



BRECKENRIDGE TOWN COUNCIL WORK SESSION
Tuesday, February 8, 2011; 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.*

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3:00 – 3:15 p.m.	I	<u>PLANNING COMMISSION DECISIONS</u>	2
3:15 – 4:00 p.m.	II	<u>LEGISLATIVE REVIEW*</u>	
		Publication Omnibus Ordinance	100
		Residential Growing of Marijuana	107
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4:00 – 5:00 p.m.	III	<u>MANAGERS REPORT</u>	
		Ski Area Update	Verbal
		Public Projects Update	Verbal
		Housing/Childcare Update	Verbal
		Committee Reports	32
		Financials	33
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5:00 – 6:00 p.m.	IV	<u>PLANNING MATTERS</u>	
		Historic District Commercial Basement Density	41
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6:00 – 7:00 p.m.	V	<u>OTHER</u>	
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		Public Property	63
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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: February 3, 2011

Re: Town Council Consent Calendar from the Planning Commission Decisions of the February 2, 2011, Meeting.

DECISIONS FROM THE PLANNING COMMISSION AGENDA OF February 2, 2011:

CLASS C APPLICATIONS:

None

CLASS B APPLICATIONS:

None

CLASS A APPLICATIONS:

None

PLANNING COMMISSION MEETING

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

ROLL CALL

Trip Butler	Kate Christopher	Gretchen Dudney
Rodney Allen	Dan Schroder	Dave Pringle
Mark Burke (Town Council)		
Jack Wolfe was absent.		

APPROVAL OF MINUTES

Ms. Dudney: On Page 6, please change “it should count as density and it can be amortized” to “it should count as density and the tap fees can be amortized”.

Ms. Dudney: On Page 7, please change Mr. Neubecker’s statement from “should a cart would be allowed” to “should a cart be allowed”. Also on Page 7, please change “Cart shouldn’t be in front of either façade” to “Cart shouldn’t be in front of either façade if the building is on a corner.”

With the above changes, the January 18, 2010, Planning Commission meeting minutes were approved unanimously (6-0).

APPROVAL OF AGENDA

With no changes, the Agenda for the February 1, 2011 Planning Commission meeting was approved unanimously (6-0).

WORKSESSIONS:

1. Town Attorney Update (CN)

Mr. Neubecker introduced Mr. Tim Berry, Town Attorney, to the members of the Commission who may not have met him. Mr. Berry presented a memo to the Commission under separate cover discussing ethics and the Planning Commission in regard to various topics, including legislative vs. quasi-judicial decisions, ex parte contact, prohibited conduct, and conflicts of interest.

Ethics presentation needs to be done occasionally, because it is important to the Commission. Need to understand why the Planning Commission should observe the code of ethics. Ex parte communication that affects an application can result in a lawsuit against the Town. It is not pleasant to be accused publicly or to be accused by a judge to have acted unethically. Never, ever give anyone the ability to sue you on a procedural matter. The procedure on how you handle applications and hearings is completely in our control. If you haven’t had an ex parte contact issue, you will. The longer you are on the Commission, the higher the chance you will encounter an ex parte contact.

Concepts we are talking about are part of due process, which requires the applicant be given a fair and unbiased hearing from an uninvolved judge. When you are making law, it is procedural. When you are enforcing law, you are perceived as the judge. Ex parte contact is contact made by you on quasi-judicial matter (an application which has a PC number attached to it or will have a PC number attached to it). Once you are asked for approval or denial, that is a quasi-judicial matter. Its completely different from review of policy. Example is a resident approaches you outside of a hearing and tells you that they are opposed to a certain application. They want to tell you because they are going to be on vacation on the date of the hearing. Everyone in the hearing needs to be able to hear the same body of evidence. The best way to avoid an ex parte contact is to not let it happen. As politely as possible, stop them. Tell them they need to come to the hearing so everyone can hear their opinion. If that does not happen, and they keep talking, tell them you will have to recuse yourself from the application presentation. The best way to handle this is to disclose during the public meeting any ex parte contact you have had. This contact often occurs to a council candidate in the weeks prior to the April election. By making it a political issue, and getting themselves elected, they may have disqualified themselves from voting on that issue. Applies to the applicant running into you at grocery store as well; the public and the rest of the commission would not have heard their comments. Everything relevant to the hearing has to be heard here, in the hearing.

Site visits should be such that the Planning Commission should only be talked to by the staff. All comments should be funneled from the applicant through the staff to the Commission. (Mr. Neubecker: We will often remind you on site visits to stay in one group so everyone hears the same thing.)

Commissioner Questions / Comments:

- Mr. Burke: Does this also apply to me as a Town Council person? (Mr. Berry: If it is a development application as opposed to a legislative matter, then yes.) It is not just about the person, it is also about the project. (Mr. Berry: Yes, absolutely.)
- Ms. Dudney: Back to your example that the person is going to be out of town, can they write a letter to be entered into the record? (Mr. Berry: Yes, they can. The key is making sure not only that you get the letter, but that the letter gets to the staff to go to all members of the Planning Commission as well as the applicant.)
- Ms. Christopher: If they say an email (about a particular application or applicant) they sent is “in confidence”, we just have to tell them this is public record and then pass it along to staff? (Mr. Berry: Yes.)
- Mr. Schroder: What about conceptual plans? (Mr. Berry: No, you are talking about a specific application for a specific piece of property. Where it gets tricky is a worksession. Technically there is no application. My taking is that anything that could become an application, treat it with kid gloves. Chances are a worksession will turn into an application, so go ahead and disclose that contact.) (Mr. Neubecker: It should be disclosed at the meeting where the worksession or the application is presented so that the applicant can hear the ex parte contact, not necessarily at the very next meeting.)
- Mr. Allen: In the situation of getting approached well before an application is made, does that apply? (Mr. Berry: Technically no; however, tell them they really need to go talk to staff first. It would be improper for you to help them figure out how to make an application. The essence of what we are doing is making sure each application is presented fairly, with no pre-judgment or bias.)
- Mr. Pringle: It could be that if we deny an application, the applicant or someone from the public would sue because they felt there was ex parte contact that led the commission to deny the project. (Mr. Berry: Yes, and that is why all ex parte contact needs to be disclosed.)

Breckenridge conflict of interest rule from the Town Charter since 1981 states that conflict is determined by the Town Council (or Commission), not by the individual. Three rules on conflict: 1) disclose it on the record; 2) if the decision is that you have a conflict, you leave the table and abstain from voting; and 3) refrain from attempting to influence the Planning Commission decision on the item. For example, sitting in the back of the room and shaking your head during the presentation. It is a conflict of interest to be judging an application that may be your competition. It is not just “follow the money”, there is something else. There might be something about the application that would make it look fundamentally unfair for a member to be judging a certain application. The appearance issue is a broader discussion. (Mr. Grosshuesch: Can you be impartial to a competitor’s application?) Right, your gut will usually tell you.

- Mr. Burke: What if the member does not disclose their conflict? (Mr. Berry: That is fine; it is up to the board to disclose that about another member. The best way is to let that member know prior to the meeting, less difficult to do than on the floor.) So your hope is then the member with the conflict raises it themselves? (Mr. Berry: Yes.)
- Mr. Pringle: What if your wife is involved in an application? (Mr. Berry: Three words: follow the money. If you or your spouse is going to benefit financially from the transaction, then that needs to be disclosed.) So any family member? Spouse, child? (Mr. Berry: Yes, any family member.)
- Ms. Butler: Might be like our conversation last time, about this vendor cart won’t be a competition to me, but it could appear to be a conflict to another person.
- Mr. Schroder: So the gut test is the best. (Mr. Berry: The “follow the money” concept is key. Having these discussions in a public hearing always helps. Laying the issue on the table in public makes it very hard to challenge the decision.)
- Mr. Burke: So as long as it is debated in public, and the committee may decide there is no conflict, then as long as that happened in public, that is ok? (Mr. Berry: Absolutely. The problem is when the discussion happens after the decision is made.) (Mr. Grosshuesch: Often we will ask the

applicant if they have an issue or see a conflict.) Do you think that is appropriate for staff to ask that question? (Mr. Berry: Yes, absolutely. I would love to have in the record that the applicant heard the conversation, and agrees there is no conflict.)

Mr. Pringle: As we become more mature as a group, we can be sure to be most cautious on the applications that may be controversial. (Mr. Berry: My hope is that all applications be treated equally; however, I am not naïve.) With respect to worksessions, they are not a formal application, if the applicant comes in, and wants to have a worksession, my opinion is that it is more informal, more of a Q & A, no decisions are made. (Mr. Berry: There is nothing wrong with the Commission stating think this looks good to proceed with a formal application, but no guarantees, it will depend on the code.) We may have a couple of worksessions on one project. We may discuss different aspects of the project at each worksession, and then they want to go to final hearing. (Mr. Neubecker: Generally, we only do one worksession; does the applicant want to go down road A or road B? We then try to go to preliminary hearing.) We have had a number of different applications that have been two or three worksessions first, then they go to final.

Mr. Burke: What about the vendor carts discussion? (Mr. Neubecker: That is legislative issue. We are only judging new applications on the adopted code.) (Mr. Berry: That is a legislative issue; you will be making law, not enforcing law. You have to rule on the law that exists at the time of the application, not what is coming down the pike later on.)

Mr. Pringle: How much can an applicant take away from a worksession that the opinion of the commission will carry forward to their application? (Mr. Berry: They are taking the temperature of the commission, nothing more.) (Mr. Mosher: We are pretty firm with the applicants, that they must do a full application to get a decision.) (Mr. Berry: A worksession does not stand in the same stead as a preliminary hearing. Everything you say in here is code based.) (Mr. Mosher: The applicant will often realize after a worksession they are going down the wrong path, and can then make some adjustments to the application to get approved with the code. It is not a guarantee at all.) Basically anything we discuss at a worksession, we are working on good faith, but we are not making any decisions.

Ms. Dudney: In support of what Mr. Pringle is saying, if you ask for something and an applicant says “we already showed that to you”; perhaps we need to remind the applicant to bring everything with them for the preliminary and final hearings.

Mr. Allen: How about disguising your question as a comment? We are all kind of guilty of doing that from time to time. (Mr. Berry: You don’t make a decision until you have heard all the evidence. In the real world, you know where the evidence is going to go. Coming into a final hearing with your mind absolutely made up, before hearing the evidence, is wrong. I would ask you to try to be careful to not give the appearance of making a decision before hearing all the evidence. It is hard in the real world to tell you how to phrase your questions. Everyone here needs to make an effort to hear the evidence and then make the decision. You don’t ever want to walk into a hearing saying “I know what I am going to do”. As long as you are willing to hear what the evidence is, you will be in better shape.)

Mr. Pringle: Never get caught making a conclusion to anyone until you are asked to vote.

Mr. Berry: If you have any questions, please feel free to contact me. I am in Town Hall each Tuesday and in my office in Leadville the rest of the week.

2. Transition Area Standards: South End Residential (MM)

Mr. Mosher presented. This review of the South End Residential Transition Character Area involves a difference between the map boundary illustrated in the adopted “Handbook of Design Standards for the Historic and Conservation Districts” and the un-adopted “Handbook of Design Standards for the Transition Areas of the Conservation District”. However, in this case, the un-adopted map shows the boundary expanding to include the school and Carter Park. The report suggests moving this boundary, but after some discussion, Staff is suggesting keeping the boundary as adopted.

The introductory paragraph of this section identifies the importance of Carter Park (which appears in historic photographs) and of the school. The un-adopted map includes these properties in the boundary (plus abutting properties). If any redevelopment were to occur on these properties, then the South End Residential Transition

Character Area design standards would be applicable. Noré Winter, of Winter and Company, created the original documents. He is still doing this kind of work; you may have the opportunity to meet him at the Saving Places Conference this week. Expanding the boundary would have substantial impacts to the existing multi-family homeowners and the school property - could be a down-zoning.

Mr. Grosshuesch: The way the Transition Standards are currently adopted, the standards are to protect the existing Historic District. The debate that went on when Mr. Winter expanded it was “Do we want to expand the area?” We already have the Historic District and abutting Transition Area as a buffer.

Mr. Mosher: Even if the map is not expanded the Development Code and the Land Use Guidelines will still have enough “teeth” to require compatible architecture. The Planning Commission and the Code would have enough teeth to bring any new architecture into a more compliant look in these areas.

Commissioner Questions / Comments:

Mr. Burke: My concern is that expanding an area will affect people’s private property rights. Have you spoken to the public about this? (Mr. Neubecker: We will get the Staff and the Commission’s input first and then we will be holding public meetings. The school will be exempt unless they sell the property or redevelop the property.) Those areas looked like an area where people would want to restrict the uses.

Mr. Pringle: You would still have reasonable use of your property.

Ms. Dudley: To which multi-family homeowners are you referring? (Mr. Mosher indicated them on the map.)

Mr. Allen: Is the school in a different land use district? (Mr. Grosshuesch: If we don’t like the land use district the school is in, we could fix that.) Do we want it like Sunbeam Estates or do we want it like High Street? (Mr. Grosshuesch: Land Use District 26 allows 4 units per acre. If we have made the decision that we don’t want to include this, let’s make that decision and move on.) Make sure everyone is on board, like homes in Boulder Ridge or High Street? (Mr. Mosher: Staff feels pretty confident that keeping the boundary where it is will work fine with the Code we have.)

Consensus amongst the Commission to leave the map as adopted. Instead of expanding, leave this area as is.

Staff is going to put all of the items the Commission has reviewed. We will put it together, highlight the changes we made, and pull it together into one item with the key changes noted. Then we will have another discussion with the Commission and then have a discussion on how to engage the public before presenting to the Council. We will present all 7 together as several phases overlap, and owners may have an interest in more than one. Similar to the process we went through with the Neighborhood Preservation policy. We will look at this one more time.

3. Sustainable Breck Update (MT & CK)

Mr. Truckey presented. Staff briefed the Planning Commission on the Town’s Sustainability project at an April meeting in 2010. Since then, an extensive public process was undertaken through the summer of 2010 to gather input on a variety of sustainability issues. Through the fall and winter, the Town’s Sustainability Task Force (a subcommittee of the Town Council) has been reviewing the public comments/input received and is finalizing a list of actions that will be undertaken to further the Town’s goals towards sustainability.

The process that has led up to the development of the Sustainable Breck Plan has been extensive. Staff went through several years of research, which included the Town’s capacity analysis and the 2030 report. The Planning Commission was briefed on these projects as they were undertaken.

The Town’s approach towards sustainability has been to take a holistic view of the subject. Some communities focus their sustainability efforts primarily on energy consumption and reducing their carbon footprint. This is an important part of the Town’s effort; however, the Town also takes on diverse issues such as housing, child care, transportation, and land use. Without addressing all of these issues, we cannot hope to achieve a truly sustainable community. By March or April, Staff anticipates holding a public open house to release a list of sustainability actions that will be the centerpiece of the Sustainable Breck Plan. After that, the Town Council will go through the formal process of adopting the Plan.

Many of the action steps identified in the draft Sustainability actions have broad policy implications beyond the land use planning realm, while some of the recommendations may ultimately result in amendments to the Development Code. Some examples of suggested code/land use guideline amendments included in the draft Sustainability Actions are:

- Amend the Land Use Guidelines to identify service commercial uses as a preferred use in appropriate locations
- Designate an appropriate location at the north end of Town for limited small-scale commercial services
- Modify Development Code to further incentivize private sector housing development
- Adopt new Development Code policy related to wildlife habitat protection

A key component of the Plan will be a series of measurements that will be monitored over time, with periodic report cards being released to the community regarding how the Town is progressing on a particular issue (e.g., energy consumption). The philosophy is that the Sustainability Action Plan will be an ongoing living document that is regularly monitored, with the goal of sustaining our community and its resources. Almost everything in the Sustainability Action Plan ties back to the Vision Plan for our community. Hoping to wrap up our meetings with the task force in the next month. There were definitely some issues we could not take on. We definitely looked at what can we address to help things work better 20 years from now.

Staff will be glad to answer questions regarding the Sustainable Breck project and take any comments from the Commission. Given the Planning Commission's scope of responsibilities, Staff requests that you limit your comments to land use related issues.

Mr. Kulick presented the slide show from the Sustainable Breck wrap up meeting. We anticipate having a public open house and then adopting the Sustainable Breck Action Plan and moving forward with the initiatives. The key is going to be monitoring our progress. It is important for us to measure and consistently monitor results. We have a lot of different plans in the Town, but many of them are not really user friendly. The goal of the Sustainability Action Plan is to give the public access, via technology and the web, to get a snapshot of how we are doing in certain areas. We will be able to have the quick snapshot on the main page, and then have links to background information for each topic. This will make what would be an 80 or more page document much more accessible and user friendly.

Commissioner Questions / Comments:

Ms. Schroder: Is the original goal to have an annual update? Is that feasible, with staff levels the way they are? (Mr. Truckey: Yes. The economic indicators, which Julia Puester has been working on closely with Council, will be updated monthly. The rest will be annually.) (Mr. Kulick: There are many monitoring information sources already in place, it will be easy to update more regularly if needed.)

Mr. Pringle: Is a plan like this nimble enough to react to economic situations, for example, on a regular basis? (Mr. Truckey: It is meant to be a living document. Yes, we will be working with the Council to update them on any changes and change the plan as needed.) (Mr. Grosshuesch: This is the most important part of this plan that we have not had before with other plans. The public can check on the website any day of the year and see how we are doing. We have the ability to change track as needed when the Council requests moving in another direction.) (Mr. Kulick: For example, regarding traffic, you might get a complaint from a citizen, but when armed with a trend, you can point out the actual case. Since 2001, there has actually been a reduction of traffic of 9% simultaneous with an increase of skier visits of about 9% over the same period. When you have reliable data, that is easily accessible, you can communicate with the citizenship the actual facts.)

