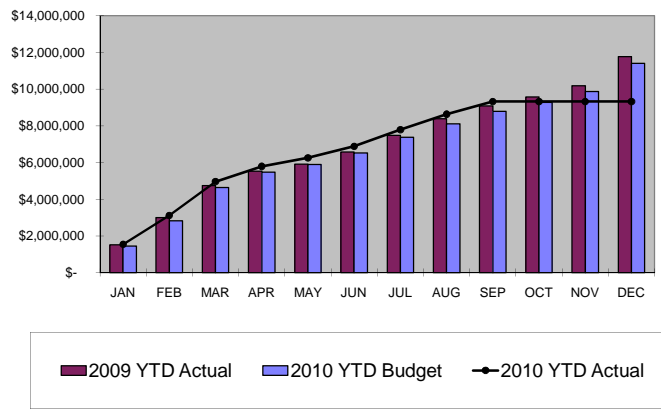
**TOWN OF BRECKENRIDGE
SALES TAX COLLECTIONS
REPORTED IN THE PERIOD EARNED**

Sales Period	2009 Collections			2010 Budget			2010 Monthly			2010 Year to Date		
	Tax Collected	Year To Date	Percent of Total	Tax Budgeted	Year To Date	Percent of Total	Actual	% Change from 2009	% of Budget	Actual	% Change from 2009	% of Budget
JAN	\$ 1,511,420	\$ 1,511,420	12.8%	\$ 1,448,519	\$ 1,448,519	12.7%	\$ 1,544,725	2.2%	106.6%	\$ 1,544,725	2.2%	106.6%
FEB	1,488,667	3,000,087	25.5%	1,376,650	2,825,169	24.8%	\$ 1,572,567	5.6%	114.2%	3,117,292	3.9%	110.3%
MAR	1,749,041	4,749,128	40.3%	1,810,355	4,635,524	40.6%	\$ 1,844,677	5.5%	101.9%	4,961,969	4.5%	107.0%
APR	780,544	5,529,671	47.0%	841,764	5,477,288	48.0%	\$ 826,063	5.8%	98.1%	5,788,032	4.7%	105.7%
MAY	384,759	5,914,431	50.2%	410,164	5,887,452	51.6%	\$ 466,655	21.3%	113.8%	6,254,686	5.8%	106.2%
JUN	651,911	6,566,341	55.8%	640,134	6,527,586	57.2%	\$ 625,370	-4.1%	97.7%	6,880,056	4.8%	105.4%
JUL	907,582	7,473,924	63.5%	855,252	7,382,838	64.7%	\$ 909,629	0.2%	106.4%	7,789,685	4.2%	105.5%
AUG	914,206	8,388,129	71.2%	725,780	8,108,618	71.1%	\$ 840,855	-8.0%	115.9%	8,630,540	2.9%	106.4%
SEP	697,168	9,085,297	77.2%	682,331	8,790,948	77.0%	\$ 693,592	-0.5%	101.7%	9,324,132	2.6%	106.1%
OCT	479,350	9,564,648	81.2%	480,780	9,271,728	81.2%	\$ -	n/a	0.0%	9,324,132	-2.5%	100.6%
NOV	623,385	10,188,032	86.5%	597,497	9,869,225	86.5%	\$ -	n/a	0.0%	9,324,132	-8.5%	94.5%
DEC	\$ 1,587,558	\$ 11,775,591	100.0%	\$ 1,542,384	11,411,609	100.0%	\$ -	n/a	0.0%	\$ 9,324,132	-20.8%	81.7%

2010 Monthly Sales Tax Collections



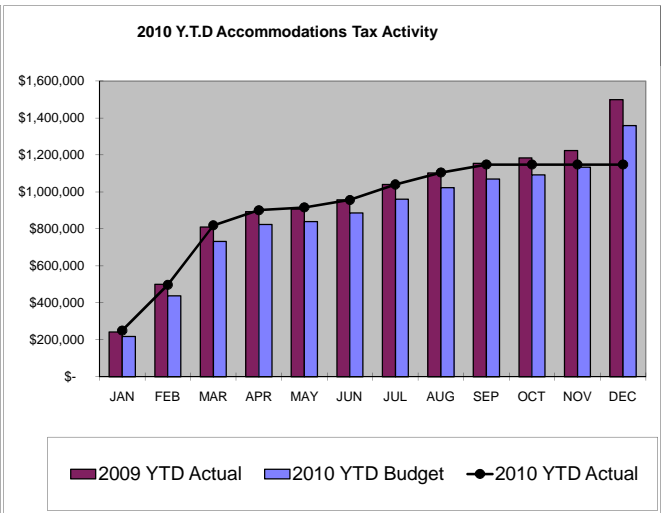
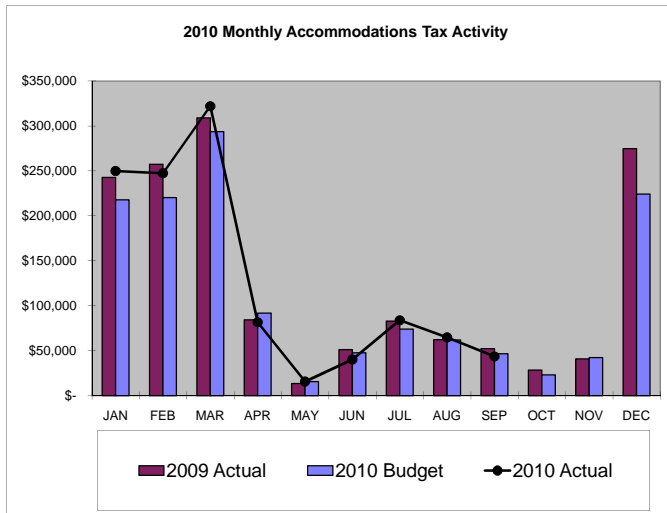
2010 Y.T.D. Sales Tax Collections



**TOWN OF BRECKENRIDGE
ACCOMMODATION TAX COLLECTIONS
REPORTED IN THE PERIOD EARNED**

Sales Period	2009 Collections			2010 Budget			2010 Monthly			2010 Year to Date		
	Tax Collected	Year To Date	Percent of Total	Tax Budgeted	Year To Date	Percent of Total	Actual	% Change from 2009	% of Budget	Actual	% Change from 2009	% of Budget
JAN	\$ 242,816	\$ 242,816	16.2%	\$ 217,666	\$ 217,666	16.0%	\$ 249,870	2.9%	114.8%	\$ 249,870	2.9%	114.8%
FEB	257,415	500,230	33.4%	220,378	438,044	32.2%	\$ 247,373	-3.9%	112.2%	497,243	-0.6%	113.5%
MAR	309,038	809,268	54.0%	293,538	731,582	53.9%	\$ 321,989	4.2%	109.7%	819,232	1.2%	112.0%
APR	84,113	893,382	59.6%	91,571	823,153	60.6%	\$ 81,598	-3.0%	89.1%	900,830	0.8%	109.4%
MAY	13,349	906,730	60.5%	15,721	838,874	61.8%	\$ 15,464	15.8%	98.4%	916,294	1.1%	109.2%
JUN	51,189	957,919	63.9%	47,743	886,617	65.3%	\$ 40,202	-21.5%	84.2%	956,496	-0.1%	107.9%
JUL	82,671	1,040,591	69.4%	73,957	960,574	70.7%	\$ 83,775	1.3%	113.3%	1,040,271	0.0%	108.3%
AUG	62,207	1,102,798	73.6%	61,895	1,022,468	75.3%	\$ 64,597	3.8%	104.4%	1,104,867	0.2%	108.1%
SEP	52,076	1,154,873	77.0%	46,421	1,068,889	78.7%	\$ 43,509	-16.5%	93.7%	1,148,376	-0.6%	107.4%
OCT	28,488	1,183,361	78.9%	23,199	1,092,088	80.4%	\$ -	n/a	0.0%	1,148,376	-3.0%	105.2%
NOV	40,901	1,224,262	81.7%	42,213	1,134,300	83.5%	\$ -	n/a	0.0%	1,148,376	-6.2%	101.2%
DEC	\$ 274,807	\$ 1,499,070	100.0%	\$ 224,123	1,358,423	100.0%	\$ -	n/a	0.0%	\$ 1,148,376	-23.4%	84.5%

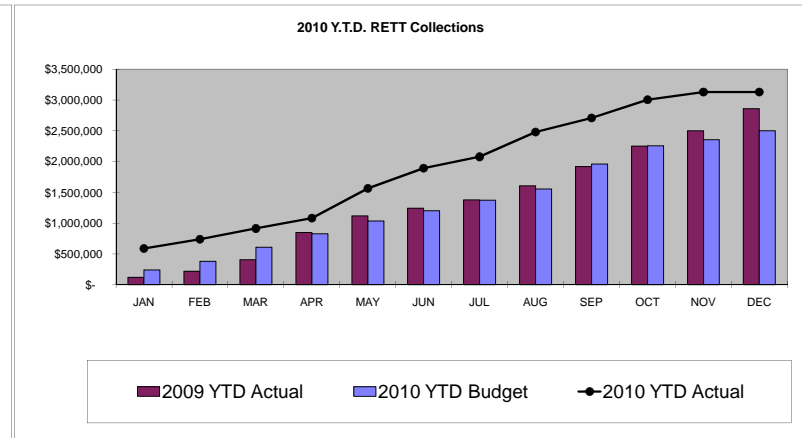
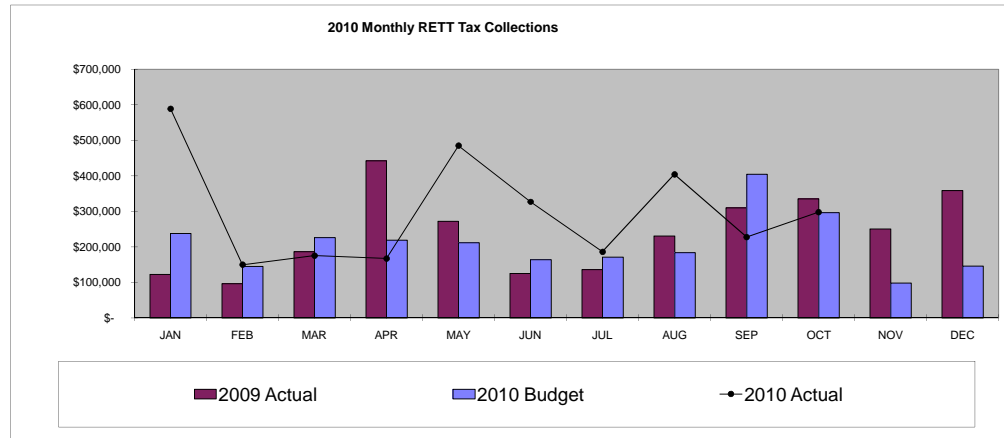
Accommodation tax amounts reflect collections at the 2% rate.