Ms. Dudney: What is the unifying theme? (Mr. Kulick: The Vision Plan, the unifying topics of the community. Environmental, societal and sustainability.) Why not just call it the Vision Plan? (Mr. Grosshuesch: This is the follow up to that plan. The unifying element goes back to the capacity analysis, where are we going to run out of infrastructure in 20 years? Mr. Truckey: The Vision Plan was more visionary in nature, the Sustainable Breck Plan is intended to be a series of actions that implement and sustain the Vision Plan.) It might be a useful exercise to point out what this is. (Mr. Kulick: Mayor Warner helped identify what sustainability means to our community.) (Mr. Truckey: There will be a written framework and executive summary for the

Sustainability Action Plan that will explain its purpose. There will be a document; we will try to keep it brief rather than longer.) Education is one of the issues that comes up for me that does not appear to be addressed. (Mr. Truckey: We had many discussions on education, but our ability to affect that is limited. The Plan does not address every issue. For example, healthy foods are not addressed. But we think it focuses on the most important components of sustainability.)

Mr. Burke: It is about quality of life. What is going to affect our quality of life over the next 20 years?

Ms. Christopher: I think it is commendable that you are working at getting the information out there for the public. Many people are not educated about this, and it is great you are getting it out there.

TOWN COUNCIL REPORT:

Mr. Burke: Second reading of the energy conservation amendment passed; good job, after the first reading I was not sure where it would go. First reading on restriction of residential growing of medical marijuana was passed. We will be going to second reading next meeting. Breckenridge will be the first location in the state to restrict how residential growing is regulated. We have to meet the needs of the neighborhoods. Our goal was not to restrict the people who need medical marijuana. There are six dispensaries in Town; it is not an availability issue. That has been a real interesting issue. We are also looking at Carter Park safety. There has been a lot of use, and the Council wants to make sure the sledding hill is safe; what do we need to do to make it safer? Should there be lanes to protect people walking up? There were no call ups from Planning Commission. There was a question raised about the Speakeasy lease. The Council is putting together our top ten list; the former CMC building and the use of that is one of those top ten, I think. Those will be items we would like to work on in the next year.

Mr. Allen: We would like you to bring up to Council on the vendor cart issue. (Mr. Burke: I did bring up our conversation; however, it seems like there are so many issues. It is something that may need to come back to Planning Commission.) (Mr. Neubecker: It is on the Council agenda for next Tuesday.)

Ms. Christopher: Can we be present at those meetings? (Mr. Neubecker: Yes.)

OTHER MATTERS:

Mr. Neubecker: Call our office in the morning for carpooling to the Saving Places conference this week. I have included recently passed ordinances for you to include with your code book. You might need to refer to those if something comes up relevant to those ordinances.

ADJOURNMENT:

The meeting was adjourned at 9:20 pm.

Rodney Allen, Chair

MEMORANDUM

To: Town Council
From: Tim Gagen, Town Manager
Date: February 2, 2011
Subject: BOEC Option Contract

Background

The Breckenridge Outdoor Education Center (BOEC) currently leases the property at 524 Wellington Road, referred to as the "Old Sanitation District" property.

The BOEC has presented a proposal to the Town Council to purchase the property. This proposal is subject to the Town retaining control of an out-building at the location which houses the Town's technology/data center.

The Council directed the Town Manager and the Town Attorney to proceed with developing an option agreement to effect the sale of the property. Attached for Council review is a close-to-final draft of the "Option Contract". We believe this draft captures the terms of the purchase put forward by the BOEC that are agreeable to the Council. The BOEC is also reviewing this draft contract.

Before the Town settles on a final contract, we wanted to run this draft by the Council one more time to ensure that we have properly captured the terms of the deal.

We look forward any comments you have at the work session.

1 **DRAFT February 1, 2011 DRAFT**

2
3 **OPTION CONTRACT**

4
5 This Option Contract (this “**Contract**”) is dated _____, 2011 and is
6 between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (the “**Seller**”) and
7 BRECKENRIDGE OUTDOOR EDUCATION CENTER, a Colorado nonprofit corporation (the
8 “**Buyer**”). The Buyer and the Seller are collectively referred to in this Contract as the “**Parties.**”
9

10 **Background**

11
12 Seller owns the real property and improvements located at 524 Wellington Road in
13 Breckenridge, Summit County, Colorado (“**Property**”). The Property consists of 1.08 acres,
14 more or less, and is more particularly described on **Exhibit “A”** . Seller has previously leased the
15 Property to Buyer pursuant to that Lease dated July 10, 2001 and recorded November 9, 2001 at
16 Reception No. 667684 of the records of the Clerk and Recorder of Summit County, Colorado.
17 The Lease was amended by that Amendment to Lease dated August 28, 2001 and recorded
18 November 9, 2001 at Reception No. 667685 of the records of the Clerk and Recorder of Summit
19 County, Colorado (the Lease the amendment, and any extensions thereof are together referred to
20 as the “**Lease**”). Except as specifically provided for herein, nothing contained in this Option
21 Contract is intended to modify or replace the terms of the Lease. Seller has agreed to grant to
22 Buyer, and Buyer wants to purchase and acquire from Seller, an exclusive option to buy the
23 Property, all in accordance with, and subject to, the terms, conditions and provisions of this
24 Contract.
25

26 **Agreement**

27
28 NOW, THEREFORE, the Parties agree as follows:
29

30 **ARTICLE 1**
31 **THE OPTION**

32 1.1 **Grant of Option.** Seller grants to Buyer the exclusive, irrevocable right and
33 option to purchase the Property, together with: (i) all minerals and mineral rights, if any, that are
34 appurtenant to the Property; and (ii) all rights-of-way and easements, if any, that are appurtenant
35 to the Property (the “**Option**”). The Option is subject to the terms, conditions and requirements
36 of this Contract.

37 1.2 **Water Rights Excluded.** There are no water or water rights, ditch or ditch rights,
38 well permits or water storage rights appurtenant to the Property, and no water and water rights,
39 ditch and ditch rights, well permits, or storage rights will be conveyed by Seller to Buyer in the
40 event the Buyer exercises the Option.

41 1.3 **Consideration for Option.** The consideration paid by Buyer to Seller for the
42 Option is Ten Dollars (\$10.00) (the “**Option Money**”), the receipt and sufficiency of which are

1 acknowledged by Seller. The Option Money will not be applied against the Purchase Price (as
2 later defined in this Contract), and is non-refundable.

3
4 **1.4 Term and Exercise of Option.**

5
6 (a) Unless sooner exercised or extended by mutual agreement of the
7 Parties, the Buyer's right to exercise the Option expires at 11:59 P.M., local time, on
8 _____, 2020 (the "***Option Deadline***").

9 (b) Buyer may exercise the Option at any time prior to the Option
10 Deadline. To exercise the Option, Buyer must deliver written notice to Seller in accordance
11 with Section 9.6; provided, however, that Buyer may not exercise the Option if, at the time of
12 attempted exercise of the Option, Buyer is in default under this Contract or the Lease. Buyer
13 may give notice of the exercise of the Option only once.

14 **1.5 If Timely Notice of Exercise of The Option Is Given.** Upon the timely giving of
15 notice of the exercise of the Option, the remaining provisions of this Contract will govern the
16 closing of the sale and purchase of the Property. Such sale and purchase is hereafter referred to
17 as the "***Closing***."

18 **1.6 If Timely Notice of The Exercise of The Option Is Not Given.** Time is of the
19 essence of this Contract. Accordingly, it is agreed that if Buyer fails, for any reason, to give
20 timely notice of the exercise of the Option by the Option Deadline Seller may, in Seller's sole
21 and absolute discretion, elect to terminate this Contract. Buyer's failure give timely notice of the
22 exercise of any the Option is not a "default" under this Contract, and Seller is not required to
23 give notice of default with respect to such failure to give timely notice. Further, Buyer has no
24 right of cure with respect to Buyer's failure give timely notice of the exercise of the Option. If
25 the Seller determines to terminate this Contract as a result of Buyer's failure to give timely notice
26 of the exercise of the Option, Seller will give Buyer written notice in accordance with Section
27 9.6. If Seller gives notice of termination as provided in this Section 1.6, this Contract will
28 terminate, and each party will be released from any further obligations under this Contract.
29

30 **ARTICLE 2**
31 **PURCHASE OF THE PROPERTY**

32
33 **2.1 Purchase and Sale of the Property.** On the Closing Date (as later defined in this
34 Contract) Buyer will purchase the Property from Seller, and Seller will sell and convey the
35 Property to Buyer. Purchase and conveyance of the Property will be in accordance with the terms
36 and conditions contained in this Article, and the applicable provisions of the remainder of this
37 Contract.

38 **2.2 Purchase Price.** The purchase price to be paid by Buyer to Seller for the Property
39 (the "***Purchase Price***") will be determined based upon the date that Seller gives Buyer notice of
40 the exercise of the Option in accordance with the requirements of this Contract. The Purchase
41 Price will be determined as follows:

1

Calendar Year in Which Seller Gives Notice of Exercise of Option	Purchase Price
---	----------------

2011	\$500,000
2012	\$510,000
2013	\$520,200
2014	\$530,604
2015	\$541,216
2016	\$552,040
2017	\$563,081
2018	\$574,342
2019	\$585,829
2020	\$597,546

2

3 2.3 Payment of Purchase Price. The Purchase Price will be paid to Seller by Buyer at
4 Closing as follows:

5 (a) A sum equal to sixty percent (60%) of the Purchase Price will be paid
6 in the form of the execution of and delivery of Buyer's Promissory Note to Seller (the
7 "**Promissory Note**"). The Promissory Note will be secured by a Deed of Trust (the "**Deed of**
8 **Trust**") encumbering the Property.

9 (b) The balance of the Purchase Price will be paid in good funds as defined
10 by Colorado law.

11 2.4 The Note and Deed of Trust.

12 (a) The Promissory Note and Deed of Trust will contain the provisions
13 described below, and will otherwise be in a form reasonably satisfactory to Seller and Buyer:

14 (i) The unpaid principal balance of the Promissory Note will bear interest at
15 the rate of four percent (4%) per annum. The Promissory Note will be paid in equal
16 amortized quarterly payments based on a fifteen (15) year amortization with the first
17 payment due three (3) months after the Closing Date (as later defined in this Contract);
18 provided, however, the entire unpaid balance of the Promissory Note, both principal and
19 interest, will be due and payable without demand in ONE BALLOON PAYMENT seven
20 (7) years after the Closing Date. Seller is under no obligation to refinance or extend the
21 balloon payment. The default interest rate on the Promissory Note will be twelve percent
22 (12%) per annum.

23 (ii) The Promissory Note may be prepaid in whole or part at any time without
24 penalty. Any partial prepayment of principal will be credited against the next maturing
25 installment or installments due under the Promissory Note.

1 (iii) The Deed of Trust will be a first and prior lien on the Property, subject
2 only to: (i) the lien of the general property taxes for the year of Closing; and (ii) the
3 Permitted Exceptions (as later defined in this Contract). Seller will never be obligated to
4 subordinate the Deed of Trust to any lien or encumbrance.

5 (iv) Buyer will not be in default under the Promissory Note and Deed of Trust
6 until thirty (30) days after written notice of default has been given to Buyer specifically
7 setting forth the claimed default, and such default remains uncured at the expiration of
8 such thirty (30) day period.

9 (v) The Deed of Trust will contain a “due on sale clause” pursuant to which
10 the entire unpaid balance of the Promissory Note will immediately become due and
11 payable if the Property is sold or transferred by Buyer without the Promissory Note
12 having been paid in full.

13 2.5 Closing Date. The transaction contemplated by this Contract will be closed at the
14 offices of Land Title Guarantee Company – Breckenridge office (“**Title Company**”), 200 North
15 Ridge Street, Breckenridge, Colorado, on or before the expiration of sixty (60) days after the
16 timely exercise of the Option by the Buyer as set forth in Section 1.4 (the “**Closing Date**”). The
17 Parties will mutually agree on the Closing Date and time of Closing, but if the Parties are unable
18 to agree, the Closing Date and time of Closing will be established by the Title Company. The
19 Closing Date may be extended by mutual agreement of the Parties.

20 2.6 Closing Costs. At Closing, Buyer will pay the cost of recording the deed
21 conveying the Property to it. Seller will pay the cost of the title insurance premium, and tax
22 certificate. Each party will pay one-half of the reasonable cost of closing services charged by the
23 Title Company. Otherwise, each party will pay the usual and customary closing costs.

24 2.7 No Tax Apportionment. The Property has been tax-exempt while owned by
25 Seller. Accordingly, no apportionment of real property taxes will be done at Closing. Buyer will
26 pay at Closing any taxes lawfully levied against its use of the Property based upon the Lease (if
27 the Lease is determined by the Summit County Assessor to be a taxable possessory interest under
28 state law.)

29
30 **ARTICLE 3**
31 **TITLE MATTERS; CONVEYANCE OF THE PROPERTY**
32

33 3.1 Title Insurance.

34 (a) Within thirty (30) days from the date of the execution of this Contract
35 the Seller will obtain and deliver to Buyer, at Seller's expense, a certificate of taxes due on the
36 Property and a current title insurance commitment (“**Commitment**”) issued by the Title
37 Company. The Commitment will include legible copies of all instruments referred to in the
38 Commitment. The Commitment will not provide for the deletion of all standard printed
39 exceptions of Schedule B-2 thereof.

1 (b) All items on the Commitment will be permitted title exceptions
2 (“*Permitted Exceptions*”) unless Buyer notifies Seller within twenty (20) days of receipt of
3 the Commitment of any particular item(s) to which Buyer objects. If Buyer gives Seller
4 timely notice of a title objection then Seller will have twenty (20) days within which to
5 remove such exceptions or to notify Buyer that it is unable to remove such exceptions, in
6 which case Buyer may elect to terminate this Contract within twenty (20) days of receipt of
7 Seller's notice by giving written notice to Seller, or to accept such exceptions (which Buyer
8 will be deemed to do if Buyer does not timely elect to terminate this Contract).

9 (c) On or before five (5) days prior to the Closing Date, Seller will obtain
10 and deliver to Buyer, at Seller's sole expense, an endorsement to the Commitment with a
11 current effective date, showing no new title exceptions therein.

12 (d) After Closing, Seller will obtain and deliver to Buyer, at Seller's sole
13 expense, a title insurance policy for the Property in the amount of the Purchase Price showing
14 fee simple absolute title being vested in Buyer, subject only to the Permitted Exceptions.

15 3.2 Conveyance of the Property. On the Closing Date, Seller will convey to Buyer
16 marketable fee simple absolute title to the Property, subject only to the Permitted Exceptions.
17 Such conveyance will be by special warranty deed. The deed will convey the Property to Buyer
18 free and clear of any and all taxes, assessments, liens, encumbrances and other matters which
19 could affect title, except the Permitted Exception. Personal property shall be conveyed by bill of
20 sale.

21 3.3 Comcast Lease. The Parties acknowledge that a portion of the Property is subject
22 to that Lease with Universal Cable Communications Inc. d/b/a Classic Cable (now “Comcast”
23 dated September 7, 1999 (such Lease, together with any renewal, extension, or replacement
24 thereof, is referred to as the “*Comcast Lease*”). Seller shall consult with Buyer before
25 modifying, extending, or replacing the Comcast Lease. If Buyer disapproves of any modification,
26 extension, or replacement of the Comcast Lease Buyer may terminate this Contract by giving
27 written notice to Seller. Otherwise, Buyer will accept title to the Property subject to the Comcast
28 Lease, and will not object to the Seller’s title to the Property because of the Comcast Lease. All
29 revenues received and expenses incurred in connection with the landlord’s obligations under the
30 Comcast Lease accruing prior to Closing will be the property of, or the obligation of (as
31 appropriate), the Seller. All revenues received and expenses incurred in connection with the
32 landlord’s obligations under the Comcast Lease accruing from and after Closing will be the
33 property of, or the obligation of (as appropriate), the Buyer.

34 **ARTICLE 4**
35 **SELLER’S DISCLAIMERS**

36 4.1 Seller’s General Disclaimer. Buyer acknowledges that the Property will be
37 conveyed and transferred “**AS IS**”, “**WHERE IS**”, and “**WITH ALL FAULTS**”, and that
38 Seller does not warrant or make any representations, express or implied, relating to the
39 **MERCHANTABILITY**, quality, condition, suitability, or **FITNESS FOR ANY PURPOSE**
40 **WHATSOEVER** of the Property. Seller has no liability to undertake any repairs, alterations,
41 removal, remedial actions, or other work of any kind with respect to any portion of the Property.

1 Buyer also acknowledges and agrees that by virtue of its possession of the Property pursuant to
2 the Lease, Buyer is able to make Buyer's own determination concerning the merchantability,
3 quality, condition, and suitability, or fitness for any purpose of the Property.

4 4.2 Environmental Condition of the Property.

5 (a) Seller's Environmental Disclaimer. Seller makes no warranty or
6 representation concerning the environmental condition of the Property (including, without
7 limitation, land, surface water, ground water, air, and any improvements). Without limiting
8 the generality of the preceding sentence, Seller specifically disclaims any and all warranties or
9 representations with respect to the location or presence on the Property of: (i) any "hazardous
10 water", "underground storage tanks", "petroleum", "regulated substance", or "used oil" as
11 defined by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§6901, et seq.),
12 as amended, or by any regulations promulgated thereunder; (ii) any "hazardous substance" as
13 defined by the Comprehensive Environmental Response, Compensation and Liability Act of
14 1980 (42 U.S.C. §§9601, et seq.), as amended, or by any regulations promulgated thereunder
15 (including, but not limited to, asbestos and radon); (iii) any "petroleum" and "fuel products",
16 as defined by Section 25-15-101 et seq., C.R.S., as amended, or by any regulations
17 promulgated thereunder; (iv) any "hazardous waste" as defined by the Colorado Hazardous
18 Waste Act, Section 25-15-101, et seq., C.R.S., or by any regulations promulgated thereunder;
19 (v) any substance the presence of which on, in or under the Property is prohibited or regulated
20 by any law similar to those set forth above; and (vi) any other substance which by law,
21 regulation or ordinance requires special handling in its collection, storage, treatment or
22 disposal.

23 (b) Buyer's Right to Inspect Environmental Condition of the Property.
24 Prior to July 1, 2011 Buyer may conduct such non-destructive soil tests, environmental
25 assessments, or other investigations as Buyer will determine to be necessary or appropriate (in
26 Buyer's sole discretion) for the purpose of determining the environmental condition of the
27 Property. Within a reasonable time after such actions Buyer will, to the extent practicable,
28 restore the Property to its prior condition. Buyer will indemnify and save Seller harmless from
29 all claims arising by reason of such entries, tests and assessments. This indemnity obligation
30 will survive the termination of the Contract and continue to be fully enforceable thereafter.
31 Buyer also acknowledges and agrees that Buyer's possession of the Property pursuant to the
32 Lease is adequate to enable Buyer to make Buyer's own determination with respect to the
33 environmental condition of the Property.

34 (c) Buyer's Contingency For The Environmental Condition of the
35 Property; Waiver. If Buyer determines that the environmental condition of the Property is not
36 acceptable, Buyer may terminate this Contract by giving Seller written notice of termination
37 not later than July 15, 2011. If Buyer elects to terminate this Contract pursuant to this Section,
38 this Contract will become null and void, and each party will be released from any further
39 obligation under this Contract. If Buyer does not give timely notice of termination of this
40 Contract by July 1, 2011, Buyer will have irrevocably waived its right to terminate this
41 Contract because of the environmental condition of the Property.

1 (d) Buyer's Waiver of Environmental Claims Against Seller. If Buyer
2 waives its right to terminate this Contract because of to the environmental condition of the
3 Property as provided in Section 4.2(c), at Closing Buyer will execute and deliver to Seller a
4 written waiver of any claims which Buyer may have or in the future acquire against Seller
5 with respect to the known or unknown environmental condition of the Property, including,
6 without limitation, claims arising under federal and state statutory law, and claims under the
7 common law, including, without limitation, claims for fraud or misrepresentation with respect
8 to the environmental condition of the Property. The form of such wavier will be subject to the
9 reasonable approval of Seller's counsel. The execution and delivery of such documentation
10 will be a condition precedent to Seller's obligations to convey the Property to Buyer.

11 **ARTICLE 5**
12 **RIGHT OF FIRST OFFER**

13 5.1 Right of First Offer . The following provisions will be included in the Seller's
14 deed conveying the Property to the Buyer:

15 (a) Definitions. As used in this Section the following words will have the
16 following meanings:

17 "Offer" means an offer to sell the Property made pursuant to and in accordance
18 with this Section.

19
20 "Property" means all of the Property, or so much thereof as may be the subject of
21 an Offer.

22
23 (b) Right of First Offer. Buyer will not sell the Property without first
24 offering the Property to the Seller as provided in this Section. This Section creates a
25 specifically enforceable right of first offer to repurchase the Property in favor of the Seller
26 according to the terms of this Section.

27 (c) Procedure to Comply With Right of First Offer. The right of first offer
28 created by this Article 5 will be honored by the Buyer and exercised by the Seller in the
29 following manner:

30 (i) If the Buyer desires to sell the Property, the Buyer will first send a written
31 Offer to the Seller by certified mail, return receipt requested, addressed to P.O. Box 168,
32 Breckenridge, Colorado 80424, or at any other mailing address for the Seller then shown
33 on the Town of Breckenridge website (<http://www.townofbreckenridge.com>).
34 Alternatively, the Offer may be personally delivered to the Town Manager of the Town
35 of Breckenridge. The Offer will have been properly served on the Seller in accordance
36 with this Section when the Offer is delivered to the Town Manager, or upon the Seller's
37 receipt of the Offer if the Offer is served by mail, whichever is applicable.

38 (ii) An Offer will describe the portion of the Property proposed to be sold, and
39 will state a specified price and all principal terms and conditions of the proposed sale.

1 The Offer will also set forth the Buyer's then-current mailing address to which any notice
2 of acceptance of the Offer may be delivered.

3 (iii) If the Seller desires to accept the Offer, the Seller must notify the Buyer in
4 writing of such acceptance within thirty (30) days of the date of service of the Offer upon
5 the Seller. Notice of Seller's acceptance of the Offer must either be personally delivered
6 to the Buyer, or sent by certified mail, return receipt requested, to the Buyer at the
7 mailing address set forth in the Offer. A notice of acceptance is valid and effective when
8 personally delivered to the Buyer, or when mailed to the Buyer at the mailing address set
9 forth in the Offer, whichever is applicable.

10 (iv) If the Seller fails give timely written notice of acceptance of the Offer
11 within the thirty (30) day period, the Buyer may, within one hundred eighty (180) days
12 after the expiration of the thirty (30) day period described above, sell the Property upon
13 terms and conditions that are substantially similar to those in the Offer, but not for a price
14 that is less than 100 percent (100%) of the sale price described in the Offer. Such sale
15 may be made free and clear of the right of first offer provided for in this Section;
16 provided, however, that the contract between the Seller and the purchaser shall include
17 language mutually agreeable to both Buyer herein and Seller limiting the use of the
18 Property to uses that are compatible with the adjoining neighborhood's primary
19 residential character. In this regard, the parties agree to work together in good faith so as
20 to serve Seller's valid planning interests without impairing Buyer's ability to realize
21 financial gain commensurate with the then-prevailing market conditions. If the Property
22 not sold within such one hundred eighty (180) day period, any subsequent sale of the
23 Property is subject to the requirement that a new Offer be given to the Seller in
24 accordance with this Section

25 (v) If the Seller accepts the Offer, then the Buyer and the Seller will negotiate
26 in good faith and attempt to reach a commercially reasonable contract for the purchase
27 and sale of the Property. If the Seller and the Buyer sign a contract for the purchase and
28 sale of the Property, the rights and responsibilities of such Parties will be as set forth in
29 the contract. If the Seller and the Buyer have not signed a bona fide contract for the sale
30 and purchase of the Property within thirty (30) days after the giving of timely notice of
31 acceptance of the Offer by the Seller, the Buyer may sell the Property to any party upon
32 terms and conditions that are substantially similar to those in the Offer, but not for a price
33 that is less than 100 percent (100%) of the Offer. Such sale may be made free and clear of
34 the right of first offer provided for in this Section.

35 (vi) The deed will provide that provisions of this Article 5 are specifically
36 enforceable by the Seller.

37 **ARTICLE 6**
38 **NO EFFECT ON EXISTING LEASE**

39 6.1 No Effect on Existing Lease. The execution of this Contract does not affect the
40 existing Lease for the Property. Each Party will continue to be bound by and will perform its
41 duties and obligations set forth in the Lease unless and until the Lease is terminated as provided

1 in
2 Section 6.2.

3 6.2 Termination of Existing Lease. At Closing, the Parties will execute a document in
4 recordable form sufficient to terminate the existing Lease for the Property.
5

6 **ARTICLE 7**
7 **SPECIAL RESTRICTIVE COVENANTS TO BE CONTAINED IN DEED FOR**
8 **PROPERTY**
9

10 7.1 The Seller’s deed conveying the Property to the Buyer will contain the special
11 restrictive covenants contained in this Article 7. Each restrictive covenant will run with the land,
12 and will be specifically enforceable. The form of each of the covenants will be subject to the
13 reasonable approval of the Seller and the Buyer.

14 (a) Throughout its ownership of the Property Buyer will continue to use its
15 best efforts to identify other non-profit entities whose anticipated space needs and the use of
16 the Property would be compatible with those of Contract, and to considering leasing portions
17 of the Property to such entities. .

18 (b) At Seller’s option and election, Seller may continue to occupy and use
19 its existing “Computer Technology Facilities” located on the Property as shown on Exhibit
20 “B” pursuant to a written lease to be executed by Buyer and Seller which provides that Seller
21 may continue to use the Computer Technology Facilities without payment of rent or other
22 cost.

23 (c) If requested by Buyer at anytime after Closing, Seller will authorize the
24 transfer to the Property of a maximum of 3,000 square feet of the unused density from the
25 property known as the “Breckenridge Nordic Center Site” located on Ski Hill Road in
26 Breckenridge, Colorado (the “*Density*”). Seller is not obligated to authorize such transfer
27 unless Buyer requests the transfer of such Density before Closing. Buyer may not request that
28 Seller transfer the Density to the Property at any time when Buyer is in default under the
29 Promissory Note or Deed of Trust. If the Buyer does not request transfer of the Density, or if
30 the Parties agree that all of the Density need not be transferred to the Property, there will be
31 no adjustment to the Purchase Price (or the Promissory Note). So long as Buyer owns the
32 Property, the Density can only be used on the Property in connection with Buyer’s non-profit
33 operations, and may not be transferred from the Property , or used for a purpose unrelated to
34 Buyer’s non-profit operations, without Seller’s prior written permission, which permission
35 may be granted, withheld or conditionally approved in Seller’s sole and absolute discretion.

36 **ARTICLE 8**
37 **DEFAULT; REMEDIES; TERMINATION**

38 8.1 Default. Time is of the essence hereof, and if any payment or any other condition
39 hereof is not made, tendered, or performed, as herein provided, there will be the following
40 remedies:

1 (a) Buyer's Default. If Buyer fails to perform any covenant or agreement
2 required of it by this Contract, the Seller's sole remedy is to terminate this Contract by notice
3 to Buyer in accordance with Section 9.6, and to retain the Option Money as liquidated
4 damages. Upon such termination each party will be released from any further obligations
5 under this Contract. Seller waives the right to an action for specific performance; provided,
6 however, that the special restrictive covenants described in Article 5 and article 7 will be
7 specifically enforceable.

8 (b) Seller's Default. If Seller fails to perform any covenant or agreement
9 required of it by this Contract, the Buyer may, at Buyer's election, treat this Contract as
10 terminated, in which case the Option Money will be returned to Buyer by Seller, or Buyer
11 may, at its election, treat this Contract as being in full force and effect with the right to an
12 action for specific performance and/or damages.

13 8.2 Resolution Of Disputes.

14 (a) The parties will attempt in good faith to resolve any dispute arising out
15 of or relating to this Agreement promptly by negotiations between persons who have authority
16 to settle the controversy ("*Executives*"). Any party may give the other party written notice of
17 any dispute not resolved in the normal course of business. Within five (5) days after receipt
18 of the notice, Executives of the parties to the dispute will meet at a mutually acceptable time
19 and place, and thereafter as often as they reasonably deem necessary, to exchange relevant
20 information and to attempt to resolve the dispute. If the matter has not been resolved within
21 ten (10) days of the notice of dispute, or if the parties fail to meet within five (5) days, any
22 party to the dispute may initiate mediation of the controversy as provided below.

23 (b) If the dispute has not been resolved by negotiation as provided above,
24 the parties will endeavor to settle the dispute by mediation with a neutral third party. If the
25 parties encounter difficulty in agreeing on a neutral third party, they may each appoint a
26 neutral third party, such third parties to appoint a neutral third party to mediate. Each party
27 will pay their own attorneys' fees incurred in connection with a mediation.

28 (c) Any dispute arising out of or relating to this Agreement or the breach,
29 termination or validity hereof, which has not been resolved by the methods set forth above
30 within thirty (30) days of the initiation of mediation, may be finally resolved by appropriate
31 judicial action commenced in a court of competent jurisdiction. The parties agree to venue in
32 the courts of Summit County, Colorado with respect to any dispute arising out of or relating to
33 this Agreement.

34 (d) If any action is brought in a court of law by either party to this
35 Agreement concerning the enforcement, interpretation or construction of this Agreement, the
36 prevailing party, either at trial or upon appeal, will be entitled to reasonable attorneys' fees, as
37 well as costs, including expert witness' fees, incurred in the prosecution or defense of such
38 action.

39
40 8.3 Survival of Indemnity Obligations. Notwithstanding anything contained in the
41 Contract to the contrary, in the event of the termination of this Contract for any reason the various

1 indemnity obligations described in this Contract will continue to be fully enforceable after
2 termination.

3 **ARTICLE 9**
4 **PROVISIONS OF GENERAL APPLICATION**
5

6 9.1 Incorporation of Exhibit. The attached **Exhibit “A”** is incorporated into this
7 Contract by reference.

8 9.2 “Day” Defined. As used in this Contact the term “day” means a calendar day, not
9 a business or working day. However, if any date or deadline set forth herein falls on a weekend
10 or holiday, it automatically shall be extended to the next regular business day.

11 9.3 “Will” Defined. As used in this Contact, the term “will” means a mandatory
12 obligation to act, or to refrain from acting, as indicated in the context of the sentence in which
13 such term is used.

14 9.4 Recording. This Contract will **NOT** be recorded in the real property records of
15 the Clerk and Recorder of Summit County, Colorado. However, Buyer may record a
16 memorandum of this Contract. Such memorandum will be subject to the reasonable approval of
17 Seller and its counsel. If this Contract is terminated by Seller because of the failure of the Buyer
18 to exercise the Option and/or close on the Property, Buyer will, upon demand from Seller,
19 promptly execute and deliver to Seller, in a form reasonably acceptable to Seller and its counsel,
20 a document in recordable form disclaiming any further rights to the Property except as provided
21 in the Lease. This obligation will survive the termination of this Contract, and will be
22 specifically enforceable against Buyer thereafter.

23 9.5 Commissions. Seller and Buyer agree to defend, indemnify, and save the other
24 harmless from any commission or fee which may be payable to any broker, agent or finder with
25 whom the indemnifying party has dealt in connection with this Contract.

26 9.6 Notices. Any notices required or permitted under this Contract will be sufficient
27 if personally delivered or if sent by certified mail, return receipt requested, addressed as follows:

28 If To Seller: Town of Breckenridge
29 P.O. Box 168
30 Breckenridge, CO 80424
31 Attn.: Timothy J. Gagen, Town Manager
32

33 With A Copy (Which Will
34 Not Constitute Notice) To: Timothy H. Berry, Esq.
35 Timothy H. Berry, P.C.
36 P. O. Box 2
37 Leadville, CO 80461
38

39 If To Buyer: Breckenridge Outdoor Education Center
40 P.O. Box 697

1
2
3 Notices mailed in accordance with the provisions of this Section will be deemed to have been
4 given on the third day following mailing. Notices personally delivered will be deemed to have
5 been given upon delivery. Nothing herein will prohibit the giving of notice in the manner
6 provided for in the Colorado Rules of Civil Procedure for service of civil process. E-mail is not a
7 valid means of delivering a notice under this Contract.
8

9 9.7 Waiver. The failure of either party to exercise any of their rights under this
10 Contract will not be a waiver of those rights. A party waives only those rights specified in
11 writing and signed by the party waiving such rights.

12 9.8 Applicable Law. This Contract will be interpreted in all respects in accordance
13 with the laws of the State of Colorado.

14 9.9 Additional Instruments. The Parties will deliver or caused to be delivered upon
15 request such additional documents and instruments as may be required to accomplish the intent
16 of this Contract.

17 9.10 Entire Agreement. This Contract constitutes the entire agreement and
18 understanding between the Parties concerning the purchase and sale of the Property, and
19 supersedes any prior agreement or understanding relating to the subject matter of this Contract.

20 9.11 Modification. This Contract may be modified or amended only by a duly
21 authorized written instrument executed by the Parties. Oral amendments are not permitted.

22 9.12 Section Headings. Section headings are inserted for convenience only and in no
23 way limit or define the interpretation to be placed upon this Contract.

24 9.13 Attorney's Advisement. Buyer has been advised to seek legal counsel as to this
25 Contract. The law firm of Timothy H. Berry, P.C. *represents only the Seller* in connection with
26 this Contract.

27 9.14 No Adverse Construction. Both Parties acknowledge having had the opportunity
28 to participate in the drafting of this Contract. This Contract will not be construed against either
29 party based upon authorship.

30 9.15 Assignment. Neither party will have the right to assign this Contract, or any
31 interest therein, without the express written consent of the other party.

32 9.16 Binding Effect. This Contract will be binding upon, and will inure to the benefit
33 of, the Parties, and their respective heirs, successors, assigns, legal representatives, and personal
34 representatives.