**TOWN OF BRECKENRIDGE
REAL ESTATE TRANSFER TAX COLLECTIONS
REPORTED IN THE PERIOD EARNED**

Sales Period	2007 Collections			2009 Collections			2010 Budget			2010 Monthly				2010 Year to Date			
	Tax Collected	Year To Date	Percent of Total	Tax Collected	Year To Date	Percent of Total	Tax Budgeted	Year To Date	Percent of Total	Actual	% of Budget	% Change from 2007	% Change from 2009	Actual	% of Budget	% Change from 2007	% Change from 2009
JAN	\$ 352,958	\$ 352,958	6.2%	\$ 122,238	\$ 122,238	4.3%	\$ 237,814	\$ 237,814	9.51%	\$ 588,874	247.6%	66.8%	381.7%	\$ 588,874	247.6%	66.8%	381.7%
FEB	342,995	695,953	12.3%	96,379	218,617	7.6%	144,335	382,149	15.29%	149,303	103.4%	-56.5%	54.9%	738,178	193.2%	6.1%	237.7%
MAR	271,817	967,770	17.1%	185,714	404,331	14.1%	225,613	607,762	24.31%	175,161	77.6%	-35.6%	-5.7%	913,339	150.3%	-5.6%	125.9%
APR	564,624	1,532,394	27.0%	442,039	846,370	29.6%	218,626	826,388	33.06%	167,038	76.4%	-70.4%	-62.2%	1,080,377	130.7%	-29.5%	27.6%
MAY	533,680	2,066,074	36.4%	271,393	1,117,763	39.1%	211,243	1,037,631	41.51%	484,618	229.4%	-9.2%	78.6%	1,564,995	150.8%	-24.3%	40.0%
JUN	522,999	2,589,073	45.6%	124,822	1,242,585	43.4%	163,352	1,200,983	48.04%	326,779	200.0%	-37.5%	161.8%	1,891,775	157.5%	-26.9%	52.2%
JUL	343,610	2,932,683	51.7%	135,393	1,377,977	48.2%	170,942	1,371,925	54.88%	186,067	108.8%	-45.8%	37.4%	2,077,841	151.5%	-29.1%	50.8%
AUG	594,349	3,527,032	62.1%	230,014	1,607,991	56.2%	183,756	1,555,681	62.23%	404,004	219.9%	-32.0%	75.6%	2,481,846	159.5%	-29.6%	54.3%
SEP	711,996	4,239,028	74.7%	309,701	1,917,692	67.0%	404,440	1,960,121	78.40%	227,439	56.2%	-68.1%	-26.6%	2,709,285	138.2%	-36.1%	41.3%
OCT	392,752	4,631,779	81.6%	334,899	2,252,591	78.7%	296,502	2,256,623	90.26%	297,809	100.4%	-24.2%	-11.1%	3,007,093	133.3%	-35.1%	33.5%
NOV	459,147	5,090,926	89.7%	250,106	2,502,697	87.5%	97,454	2,354,077	94.16%	125,701	129.0%	-72.6%	-49.7%	3,132,794	133.1%	-38.5%	25.2%
DEC	\$ 584,308	\$ 5,675,235	100.0%	\$ 358,422	\$ 2,861,119	100.0%	\$ 145,922	2,500,000	100.00%	\$ -	0.0%	n/a	n/a	\$ 3,132,794	125.3%	-44.8%	9.5%

November #s are as of 11/12/10



RETT Churn Estimates

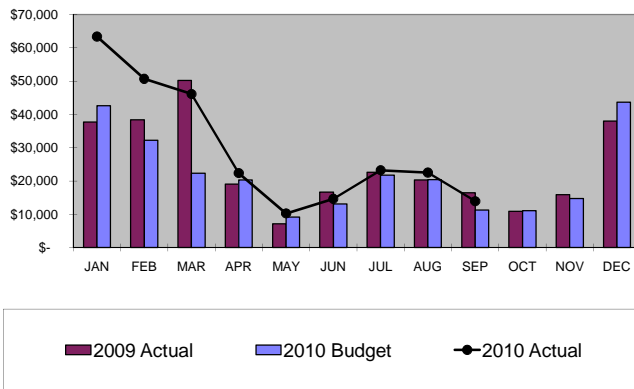
	YTD	1 Ski Hill	Grand Lodge	Beaver Run	Total Projects	YTD (projects excluded)	Year End	
2009	2,252,591		(450,000)		(450,000)	1,802,591	2,050,000	actual
2010	3,007,093	(422,000)	(392,500)	(220,000)	(1,034,500)	1,972,593	2,339,750	projected

NOTES: The above table shows 2009 actual RETT results as of 10/31 compared to 2010 RETT results as of 10/31. Non-recurring projects are then subtracted and the remaining activity is compared. This analysis shows that 2010 projected RETT activity, excluding projects, is 14.1% above 2009 levels.

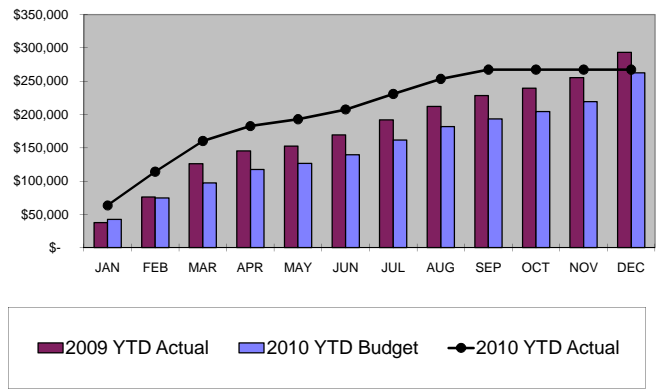
TOWN OF BRECKENRIDGE
AFFORDABLE HOUSING SALES TAX COLLECTIONS
REPORTED IN THE PERIOD EARNED

Sales Period	2009 Collections			2010 Budget			2010 Monthly			2010 Year to Date		
	Tax Collected	Year To Date	Percent of Total	Tax Budgeted	Year To Date	Percent of Total	Actual	% Change from 2009	% of Budget	Actual	% Change from 2009	% of Budget
JAN	\$ 37,720	\$ 37,720	12.9%	\$ 42,600	\$ 42,600	12.2%	\$ 63,372	68.0%	148.8%	\$ 63,372	68.0%	148.8%
FEB	38,376	76,096	13.1%	32,256	74,855	11.9%	\$ 50,707	32.1%	157.2%	114,079	49.9%	152.4%
MAR	50,200	126,296	17.1%	22,350	97,205	15.6%	\$ 46,121	-8.1%	206.4%	160,200	26.8%	164.8%
APR	19,034	145,330	6.5%	20,289	117,495	7.3%	\$ 22,379	17.6%	110.3%	182,579	25.6%	155.4%
MAY	7,133	152,462	2.4%	9,131	126,626	3.0%	\$ 10,262	43.9%	112.4%	192,841	26.5%	152.3%
JUN	16,637	169,100	5.7%	13,126	139,752	5.4%	\$ 14,630	-12.1%	111.5%	207,471	22.7%	148.5%
JUL	22,635	191,735	7.7%	21,785	161,537	7.5%	\$ 23,238	2.7%	106.7%	230,709	20.3%	142.8%
AUG	20,323	212,058	6.9%	20,425	181,962	6.6%	\$ 22,538	10.9%	110.3%	253,247	19.4%	139.2%
SEP	16,506	228,564	5.6%	11,259	193,221	6.1%	\$ 13,947	-15.5%	123.9%	267,194	16.9%	138.3%
OCT	10,922	239,486	3.7%	11,069	204,290	4.1%	\$ -	n/a	0.0%	267,194	11.6%	130.8%
NOV	15,868	255,354	5.4%	14,769	219,059	5.4%	\$ -	n/a	0.0%	267,194	4.6%	122.0%
DEC	\$ 37,964	\$ 293,318	12.9%	\$ 43,693	262,752	15.1%	\$ -	n/a	0.0%	\$ 267,194	-8.9%	101.7%

2010 Monthly Aff. Housing Sales Tax Collections



2010 Y.T.D. Aff. Housing Sales Tax Collections



MEMORANDUM

TO: Breckenridge Town Council
FROM: Julia Puester, AICP
DATE: November 17, 2010 (for November 23rd meeting)
RE: Policy 33 R-Energy Conservation

The Council was introduced to Policy 33R (Energy Conservation) of the Town Development Code on February 23rd 2010. The Planning Commission has previously expressed concern about the existing policy because the impacts of on-site renewable and conservation efforts which are not quantified in the current policy. After numerous worksessions, the Planning Commission unanimously approved the proposed policy (see attached) at their November 16th meeting.

The current policy 33R addresses energy conservation and renewable energy with the intent of encouraging renewable energy sources and conservation methods (beyond those required in the Sustainable Building Code and State Energy Code) through positive point allocation. This policy is relative and is not required to be used to pass a point analysis. It does, however provide an option among other policies within the Development Code to make up positive points for developments.

In preparation for this policy, Staff researched various energy programs, and met with a representative from the Summit County Builders Association and HERS rater from the High Country Conservation Center. There was a consensus that HERS is the new industry standard for residential development of 3 stories or less, and is effective in quantifying energy use and impacts of different mechanical systems, effectiveness of installation, air leaks in the envelope, lights, appliances, etc. A range of 0 to positive +9 points is proposed under 33R for varying HERS and IECC targets. Negative points from 0 to -3 are proposed, depending on the extent of the outdoor heated space, number of outdoor fireplaces or size of water feature.

What Is a Home Energy Rating System (HERS)?

A Home Energy Rating System is a method to predict and measure the energy efficiency of existing and new buildings, and to identify techniques to improve efficiency. The purpose of using a HERS rating for residential and a similar method for commercial structures is that they are internationally recognized and can be calculated by certified raters (as established by the Residential Energy Services Network). The results are measurable. A Home Energy Rater uses specially-designed software to analyze the expected energy use of the home based on the home's construction plans. This analysis yields a projected, pre-construction rating for the home. The rater then conducts onsite inspections, typically including a blower door test (to test the leakiness of the house) and

a duct test (to test the leakiness of the ducts). Results of these tests, along with data from the software analysis, are used to generate a final HERS Index for the home.