35 **9.17 Warning Concerning Special Taxing Districts. SPECIAL TAXING**
36 **DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS**
37 **THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE**
38 **TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH**

1 **DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX**
2 **TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE**
3 **RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH**
4 **INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS**
5 **SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE**
6 **PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY**
7 **REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY**
8 **OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY**
9 **COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY**
10 **ASSESSOR.**

11

TOWN OF BRECKENRIDGE

By: _____
Timothy J. Gagen, Town Manager

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

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BRECKENRIDGE OUTDOOR EDUCATION
CENTER, a Colorado nonprofit corporation

By: _____
Title: _____

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

5 The foregoing instrument was acknowledged before me this ____ day of
6 _____, 2011, by Timothy J. Gagen, Town Manager, and Mary Jean Loufek,
7 CMC, Town Clerk, of the Town of Breckenridge, a Colorado municipal corporation.
8

9 WITNESS my hand and official seal.

10
11 My commission expires: _____.
12
13
14

15 _____
16 Notary Public
17
18
19

20 STATE OF COLORADO)
21) ss.
22 COUNTY OF SUMMIT)
23

24 The foregoing instrument was acknowledged before me this ____ day of
25 _____, 2011 by _____, as
26 _____, of Breckenridge Outdoor Education Center, a
27 Colorado nonprofit corporation.
28

29 WITNESS my hand and official seal

30
31 My commission expires: _____.
32
33
34

35 _____
36 Notary Public
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Exhibit "A"

To Option Contract Between the Town of Breckenridge, a Colorado municipal corporation, as Seller, and the Breckenridge Outdoor Education Center, a Colorado nonprofit corporation, as Buyer

Legal Description

Tract B, Revett's Landing Subdivision, according to the plat thereof recorded August 13, 2001 under Reception No. 659673 of the records of the Clerk and Recorder of Summit County, Colorado



To: Town Council

From: Michael Mosher, Community Development Department

Date: January 20, 2011 (for February 8 meeting)

Re: Columbia Lode and Louisa Lode Development Agreement Amendment

About one year ago, the Town Council reviewed and approved a Development Agreement with B & D Limited Partnership for the Columbia Lode Development. This agreement was to allow the reallocation of existing density over the old Breckenridge Building Center (BBC) property, specifically allowing density in Land Use District (LUD) 4. The Columbia Lode is currently under review as an active application with the Planning Commission for the Master Plan. The public benefits associated with this Development Agreement were and still are:

- 1) Dedication of a portion of the site for a right of way for a right turn lane on French Street, (supported by the Engineering Department);
- 2) A park or landscaped open space area at the entrance to the Conservation District ;
- 3) A rerouted and undergrounded Klack drainage facility separated from the development area (supported by the Engineering Department);
- 4) The extension of the sidewalk as needed to connect with the sidewalk coming south from the roundabout;
- 5) Inclusion of a traffic analysis as part of the master plan process (completed); and
- 6) To eliminate the very large lot with a very large building envelope and replacing it with a much smaller lot with a much smaller disturbance envelope at the north end of the site - accessed off of Royal Tiger Road through the Weisshorn.

After approval of the original agreement in 2010, the applicant began the master planning process with Planning Staff and the Planning Commission. During that review process, the Commission found Development Code based policies that do not support locating the single family lot at the north most end of the property. Instead, they were supportive of placing the lot back in the general area where it was initially located, near the south end of the site with the lot to be smaller than before and to have an envelope that is smaller, moved down the slope to the south and west and converted from building to disturbance. (See attached site exhibit.)

Another inclusion in the master plan is the location of an improved public trail along the east side of the property to replace a social trail that exists along east side, but mostly off of the property.

The only change proposed to the Development Agreement is the replacement of the provision to relocate the existing lot to the north end of the property and replace it with allowing the modified lot described above. Planning Commission and staff support this change

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STEPHEN C. WEST
D. WAYNE BROWN
FELICE F. HUNTLEY
ERIN C. HUNTER

MIRO KOVACEVIC
JILL D. BLOCK
Paralegal

January 18, 2011

VIA HAND DELIVERY
and EMAIL (mosh@townofbreckenridge.com)

Michael Mosher
Department of Community Development
Town of Breckenridge
150 Ski Hill Road
Breckenridge, CO 80424

Re: Amendment to Development Agreement for Old Breckenridge Building Center
and adjacent property

Dear Mosh:

Consistent with the process of having letters serve as the application for a development agreement, this letter is submitted in connection with an amendment to the Development Agreement entered into between the Town of Breckenridge and B & D Limited Partnership as of February 10, 2010. As you are well aware from the numerous Planning Commission meetings and site visits, the purpose of amending the Development Agreement is to retain Lot 1, Corkscrew Subdivision in approximately its existing location but with the size of the lot reduced and with the building envelope relocated, reduced in size and converted to a disturbance envelope, instead of eliminating Lot 1 and replacing it with a lot at the north end of the B & D property.

All of the other provisions of the Development Agreement, including the sidewalk extension, already completed traffic study, right of way for a right turn lane, public open space at the southwest corner of the property and the relocated and improved Klack drainage facility will be provided. In addition, although not provided for in the Development Agreement, dedication of an area for a substantially improved trail, mostly on B & D's property, will be provided, despite the fact that most of the existing social trail currently is not within B & D's property.

After property owners adjacent to or near the north end of the B & D property raised concerns about the impacts of a lot and residence at the north end of the property accessed off of Royal Tiger Road and after numerous site visits, the Planning Commission developed concerns about

Michael Mosher
Department of Community Development
Town of Breckenridge
January 18, 2011
Page 2

the fit and impacts of a residence in the northern location. Although Community Development staff and the representatives of B & D continued to believe that the northern portion of the property was appropriate for a single family lot and residence, public and Commissioner comments made it clear that the concept of adjustments to Lot 1 in approximately its existing location needed to be fully explored. Ultimately, it became apparent that reducing the size of Lot 1, moving the envelope down the hill to the south and west, reducing the size of the envelope, and converting the envelope from a building envelope to a disturbance envelope was clearly the preferred alternative to moving the single family lot to the north end of the property. Although there was not a formal vote, it appeared that all seven of the Commissioners who originally reviewed the plan and then reviewed the alternative plan supported the adjustments to Lot 1 over moving the single family lot to the north end of the property. Then, at the Commission's December 7, 2010 meeting when there were three new Commissioners, they too supported the adjustments to Lot 1. Accordingly, a total of ten Planning Commissioners effectively have supported the adjustments to Lot 1 in lieu of the relocation to the north.

It also is worth noting that, by making the adjustments to Lot 1, the single family density will remain in an area identified as Land Use District 4 (although lacking the critical characteristic of LUD 4 of being adjacent to the highway) instead of moving the density into Land Use District 1. Understanding the Town's sensitivity to allowing density in Land Use District 1, this actually seems like better result.

Because the relocation of Lot 1 was a specific provision of the Development Agreement, the proposed Amendment to Development Agreement provided with this letter is required to be approved by the Town Council so that the Planning Commission will have the authority to review and approve the proposed Master Plan with the substantial adjustments to Lot 1.

On behalf of the Applicant, we thank the Planning Commissioners and staff for the substantial time invested in site visits and review of the proposed Master Plan. In addition, thanks to Tim Berry and you for the time spent reviewing the attached Amendment and helping us get it before Council for consideration during its work session on February 8, 2011 and, hopefully, for first reading of an ordinance approving the Amendment at the regular meeting that evening.

Sincerely,



Stephen C. West

SCW/amw
Enclosures
4697.06

APPROVAL OF THIS AMENDMENT TO DEVELOPMENT AGREEMENT
CONSTITUTES A VESTED PROPERTY RIGHT PURSUANT TO
ARTICLE 68 OF TITLE 24, COLORADO REVISED STATUTES, AS AMENDED

AMENDMENT TO DEVELOPMENT AGREEMENT

This Amendment to Development Agreement (“Amendment”) is made as of the ____ day of _____, 2011 by and between the TOWN OF BRECKENRIDGE, a municipal corporation of the State of Colorado (“Town”) and B & D LIMITED PARTNERSHIP, an Illinois limited partnership authorized to do business in Colorado (“Developer”).

Recitals

A. Town and Developer entered into a Development Agreement dated as of February 10, 2010 and recorded in the real estate records of Summit County, Colorado on March 3, 2010 at Reception No. 934877 (“Agreement”).

B. After extensive review by the Town’s Planning Commission, it has been recommended that the Agreement be amended to eliminate the relocation of the SFE of density for a single family residence from existing Lot 1, Corkscrew Subdivision Filing No. 1 to the northerly portion of the Property.

Agreement

1. Subparagraph (a) of paragraph 1 of the Agreement will be deleted in its entirety and replaced with the following:

(a) the area of existing Lot 1, Corkscrew Subdivision Filing No. 1 reduced from 3.02 acres to less than 2 acres and the existing building envelope of 0.97 acres modified as follows: converted to a disturbance envelope; reduced to less than 0.50 acres; and relocated to the southwestern portion of the reduced size lot, all as generally depicted on Exhibit C attached hereto.

2. All capitalized terms used but not defined in this Amendment will have the meanings provided for them in the Agreement.

3. Except as specifically amended by this Amendment, all other terms and conditions of the Agreement will remain in full force and effect.

4. This Amendment will be recorded in the office of the Clerk and Recorder of Summit County, Colorado.

IN WITNESS WHEREOF, this Amendment to Development Agreement has been executed as of the date first above set forth.

TOWN OF BRECKENRIDGE

Attest:

Mary Jean Loufek, CMC
Town Clerk

By: _____
Timothy J. Gagen, Town Manager

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing was acknowledged before me this _____ day of _____, 2011 by Timothy J. Gagen as Town Manager and Mary Jean Loufek, CMC, of the Town of Breckenridge, a Colorado municipal corporation.

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

Notary Public

B & D LIMITED PARTNERSHIP
a Illinois limited partnership
authorized to do business in Colorado

By: DSB Holdings, Inc.
an Illinois corporation,
its General Partner

By: _____
Jon A. Brownson, Vice President

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing was acknowledged before me this ____ day of _____, 2011 by Jon A. Brownson, Vice President of DSB Holdings, Inc., an Illinois corporation, General Partner of B & D Limited Partnership, an Illinois limited partnership authorized to do business in Colorado.

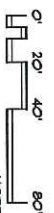
Witness my hand and official seal.
My commission expires: _____

Notary Public



LOT 1 CORKSCREW EXISTING & PROPOSED

SCALE: 1" = 40'-0"



© 2010
SHEET NUMBER:

bhh Partners
P.O. BOX 931 180 EAST ADAMS BRECKENRIDGE, CO 80424 (970) 453-8880

COLUMBIA LODE
400 N. MAIN STREET, BRECKENRIDGE, COLORADO



REVISIONS:	JOB NO.:	BOC100
	DATE:	01/04/11
	DRAWN BY:	Joukempfer
	CHECKED BY:	megan

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SP-1.0
EXISTING & PROPOSED
EXHIBIT

MEMO

TO: Mayor & Town Council

FROM: Tim Gagen

DATE: February 2, 2011

SUBJECT: Committee Reports for 2.8.11 Council Packet

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

Summit Stage Advisory Board	James Phelps	January 12, 2011
------------------------------------	---------------------	-------------------------

John Jones discussed the concept of community circulator service. This specific topic has been brought to the Summit Stage's attention due to the development of the Peninsula Area in Frisco. After limited discussion and general agreement that there is no additional money in the 2011 budget, the BOD requested John Jones to provide Summit Stage historic information that would be utilized to understand how the Summit Stage Transportation System has evolved to the present day service plan.

Breckenridge representation reiterated that it would be beneficial for the BOD to understand the original goals and intent of the county transportation service before considering any additional new service areas or routes.

Additionally, John Jones presented a draft proposal of the Summer Service schedule. The one significant change that was presented was that the Summit Stage and the Breckenridge Free Ride were finalizing an IGA to contract the Summit Stage Boreas Pass route as part of the summer service plan. Ensuing discussion/questions by the BOD resulted in postponing any final approval of summer service plan and IGA until more information is provided at the February 16th meeting*.

The BOD has requested both the Summit Stage and the Breckenridge Free Ride provide specific information regarding any changes over current service. Final approval of summer service plan will be voted on at the above meeting date. As part of the summer service plan, an additional route was discussed as the Frisco-Breckenridge Limited route. This limited "stop" route will run on a 30 min service vs. current 40 minutes. Due to ridership and budget questions/concerns this service will be postponed for startup as part of the winter service plan.

Total Ridership for November: decrease of 11.69% under 2009. Para transit Ridership for November: an increase of 12.11% over 2009. Late night Ridership for November: decrease of 8.97% under 2009. Lake County (Contracted Route) Ridership – 463 riders, for the year 2,564 riders. Tax Collections for Oct. 2010 to date was up 1.9% or \$6,526.00 Tax Collection to date for 2010 up 0.8% or \$45,614.00

*This meeting date has been rescheduled from original date of February 23.

<u>Committees</u>	<u>Representative</u>	<u>Report Status</u>
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	No Meeting/Report
Public Art Commission*	Jenn Cram	No Meeting/Report
Summit Stage Advisory Board*	James Phelps	Included
Police Advisory Committee	Rick Holman	No Meeting/Report
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.

**TOWN OF BRECKENRIDGE
TAXABLE SALES ANALYSIS BY BUSINESS SECTOR**

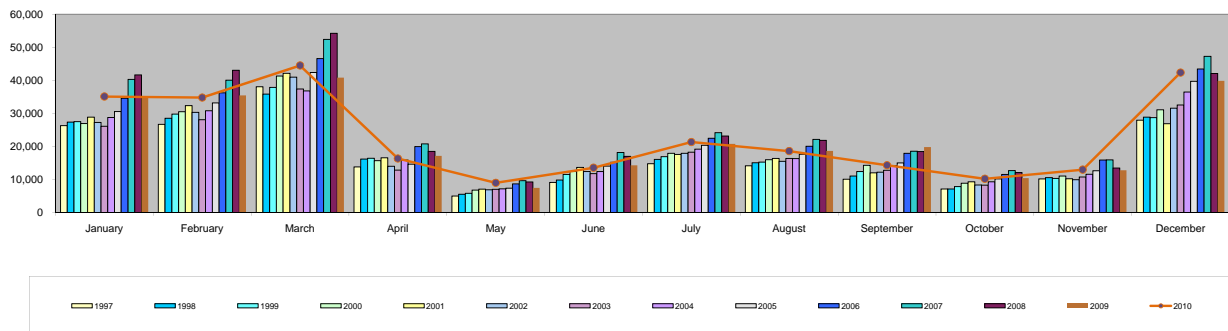
(in Thousands of Dollars)

Total - All Categories*

* excluding Undefined and Utilities categories

	Actual 1997	Actual 1998	Actual 1999	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Monthly 09-10	YTD 2009	YTD 2010	YTD % Change 09-10
January	26,315	27,355	27,490	26,938	28,887	27,264	26,117	28,764	30,549	34,589	40,283	41,665	34,783	35,105	0.9%	34,783	35,105	0.9%
February	26,667	28,510	29,777	30,510	32,350	30,295	28,093	30,808	33,171	36,236	40,034	43,052	35,453	34,791	-1.9%	70,236	69,896	-0.5%
March	38,037	35,824	37,843	41,307	42,120	40,962	37,377	36,807	42,370	46,603	52,390	54,237	40,810	44,485	9.0%	111,046	114,381	3.0%
April	13,809	16,196	16,407	15,702	16,565	13,982	12,868	15,894	14,635	19,963	20,758	18,483	17,171	16,346	-4.8%	128,217	130,727	2.0%
May	5,024	5,530	5,822	6,816	7,107	6,914	7,028	7,179	7,355	8,661	9,629	9,251	7,475	8,999	20.4%	135,692	139,726	3.0%
June	9,093	9,826	11,561	12,400	13,676	12,426	11,774	12,395	14,043	15,209	18,166	16,988	14,286	13,557	-5.1%	149,978	153,283	2.2%
July	14,791	16,080	16,899	17,949	17,575	17,909	18,273	19,208	20,366	22,498	24,168	23,160	20,788	21,346	2.7%	170,766	174,629	2.3%
August	14,145	15,077	15,253	15,994	16,389	15,508	16,362	16,326	17,625	20,071	22,125	21,845	18,656	18,603	-0.3%	189,422	193,232	2.0%
September	10,099	11,033	12,427	14,310	12,002	12,224	12,778	14,261	15,020	17,912	18,560	18,481	19,806	14,320	-27.7%	209,228	207,552	-0.8%
October	7,120	7,132	7,880	8,876	9,289	8,323	8,311	9,306	10,170	11,544	12,687	12,120	10,410	10,226	-1.8%	219,638	217,778	-0.8%
November	10,173	10,588	10,340	11,069	10,211	9,942	10,780	11,604	12,647	15,877	15,943	13,483	12,809	12,985	1.4%	232,447	230,763	-0.7%
December	27,965	28,845	28,736	31,107	26,870	31,564	32,525	36,482	39,687	43,431	47,258	42,076	39,859	42,343	6.2%	272,306	273,106	0.3%
Totals	203,238	211,996	220,435	232,978	233,041	227,313	222,286	239,034	257,638	292,594	322,001	314,841	272,306	273,106				

2010 Monthly Sales Tax Activity (in thousands of dollars)



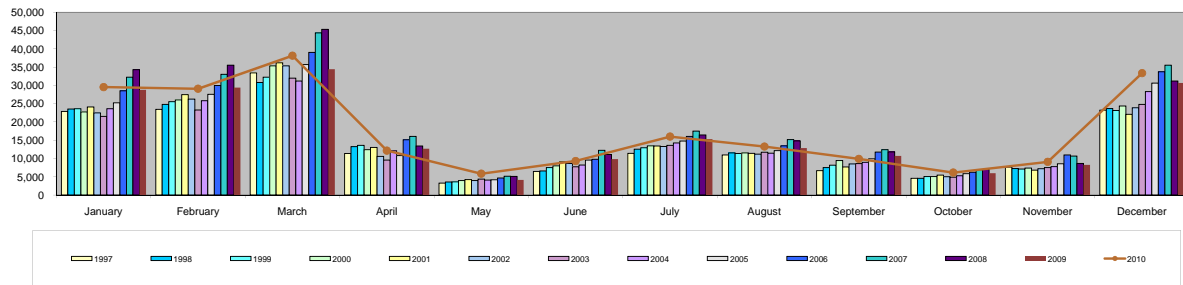
**TOWN OF BRECKENRIDGE
TAXABLE SALES ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Retail-Restaurant-Lodging Summary

	Actual 1997	Actual 1998	Actual 1999	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Monthly 09-10	YTD 2009	YTD 2010	YTD % Change 09-10
January	22,893	23,523	23,629	22,723	24,118	22,465	21,509	23,620	25,240	28,528	32,258	34,290	28,802	29,538	2.6%	28,802	29,538	2.6%
February	23,443	24,805	25,532	26,044	27,464	26,258	23,253	25,826	27,553	29,972	33,039	35,511	29,401	29,090	-1.1%	58,203	58,628	0.7%
March	33,414	30,809	32,254	35,348	36,196	35,344	31,988	31,209	35,705	39,051	44,390	45,338	34,428	38,136	10.8%	92,631	96,764	4.5%
April	11,347	13,256	13,579	12,426	13,029	10,587	9,562	12,102	10,773	15,134	16,025	13,410	12,653	12,154	-3.9%	105,284	108,918	3.5%
May	3,264	3,565	3,610	3,949	4,203	3,950	4,331	4,095	4,179	4,647	5,146	5,111	4,125	5,836	41.5%	109,409	114,754	4.9%
June	6,451	6,588	7,513	8,001	9,058	8,619	7,724	8,217	9,568	9,789	12,225	11,112	9,829	9,302	-5.4%	119,238	124,056	4.0%
July	11,405	12,527	12,944	13,464	13,406	13,292	13,590	14,248	14,766	16,038	17,499	16,446	15,305	15,993	4.5%	134,543	140,049	4.1%
August	10,981	11,517	11,352	11,542	11,407	11,174	11,717	11,429	12,122	13,446	15,167	14,815	12,859	13,261	3.1%	147,402	153,310	4.0%
September	6,687	7,492	8,160	9,443	7,666	8,513	8,599	8,940	9,897	11,761	12,418	11,794	10,705	9,894	-7.6%	158,107	163,204	3.2%
October	4,560	4,578	5,049	5,054	5,425	4,991	4,855	5,257	5,824	6,248	6,934	6,977	5,986	6,143	2.6%	164,093	169,347	3.2%
November	7,617	7,255	7,122	7,352	6,816	7,174	7,511	7,771	8,557	10,963	10,650	8,637	8,234	9,068	10.1%	172,327	178,415	3.5%
December	23,219	23,650	23,124	24,361	22,090	23,901	24,818	28,314	30,619	33,736	35,517	31,211	30,667	33,363	8.8%	202,994	211,778	4.3%
Totals	165,281	169,565	173,868	179,707	180,878	176,268	169,457	181,028	194,803	219,313	241,268	234,652	202,994	211,778				

2010 Monthly Sales Tax Activity (in thousands of dollars)



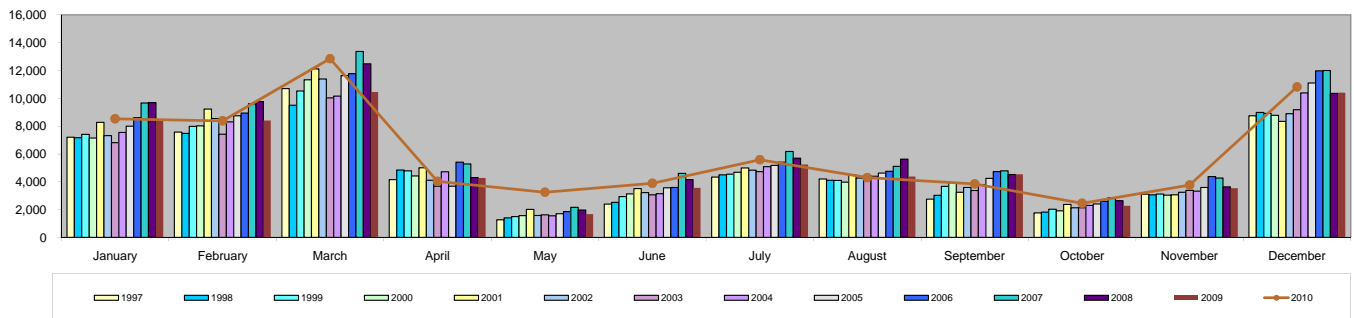
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Retail Sales

	Actual 1997	Actual 1998	Actual 1999	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Monthly 09-10	Actual 2009	Actual 2010	YTD 09-10
January	7,205	7,173	7,411	7,149	8,271	7,320	6,807	7,545	8,001	8,607	9,665	9,684	8,430	8,530	1.2%	8,430	8,530	1.2%
February	7,568	7,474	7,983	8,024	9,231	8,549	7,418	8,312	8,744	8,942	9,607	9,763	8,401	8,378	-0.3%	16,831	16,908	0.5%
March	10,702	9,507	10,525	11,337	12,116	11,390	10,028	10,162	11,632	11,774	13,373	12,479	10,449	12,851	23.0%	27,280	29,759	9.1%
April	4,156	4,841	4,789	4,423	5,008	4,105	3,679	4,714	3,678	5,406	5,287	4,301	4,274	4,032	-5.7%	31,554	33,791	7.1%
May	1,272	1,408	1,492	1,569	2,014	1,583	1,626	1,549	1,708	1,858	2,165	1,965	1,675	3,251	94.1%	33,229	37,042	11.5%
June	2,391	2,521	2,931	3,135	3,514	3,227	3,062	3,140	3,565	3,589	4,597	4,153	3,558	3,895	9.5%	36,787	40,937	11.3%
July	4,336	4,499	4,543	4,678	4,998	4,838	4,732	5,087	5,174	5,403	6,176	5,700	5,240	5,582	6.5%	42,027	46,519	10.7%
August	4,199	4,109	4,100	3,973	4,492	4,269	4,429	4,397	4,620	4,757	5,110	5,631	4,384	4,302	-1.9%	46,411	50,821	9.5%
September	2,753	3,021	3,671	3,944	3,242	3,587	3,370	3,781	4,249	4,726	4,783	4,527	4,536	3,848	-15.2%	50,947	54,669	7.3%
October	1,759	1,815	2,024	1,908	2,374	2,132	2,127	2,298	2,404	2,591	2,866	2,635	2,277	2,453	7.7%	53,224	57,122	7.3%
November	3,108	3,060	3,124	3,041	3,057	3,249	3,378	3,326	3,586	4,376	4,267	3,641	3,540	3,764	6.3%	56,764	60,886	7.3%
December	8,746	8,985	8,919	8,782	8,338	8,893	9,184	10,388	11,099	11,971	12,000	10,358	10,403	10,824	4.0%	67,167	71,710	6.8%
Totals	58,195	58,413	61,512	61,963	66,655	63,142	59,840	64,699	68,460	74,000	79,896	74,837	67,167	71,710				

2010 Monthly Sales Tax Activity (in thousands of dollars)



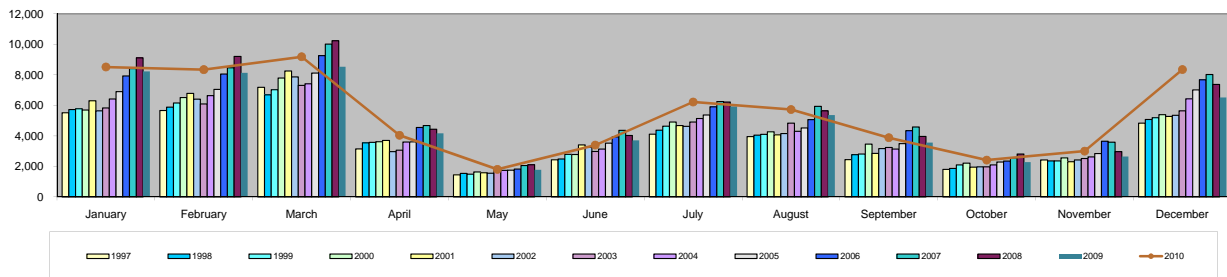
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Restaurants/Bars

	Actual 1997	Actual 1998	Actual 1999	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Monthly 09-10	Actual 2009	Actual 2010	YTD 09-10
January	5,515	5,723	5,784	5,697	6,300	5,644	5,835	6,425	6,897	7,924	8,414	9,117	8,231	8,515	3.5%	8,231	8,515	3.5%
February	5,667	5,880	6,162	6,519	6,783	6,412	6,092	6,637	7,047	8,058	8,467	9,208	8,129	8,343	2.6%	16,360	16,858	3.0%
March	7,180	6,688	7,031	7,792	8,258	7,870	7,307	7,413	8,117	9,256	10,015	10,240	8,527	9,186	7.7%	24,887	26,044	4.6%
April	3,149	3,548	3,576	3,624	3,706	2,967	3,068	3,595	3,609	4,552	4,678	4,440	4,173	4,042	-3.1%	29,060	30,086	3.5%
May	1,454	1,541	1,492	1,641	1,590	1,561	1,808	1,746	1,760	1,832	2,058	2,107	1,783	1,812	1.6%	30,843	31,898	3.4%
June	2,437	2,488	2,796	2,779	3,413	3,257	2,982	3,136	3,525	3,938	4,370	4,030	3,712	3,397	-8.5%	34,555	35,295	2.1%
July	4,113	4,380	4,639	4,910	4,675	4,632	4,913	5,138	5,375	5,905	6,249	6,218	5,931	6,222	4.9%	40,486	41,517	2.5%
August	3,953	4,056	4,106	4,270	4,068	4,156	4,832	4,302	4,521	5,067	5,933	5,639	5,365	5,729	6.8%	45,851	47,246	3.0%
September	2,452	2,770	2,814	3,468	2,860	3,169	3,249	3,138	3,498	4,340	4,585	3,971	3,565	3,883	8.9%	49,416	51,129	3.5%
October	1,807	1,870	2,097	2,220	1,959	1,977	1,978	2,100	2,290	2,352	2,564	2,818	2,285	2,420	5.9%	51,701	53,549	3.6%
November	2,428	2,364	2,367	2,558	2,307	2,425	2,520	2,624	2,841	3,651	3,593	2,972	2,649	3,006	13.5%	54,350	56,555	4.1%
December	4,834	5,076	5,191	5,393	5,275	5,354	5,646	6,428	7,017	7,681	8,028	7,371	6,524	8,351	28.0%	60,874	64,906	6.6%
Totals	44,989	46,384	48,055	50,871	51,194	49,424	50,230	52,682	56,497	64,556	68,954	68,131	60,874	64,906				

2010 Monthly Sales Tax Activity (in thousands of dollars)



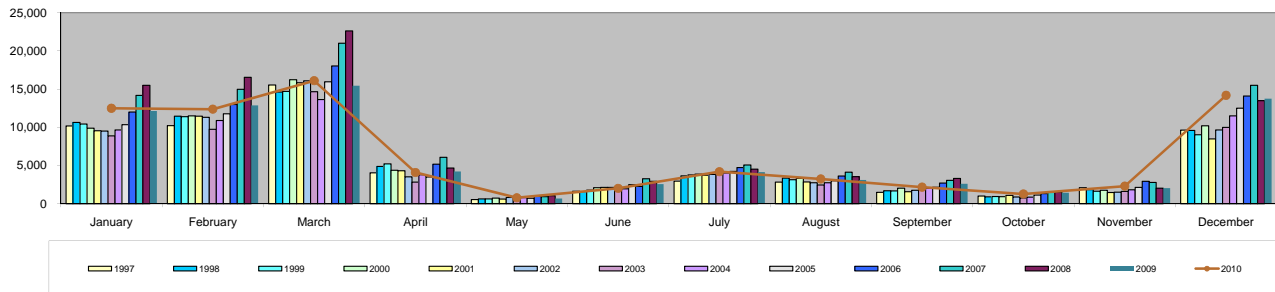
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Short-Term Lodging

	Actual 1997	Actual 1998	Actual 1999	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Monthly 09-10	Actual 2009	Actual 2010	YTD 09-10
January	10,173	10,627	10,434	9,877	9,547	9,501	8,867	9,650	10,342	11,997	14,179	15,489	12,141	12,493	2.9%	12,141	12,493	2.9%
February	10,208	11,451	11,387	11,501	11,450	11,297	9,743	10,877	11,762	12,972	14,965	16,540	12,871	12,369	-3.9%	25,012	24,862	-0.6%
March	15,532	14,614	14,698	16,219	15,822	16,084	14,653	13,634	15,956	18,021	21,002	22,619	15,452	16,099	4.2%	40,464	40,961	1.2%
April	4,042	4,867	5,214	4,379	4,315	3,515	2,815	3,793	3,486	5,176	6,060	4,669	4,206	4,080	-3.0%	44,670	45,041	0.8%
May	538	616	626	739	599	806	897	800	711	957	923	1,039	667	773	15.9%	45,337	45,814	1.1%
June	1,623	1,579	1,786	2,087	2,131	2,135	1,680	1,941	2,478	2,262	3,258	2,929	2,559	2,010	-21.5%	47,896	47,824	-0.2%
July	2,956	3,648	3,762	3,876	3,733	3,822	3,945	4,023	4,217	4,730	5,074	4,528	4,134	4,189	1.3%	52,030	52,013	0.0%
August	2,829	3,352	3,146	3,299	2,847	2,749	2,456	2,730	2,981	3,622	4,124	3,545	3,110	3,230	3.9%	55,140	55,243	0.2%
September	1,482	1,701	1,675	2,031	1,564	1,757	1,980	2,021	2,150	2,695	3,050	3,296	2,604	2,163	-16.9%	57,744	57,406	-0.6%
October	994	893	928	926	1,092	882	750	859	1,130	1,305	1,504	1,524	1,424	1,270	-10.8%	59,168	58,676	-0.8%
November	2,081	1,831	1,631	1,753	1,452	1,500	1,613	1,821	2,130	2,936	2,790	2,024	2,045	2,298	12.4%	61,213	60,974	-0.4%
December	9,639	9,589	9,014	10,186	8,477	9,654	9,988	11,498	12,503	14,084	15,489	13,482	13,740	14,188	3.3%	74,953	75,162	0.3%
Totals	62,097	64,768	64,301	66,873	63,029	63,702	59,387	63,647	69,846	80,757	92,418	91,684	74,953	75,162				

2010 Monthly Sales Tax Activity (in thousands of dollars)



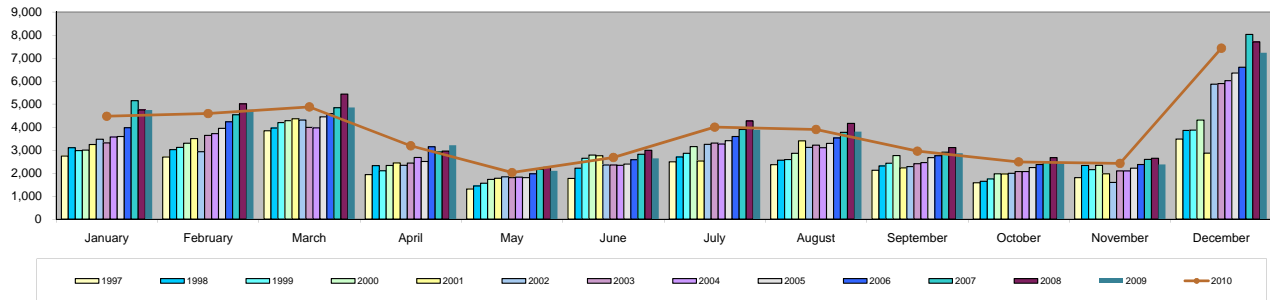
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Grocery/Liquor Stores

	Actual 1997	Actual 1998	Actual 1999	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Monthly 09-10	Actual 2009	Actual 2010	YTD 09-10
January	2,746	3,104	2,977	2,999	3,242	3,472	3,314	3,570	3,589	3,977	5,149	4,744	4,741	4,472	-5.7%	4,741	4,472	-5.7%
February	2,702	3,020	3,119	3,296	3,501	2,931	3,643	3,714	3,949	4,233	4,536	5,009	4,755	4,590	-3.5%	9,496	9,062	-4.6%
March	3,839	3,960	4,199	4,282	4,366	4,311	3,988	3,968	4,449	4,585	4,844	5,436	4,852	4,877	0.5%	14,348	13,939	-2.9%
April	1,937	2,325	2,105	2,330	2,441	2,336	2,437	2,682	2,503	3,149	2,920	2,959	3,213	3,186	-0.8%	17,561	17,125	-2.5%
May	1,309	1,440	1,558	1,728	1,779	1,836	1,801	1,823	1,806	1,969	2,169	2,246	2,100	2,024	-3.6%	19,661	19,149	-2.6%
June	1,772	2,214	2,648	2,784	2,760	2,352	2,354	2,341	2,392	2,584	2,822	2,990	2,643	2,682	1.5%	22,304	21,831	-2.1%
July	2,494	2,701	2,862	3,152	2,527	3,253	3,303	3,266	3,414	3,588	3,899	4,264	3,881	3,999	3.0%	26,185	25,830	-1.4%
August	2,364	2,559	2,587	2,861	3,404	3,117	3,216	3,103	3,292	3,529	3,771	4,161	3,807	3,896	2.3%	29,992	29,726	-0.9%
September	2,122	2,311	2,430	2,765	2,231	2,284	2,409	2,456	2,671	2,757	2,908	3,113	2,864	2,955	3.2%	32,856	32,681	-0.5%
October	1,584	1,644	1,748	1,969	1,965	1,990	2,066	2,069	2,239	2,372	2,494	2,673	2,408	2,488	3.3%	35,264	35,169	-0.3%
November	1,804	2,330	2,152	2,339	1,970	1,597	2,096	2,096	2,214	2,377	2,600	2,647	2,379	2,422	1.8%	37,643	37,591	-0.1%
December	3,477	3,858	3,869	4,305	2,865	5,868	5,897	6,017	6,356	6,604	8,028	7,705	7,234	7,432	2.7%	44,877	45,023	0.3%
Totals	28,150	31,466	32,254	34,810	33,051	35,347	36,524	37,105	38,874	41,724	46,140	47,947	44,877	45,023				