The lower a home's HERS Index, the more energy efficient the home. A home built to code scores a HERS Index of 100, while a net zero energy home scores a HERS Index of 0. Each 1-point decrease in the HERS Index corresponds to a 1% reduction in energy consumption compared to the HERS Reference Home. Thus a home with a HERS Index of 85 is 15% more energy efficient than the reference home scoring 100.

Commercial Properties

The HERS Index applies only to residential properties of three stories or less. Therefore, a different measurable index is needed for commercial and large residential projects. A method such as Leadership in Energy and Environmental Design (LEED) or Green Globes was discussed as an option early on. Staff has found that LEED and Green Globes are focused on general green design, site design and material aspects rather than primarily focused on energy conservation.

There is a method of measuring commercial energy efficiency within the International Energy Conservation Code (IECC). Essentially, an energy efficient building results in saving a certain percentage of energy over a standard code compliant building. For commercial buildings, the positive points proposed in the policy are comparable to the HERS index for residential buildings.

To receive positive points under the new policy, applicants would have to do more upfront work with an analysis for their development permit submittal. However, this is a relative policy, not absolute, and is one of many ways for an applicant to receive points.

Negative Points for Excessive Consumptive Energy Uses

In addition to awarding positive points based on a HERS index or IECC score, we need to address excessive energy use outside the walls of a building. In the past, this has included heated driveways, outdoor gas fireplaces, and water features. These features are not addressed in the HERS Index or IECC score and thus, must be addressed separately. Negative points are proposed in the policy for:

- Heated driveway, sidewalk, plaza, etc.;
- Outdoor commercial or common space residential gas fireplace; and
- Large outdoor water features

(Outdoor spas and heat tape were excluded from the list of items for potential negative points based on the February 23rd Town Council meeting discussions.)

Summary

Staff has attached the proposed policy and would like to hear any questions or concerns that the Council may have.

Energy Policy Draft for TC November 23, 2010

Section 9-2-2 Definitions:

Energy Measure: A physical improvement to the home (such as solar photovoltaic panels or high level of insulation, etc.) which enhances energy conservation or energy production within the home as approved by the Residential Energy Services Network's (RESENET) Home Energy Rating Survey (HERS) program.

Large outdoor water feature: A water feature such as a large fountain, waterfall, pond or series of ponds, powered by a motor with 4,000 watts or 5 horsepower or greater.

Policy 33R Energy

The goal of this policy is to incentivize energy conservation and renewable energy systems in new and existing development. This policy seeks to reduce the community's carbon footprint and energy usage and to help protect the public health, safety and welfare of its citizens.

(1) Residential Structure 3 Stories or Less.

All new and existing residential developments are strongly encouraged to have a Home Energy Rating Survey (HERS) to determine potential energy saving methods and to reward developments which reduce their energy use. Positive points will be awarded according to the following point schedule:

Points	HERS index for residential
+1	Obtaining a HERS index
+2	81-90
+3	71-80
+4	61-70
+5	51-60
+6	41-50
+7	31-40
+8	21-30
+9	0-19

(2) Commercial, Lodging And Multifamily In Excess Of Three (3) Stories In Height.

New and existing commercial, lodging and multifamily developments are strongly encouraged to participate in the energy provisions of the adopted International Energy Conservation Code (IECC) to determine potential energy saving methods. Positive points will be awarded for the percentage of energy conserved beyond the standards of the IECC per the following point schedule:

Points	% beyond the IECC
--------	-------------------

+2	10%-19%
+3	20%-29%
+4	30%-39%
+5	40%-49%
+6	50%-59%
+7	60%-69%
+8	70%-79%
+9	80%+

(3) Excessive Energy Usage.

Developments with excessive energy components are discouraged. However, if the Town finds that any of these measures are required for health, safety and welfare of the general public, this section may be waived at the discretion of the Town. To encourage energy conservation, the following point analysis shall be utilized to evaluate how well a proposal meets this policy:

1x(-3/0) Heated driveway, sidewalk, plaza, etc.

1x(-1/0) Outdoor commercial or common space residential gas fireplace (per gas fireplace)

1x(-1/0) Large outdoor water features (per feature)

- (4) 1x(-2/+2) Other design features determined by the Town to conserve significant amounts of energy may be considered for positive points. Alternatively, features which use excessive amounts of energy may be assigned negative points.

(5) General Provisions:

a. No development approved with required positive points under this policy shall be modified to reduce the HERS score or percentage of saving above the IECC in connection with the issuance of such development permit. ("Required positive points" means those points that were necessary for the project to be approved with a passing point analysis.)

b. Each development for which positive points are awarded under this policy shall submit a letter of certification from a Colorado registered engineer or HERS rater showing compliance with the projected energy rating prior to the issuance of a certificate of occupancy.

(6) Sliding Scale Examples*

a. Heated outdoor spaces 1x(0/-3)

- Zero points - for public safety concerns, systems which are 100% powered by alternative energy source such as solar, wind or geothermal, or small areas on private property which are part of a generally well designed plan which takes advantage of southern exposure and/or specific site features.
- Negative Points - assessed based on the specific application of heated area. (For example, a heated driveway of a single family home compared to a driveway apron only; a heated patio). The points warranted are dependent on the specific project layout such as safety concerns, amount of heated area, design issues such as north or south facing outdoor living spaces, etc.

b. Water Features 1x(0/-1)

- Zero Points – no water feature or features powered by an alternative energy source or feature utilizing a less than 4,000 watts or less than 5 horsepower.
- Negative Points – based on the amount of energy (watts) utilized for the feature (large features of 4,000 watts or more, or greater than a 5 horsepower motor).

*Footnote: Examples set forth in this policy are for purpose of illustration only, and are not binding upon the Planning Commission. The ultimate allocation of points shall be made by the Planning Commission pursuant to section 9-1-17-3 of this Chapter.



MEMORANDUM

TO: Town Council

FROM: Chris Neubecker

DATE: November 17, 2010

SUBJECT: Medical Marijuana Dispensary Moratorium

On June 22, 2010 the Town adopted Ordinance 16 (Series 2010) establishing a moratorium on the issuance of new permits for medical marijuana dispensaries. This moratorium prohibits permits to transfer the location of an existing dispensary. Council adopted the moratorium partially in response to the number of dispensaries existing and/or proposed in Town at the time of the adoption. Interest in new dispensaries peaked in June 2010 before the state's rules on new dispensary permits went into effect. (The Colorado legislature enacted, and the Governor signed into law, HB10-1284 entitled "A Bill For An Act Concerning Regulation of Medical Marijuana, and Making An Appropriation Therefor." HB10-1284 became partially effective on July 1, 2010 and created a new, comprehensive and complex licensing and regulatory scheme for the commercial cultivation and sale of medical marijuana and marijuana-infused products. The new law becomes fully effective July 1, 2011.) Additionally, Council wanted to wait until the Colorado Department of Revenue establishes state regulations on dispensaries, which is not expected until sometime in 2011.

On November 9, 2010 a representative from Colorado Wellness Providers (d.b.a. Medicine Man, LLC) spoke to Council during Citizen's Comments requesting a modification to this ordinance to allow their business to relocate to another building within Town. Their lease is about to expire, and the landlord has indicated that the lease will not be renewed. Staff would like to know if this is an issue that the Council is willing to discuss. If there is support for this concept, we will work with the Town Attorney on an ordinance to modify the current moratorium, and schedule the ordinance for a first reading.

Staff and the Town Attorney will be available to answer questions during the work session on Tuesday afternoon.



Memorandum

To: Town Council
From: Jennifer Cram, AICP
Date: November 17, 2010
Subject: Landscaping Policy 22 Changes

Since the last worksession with the Council on October 26th staff has made changes to Section A. Maintenance #5. to address Council's comments. The changes are noted in red in the attached draft of – Landscaping Policy 22.

The rest of the changes remain as presented in the original memo and draft Policy. Staff understood at the last worksession that the Council was comfortable with all other proposed changes in the Policy.

With additional feedback, staff hopes to proceed to ordinance form and first reading in the near future.

Staff will be present during the worksession on November 23rd to answer any questions.

22. (ABSOLUTE) LANDSCAPING (22/A):

General Statement: The Town hereby finds that it is in the public interest for all developments to maintain healthy trees and to provide landscape improvements for the purposes of: complementing the natural landscape and retaining the sense of a mountain environment; improving the general appearance of the community and enhancing its aesthetic appeal; preserving the economic base; improving the quality of life; delineating and separating use areas; increasing the safety, efficiency, and aesthetics of use areas and open space; screening and enhancing privacy; mitigating the adverse effects of climate, aspect, and elevations; conserving energy; abating erosion and stabilizing slopes; deadening sound; and preserving air and water quality.

To ensure that landscaping is provided and maintained, the following requirements for the installation, maintenance, and protection of landscaping areas are required to be met for every project issued a permit under this Chapter:

A. Maintenance:

- (1) All plantings shall be maintained in a healthy and attractive condition. Maintenance shall include, but not be limited to, watering, fertilizing, weeding, cleaning, pruning, trimming, spraying, and cultivating.
- (2) Properties shall be kept free of noxious weeds as designated in the Town's Noxious Weed Management Plan as updated from time to time.
- (2) Landscaping structural features such as fencing, planter boxes, etc., shall be maintained in a sound structural and attractive condition.
- (3) Selective tree cutting/thinning to maintain the health of the tree stand and to allow for greater species diversity is appropriate, provided that effective screening is maintained to protect view sheds, blend the development into the site and provide privacy between properties.
- (4) Dead and terminally diseased shall be cut as close to the ground as possible and removed from the property and disposed of properly on an annual basis. (Please refer to the Landscaping Guidelines for references on common diseases and infestations that affect vegetation at a high altitude.)
- (5) Whenever plants that are part of an approved landscape plan that is part of a new development application are removed or die, they shall be replaced by planting materials as soon as possible. This shall include existing vegetation and/or specimen trees that are deemed important to the intent of the overall landscape plan. Replacement plantings shall meet the original intent of the approved landscape design as appropriate for the character of the neighborhood.

B. Requirements:

- (1) Each site shall provide through existing vegetation or with new landscaping screening from adjacent properties, a separation of uses, enhancement of privacy and the protection of view sheds from public rights of way as appropriate for each neighborhood. The individual character of each neighborhood shall be considered by the Commission.
- (2) All open industrial or commercial storage areas shall be screened from all public rights of way or adjacent property by use of landscaping, berms, or a combination of landscaping and other features to a height of six feet (6') minimum.
- (3) When a parking lot and public right of way are contiguous, a landscaped area a minimum of five feet (5') in width, separating the parking lot from the right of way, and which also effectively screens the lot shall be provided.
- (4) All planting materials proposed in areas also designated as snow stacking areas or anticipated snow shedding areas shall be of a size or type that will not be adversely affected by the proposed snow storage. To the extent possible, new trees shall not be located in areas proposed for snow storage or snow shedding.
- (5) Any site contiguous to or facing any residential uses or future residential uses shall screen its parking lots, loading docks, or similar uses through the use of landscaping elements to a height of four feet (4') minimum.
- (6) All surface areas on the approved landscaping plan that will not be a hard surface shall be planted with adequate native or high altitude ground cover as approved by the Town and shall be top-dressed with a minimum of two inches (2") of top soil prior to planting. In addition, irrigation shall be provided in those instances where required to guarantee the proper growth and maintenance of the landscaping being provided.
- (7) Revegetation measures, including but not limited to seeding with native or high altitude seed mixtures, biodegradable netting, straw, mulching and irrigation to establish plantings on cut/fill slopes, are required. Cut and fill slopes intended for plantings shall not exceed a 2:1 gradient. Retaining walls shall be required for all gradients greater than 2:1.
- (8) Not less than six percent (6%) of the interior areas of all parking lots and drive-through establishments shall be placed in landscaping.
- (9) Site plans shall be designed to avoid conflicts with parking areas and landscaping materials. Wheel retention devices shall be utilized for parking areas to protect landscaping where possible. Flexibility in the design of wheel retention devices will be reviewed on a case by case basis to allow for positive

drainage and so as not to interfere with snow removal operations.

- (10) At least fifty percent (50%) of all tree stock shall be of a size equal to or greater than six feet (6') in height for evergreen trees and one and one-half inches (1-1/2") caliper for deciduous trees, measured six inches (6") above ground level. Said tree shall be in a minimum of five (5) gallon containers, if container stock; or a minimum of twelve inch (12") root spread, if bare root stock; or a minimum of fourteen inch (14") ball diameter if balled and burlapped with the ball depth not less than seventy five percent (75%) of diameter or three-quarters (³/₄) of width. Size adjustments which reflect the growth habits of particular species may be made at the discretion of the Town. (Refer to Landscaping Guidelines for further details.)
- (11) At least fifty percent (50%) of all shrub stock shall be of a size equal to or greater than Type 2, four (4) cans or more, two feet (2') and up, if deciduous; Type 1, twelve inch (12") spread, if creeping or prostrate evergreens; or Type 2, twelve inch (12") spread and height, if semi-spreading evergreens. Size adjustments which reflect the growth habits of a particular species may be made at the discretion of the Town. (Refer to Landscaping Guidelines for further details.)
- (12) All plant materials shall be specified and provided according to the American Standard for Nursery Stock and adapted to a high altitude environment, or an elevation appropriate for the site. Additional information beyond the minimum requirements stated therein, which provide a more definitive indication of size, quality, shape, confirmation, condition, and/or the method of transplanting, is encouraged.
- (13) Large trees shall be staked as per American Nursery Standards. (Ord. 19, Series 1988)

C. Wildfire Mitigation:

The creation of defensible space around structures is required for all new construction, additions greater than 10% of existing square footage, and major remodels that affect the exterior of a structure and/or a structures footprint. All Properties shall be divided into three zones. Properties will be reviewed on a case-by-case basis. Properties within the Conservation District and those properties within a Master Plan with smaller setbacks shall be given special consideration to allow for site buffers and screening to be maintained and created while still meeting the intent of reducing fuels for wildfire mitigation.

- (1) Zone One
 - (a) Zone One shall extend 30-feet from the eave of the structure or deck.

- (b) All non-firewise vegetation shall be removed within Zone One except that specimen trees with a minimum of ten feet (10') between the crowns of other vegetation may remain. Specimen trees in close proximity to a structure may be considered part of the structure for measurement purposes.
- (c) Stone or other noncombustible materials with a weed barrier shall be placed under all decks or structure projections such as bay windows.
- (d) Fire-wise landscaping may be planted within Zone One, 15 –feet away from the edge of all eaves or decks. All fire-wise landscaping planted within Zone One shall be maintained in irrigated planting beds. New plantings shall maintain a minimum of ten feet (10') between the crown spacing of individual or groupings of trees at maturity.
- (e) All grasses within Zone One shall be maintained less than six inches (6") in height. For landscape plans that propose taller growing native grasses or wild flowers, these plantings shall be cut back annually in the fall after the plantings have gone to seed.
- (f) All fire-wise trees within Zone One shall be pruned annually to remove all dead branches a minimum of six-feet (6') above ground level.

(2) Zone Two

- (a) Zone Two shall be measured 75 feet up to 125 feet (depending on slope) from the eave of a structure or deck.
- (b) All dead and diseased trees shall be removed within Zone Two.
- (c) All dead trees and branches on the ground shall be removed. Leaf and needle clutter shall not exceed three inches (3") in depth.
- (d) New landscaping may be planted to create site buffers and screening. New plantings shall maintain a minimum of ten feet (10') between the crown spacing of individual or groupings of trees at maturity.
- (e) All trees shall be pruned annually to remove all dead branches a minimum of six-feet (6') above ground level.

(3) Zone Three

- (a) Zone Three shall be measured from the edge of Zone Two to the property line.
- (b) All dead and diseased trees shall be removed within Zone Three. A minimum of one standing dead tree per acre or fraction thereof may remain on site for wildlife habitat provided that a minimum of ten feet (10') is maintained between the dead tree and the crowns of living trees.
- (c) All dead trees and branches on the ground shall be removed. Leaf and needle clutter shall not exceed three inches in depth.
- (d) New landscaping may be planted to create site buffers. New plantings shall maintain a minimum of ten feet (10') between the crown spacing of individual or groupings of trees at maturity.
- (e) All trees shall be pruned annually to remove all dead branches a minimum of six-feet above ground level.

D. Water Features

- (1) Water features shall meet all required setbacks for structures and shall not be permitted outside of disturbance envelopes, nor shall they be permitted when the construction of said feature results in the removal of existing specimen trees, or trees that provide required site buffers. Replacement trees may be considered.
- (2) The use of Glycol or other anti-freezing additives within water features is prohibited.
- (3) Water features that are proposed for year round use may receive negative points under Policy 33 – Energy Conservation.

22. (RELATIVE) LANDSCAPING (22/R):

A. All developments are strongly encouraged to make landscaping improvements which exceed the requirements outlined in the absolute policy. New landscaping should enhance forest health, preserve the natural landscape and wildlife habitat and support fire-wise practices. A layered landscape consistent with the mountain character, through the use of ground covers, shrubs and trees that utilize diverse species and larger sizes where structures are screened from view sheds, public rights of way and other structures, is strongly encouraged. The resulting landscape plan should contribute to a more beautiful, safe, and environmentally sound community. To meet this goal, all projects will be evaluated on how well they implement the following suggested criteria:

- (1) It is encouraged that at least one tree a minimum of eight-feet (8') in height, or three inch (3") caliper be planted at least every fifteen feet (15') along public rights of way.
- (2) It is encouraged that all landscaping areas have a minimum dimension of ten feet (10').
- (3) Development applications are encouraged to identify and preserve specimen trees, significant tree stands, tree clusters and other existing vegetation that contribute to wildlife habitat. Trees considered as highest priority for preservation are those that are disease-free, have a full form, and are effective in softening building heights and creating natural buffers between structures and public rights of way. Buildings shall be placed in locations that result in adequate setbacks to preserve these specimen trees and existing vegetation. Measures shall be taken to prevent site work around these areas. Applicants are encouraged to seek professional advice on these issues from experts in the field.
- (4) It is encouraged that the landscaping materials utilized are those species that are native to Breckenridge, or appropriate for the high altitude environment found in Breckenridge. The Town of Breckenridge Landscaping Guide shall be used to evaluate those particular criteria.

- (5) It is encouraged that the landscaping materials utilized are those species that need little additional water to survive, or that the applicants provide for an irrigation system that is based on low flows or the recycling of water. In general, native species are the most drought tolerant after establishment. Xeriscaping with native species is encouraged.
- (6) Installation, use and maintenance of irrigation systems to ensure survival of landscaping in the long-term is strongly encouraged until plant material is established. Irrigation that utilizes low flow systems and the recycling of water are strongly encouraged. All irrigation systems should be maintained on an annual basis.
- (7) The use of bioswales planted with native vegetation that can filter and absorb surface water runoff from impervious surfaces to promote water quality is encouraged.
- (8) The use of permeable paving in low traffic areas, to allow precipitation to percolate through areas that would traditionally be impervious, is encouraged.
- (9) It is encouraged that plant materials be provided in sufficient quantity, of acceptable species, and placed in such arrangement so as to create a landscape which is appropriate to the Breckenridge setting and which subscribes to the Historic District Guidelines as appropriate.
- (10) It is encouraged that the remaining fifty percent (50%) of the tree stock include a variety of larger sizes ranging up to the largest sizes for each species which are possible according to accepted landscaping practices at maturity which recognize the Breckenridge high altitude environment, transplant feasibility, and plant material availability. Interrelationships of height, caliper, container size and shape shall be in general compliance with the American Standard for Nursery Stock. Fifty percent (50%) of all deciduous trees should be multi-stem.
- (11) It is encouraged that landscaping be provided in a sufficient variety of species to ensure the continued appeal of a project in those instances where a particular species is killed through disease. Native species are preferred.
- (12) It is encouraged that at least fifty percent (50%) of the area of a project that is not being utilized for buildings or other impervious surfaces shall be kept in a natural/undisturbed state. Native grasses, wild flowers and native shrubs are desirable features to maintain.
- (13) In all areas where grading and tree removal is a concern, planting of new landscaping materials beyond the requirements of absolute policy 22 "Landscaping" of this policy is strongly encouraged. New trees and landscaping should be concentrated where they will have the greatest effect on

softening disturbed areas and buffering off site views of the property. (Ord. 19, Series 1995)

Negative points will be awarded according to the following point schedule for new landscaping proposals, in direct relation to the scope of the project, subject to approval by the Planning Commission:

-2: Proposals that provide no public benefit. Examples include: providing no landscaping to create screening from adjacent properties, public right of way and view sheds; the use of large areas of sod or other non-native grasses that require excessive irrigation and that do not fit the character of the neighborhood; the use of excessive amounts of exotic species; and the removal of Specimen trees that could be avoided with an alternative design layout.