2010 Monthly Sales Tax Activity (in thousands of dollars)



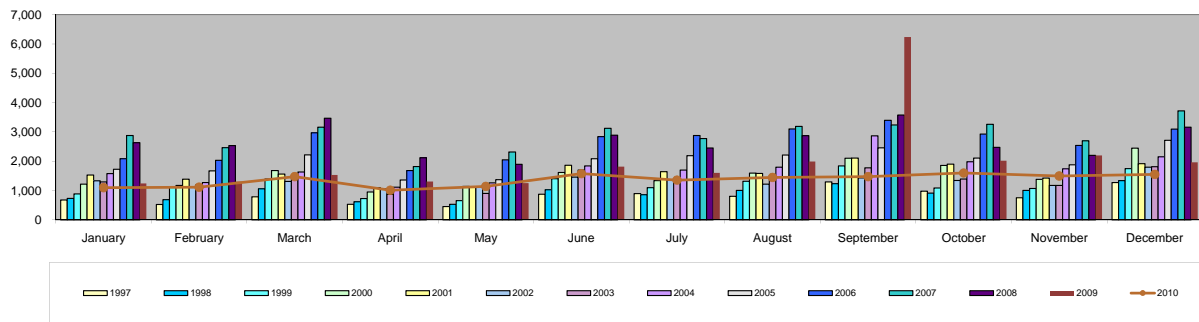
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Supplies

	Actual 1997	Actual 1998	Actual 1999	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Monthly 09-10	Actual 2009	Actual 2010	YTD 09-10
January	676	728	884	1,216	1,527	1,327	1,294	1,574	1,720	2,084	2,876	2,631	1,240	1,095	-11.7%	1,240	1,095	-11.7%
February	522	685	1,126	1,170	1,385	1,106	1,197	1,268	1,669	2,031	2,459	2,532	1,297	1,111	-14.3%	2,537	2,206	-13.0%
March	784	1,055	1,390	1,677	1,558	1,307	1,401	1,630	2,216	2,967	3,156	3,463	1,530	1,472	-3.8%	4,067	3,678	-9.6%
April	525	615	723	946	1,095	1,059	869	1,110	1,359	1,680	1,813	2,114	1,305	1,006	-22.9%	5,372	4,684	-12.8%
May	451	525	654	1,139	1,125	1,128	896	1,261	1,370	2,045	2,314	1,894	1,250	1,139	-8.9%	6,622	5,823	-12.1%
June	870	1,024	1,400	1,615	1,858	1,455	1,696	1,837	2,083	2,836	3,119	2,886	1,814	1,573	-13.3%	8,436	7,396	-12.3%
July	892	852	1,093	1,333	1,642	1,364	1,380	1,694	2,186	2,872	2,770	2,450	1,602	1,354	-15.5%	10,038	8,750	-12.8%
August	800	1,001	1,314	1,591	1,578	1,217	1,429	1,794	2,211	3,096	3,187	2,869	1,990	1,446	-27.3%	12,028	10,196	-15.2%
September	1,290	1,230	1,837	2,102	2,105	1,427	1,770	2,865	2,452	3,394	3,234	3,574	6,237	1,471	-76.4%	18,265	11,667	-36.1%
October	976	910	1,083	1,853	1,899	1,342	1,390	1,980	2,107	2,924	3,259	2,470	2,016	1,595	-20.9%	20,281	13,262	-34.6%
November	752	1,003	1,066	1,378	1,425	1,171	1,173	1,737	1,876	2,537	2,693	2,199	2,196	1,495	-31.9%	22,477	14,757	-34.3%
December	1,269	1,337	1,743	2,441	1,915	1,795	1,810	2,151	2,712	3,091	3,713	3,160	1,958	1,548	-20.9%	24,435	16,305	-33.3%
Totals	9,807	10,965	14,313	18,461	19,112	15,698	16,305	20,901	23,961	31,557	34,593	32,242	24,435	16,305				

2010 Monthly Sales Tax Activity (in thousands of dollars)



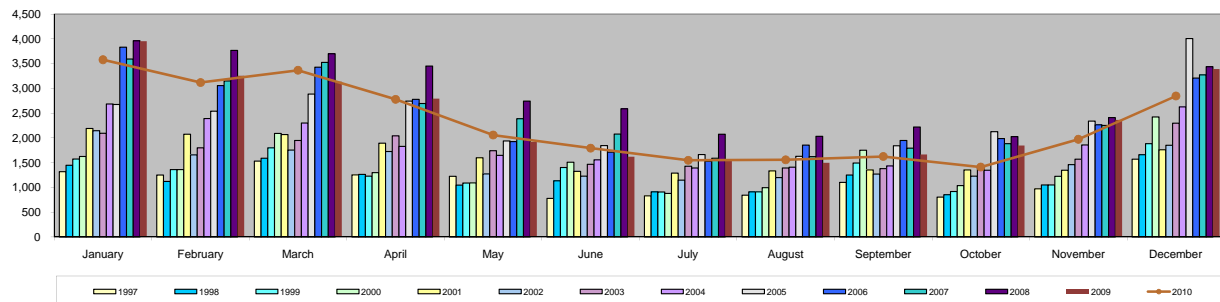
**TOWN OF BRECKENRIDGE
TAXABLE REVENUE ANALYSIS BY BUSINESS SECTOR**

(in Thousands of Dollars)

Utilities

	Actual 1997	Actual 1998	Actual 1999	Actual 2000	Actual 2001	Actual 2002	Actual 2003	Actual 2004	Actual 2005	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Monthly 09-10	Actual 2009	Actual 2010	YTD 09-10
January	1,320	1,446	1,575	1,625	2,191	2,144	2,093	2,684	2,675	3,829	3,591	3,961	3,950	3,577	-9.4%	3,950	3,577	-9.4%
February	1,250	1,121	1,360	1,359	2,075	1,659	1,800	2,391	2,540	3,056	3,149	3,765	3,253	3,118	-4.2%	7,203	6,695	-7.1%
March	1,533	1,591	1,799	2,090	2,067	1,754	1,947	2,299	2,883	3,428	3,525	3,699	3,134	3,365	7.4%	10,337	10,060	-2.7%
April	1,255	1,262	1,227	1,299	1,894	1,724	2,040	1,827	2,741	2,778	2,694	3,448	2,792	2,779	-0.5%	13,129	12,839	-2.2%
May	1,226	1,047	1,089	1,091	1,599	1,272	1,740	1,647	1,939	1,926	2,386	2,742	1,917	2,057	7.3%	15,046	14,896	-1.0%
June	780	1,133	1,402	1,510	1,325	1,228	1,466	1,558	1,846	1,713	2,078	2,588	1,620	1,793	10.7%	16,666	16,689	0.1%
July	830	913	907	880	1,289	1,147	1,427	1,394	1,663	1,529	1,588	2,075	1,539	1,548	0.6%	18,205	18,237	0.2%
August	844	910	913	994	1,336	1,198	1,393	1,408	1,629	1,854	1,621	2,031	1,497	1,558	4.1%	19,702	19,795	0.5%
September	1,103	1,249	1,494	1,752	1,354	1,271	1,381	1,435	1,843	1,949	1,792	2,219	1,667	1,625	-2.5%	21,369	21,420	0.2%
October	804	854	917	1,039	1,353	1,227	1,429	1,348	2,127	1,987	1,883	2,026	1,845	1,412	-23.5%	23,214	22,832	-1.6%
November	974	1,049	1,052	1,225	1,348	1,461	1,569	1,856	2,340	2,264	2,251	2,411	2,364	1,972	-16.6%	25,578	24,804	-3.0%
December	1,570	1,661	1,885	2,423	1,760	1,852	2,297	2,627	4,005	3,206	3,271	3,435	3,389	2,845	-16.1%	28,967	27,649	-4.6%
Totals	13,489	14,236	15,620	17,287	19,591	17,937	20,582	22,474	28,231	29,519	29,829	34,400	28,967	27,649				

2010 Monthly Sales Tax Activity (in thousands of dollars)





MEMORANDUM

TO: Town Council

FROM: Michael Mosher and Chris Neubecker

DATE: January 18, 2011 for the February 8, 2011 Worksession

SUBJECT: Free Basement Density under Historic Commercial Buildings

As an incentive to encourage the preservation, restoration, and rehabilitation of historic structures in Town, Absolute Policy 3, Density/Intensity was amended to waive the density calculations in the new basement of such buildings if they were locally landmarked. Residential historic structures are allowed any residential use in the basement while commercial structures are allowed only storage in the basement. All other impacts from this 'free' density would still be applicable. These impacts include any additional parking requirements, water tap fees, and other related impacts.

The intent of this memo is to discuss changing the policy to allow other functions/uses in the basement of historic commercial buildings as an incentive for restoration/preservation. Also, we would like to discuss if the Council might support adding any other incentives to offset the related density impacts. This proposal has been presented to the Planning Commission on three separate occasions, most recently on September 7, 2010. Summarizing, the planning concerns and thoughts expressed by some Commission members were:

1. Concerns about possible bandit uses other than what would be approved.
2. General support to allow the basement density for support functions of the space above. Example - office/storage/restrooms/kitchen/etc
3. Concerns about additional parking impacts to Main Street.
4. Source of the "free" density. Is it "free" or waived as it is in the current policy, paid for by applicant from TDR bank, or would the Town provide density?
5. Three different scenarios for uses - storage, supporting uses for the retail, and separate retail. Each could be treated differently.
6. Preservation, restoration, rehabilitation of existing historic structures is the primary goal.
7. Town Council to address possible incentives that involve costs both to applicant and Town.
8. Maintain existing commercial use, or would we allow residential in basement?
9. Use available density on property, if any, before awarding "free" density.

The current section of the Code related to this subject reads:

Policy 3(Absolute) Density/Intensity; C. General Provisions, Commercial:

Density shall be calculated by adding the total square footage of each floor of the building. Except as provided below, this shall include any basement areas or storage areas, no matter

what the proposed use shall be, and shall be measured from the outside of the exterior walls. Exceptions: a) any portion of a basement area of a "town designated landmark" as defined in chapter 11 of this title, which is: 1) located directly underneath the existing building, 2) completely or partially buried below grade, and 3) properly restricted to use as storage for tenants or occupants of the building, shall not be counted toward allowed density for such building so long as the historic USGS floor elevation of the building is maintained; and b) any underground portion of a building which is used to provide required or approved parking for the project. (Highlight added.)

One of the original reasons that this policy did not allow for support or leasable space in the basements of historic commercial structures was that commercial uses could create more intensity and site impacts (e.g. parking). However, at this point, Staff feels that these concerns need to be balanced with the Town's desire for the restoration of historic commercial buildings.

Even if other uses besides storage were allowed, some property owners have expressed concerns that they cannot afford the costs associated with parking, water taps, and TDRs in addition to the building costs associated with a full basement beneath the historic structure. Using the space solely for storage is not always financially viable considering the high costs of constructing the space.

One concern raised at a Planning Commission worksession was the impact of added parking to the Service Area and resulting impacts to the core downtown parking. Below are the percentages from the peak winter parking occupancies from 2007 to 2009. This shows that not all existing parking was being utilized to full capacity.

2007/2008 & 2008/2009 Winter Season	
Average Daily Occupancy	64%
Single Day Peak Occupancy	84%

Build out Winter Season	
Average Daily Occupancy	79%
Single Day Peak Occupancy	103%

Parking Lots included in the survey above: Barney Ford; CMC North; CMC South; Courthouse; East Sawmill ; Exchange, Lower Outdoor; Exchange, Lower Structure; Exchange, Upper; F-Lot; French St.; Ice House; Ice Rink; Klack Placer; Tiger Dredge; Tonopah; Wellington.

The attached spreadsheet lists 18 existing historic commercial properties primarily located on Main Street or Ridge Street and the impacts that could be incurred if every basement were built. The impacts are associated with commercial/retail uses and restaurant uses.

Summarizing the pros and cons of this proposal:

The benefits:

1. Additional historic preservation/rehabilitation.
2. Locally landmarking additional historic structures.
3. An increase in economic vitality for the Town.
4. More efficient use of the main level floor area for the patron's needs (additional retail space / increasing restaurant seating).

The possible impacts:

1. Increase in parking requirements. The parking requirements, for the most part, could be addressed via the Parking Service Area and additional fees to be paid (where eligible).
2. May increase vehicular and pedestrian activity.

3. The added density would be beneath the historic structure only, maintaining the footprint. However, the added circulation needs from new basements could impact the historic character of the property.
4. May create negative site impacts.
5. In some cases (if the basement is large enough), egress doors/windows may be required in basements. In the past the Town has approved egress window-wells if placed behind the primary façade with proper landscaped screening.

Is the Council supportive of providing additional incentives for restoration of historic commercial properties for adaptive re-use and long term preservation? Possible incentives may include:

- Waive or reduce water Plant Investment Fees (PIFs)
- Waive or reduce parking requirements or provide an option to be included in the Parking Service area at a reduced cost.
- The Development Code exempts density beneath locally landmarked historic buildings. Recently the Town has proposed providing density (from Town-owned density pool) for workforce housing. The total density associated with the 18 example commercial buildings in the report is 27.88 SFEs. Would the Council support sun-setting density from Town-owned property to make up for the basements of locally landmarked commercial buildings?

If the Council is supportive of any incentives, Staff would like direction on which option(s) to pursue.

MEMO

TO: Town Council
FROM: Chris Neubecker
RE: Temporary Vendor Carts (Policy 36/Absolute)
DATE: February 2, 2011

The use of temporary vendor carts for the selling of food and beverages has become a very hot topic recently. Based on concerns about the form and location of some vendor carts that have been recently proposed, the Council directed staff to research changes to the current Town policies on temporary vendor carts. Following is the current Development Code policy on vendor carts:

C. Temporary Vendor Carts: Temporary vendor carts may be allowed when they meet the following criteria:

(1) They provide no service other than the sale of food or beverages in a form suited for immediate consumption.

(2) They are located entirely on private property, or on public property specifically designated for vending by the town.

(3) They are no greater than one hundred (100) square feet in size.

(4) They provide a positive impact upon the community, as determined by an evaluation of the application against all relevant policies of the development code. These will include, but not be limited to, aesthetics, site design, architectural compatibility, etc.

D. Transient Vendor Carts: Vendor carts, wagons, booths, etc., that do not meet the criteria and definition of a temporary structure or temporary vendor cart shall only be allowed for special events sponsored by the town, the Breckenridge resort chamber, or as approved by the town. (Ord. 19, Series 1988)

Following are the code definitions for both Temporary Vendor Carts and Transient Vendor Carts:

TEMPORARY VENDOR CART: A structure of less than one hundred (100) square feet in size in the form of a wagon, cart, booth or other similar structure, intended for the sale of goods and services on a temporary basis for a period of time of not less than four (4) days nor more than three (3) years.

TRANSIENT VENDOR CART: A structure in the form of a wagon, cart, booth, etc., intended for the sale of goods and services on a temporary basis for a period of time of less than four (4) days, and usually associated with a special event. (Ord. 19, Series 1988)

In addition to requests for temporary vendor carts, Staff has received inquiries into the use of food trucks. So far we have allowed food trucks on private property, but not on public property. The vendors that have been approved operate primarily at active construction sites. (Some vendors have requested to operate late in the evening in the downtown core to cater to bar patrons.) We have heard opposition from the Town Council and Planning Commission about vendor trucks on public property, and so this memo will focus primarily on temporary vendor carts on private property.

Staff presented this topic to the Commission on November 16, 2010 and January 18, 2010. This memo will discuss possible changes that are needed to the Town's current policy on temporary vendor carts. (At this time, no changes are proposed to transient vendor carts, which are usually in town for only a few days as part of a special event.)

Concerns with Current Policy on Temporary Vendor Carts

Some of the concerns on the use of temporary vendor carts include the aesthetics, location, size, form, use of density and tap fees (water and sewer), and parking requirements. By definition, these vendor carts are temporary, as they are permitted for a maximum of three years. (Permits can be renewed if the project is still in compliance with codes in effect at the time.) Since they are temporary, questions arise about the level of investment and regulation that should be required.

Density: Historically, the Town has not counted vendor carts as density. This may stem back to a time when the carts were much smaller, similar to a hot dog push cart, or a small popcorn cart. In those cases, carts could be moved easily, the carts were relatively small, and the operator was outside the cart. Also, the definition of commercial density in the Development Code implies that there is a building. *"Density shall be calculated by adding the total square footage of each floor of the building. Except as provided below, this shall include any basement areas or storage areas, no matter what the proposed use shall be, and shall be measured from the outside of the exterior walls."* In cases where a vendor stands inside the cart or trailer (such as the Crêpes à la Cart, or Beaver Tails), the Commission and Staff believe density should be required.

Water Tap Fees: Should temporary vendors be required to pay water Plant Investment Fees (tap fees)? The Planning Commission indicated that due to their temporary use, these vendors should not be required to pay water tap fees. In most cases, vendor carts are not connected to the water system, although the minimal water used is coming from somewhere (in many cases, from a commissary which has already paid tap fees, or from the operator's residence), which could be inside or outside the town. The Commission indicated that if vendors operate from inside the cart or if carts are left in the same location overnight, then they should be treated like restaurants and pay water tap fees. Does the Council agree?

Parking: In the past, vendor carts have not been required to provide parking. All vendor carts provide food and beverages to people who are outside the cart, and there is no indoor seating provided for guests. These types of carts generally provide food to pedestrians who are already in town, and people do not generally drive to the carts. Theoretically, the space inside the cart (if counted as density) would count toward the required parking. Parking inside the Parking Service Area for restaurants is based on the gross floor area of the restaurant. Parking outside this area is based on indoor seating capacity.

Location: In all cases, temporary vendor carts are required to be on private property (unless the Town specifically designates vending locations on public property, which is not currently designated.) The location is reviewed by staff for circulation and access, but also for impacts to surrounding properties. For example, in the Historic District, carts should not be located in the front yard of a historic building, but carts have been allowed to the side or rear yards. Does the Council agree that these locations are appropriate? Are there other locations where vendor carts should be prohibited?

Historic District Standards: In the past, the Historic District Standards have not applied to temporary uses such as vendor carts. It could be extremely difficult to make vendor carts meet these standards, and the result could look very contrived. The Planning Commission agreed that the Historic District Standards should not apply to uses like temporary vendor carts.