Positive points will be awarded according to the following point schedule for new landscaping proposals, in direct relation to the scope of the project, subject to approval by the Planning Commission:

+2: Proposals that provide some public benefit. Examples include: the preservation of a specimen tree/s as a result of a new building footprint configuration to preserve the tree/s; preservation of groupings of existing healthy trees that provide wildlife habitat; preservation of native ground covers and shrubs significant to the size of the site; xeriscape planting beds; the planting of trees that are of larger sizes a minimum of 2.5" caliper for deciduous trees and eight feet (8') for evergreen trees; utilizing a variety of species and the layering of ground covers, shrubs and trees that enhance screening and assist in breaking up use areas and creating privacy. In general plantings are located within Zone One (as defined) on the site.

+4: Proposals that provide above average landscaping plans. Examples include: all those noted above in addition to the planting of trees that are of larger sizes a minimum of 3" caliper for deciduous trees and ten feet (10') for evergreen trees; utilizing a variety of species and the layering of ground covers, shrubs and trees that enhance screening and assist in breaking up use areas and creating privacy 50% of all new planting should be native to Breckenridge and the remaining 50% should be adapted to a high altitude environment. In general plantings are located within Zones One and Two (as defined) on the site.

+6: Proposals that that provide significant public benefit through exceptional landscape plans. Examples include: all those noted above and the planting of deciduous and evergreen trees that are a combination of the minimum sizes noted under positive four points (+4) and the largest possible for their species; the planting of the most landscaping possible on the site at maturity; utilizing a variety of species and the layering of ground covers, shrubs and trees to break up use areas, create privacy and provide a substantial screening of the site; 75% of all new plantings should be native to Breckenridge and the remaining 25%

should be adapted to a high altitude environment. In general plantings are located in Zones One, Two and Three (as defined) on site.

¹ Examples set forth in this policy are for purpose of illustration only, and are not binding upon the planning commission. The ultimate allocation of points shall be made by the planning commission pursuant to section 9-1-17-3 of this title.

Memorandum

TO: Town Council

FROM: Tom Daugherty, Assistant PW Director/Town Engineer

DATE: November 18, 2010

RE: Local Contractor Preference

During the bidding for the Valley Brook housing project the issue of local preference arose when selecting the contractor. The Council asked that staff look at a local preference policy when selecting contractors. As a result staff has put together this memo to provide information about this issue to the Council.

As stewards of the public money we competitively bid projects to get the best value. In the past, we have not typically restricted who can bid on projects or provided preferences because the competition was naturally limited because the amount of work in the market. A local preference needs to balance the need for competition so that the Town is getting the best value from the public's money.

The Town typically hires contractors for two types of projects; building construction and civil construction. The Town is governed by certain state statutes that require bonding or other acceptable monetary security so that subcontractors and suppliers have recourse in case they are not paid for work or supplies provided for public project. Because of this contractors that work for the Town generally have to position themselves to be bonded which is a lengthy and in today's world a difficult process.

From time to time the Town receives federal grants that dictate our contracting procedures that may override our rules.

The term local contractor can mean different things to different people. During the Valley Brook project the Town defined local contractor and subcontractor as having the primary place of business located in Summit County. When I refer to existing local contractors in the memo I am using that definition. This will have to be clearly addressed if a policy is adopted.

Civil Projects

Civil projects are generally streets, storm drains, water lines and other infrastructure that are not buildings. The Town consistently performs these types of projects from year to year in order to maintain and enhance the infrastructure.

There are a limited number of local contractors that are capable of performing this work that are bonded and regularly bid on Town projects. Concrete flat work has 3 contractors located in Summit County, only one asphalt supplier and 3 asphalt construction companies. Non Summit County contractors have been awarded these types of projects such as the asphalt overlay projects. However, the majority of civil projects are awarded to local contractors.

Civil contractors typically perform a large portion of the work with their own personnel. Subcontracts are typically for surveying, traffic control and concrete or paving if they do

not do that type of work themselves. It has been our observation that regardless of where the construction company is located most concrete workers and some asphalt workers commute from outside Summit County. Some non-local contractors will rent rooms or condos for their crews during the project.

Building Construction

The Town is not as consistent about building construction as civil construction. The Town tends to perform building construction in spurts. The building projects are typically commercial.

The number of commercial contractors in the county has dwindled and currently Base Building is the only commercial contractor located in Summit County that is active in bidding Town projects. Others may exist, but they do not show interest in the Town's projects or are unknown. There may not be enough commercial work in the County to keep commercial contractors in business even with a local preference. There are a large number of home builders that are interested in housing projects but the majority of them have not positioned themselves to meet the Town's bonding and insurance requirements.

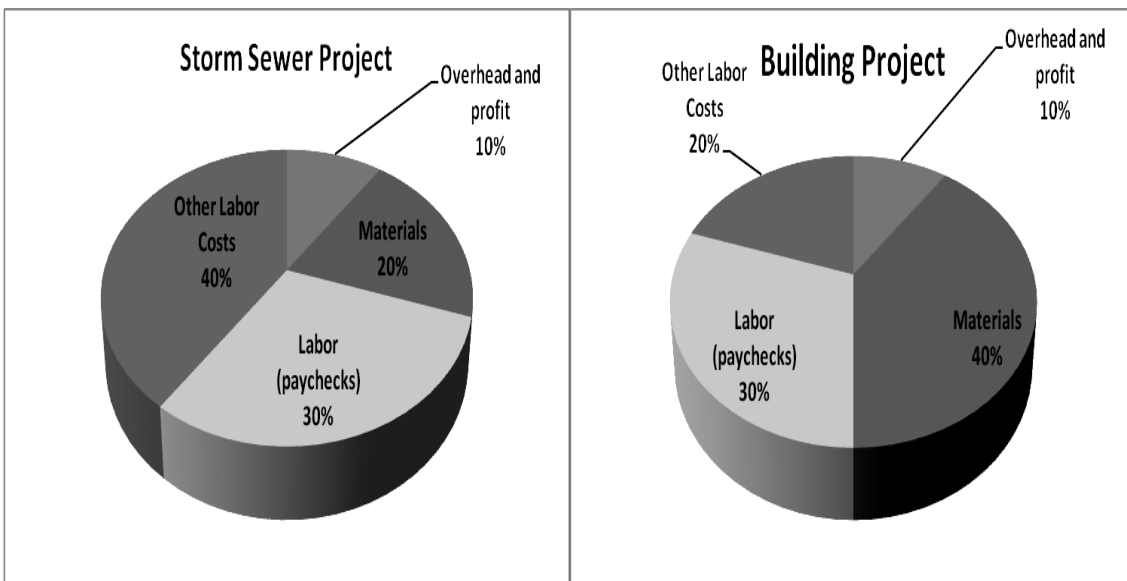
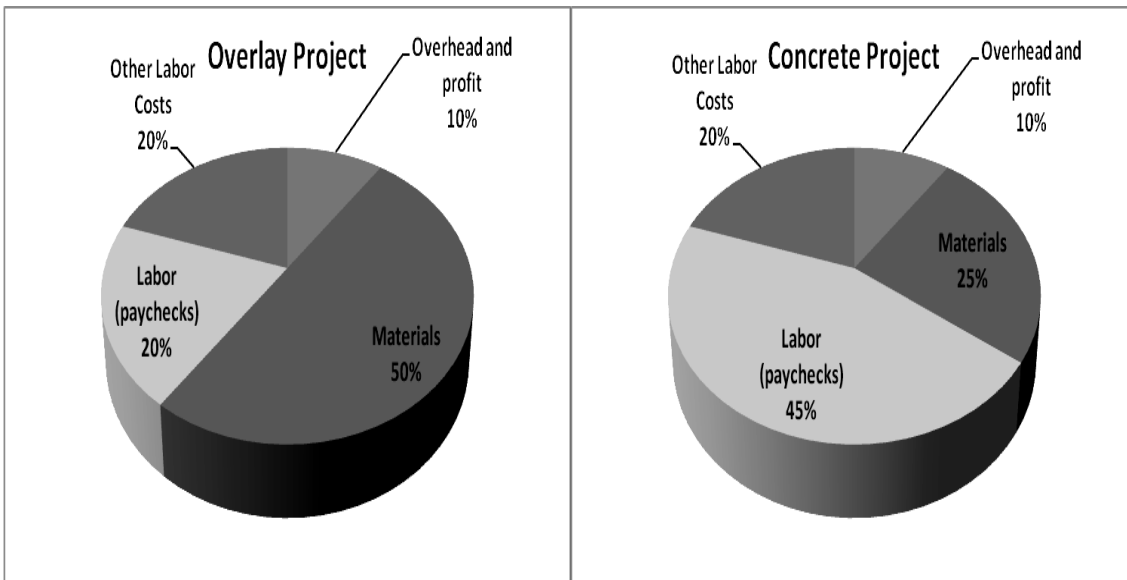
Buildings are mainly constructed using subcontractors and tend to be the largest employers of local workers.

Valley Brook Housing project creates an issue because most home builders that are interested in this project do not have the bonding ability that is required. A home builder would likely have to partner with a larger non-local contractor to meet our bonding requirements. This project made us consider the definition of a local contractor. We considered the joint venture as a local contractor because the majority partner was based in Summit County. The fact that the cost of the project was \$200,000 less than the next lowest bidder influenced the decision to award the contract. Such scenarios will have to be considered along with the local contractor definition if we decide to move forward with a local contractor policy.

The Town also reduced the scope of Valley Brook Housing to make it more attractive for contractors to bid. The current economy and market made it very difficult for these contractors to get bonding.

Breakdown of Project Expenditures

At the request of Council staff looked at several different projects to estimate how much of the project is profit, labor and materials. The specifics of the project can vary from project to project. For example placing asphalt is not as labor intensive as concrete and cost of the labor compared to the materials cost is very different. We tried to give you some general numbers that represent where the money goes.



Materials represents the actual building materials (wood, concrete, asphalt, pipe). Labor is the cost of labor paid by the contractor. Other labor costs are all other costs (machines, tools, general conditions, mobilization). Overhead and profit is kept at 10% for all types of projects but that varies from year to year and project to project..