Size: The current policy allows vendor carts up to 100 square feet. This is about the size of the Beaver Tails trailer (recently removed). This size is sufficient for most operators, although we have received requests to increase the allowed size, which would allow for greater variety and qualities of food. Alternately, if the size were reduced, it would reduce the visual impact of these carts on the community and perhaps result in less competition to local restaurants.

Form of Vendor Carts: The current policy allows temporary vendor carts in the form of a “wagon, cart, booth or similar structure”. Staff believes that allowing a “booth” encourages people to construct small buildings on their property, which result in less temporary-looking structures. While these structures can more easily be made to comply with the Historic District Standards (lap wood siding, steeply pitched roofs, etc.) they are less likely to be removed when not in operation, since they are less mobile. Requiring a cart to be mobile makes it easy to remove when no longer in operation. Staff proposes removing the term “booth” from this definition. This change is supported by the Commission. One idea is to require carts that are of “professional quality” or factory built, as opposed to a cart constructed in someone’s garage, but this requirement may be hard to enforce.

Aesthetics: Paragraph #4 of the current policy requires vendor carts to “... *provide a positive impact upon the community, as determined by an evaluation of the application against all relevant policies of the development code. These will include, but not be limited to, aesthetics, site design, architectural compatibility, etc.*” This seems to imply that vendor carts should meet the requirements of Policy 5 (Architectural Compatibility), but such policy is designed for permanent structures, and it is difficult to use such policy to review temporary uses. Staff believes that vendor carts should not be dilapidated and should be kept clean and in good

operating order, but reviewing such proposals on aesthetics is subjective and does not align well with the temporary nature of vendor carts.

Permit Type: Temporary vendor carts currently require Class D permits and are reviewed only by staff. Recently, due to Council and Commission concerns, we have elevated these permits to Class C applications which require Planning Commission approval. Staff believes that small carts (such as a hot dog cart) which have an operator outside the cart and can be removed each night should still be reviewed only by staff and valid for 1 year (Class D). We believe that larger carts (such as Beaver Tails) which remain in the same location overnight should be reviewed by the Planning Commission, and should be valid for 3 years (Class C), due to the additional investment.

Conclusion

It is clear that there are several issues that could be addressed relating to temporary vendor carts. In many cases in the past, these carts have not been a problem. But recently, some higher profile vendor carts have raised questions about the current policy. Staff has the following questions for the Council:

1. Should vendor carts be allowed at all? If there is a desire to prohibit these vendors, staff believes it makes sense to simply prohibit them rather than creating excessive regulations to discourage them.
2. Should vendor carts count as density?
3. Does the Council agree with staff that vendor carts should not be placed in front of historic structures? Are there other locations on private property that should be prohibited?
4. Should the Historic and Conservation District Standards apply to vendor carts inside these districts? Will this really lead to better/more attractive carts?
5. Does the current size limit of 100 square feet still make sense?
6. Does the Council agree that the word “booth” should be removed from the policy? What about a trailer?
7. Should the permit duration be changed?

We welcome Council input on these questions. We hope to come to some type of consensus on this issue, so that we can move forward with a first reading on an ordinance.

MEMO

TO: Town Council

FROM: Chris Neubecker

RE: Policy 5/R-Architectural Compatibility (Fiber Cement Siding)

DATE: February 1, 2011

The Town Council directed the staff to research the existing policy on the use of non-natural materials (such as fiber cement siding) outside the Conservation District.

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 the total of one elevation exceeds 25%. (Within the Conservation District this material is allowed if it is painted since it looks very similar to painted wood, which is the desired character inside the Conservation District.) Fiber-cement siding (such as Hardie board) can be designed to look like wood products, and the manufacturers claim that the material lasts longer, contains some recycled content, and is more fire resistant. As a result, many architects, developers and property owners prefer to use these products, rather than cedar or other wood products.

The Planning Commission reviewed changes to this policy during the meeting on November 16, 2010 and January 18, 2011. The Commission supported the removal or reduction in negative points. During the November 16th meeting, some Commissioners comments included:

- Fiber-cement siding is ok if it “looks like wood”.
- Ok only if there are other natural materials on the structure, such as wood trim, or a natural stone base.
- Assign negative points only when fiber-cement siding, and other non-natural materials, exceed 50% per elevation (rather than only 25%). Or consider reducing the amount of negative points. (This requirement was subsequently dropped at the January 18th meeting.)

At the January 18th meeting, the Commission generally supported the following amendment to Policy 5 (Relative) Architectural Compatibility (new language in **bold**):

Exterior building materials and colors should not unduly contrast with the site's background. The use of natural materials, such as logs, timbers, wood siding and stone, are strongly encouraged because they weather well and reflect the area's indigenous architecture. Brick is an acceptable building material on smaller building elements, provided an earth tone color is selected. Stucco is an acceptable building material so long as an earth tone color is selected, but its use is discouraged and negative points shall be assessed if the application exceeds twenty five percent (25%) on any elevation as measured from the bottom of the fascia board to finished grade. Such measurement shall include column elements, windows and chimneys, but shall not include decks and railing

elements. **Fiber-cement siding may be used without the assignment of negative points if the fiber-cement siding simulates wood grain, and if there are other natural materials on each elevation of the structure (such as wood trim or accents, or a natural stone base, as examples).** Roof materials should be nonreflective and blend into the site's backdrop as much as possible. Inappropriate exterior building materials include, but are not limited to, untextured exposed concrete, untextured or unfinished unit masonry, highly reflective glass, reflective metal roof, and unpainted aluminum window frames. This section applies only to areas outside of the historic district, but does not apply to the Cucumber Gulch overlay protection district (see policy 5 (absolute), subsection D, of this section).

We note that there was not unanimous support for the proposed change. One commissioner maintains concerns that this change could result in a change to our community character. There was also discussion on the use of transparent stain, solid body stain and paint outside of the Conservation District. Most commissioners wanted to allow either paint or stain, so no changes are currently proposed to such regulations.

This proposed language on fiber cement siding would still allow the assignment of negative points for fiber-cement siding that does not have a wood grain texture, or where no natural materials are proposed. Does the Council support this approach? If not, what changes are needed to gain your support?

Staff will be available during the meeting on Tuesday to answer questions.



MEMORANDUM

TO: Town Council
FROM: Open Space staff
DATE: February 8, 2011
SUBJECT: Breckenridge Nordic Center nighttime tours

Attached, please find the January 17th BOSAC minutes and a proposal from the Daytons to continue the nighttime snowshoe tours in Cucumber Gulch Preserve as they have operated for several years.

Also included are: 1) a brief memo from Dr. Christy Carello outlining her research pertaining wildlife impacts from nighttime winter use and 2) a recent article from the Summit Daily News promoting the nighttime tours.

At its January meeting, BOSAC discussed this topic at length with the Daytons and recommended allowing the Daytons to continue their nighttime operations with some limitations. Council requested a work session agenda item to discuss this topic.

Breckenridge Nordic Center Evening Operations

Mr. Reid provided an overview of the nighttime operations in Cucumber Gulch Preserve and the previous discussions that occurred with BOSAC and the Daytons, as the Breckenridge Nordic Center concessionaire.

Gene and Therese Dayton handed out some additional information regarding the nighttime adventure tours (copies attached below).

Gene Dayton: We had four nighttime groups booked in all of December. This is not an every night occurrence. Cancellations are common, unless people pay up front. We find few if any animal tracks in the open areas of the Gulch during winter. There is a pump house lift station right there, a gondola running after sundown this time of year, and much residential development. I don't think what we do is causing any impact to the animals of the gulch. There are very few animals that stick around year round. We see few large mammals except moose, who are recent comers, within the last five years or so. They are doing well. The heaviest wildlife activity we witness is in the northwest quadrant, which we stay out of. For these programs, we seek the open areas to see the nighttime sky. If it's cold, the animals are not active and don't come out. I don't see us causing an effect to the wildlife. We just found what we think is a moose kill from a mountain lion. The head has been removed from the moose, though. The large population of moose has eaten off of the available willows and food in the gulch. We typically see the moose tracks alongside the ski trails, not on them. I think the moose, with their long legs, prefer the unpacked snow.

Therese Dayton: The Town Recreation Department use to offer these same trips up until three years ago or so. We already have distributed the print (brochure) for these tours, and we also do website advertising. The concierges book the daytime tours only. We stay on groomed ski trails like Morning Glory and Gold Digger because it is too narrow on snowshoe trails for nighttime tours. We always have a guide and we stay on designated routes. These are private tours with one guide and a maximum of seven participants, and more typically one or two customers with the guide. We don't use headlamps so we can encourage night vision.

Ms. Merrill: What is the current growth rate of these tours per year?

Ms. Dayton: These are private tours only, so the group is smaller and more personal. The nighttime tours are not growing. Nighttime trips are smaller in size and shorter (1.5-2 hours). It provides a great service for our customers. It is quaint and small. The gondola is still running for most of the time we are out. We also see a lot of skiers after hours- regular users out with headlamps. We try to discourage them, but they choose to do what they will. We try to educate all of our customers about wildlife ethics and behavior. We have experienced guides and a knowledgeable staff. We also promote stewardship of the Preserve.

Ms. Andersen: The guides could also be trained by Dr. Carello to help with education of the users and promote environmental education and a stewardship ethic with the Gulch.

Mr. Yule: If this use continues, I would like to see limits on group size frequency. Human waste considerations are also my concern.

Ms. Dayton: It is a short tour. No one is encouraged to use the old outhouse.

Ms. Hunter: Is Josie's cabin open at night to anyone?

Ms. Dayton: Yes. We build a fire prior to the tour. There is no other use, at least that we have seen. It is not locked, nor do we think it needs to be.

Mr. Cospolich: How many guides are there? What are the daytime operation hours?

Ms. Dayton: There are two nighttime guides. The ski trails close at 4 pm. We leave the building at 5:15 or so and just run the occasional nighttime tour from there.

Mr. Dayton: There are groomers on ski area at night. The grooming we do below Ski Hill Road takes two hours. A lot of people are already skiing at night. We have offered the evening adventure tours for the last eight years and have built a good client base. Prior to that, we offered dinner/sleigh rides and other evening activities. This already represents a substantial reduction in amount of nighttime use that has occurred over the years. We do not use head lamps, as our focus is the nighttime sky and headlamps ruin your night vision. Weeknights are more popular, typically. Tuesday through Friday nights are the most popular sessions.

Ms. Dayton: We are also working with Council on a long term agreement to construct a new Nordic building and commit to operate the Nordic center for years to come. We feel that this is low impact and should be allowed to continue as it has for the past eight years.

Mr. Yule: I am comfortable with this programming continuing, but with strict conditions. Conditions: Tours to the cabin are OK. Tuesday through Friday nights are the permitted nights, with a four days per week maximum. The group size should be limited: no more than eight total participants, including the guide. I would also like to see some protocol for human waste disposal.

Mr. Hunter: I agree and would like to see Josie's cabin locked at nighttime when not being used. We also agreed to close the cabin entirely during the summer.

Mr. O'neil: I am alright with continuing the use as it has been. The group size limitation similar to summer makes sense. The impact sounds minimal.

Ms. Merrill: I agree with the others. I would like an update of how many people are booked on those tours. I would also like to see Dr. Carello review these limitations and approve them.

Mr. Cospolich: I think it makes sense. People should be able to visit this site. It helps get beginner users out there. A lock on the cabin makes sense to me. A timer lock might make it easier to manage.

Mr. Dayton: Thank you for the audience. Thanks for your support.

Staff reminded BOSAC and the audience that Town Council will be apprised of BOSAC's recommendation and make the final decision.

Here is the written description of what we are currently offering at the Breckenridge Nordic Center with Evening Snowshoe Adventures:

The Evening Ski & Snowshoe Adventures, depart anytime from 4 pm until 7 pm and never later. They last for 2 1/4 hours including time getting ready, outfitting for equipment and a briefing of the outing, the actual time on-snow and returning to the center at the end. The guided interpretive outings provide a great way to see the Breckenridge mountains and experience nature in the wintertime.

To answer some of your specific questions about the program:

The program has been the same for decades, a continuation of day programming to serve our guests by offering Ski Lessons with professionally trained Instructors and Snowshoe Adventures with Interpretive Guides.

Offered four times daily between the hours of 9 am and 4 pm, and Evening Snowshoe Adventures at dusk with start times on the hour from 4 pm - 7 pm.

Usually 2-5 people average in a Private or Private Group for 2 1/4 hours maximum. Offered nightly, from late November - early April annually, but booked once a week or less.

Hours of Evening Adventure operations are from 4-6 pm, 5-7 pm, 6-8 pm, or 7-9 pm depending upon the full moon and current weather conditions. The gondola is still running close to the times we go on outings and we are not out at nighttime ever. We try to catch the sunset over the Ten Mile Range, enjoy the moon rising and starlight.

We are on less than 2% of the Cucumber Gulch Preserve for most adventures. The groups are quiet and thoughtful about the wilderness and animals found there as they discuss the history of the area. Groups stay with a guide who knows the designated, mapped and marked trails and provide supervision while groups are on an outing.

Many of our adventurous and more athletic groups prefer go to the Peak 7 destination huts, that are located on the White River National Forest trail system above the Cucumber Gulch Preserve by 2 miles. When we do stay nearby the BNC we usually use the ski trails like Troll Forest on Shock Hill, the Beaver Meadows in the gulch or the Breck Ski Areas land on Morning Glory to avoid the snowshoe designated trails in the dark woods with tree branches at eye level OR we go up Morning glory and down the Hang Ten ski trail connecting with the Beaver meadows trail around to the Josie's Cabin. Most groups do take time to stop by the heated Josie's Cabin for an historic story and cup of hot cocoa carried in by thermos.

Hoping we can have a meaningful discussion, resolve any concerns, and continue with this valuable component of our Nordic Center programming. We appreciate your interest, effort, and continued dedication to the gulch and the trail system located there for Nordic skiers and Nature snowshoer's.

Thank you, Gene & Therese Dayton & Family - Operators
Breckenridge Nordic Center, LLC.

BRECKENRIDGE NORDIC SKI & SNOWSHOE ADVENTURE CENTER
1200 Ski Hill Road, Breckenridge, Colorado 80424
www.BreckenridgeNordic.com * 970-453-6855

Evening Snowshoe Adventures at the Breckenridge Nordic Center - January 2011

Traveling silently on snowshoes through the winter night of the Breckenridge Nordic Center, an Evening Snowshoe Adventure provides an unusual opportunity for visitors to experience a quieter side of our beautiful natural mountain environment.

On clear nights the stars are spectacular!

We do not use headlamps or flashlights, since they make it more difficult to see beyond the beam.

Orion is always prominent, and we point out the characteristics of the particular stars in that constellation, as well as, the Orion Nebula. The Pleiades, Ursa Major and its pointer stars to Polaris are of interest. We also discuss the characteristics of the Moon and its gravitational impact on the earth. The Milky Way galaxy arches overhead, and Interpretive Guides leading the outing try to present a three dimensional view, locating earth in the spiral arm of Orion.

On the ski trail above the wetland we talk about the spruce trees that have a short growing season at this altitude. We contrast the tall spruce ecosystem on the south side of the valley with the lodge pole pine that succeeded clear-cut logging, and are now being devastated by the Mountain Pine bark beetle.

We point out that the Cucumber Gulch Preserve watershed is protected and is characterized by beaver dams, several having active beavers. We discuss the food storage reason that beavers build dams, cutting trees and flooding trees, providing the aquatic environment.

If there is some twilight when we start at 5 or 6 pm, then we can see moose impact on aspen trees. Squirrels are ubiquitous. Fox tracks are fairly common near the groomed cross country ski trail route we take. Also snowshoe hare tracks, but a little less so. Other tracks that are seen occasionally include coyote, and moose.

On the edge of the gulch wetland, we point out the mining history of this land and the way that slag piles created open spaces in the forest. Under the BreckConnect Gondola on the east side of the wetland there are the ruins of a large mine that was probably one of the most recent, since it even included electrical equipment.

Inside Josie's Mining Cabin for maybe 20 minutes, we describe how Charles Finding built the log cabin in 1897. The story is that his wife Josie insisted that he build a cabin for their family before moving here. We also touch on the history of the Kingdom of Breckenridge and its rich mining past.

We believe that slow-paced and relaxing experience along this trail system build on old mining sites and logging roads, coupled with the Interpretive Guide's commentary, at the Josie's Mining Cabin helps guests to the area understand why it is vitally important to join the team that is working to preserve this gulch for wildlife in it is natural state.

Breckenridge Nordic Ski & Snowshoe Adventure Center

Cross Country Skiing and Snowshoeing by Day and Evening Hours

Of all the organized winter sports, Cross Country Skiing and Snowshoeing are probably the most environmentally friendly. Trails are developed along natural contour lines with minimal grading and cutting of vegetation and trees, or they use for the most part old mining and logging roads. Nordic skiing and snowshoeing are done on narrow, designated trails. On the busiest holiday's, there is most often a single skier or pairs of skiers spaced widely apart.

The Day and Evening Snowshoe Adventures led by interpretive guides are supervised closely. The Evening Snowshoe Adventures begin at 5 pm, but never leave later than 7:30 pm, and last 2 1/4 hours from arrival time to the rental return. They do not use head lamps or flashlights, and voice levels and talking is kept to a minimum, as guides point out stars, talk about moon phases, and look for animal tracks.

Private's with 1 person to Private Groups with 2-7 guests maximum are led in small groups to star gaze, and enjoy moonlight on groomed and designated ski trails to the Josie's Miners Cabin.

Minimal noise is produced by Nordic skis and snowshoe's that have very little impact on the terrain.

Nordic skiers generally are people who enjoy the quiet of woodland settings.

During adventures, guides talk about the mining and Colorado history, environment, wildlife and animal tracks: geology, local flora, and fauna of the region.