Staff does not have the information or ability to measure how much of project money will stay in the community if a policy is adopted. These pie charts show the estimated amount of money in each category can vary widely depending on the type of construction.

What Other Communities Do

A search of examples from other communities showed that typical local preferences include:

- 5% advantage when comparing bids and a cap of that advantage between \$10,000 and \$25,000.
- Some eliminated the local preference after the contract amount exceeded a specified value such as \$2M.

- Local contractors are allowed to match the low bid.
- Local contractors had to apply for local preference. Criteria included; primary place of business is within a specified geographic location and a specified percentage of employees living in the geographic location.

Impacts to Town

Any local preference policy will require more of staff's time to administer and track the policy. Typically, the more detailed the policy the more staff has to look into the contractors business to verify if the contractor is complying with the policy. The impact will depend on the policy established.

There are a large number of possibilities and unintended consequences when implementing a policy like this. I do not expect that a policy will cover every possibility and project. If a policy is adopted I am sure that someone will try to find a loophole and this could be a frequently reoccurring subject at Council meetings. A rigid policy limits the Town's flexibility.

If the objective is to keep the dollars in the community, a large portion of that would entail employing local workers. Local contractors that employ workers from outside the county will have a tough time meeting any local work force requirement for local contractor status.

Project costs could increase depending on the policy established. If the local contractor has the opportunity to match the low bid the project cost may not increase. Civil projects have a number of established local contractors that regularly bid on Town projects so it is likely that project pricing will remain competitive. Commercial building construction has only one responsive local contractor so pricing will be less competitive.

Some Front Range building contractors have invested in performing work in the mountain communities in addition to working in other areas. These contractors may lose interest in bidding Town work if they feel that they are at a disadvantage. This, combined with the limited number of local contractors, will further reduce competition.

If, after discussing this item, the Council would like to move forward with developing a policy staff will bring a more specific document that we feel meets the intent of the Council.



BRECKENRIDGE TOWN COUNCIL REGULAR MEETING
Tuesday, November 23, 2010; 7:30 p.m.

I	CALL TO ORDER and ROLL CALL	
II	APPROVAL OF MINUTES – November 9, 2010	Page 94
III	APPROVAL OF AGENDA	
IV	COMMUNICATIONS TO COUNCIL	
	A. Citizen’s Comment - (Non-Agenda Items ONLY; 3 minute limit please)	
	B. BRC Director Report	
V	CONTINUED BUSINESS	
	A. SECOND READING OF COUNCIL BILLS, SERIES 2010 - PUBLIC HEARINGS	
	1. Council Bill No. 32, Series 2010 – An Ordinance Setting The Mill Levy Within The Town Of Breckenridge For 2011	
	2. Council Bill No. 33, Series 2010 – An Ordinance Providing For An Increase In Municipal Water User Fees Effective January 1, 2011; Establishing A Fee For Mailing Paper Billing Statements; Providing An Exception From Such Statement Fee For Billing Statements Delivered Electronically; And Establishing A Fee For Setting Up And Transferring Water User Accounts	Page 11
	3. Council Bill No. 34, Series 2010 – An Ordinance Amending Section 1-8-11 Of The <u>Breckenridge Town Code</u> Concerning Costs Assessed Against Persons In The Town’s Municipal Court	Page 16
	4. Council Bill No. 35, Series 2010 – An Ordinance Amending Chapter 2 Of Title 8 Of The <u>Breckenridge Town Code</u> , Known As The “Breckenridge Sign Ordinance” By Adopting Provisions Concerning Signs On Human-Powered Vehicles	Page 22
	5. Council Bill No. 36, Series 2010 – An Ordinance Repealing And Readopting With Changes Section 6-3A-1 Of The <u>Breckenridge Town Code</u> Concerning The Municipal Offense Of Assault	Page 28
VI	NEW BUSINESS	
	B. FIRST READING OF COUNCIL BILLS, SERIES 2010	
	1. None	
	C. RESOLUTIONS, SERIES 2010	
	1. Budget and Capital Improvement Plan Adoption	Page 100
	2. Wellington Neighborhood Annexation Agreement Modification	Page 31
	3. Grants – Statewide Internet Portal Authority (SIPA)	Page 47
	D. OTHER	
	None	
VII	PLANNING MATTERS	
	A. Planning Commission Decisions of November 16, 2010	Page 2
	B. Town Council Representative Report (Mr. Burke)	
VIII	REPORT OF TOWN MANAGER AND STAFF*	
IX	REPORT OF MAYOR AND COUNCILMEMBERS*	
	A. CAST/MMC (Mayor Warner)	
	B. Breckenridge Open Space Advisory Commission (Ms. McAtamney)	
	C. BRC (Mr. Dudick)	
	D. Summit Combined Housing Authority (Mr. Joyce)	
	E. Breckenridge Heritage Alliance (Mr. Burke)	
	F. Sustainability Committee (Mr. Bergeron, Mr. Joyce, Mayor Warner)	
	G. Marketing Committee (Mr. Dudick)	
	H. Joint Upper Blue Master Plan Update Committee (Mr. Bergeron, Mr. Mamula)	
X	OTHER MATTERS	
XI	SCHEDULED MEETINGS	Page 102
XII	ADJOURNMENT	

*Report of Town Manager; Report of Mayor and Council Members; Scheduled Meetings and Other Matters are topics listed on the 7:30 pm Town Council Agenda. If time permits at the afternoon work session, the Mayor and Council may discuss these items. The Town Council may make a Final Decision on any item listed on the agenda, regardless of whether it is listed as an action item

CALL TO ORDER and ROLL CALL

Mayor Warner called the November 9, 2010 Town Council Meeting to order at 7:37 p.m. The following members answered roll call: Mr. Bergeron, Mr. Burke, Mr. Dudick, Mr. Mamula, Ms. McAtamney, Mr. Joyce, and Mayor Warner.

APPROVAL OF MINUTES – October 26, 2010

Mayor Warner asked for any changes or corrections to the October 26 meeting minutes. Mr. Burke reported two changes under his Planning Commission Representative report. He stated “a redevelopment master plan” (not redevelopment of the master plan”) and; the Planning Commission spent time discussing the energy policy (not energy commission). He clarified under his Breckenridge Heritage Alliance report that the BHA board nominated Dan Gibbs, Janet Sutterly and Chris Juskowiak to the board. The BHA board will vote on these nominations in December. Ms. McAtamney reported a couple changes to her BOSAC report. ...discussion of the Peaks Connect Trail (instead of Connect Trail) and,... re-route it over the Alpine Slide (not above the Alpine Slide). With those changes and corrections to be made to the meeting minutes, Mayor Warner declared they would stand approved as amended.

APPROVAL OF AGENDA

Mr. Gagen asked to have an executive session added under “Other Matters”. The subject of the executive session will be acquisitions related to affordable housing.

COMMUNICATIONS TO COUNCIL

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

Dick Taft with the Village of Breckenridge Homeowners’ Association updated the council on the Village clocks. They have painted the light bulbs and have applied colored jells to remedy the intensity and color of the clock faces. The clocks will be serviced once a year. At that time the bulbs and jells will be evaluated.

Alise Bird spoke on behave of the owners of Medicine Man. They are looking to relocate the business. She was present to ask council to consider amending the current rules to allow an existing dispensary to relocate or transfer to a different location. This would require a change to the ordinance. Mayor Warner asked when their lease would be up. Ms. Bird responded at the end of November. Mayor Warner stated council would not be able to make a decision on this question this evening. Mr. Neubecker will compile his staff report and present his findings to council.

Sharon Shelton was present on behave of the Merchant’s Association. They are looking for a way to get the winter guest to stay in town longer and feel a bus route to Main Street would get these people from the parking lots to Main Street.

Michael Niemkiewicz commented on coyote encounters. He asked council to consider a solution. Chief Holman offered to do a short work session report on information the Police Department has acquired. Mayor Warner would like a little history on the subject. Recommendations will be compiled.

B. BRC Director Report

John McMahon, Director of the Breckenridge Resort Chamber, reported 2D passed by 70%. He thanked Mr. Dudick and the lodging community. Breckenridge was awarded the finish stage of the Quizno’s Pro Challenge on August 27. The BRC will be working on secure certain categories of sponsorship available to them. The BRC is trying a lot of new things. As an example, Central Reservations will be bringing back Breckenridge Bucks: If someone books lodging before a certain date they will receive \$100 back. Media for this promotion begins next week. Mr. McMahon stated the BRC has moved its offices to 111 Ski Hill Road, across the street from Town Hall.

CONTINUED BUSINESS

A. **SECOND READING OF COUNCIL BILLS, SERIES 2010 - PUBLIC HEARINGS**

- 1. None

NEW BUSINESS

A. **FIRST READING OF COUNCIL BILLS, SERIES 2010**

- 1. Council Bill No. 32, Series 2010 – An Ordinance Setting The Mill Levy Within The Town Of Breckenridge For 2011

Mr. Gagen stated as part of the town’s annual budget process the council is required to set the mill levy prior to the end of the year so it can be submitted to the County for appropriate implementation. This year’s mill level is made up of two components. One is the town’s regular mill levy which supports the general fund operation of the town. It is the same mill levy the town has had for the last three or four years. The second mill levy is for the debt service. The town will be retiring

certain general obligation bonds. These bonds will be paid off in 2013. This council bill is presented as a first reading. The public hearing on this matter will be at council's November 23 meeting.

With no question or comments from council, Mayor Warner asked for a motion. Mr. Bergeron moved to approve Council Bill No. 32 as previously read into the record. Ms. McAtemney made the second. A roll call vote was taken. The motion passed with all members of council in favor of passage.

2. Council Bill No. 33, Series 2010 – An Ordinance Providing For An Increase In Municipal Water User Fees Effective January 1, 2011; Establishing A Fee For Mailing Paper Billing Statements; Providing An Exception From Such Statement Fee For Billing Statements Delivered Electronically; And Establishing A Fee For Setting Up And Transferring Water User Accounts

Mr. Berry, Town Attorney, stated the Town's Charter requires the council to periodically set, by ordinance, charges for the town's municipal water system. Changes to the ordinance include an increase in existing fees (1% per year for water user fees, 5% per year for PIFs), a new fee for paper statements (\$5 per billing cycle), and an account setup fee of \$25 for new accounts and changes in ownership. If adopted this ordinance will become effective January 1, 2011.

With no question or comments from council, Mayor Warner asked for a motion. Mr. Bergeron moved to approve Council Bill No. 33 as previously read into the record. Mr. Mamula made the second. A roll call vote was taken. The motion passed with all members of council in favor of passage.

3. Council Bill No. 34, Series 2010 – An Ordinance Amending Section 1-8-11 Of The Breckenridge Town Code Concerning Costs Assessed Against Persons In The Town's Municipal Court.

Mr. Berry explained State law authorizes the council, by ordinance, to establish court costs that are assessed and collected in the town's municipal court. Since 1992 the amount charged for court costs has been \$15.00. This amount is assessed on any case that comes before the municipal judge. After a recent review of court costs in relation to other resort municipalities, it was determined that \$15.00 was on the low end of what was being charged by comparable municipalities. Judge Buck Allen has expressed support of an increase in court costs to \$25.00. This version of the council bill appeared in council's packet, however, in response to the council's request during work session, Mr. Berry presented council with an amended version of the council bill to include a \$35 court cost. If approved this council bill will take effect January 1, 2011. Judge Buck Allen was at the meeting to answer any questions.

There were no questions for Mr. Berry. Judge Allen addressed council. The judge stated \$25 is the middle area throughout the State. He worried that Breckenridge would be perceived as over-charging. Another alternative to the court cost question would be to implement a tiered system: dog violations, parking violations, and traffic tickets might be assessed a \$25 court cost. Other violations might be assessed a \$35 court cost. Mr. Burke asked how the judge felt about a \$90 court cost. The judge worried a high court cost would alienate some people. Mr. Burke commented on the "real costs" of the court. Mr. Bergeron, Mr. Dudick, and Mr. Joyce were not aware the town "subsidized" the court. The judge wants to give the feeling that someone is being treated fairly. Mr. Dudick, Mr. Burke, Mr. Bergeron, Mr. Joyce liked the two tiered system. Mr. Mamula wanted to vote on the council bill as written tonight and find out the exact costs associated with the court operation for second reading.

With no further questions or comments for Mr. Berry or Judge Allen, Mayor Warner stated council will vote on the council bill as presented tonight. He asked for a motion. Mr. Bergeron moved to approve Council Bill No. 34 as previously read into record with a change reflected in the court costs from twenty-five dollars (\$25) to thirty-five dollars (\$35). Ms. McAtemney made the second. A roll call vote was taken. The motion passed with all members of council in favor of passage.

4. Council Bill No. 35, Series 2010 – An Ordinance Amending Chapter 2 Of Title 8 Of The Breckenridge Town Code, Known As The "Breckenridge Sign Ordinance" By Adopting Provisions Concerning Signs On Human-Powered Vehicles.

Mr. Berry stated this council bill would amend the Breckenridge Sign Code to allow for off-premises signs on pedicabs and other human powered vehicles. This council bill addresses the size and location of signs on these vehicles, states that signs will not be illuminated and does not limit the type of business that may advertise. Mr. Berry and Chris Neubecker will confer on how the town wants to handle the content of signs. At second reading, Mr. Berry will have language to address this issue. Mr. Mamula asked if Mr. Berry is satisfied with the definition of human powered vehicle. Mr. Berry felt the definition was specific but he would look at the language and see if it could be defined differently.

With no question or comments from council, Mayor Warner asked for a motion. Mr. Dudick moved to approve Council Bill No. 35 as previously read into the record. Mr. Burke made the second. Mayor Warner asked for any discussion.

For the record, Mr. Mamula stated he was not in favor of altering the code for a business' survival. A roll call vote was taken. The motion passed with six members of council in favor of passage. Mr. Mamula voted in opposition to the motion.

5. Council Bill No. 36, Series 2010 – An Ordinance Repealing And Readopting With Changes Section 6-3A-1 Of The Breckenridge Town Code Concerning The Municipal Offense Of Assault.

Mr. Berry introduced this council bill stating if approved it would rewrite the town's current Assault Ordinance and model it after the State's 3rd Degree Misdemeanor Assault Statute. It enables the town to prosecute in the town's municipal court those assaults the town has lawful jurisdiction over.

With no questions or comments from council, Mayor Warner asked for a motion. Mr. Bergeron moved to approve Council Bill No. 36 as previously read into the read. Mr. Burke made the second. The motion passed with all members of council in favor of passage.

Mr. Mamula asked how often fines are reviewed. Mr. Gagen responded fines are reviewed periodically. Mr. Berry stated it is generally up to the Judge to set fines. Parameters may be stated for certain fines to be assessed within applicable ordinances. Mayor Warner stated the council's roll is to know the true costs associated with the municipal court and make a policy judgment on how much of those costs should be covered on a per appearance basis.

B. RESOLUTIONS, SERIES 2010

1. None

C. OTHER

1. Public Hearing 2011 Budget

Mayor Warner opened a Public Hearing on the Budget. Mr. Gagen stated, for the record, there were no public comments received relative to this public hearing. There was one Letter to the Editor that appeared in the Summit Daily News just after the council's retreat concerning summer service to Ski and Racquet. Mr. Gagen continued by stating, this 2011 Budget is an extension of the town's 2010 Budget. The town began to approach the economic downturn by managing the cost side of the Budget and being very conservative on the revenue side of the Budget. That philosophy continues into 2011.

As proposed, the General Fund expenditures are below 2010 levels. The town continues most of the temporary reductions council made in 2010. The town has added other reductions in the 2011 Budget. General Fund revenues are flat to last year and are projected to remain flat. Slight increases to the major revenue streams of sales tax, accommodation tax and real estate transfer tax are proposed. As a result of the town's efforts to realize revenues from the VRBO compliance program, slight increases are expected in 2011.

On the Capitol side the town has budgeted 1.6 million for some projects, mostly regular maintenance projects (re-paving, utility undergrounding). Two larger projects have been added. They are the sidewalks on Airport Road and putting some money aside for the 4 O'clock intersection improvement project. CDOT will have to find money for this project.

Council took a first step related to the revenue side of the Water Fund by approving on first reading Council Bill 33. Rates cover the operation side and encourage people to get into technology by encouraging them to get away from requiring paper invoices. PIFS will go up but the town is not anticipating any increase in general development. The town will continue with the Pumpback Project. Council has asked for a financial proforma to show how that project will work if the town decides to move forward with it.

A revised sheet will be drafted to show the Marketing Budget increases as a result of passage of the ballot question. Some adjustments will be made to implement the tax. Golf Course is flat. Open Space Fund, which is supported by sales tax, is projected at a slight increase. The Fund will continue to support monitoring and acquisition programs and will continue to monitor and assess the impacts on Cucumber Gulch.

The other major fund is the Affordable Housing and Childcare Fund. There will be a continuation of the childcare scholarship program and phase II of the Valley Brook housing project.

Mr. Mamula asked why council approved a \$30,000 increase to the BHA operation fund? Mayor Warner responded council went through the BHA's capital requests. The BHA addressed their fundraising needs and efforts. As the council representative, Mr. Burke reported on the BHA's efforts and aspects of the organization that may have convinced council members to support the additional funding request. He complimented the BHA staff and what they do. Mayor Warner commented that the town has made historic tourism a priority.

Mr. Dudick confirmed the 2011 Budget reflects a Net decrease in personnel expenditures. Mr. Gagen confirmed.

There was no one present to comment on the Budget. Mr. Gagen commented on the citizen's comment heard earlier in the meeting concerning a request to dedicate a bus to service the parking lots to Main Street. A dedicated bus is not in the Budget. Mr. Gagen stated use of a smaller bus(es) has been discussed, but nothing is in the Budget at this time. In addition, Mr. Gagen reported the County has been talking with the town concerning the Boreas Pass route. Nothing is in the Budget and if any changes occur they will not be implemented until summer. Mayor Warner stated it would be nice if the sidewalks were cleared for pedestrians. Mr. Burke asked if Mr. Gagen was comfortable with the Budget. Mr. Gagen was comfortable with it. Mayor Warner closed the public hearing. The 2nd public hearing will be at the November 23 meeting. The public will be able to comment again. At second reading council will have an opportunity to approve the Budget.

PLANNING MATTERS

A. Planning Commission Decisions of November 2, 2010

Mayor Warner asked if there was anyone interested in calling an item off the consent calendar. Mr. Mamula moved to call up PC #2010057, Village at Breckenridge Sign Variance. Ms. McAtamney made the 2nd. Mr. Gagen stated limited discussion may occur. Mr. Burke was curious as to why Mr. Mamula wanted to call this item up. Mr. Mamula stated he did not agree with the Findings and would like to hear more about it. Mr. Joyce asked if council will receive more information in their packets. Mr. Gagen responded yes. Mr. Burke asked if a site visit would be possible. Mr. Neubecker will make arrangements and communicate the details. A roll call vote was taken to call PC #2010057 off the Planning Commission consent calendar. The motion passed with 6 members in favor of the motion. Mr. Burke voted in opposition to the motion.

B. Town Council Representative Report (Mr. Burke)

Mr. Burke reported the commission reviewed the Sign Code Amendment at their last meeting. Additionally, they elected their chair and vice chair. Mr. Dudick asked if there was code or policy concerning the use of replicated historic photos. No there was not. Mr. Mamula stated the standard is the Historic District Guidelines. In closing, Mayor Warner asked all to study their codebooks to get ready for the de novo hearing on PC #2010057.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen reported the town has had initial meetings with the Daytons in relation to the building. The town is moving forward with an appraisal of the BOEC old sanitation building. Mr. Gagen is moving forward with a task force for the Pump Back project. So far Mr. Mamula and Glenn Porzak will be on that committee. He updated council on Ms. Boniface.

REPORT OF MAYOR AND COUNCILMEMBERS*

A. CAST/MMC (Mayor Warner) – Mayor Warner updated council on the October 29 Avon meeting he attended. Jennifer Strehler, Director of Public Works for Avon, did a presentation on utilizing “waste water heat exchange”. Ralf Garrison from MTrips spoke to the group about what he's seeing for mountain resorts. Kent Myers, with Airplanners, spoke about the consolidation of the airline industry. Roundtable discussion revealed budgeting is mostly flat for 2011. Breckenridge is the only town in Colorado that is budgeting in the black. Breckenridge is also showing the most encouraging RETT activity. Telluride has enacted a ban on plastic bags with a two year transition. At that meeting Mr. Gagen spoke about the VRBO compliance program.

B. Breckenridge Open Space Advisory Commission (Ms. McAtamney) - Ms. McAtamney reported there will be a meeting on Monday, November 15. She asked if council had any items they would like brought up? Mayor Warner asked that they continue to work on the Gulch.

C. BRC (Mr. Dudick) – Mr. Dudick reported there was a meeting two weeks ago. They approved their budget; it is the same as last year. Andru Zeiset, Resort Quest, will fill Cory Mihm's spot. Winter holiday events are planned for the first two weeks of December in the Blue River Plaza. Tree sponsorships will be available. Oktoberfest was not as profitable as expected. Proceeds were substantially down. He will have John McMahan put together a variance report to see why the proceeds were so far off from what was budgeted. Mr. Mamula recommended pumping up Sunday attendance to relieve the Saturday crowds. The expense of barricades was discussed. Mr. Dudick talked about the \$100 promotion Mr. McMahan spoke about during his BRC presentation. It was asked of Mr. Dudick if it was too late to change the promotion. It is. It may not be too late to change the \$100 to Breckenridge Bucks. The Marketing Committee is finalizing their mission statement and goals statements. Kim DiLallo and Tim addressed the group concerning meeting protocols. They discussed the effective start date of 2D collections. They also spent about 45 minutes reviewing the Breckenridge brand. They spoke about 2011, quarters 2-4, Budget targets. BRC is the town's destination marketing organization. Mr. Joyce asked how Mr. Dudick is finding the Marketing Committee. They have a lot to address but everyone is very enthusiastic.

D. Summit Combined Housing Authority (Mr. Joyce) – Mr. Joyce reported on a housing development corporation meeting. He was asked to ask council about their thoughts on senior housing. The town's emphasis has been on workforce

housing. Mr. Joyce commented that typically this community sees seniors leave the area once they become tired of the winters. This model may change if people see their children stay in the area, they, as seniors, may decide to stay. Mr. Mamula was not clear if there was a need. Mr. Joyce felt it was a future need. The housing authority recognized Rob Millisor for his service. Gary Gallagher was appointed to the Advisory Board. Mr. Gagen explained a Bill at the State level that will hopefully convince Freddie and Fannie to look at condominium financing for units occupied by full time workers in resort communities. In closing, Mr. Joyce reported there will be a December meeting, however, beginning in 2011 they will meet every other month.

E. Breckenridge Heritage Alliance (Mr. Burke) - Mr. Burke reported framing for the locomotive shelter is complete. Either November 21 and 22 will be the planned date for the Engine #9 arrival. The BHA has reached their \$50,000 revenue goal to go into operations (they have actually raised \$53,000). They have received \$40,000 in in-kind donations for the shelter. They are up 24 % over last year for October visits to all sites. Three people have accepted nominations for the board. They are: Dan Gibbs, Janet Sutterly and Chris Juskowiak. The current board will vote in December as to whether these people will be accepted to the board.

F. Sustainability Committee (Mr. Bergeron, Mr. Joyce, Mayor Warner) – Mr. Bergeron reported he was out of town. Mr. Joyce and Mayor Warner attended. Mayor Warner reported land use was discussed. Loss of service commercial was discussed: What might County Road 450 look like in the next 20 years. Transportation was discussed. There was discussion about parking needs and what those needs or objectives will be in 10 to 20 years. Mr. Mamula reported on parking meters he saw in the Cherry Creek area. The group talked about dis-incentivizing parking. What will that look like, what will be the impacts? Mr. Joyce reported that about 70% of the backcountry density has been moved out through the TDR program.

G. Marketing Committee (Mr. Dudick) - Mr. Dudick gave this report during his BRC report.

OTHER MATTERS

Mr. Mamula reported on the objectives he and Mr. Bergeron will be working towards during the JUMP Update Committee meeting.

Mr. Dudick reported on a chance meeting he had with Mark Beling. He reminded council to be more compassionate towards a very viable Breckenridge business. Mr. Mamula reminded the group that this was a topic for 8 years. Mr. Burke recalled Mr. Beling was not flexible with dates. The 2010 location was an experiment. For the Belings, the location was not good. Main Street Station is a better location for them but they will lose 40% of their booths.

Mr. Joyce asked about the town's charitable giving and the process. Is there a reason why it is not discussed at the council level? A report would be helpful. Mr. Burke would like to understand the requests. Mayor Warner asked if a report from the committee after decisions have been made but before announcements have been made would be helpful. Mr. Dudick was not in favor of changing the process. Ms. McAtemney, Mr. Bergeron and Mr. Mamula agreed. Mr. Gagen recommended a list of requests and if a council member has a question then they can contact a committee member. Mr. Joyce thinks council members might be able to give information about an organization that will aid the committee in making decisions. Mayor Warner asked council if they felt Mr. Gagen and Mr. Joyce's suggestions were good remedies to the question? Most felt it would be a good remedy.

Ms. McAtemney presented to Early Childhood Options the town's child care philosophy and plan. ECO was very impressed with the town's commitment to childcare and the families.

Mr. Joyce asked about a Base Building Solution sign positioned in front of a residential unit in the Wellington. Matt Thompson will check the code.

Mr. Burke commented on the holiday party. He felt it would be nice for council to mingle with staff.

Mr. Bergeron asked that before the Peak 6 letter to the Forest Service is signed that council have an opportunity to review it. Mr. Gagen stated Peak 6 will not be a letter but rather an approval of the MOU. The County has not given their final comments at this time.

At 10:25p.m. Mr. Joyce moved to go into executive session pursuant to Paragraph 4(a) of Section 24-6-402, C.R.S. relating to the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest. Mr. Burke made the second to the motion.

Mayor Warner stated a motion has been made for the Town Council to go into executive session pursuant to Paragraph 4(a) of Section 24-6-402, C.R.S. relating to the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest. The property that is the subject of the executive session are several tracts the Town Council may have an interest in jointing purchasing with the Summit County government for the purpose of constructing attainable housing. A roll call vote was taken. All members of council were in favor of the motion.

At 10:45 p.m. Mr. Burke moved to reconvene in the regular town council meeting. Mr. Mamula made the second. All members of council were in favor of the motion.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 10.46 p.m.

Submitted by Wanda Creen, Deputy Town Clerk

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor

MEMORANDUM

TO: Mayor and Council
FROM: Finance Department
DATE: November 17, 2010
RE: 2011 Budget Resolution

The attached resolution has been prepared to adopt the 2011 budget and the 2011-2015 Capital Improvement Plan. Adoption of the budget also includes changes to certain fees and charges that will become effective January 1, 2011. The final assessed value of the property within the Town limits has not yet been received from the County, but we anticipate Certifying the 2011 Mill Levy prior to the December 15th deadline.

Council is asked to review the summary sheets together with the bound version of the 2011 proposed budget. Council is also asked to hold a public hearing and to be prepared to vote on the budget resolution during the November 23rd Council meeting.

**FOR WORKSESSION/~~SECOND READING~~
ADOPTION – NOV. 23**

A RESOLUTION

SERIES 2010

A RESOLUTION ADOPTING THE 2011 BUDGET
AND MAKING APPROPRIATIONS THEREFOR

WHEREAS, the Charter of the Town of Breckenridge requires that the Town Council adopt an operating budget for each fiscal year; and

WHEREAS, the Charter of the Town of Breckenridge requires that the Town Council adopt a five-year Capital Improvement Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. The proposed operating budget for 2011 based on certain fee changes, as revised by Town Council and maintained on file by the Town Clerk, is adopted and appropriations are made to the various programs as shown therein.

Section 2. The 2011-2015 Capital Improvement Plan, as proposed by the Town Manager and as amended by the Town Council, is hereby approved.

Section 3. All fees and charges contained in the 2011 operating budget are hereby approved and adopted. Such fees shall become effective January 1, 2011. Further, the Town Manager may implement any of the other fees and charges contained in the 2011 operating budget prior to January 1, 2011 if the Town Manager determines, in his judgment, that such early implementation is necessary or appropriate.

Section 4. The provisions of this Resolution shall be effective upon adoption.

RESOLUTION ADOPTED AND APPROVED this 23rd day of November, 2010.

ATTEST:

TOWN OF BRECKENRIDGE

Mary Jean Loufek, CMC, Town Clerk

John G. Warner, Mayor

APPROVED IN FORM

Town Attorney

Date



Scheduled Meetings, Important Dates and Events

Shading indicates Council attendance – others are optional

The Council has been invited to the following meetings and events. A quorum may be in attendance at any or all of them. All Council Meetings are held in the Council Chambers, 150 Ski Hill Road, Breckenridge.

NOVEMBER 2010

Tuesday, November 23; 3:00/7:30pm Second Meeting of the Month
Thursday, Nov. 25th & Friday, Nov. 26th Town Offices Closed for Holiday

DECEMBER 2010

Friday, December 3rd; 5:30 pm – 9:00 pm Employee Holiday Party
Napper Tandy's --- Council & Commissions invited to party - RSVP by 11/23 – spaces are limited
Saturday, December 4th, 4:30 Lighting of Breckenridge
Begins at Subway – Procession to Blue River Plaza

Tuesday, December 14; 3:00/7:30pm First Meeting of the Month
Friday, December 10; 8:00 – 9:00am Coffee Talk – Blue Moose

Note: There is no council meeting on 12/28

Friday, December 24th Town Offices Closed for Holiday

OTHER MEETINGS

1st & 3rd Tuesday of the Month; 7:00pm Planning Commission; Council Chambers
1st Wednesday of the Month; 4:00pm Public Art Commission; 3rd floor Conf Room
2nd & 4th Tuesday of the Month; 1:30pm Board of County Commissioners; County
2nd Wednesday of the Month; 12 pm Breckenridge Heritage Alliance
2nd Thursday of the Month; 5:30pm Sanitation District
3rd Monday of the Month; 5:30pm BOSAC; 3rd floor Conf Room
3rd Tuesday of the Month; 9:00 am Liquor Licensing Authority; Council Chambers
3rd Thursday of the Month; 7:00pm Red White and Blue; Main Fire Station
4th Wednesday of the Month; 9am Summit Combined Housing Authority
Last Wednesday of the Month; 8:30am Breckenridge Resort Chamber; BRC Offices
2nd Tuesday of the month; 10 am – 12noon Breckenridge Marketing Advisory Committee; 3rd floor Conf Room
Other Meetings: CAST, CML, NWCCOG, RRR, QQ, I-70 Coalition