Guests are on the on the groomed, mapped, and designated ski trails most of the time while on outings for 1 1/2 hours. About 20 minutes of that time is spent telling stories, and giving some mining history in the Josie's Mining Cabin. Breckenridge Nordic Center has been offering these tours for two decades at this location, and or over 40 years in Breckenridge.

Impact on Wildlife in the Cucumber Gulch Preserve

Regarding questions about the impact of Evening Snowshoe Adventures near the Cucumber Gulch Preserve, although nobody can know for sure the following are some common-sense conclusions we have come up with, based on some knowledge of the local wildlife species.

To provide definitive, conclusive studies, lengthy, resource heavy, research which should have been commenced before any development around the Cucumber Gulch wetland, probably pre ski area and with control sites and experimental sites. Animal behavioral studies are difficult at best, because as any animal behaviorist knows, many animal species adapt amazingly quickly to human interaction.

First of all the activities are limited to winter months where there is natural snow. The number of winter active wildlife species living in this area is limited. Grooming of trails is done by the quietest of snow cats and generally one quick pass per day, during morning hours is all that is necessary. The Breckenridge Nordic Center trails in the gulch only cover 1% of the total 188 acres of the Cucumber Gulch Preserve, and most of the activity is during daylight hours.

The exception being for the occasional Evening Snowshoe Adventure that is booked in advance and occurs at dusk on limited ski trails, and one section of the winter Willow trail (summer Toad Alley).

We have been monitoring the winter wildlife species by direct observation and also by observing tracks in the snow. Nordic Center employees/guides have access to a track guide taken from the book "Scats and Tracks of the Rocky Mountains" by James Halfpenny.

The most abundant species are squirrels, foxes, and snowshoe hares. We also see some small rodent tracks. Squirrels are ubiquitous and not disturbed by humans. The fox are also quite adapted to humans. Snowshoe hares are nocturnal feeders and are seldom seen. Moose have been observed in various areas, but from reports in the general community their numbers have increased over the years and they frequent even residential areas and show no fear of people. Deer and elk are seldom seen at these elevations in the winter. Marmots are also not perturbed by people. Beaver lodges are buried under the snow this time of the year and their activity is limited. The species of birds that winter in the local alpine, environment, such as the Grey jay, crows, ravens, and the mountain chickadee, are generally fearless of people. Ptarmigan generally prefer krummholz areas and are nocturnal feeders; generally hiding in snow banks or by rocks during the day. Although we have not seen the elusive Lynx, they do exist in Summit County and the Colorado Department of Wildlife has recently declared that they have met their benchmarks and goals with this species and is satisfied that they are breeding and the population is growing and resources will be focused on other projects.

Studies on Human Activity and Wildlife

Studies concerning impact of noise on wildlife usually involved high decibel sounds like airplanes, sonic booms, roads, or snowmobiles. Sounds from Nordic Center activities are minimal.

Some of the studies show that animals eventually become habituated to all but the loudest disturbances. The Effect Of Noise On Wildlife: A Literature Review" : (http://interact.uoregon.edu/medialit/wfae/library/articles/radle_effect_noise_wildlife.pdf).

The only recent study on wildlife in Cucumber Gulch Preserve was conducted on migratory song birds from May to August for the purpose of evaluating Gondola activity in the summer. There are no migratory songbirds in the Gulch in the wintertime.

Conclusions

In conclusion, to the best of our knowledge Cross Country Skiing and Snowshoeing have minimal impact on wildlife in Cucumber Gulch, because the guided activity groups are small and are limited to a designated ski trail area, are non-invasive, and programming is only done during winter months with good snow coverage and when very few species are active.

This statement is prepared for Gene and Therese Dayton, by Dr. Joanne Stolen, professor emeritus, Rutgers University. B.S. Chemistry, M.S. Biology, PhD, Biochemistry; author of Summit Outside, Summit Daily News

BRECKENRIDGE NORDIC SKI & SNOWSHOE ADVENTURE CENTER

Perfect Adventures for all Ages



*Ski or hike beautiful woods and
open spaces with regular pauses to
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Evening Adventures (2 hours for the price of one)

SNOWSHOE BY THE MOON & STARLIGHT REFLECTING OFF BEAVER MEADOWS. ENJOY HOT COCOA AND HISTORY BY CANDLELIGHT IN JOSIE'S MINERS CABIN.

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WEAR SEVERAL LAYERS OF LIGHTWEIGHT, WATER AND WIND-RESISTANT CLOTHING TO ACCOMMODATE YOUR BODY TEMPERATURE AND CHANGING WEATHER CONDITIONS. PROPER FOOTWEAR, WARM HAT AND GLOVES ARE ESSENTIAL. INSULATED BOOTS ARE INCLUDED IN THE SNOWSHOE RENTAL. THE NORDIC CENTER RETAIL SHOP OFFERS A FULL LINE OF CLOTHING AND ACCESSORIES.

Destination & Transportation

ALL SKI LESSONS & SNOWSHOE ADVENTURES WILL MEET AT THE BRECKENRIDGE NORDIC CENTER. FREE PARKING IS AVAILABLE AND THE FREE SKI AND RIDE SHUTTLE WILL STOP AT OUR FRONT DOOR FROM 8 AM - 10 PM DAILY.

PRIVATE SKI LESSON & SNOWSHOE ADVENTURE PRICING INCLUDES TRAIL PASS AND INSTRUCTOR/GUIDE

- ADULTS \$47 1ST HR., ADDITIONAL HRS. \$36 EACH
- AGES 60+ / 7-17 \$36, 1ST HR., ADDITIONAL HRS. \$25 EACH
- RENTAL PRICES:
CLASSIC SKIS \$17, SKATE SKIS \$22, SNOWSHOE RENTAL \$17
CHILDREN 6 & UNDER ARE FREE W/PULK SLED, \$15
*SKI/SNOWSHOE RENTALS INCLUDE INSULATED BOOTS & POLES
- PRIVATE GROUP, EVENING AND LARGE GROUP DISCOUNTS
- RESERVATIONS REQUIRED, \$20 DEPOSIT PER PERSON

TRAILS ARE ON PRIVATE AND LEASED LAND BY PERMISSION. SOME TRAILS ARE LOCATED IN THE WHITE RIVER NATIONAL FOREST AND ARE UNDER A SPECIAL PERMIT FROM THE USDA, FOREST SERVICE.





Carello Environmental Consulting Inc.

910 19th Street
Golden, Co 80401
303-885-6306

carello@boulderweb.com

Re: Evening and nighttime Snowshoe tours at Breckenridge Nordic Center, Breckenridge Colorado

This memo is for the purpose of addressing the potential impact to wildlife from nighttime snowshoe tours on trails maintained by the Breckenridge Nordic Center. I conducted a thorough review of the literature and was unable to find specific studies that address the impact of human noise, artificial light and the operation of wood burning stoves on wetland associated species in winter in a subalpine habitat. However, there are some general principles that should be considered about the overall physiological challenges that birds and mammals face when ambient temperatures are low.

Mammals and birds have increased metabolic demands in winter. This means that stress and even the need to flee require a greater energetic demand than in summer. Because of reduced forage in winter, it can be particularly challenging to meet normal daily energy requirements. When stress is added to the equation the demands for energy increase.

The winter resident species associated with the Breckenridge Nordic Center that are of greatest concern from nocturnal stress are non-hibernating small mammals and songbirds. In winter these animals are operating at their physiological limits. During nighttime in winter, many small mammals and birds actually enter a state of torpor. Torpor is a lowering of body temperature in order to decrease metabolic demands for endogenous heat production for the purpose of surviving extremely cold temperatures. If these animals are startled in their dens or off their roosts and forced to increase their metabolic rate in order to flee, they may not have enough fat reserves to survive the night.

I recommend that the Town of Breckenridge establish specific guidelines for nighttime activities on the trails managed by the Breckenridge Nordic Center. The guidelines should include limits to group size, limits to frequency of activities, and a specific protocol should a participant need restroom facilities. In addition, tour leaders need to be aware of the potential disturbance to wildlife and should instruct groups to travel silently through forested areas and within the PMA of Cucumber Gulch. I also recommend that the Town of Breckenridge is notified prior to the commencement of tours in order to evaluate whether the established guidelines need revision.

Respectfully Submitted,

Christy Carello, PhD - January 11, 2010

Summit Stop: Mountain adventures by night

MORE INFO

Tours leave no later than 7 p.m.
 Prices: \$47 for the first adult
 \$36 each additional adult
 \$25 kids and seniors

Equipment: \$17 adults
 \$12 kids and seniors

Take a guided snowshoe tour into the backcountry after dark

BY CADDIE NATH
 SUMMIT DAILY NEWS,

There are plenty of ways to get out and enjoy the mountains in Summit County during the day. After dark, outdoor alpine activities are harder to

find.

Breckenridge Nordic Center's nocturnal snowshoe tour is one fun way to see Summit County by starlight.

On the two-hour tour through the carefully preserved Cucumber Gulch area just under the gondola, the trail is lit up by headlamps and stories about the area, told by a local guide.

"This is one of those rare opportunities where you can get out in nature and feel safe," Nordic Center snowshoe guide Sarah Stirt said. "And kind of experience what it's like in our forests at night. Because they do become a different place."

Tom Dayton, an avid outdoorsman with years of wilderness experience, leads most evening tours from the Breckenridge Nordic Center out into the nearby network of Nordic ski and snowshoe trails in and around the Cucumber Gulch Wetlands.

The trek is serene, quiet and as long or short as the group prefers. Being on snowshoes allows you to explore the environment more closely than skiing or snowmobiling. Cucumber Gulch is a particularly valuable ecological area, habitat to beavers, moose, Snowshoe hares and in the summer, a key nesting ground for various species of birds.

Some groups get the opportunity to spot some of the gulch's wildlife during the tour. Recently a mother moose and her two year-old calves have been seen on tours, Stirt said.

As the tour winds through the Gulch, Dayton stops occasionally to point out the marks left by animals on the land, from markings on trees where moose have chewed away the bark to dams built by beavers in the wetlands.

The trek continues up through the forest toward historic mining sites. As you approach the historic area, Dayton shares stories of the Summit County's colorful past.

On clear nights, the tour passes through a break in the trees perfect for a few minutes of stargazing before continuing up to a historic cabin, where guides will have a stove fire waiting. Hikers will take some time to warm up with a mug of hot chocolate by the fire as they hear more stories of the minors who first settled Breckenridge in the 1800s. After leaving the cabin, the tour finally turns back toward the Nordic center.

Because the tours are booked privately, they are tailored to each group's individual interests. Tours with children might be a little shorter and could include marshmallows for roasting at the cabin and stories the kids will love. For history buffs, guides will focus more on the local mining heritage, while environmental enthusiasts' tours can focus more on the ecology and wildlife of the area.

The tour is designed to work for all ability levels and never strays from the hard-packed trail, Stirt said. Hikes can be as long or short as the group prefers, but generally span about a mile in and around the gulf. Guides generally move slowly, taking time to tell stories and take note of points of interest, but groups looking for a more rigorous experience can choose to hike a little further and move a little faster.

On clear nights guides recommend making the snowshoe hike by moon or starlight and taking the time to enjoy the quiet, natural beauty of the trails. On snowy evenings the tour is lit with headlamps and guides will begin the tour with a quick lesson on how to best handle the elements.

All tours are private and are better suited to small groups. For reservations call the Breckenridge Nordic Center at (970) 453-6855.

<http://www.summitdaily.com/apps/pbcs.dll/article?AID=/20110130/NEWS/110129779/1078&ParentProfile=1055&template=printart>

Memorandum

TO: Town Council
FROM: Tom Daugherty, Town Engineer
DATE: 2/3/2011
RE: Town Hall/Old CMC Building

Since the Town has purchased the old CMC building we have conducted a study that evaluated the existing Town Hall and the old CMC building for use as the Town Hall function. I have attached the memo from that presentation in June of 2009.

Previously Council expressed a desire to have public input on how the old CMC building was to be used. Since then the Council has said that they would like to discuss the potential options before determining if any public input is needed.

We currently have a commitment to the CMC to provide space for their ceramics, dance and photo labs. Housing in the CMC building has been previously eliminated as a use for the property. The potential uses that have been raised to date for the old CMC are:

1. Town Hall
2. Non profit office space
3. Continue theater
4. Library
5. Partnership with the County

Regardless of the use on the CMC property a remodel is needed to accommodate the new use.

The potential uses for the existing Town Hall include:

1. Use as connection to Ski Area development on the Gondola Lots.
2. Commercial rental or sale.
3. Non profit office space.

Both buildings require continued maintenance and will be reflected in the annual budgets.

Our goal for the work session is to get an understanding about how Council would like to move forward with the planning of these two buildings.

Memorandum

TO: Town Council

FROM: Tom Daugherty, Town Engineer

DATE: February 3, 2011

RE: Facilities Master Plan Update for Town Hall

The Town conducted a study in 2002 to assess the facilities owned by the Town and to determine the Town's space needs into the future. This study was conducted by Daniel C. Smith and Associates. The study identified areas where the Town could need additional space. As an example, the Police Facility was a result of a need identified in this study. The study assumed that the service levels, at the time, would be maintained as the community grew. Now that service levels have been reduced the study needs to be revisited to reflect the new reality. This memo is intended to provide information to the Town Council as they look to make decisions relative to the Harris Street building (old CMC) and Town Hall buildings.

The Smith Study projected that the staffing level for the Town Hall functions would increase beyond the space available in the current Town Hall. In 2008 the Town hired McMenamin Design Associates to perform a fitting exercise in the existing Town Hall and the Harris Street Building. This exercise used the Smith Study staffing projections to evaluate each building. The conclusion was that the existing Town Hall would need an addition of approximately 4,400 square feet to fit the projected staffing and the Harris Street building could accommodate the projected staffing without an addition and only modifications to the interior.

The service levels have now decreased and the staffing will decrease as well. Below is a table showing the 2008 staffing, the Smith Study staffing and the new service level staffing.

Town Hall Facilities Update
Number of Employees

Functional Group	Department	2008 Staffing		Build Out Daniel Smith Study 2020		New Service Level	
		Full Time	Seasn/PT	Full Time	Seasn/PT	Full Time	Seasn/PT
Town Hall	Administration	3		4		3	
	Comm Dev	16	4	21		14	4
	Engineering	4		4		4	
	Finance	11		15		10	
	IT	4		5		4	
	Human Resources	5		7		5	
	Total	43	4	56	0	40	4

Current Town Hall - 18,169 s.f.

The Smith study showed that the existing Town Hall was lacking storage and conference space and the efficiency was below normal levels for a municipal Town Hall. The lack of conference space has, at times, impacted staffs ability to conduct business.

Typical municipal buildings have efficiencies of 0.75 and the existing Town Hall has an efficiency of 0.65. The incremental expansion and remodels have compromised functionality. An example of that is the finance and clerk offices are located on two different floors. The fact that we have multiple public counters duplicates services and creates the need for multiple staff members to interact with the public.

As you can see in the above table, the net loss of two employees will not cause the need for an expansion of the existing Town Hall. Because some departments will lose employees and others will gain employees some remodel would be necessary to make the space functional for the effected departments. It would be very difficult to increase conference and storage space in the existing facility due to the existing layout. The need for storage and conference space would likely need to be addressed with an addition.

The current Town Hall sits on a lot that is already crowded and any addition would create potential impacts on the site and parking.

Harris Street Building – 27,770 s.f.

The 2008 McMenamin Design Associates study showed that this building could accommodate the needs established in the Smith study as well as additional uses such as ceramics studio and dance studio. The Town Hall function would occupy approximately 21,000 square feet. Needless to say the reduced staffing shown in the above table can be easily accommodated as well. The appropriate conference and storage space can be accommodated in this building in either scenario and the functionality can be addressed during the design of the interior.

The existing layout of the building is meant for classroom type uses and is likely that a remodel will be required for any use of the building in the future.

As an additional item, staff has considered moving the Recreation Center administration staff to Town Hall. Currently Recreation administration consists of 4 employees which would equate to approximately 1,000 square feet of office space. This is based on a standard of 250 square feet of net usable square feet per person. The current offices at the Recreation Center are crowded and undersized which restricts functionality. Moving the administration for the Recreation Department would free up needed space in the Recreation Center for use by Recreation Center Staff.

Summary

The current Town Hall is essentially at capacity and any growth in staffing levels would require an addition to the building or relocate to another location such as the Harris Street building. The existing Town Hall building does not meet current storage and conference space needs and is unlikely to be met without an addition or extensive remodeling. The functionality of the building impacts efficiencies and is not likely to be remedied without a remodel or addition.

The Harris Street building has enough space and flexibility that it can accommodate most future scenarios. The Harris Street building will require an interior remodel for most future uses of the building.

Memorandum

To: Town Council
From: Tom Daugherty
Date: 6/3/2009
Re: Town Hall/CMC study

Background

During the negotiations with the CMC for the Airport Block 11 property the Town entered into an MOU in which we have agreed to purchase the CMC building on Harris Street for \$2.25M. In that agreement the Town agreed to jointly maintain the use of the photo lab, dance studio, art gallery and the ceramics studio either in the CMC building or in the Arts District. The Council has also indicated a desire to keep the Speakeasy Theatre if possible.

At the time, the Town was considering the CMC building for use as Town Hall. As a result of that discussion money was set aside in the CIP to evaluate the CMC building and the existing Town Hall for future use as Town Hall.

McMenamin Design Associates (MDA) evaluated each building to see what would be needed to meet the needs at build out conditions. The Facilities Master Plan was used for determining build out needs. MDA used sub consultants such as structural, mechanical and electrical engineers to evaluate the building and determine what needed to be done in each building. The evaluation included a cost to remodel or add to each building.

Building Information

	Total Square Feet	Public Spaces	Employee Spaces	Town Vehicle Spaces	Total Parking Spaces
Town Hall	18,169	15	26	9	50
CMC	27,770	TBD	TBD	TBD	90

Space Needs

MDA reviewed the Facilities Master Plan and interviewed each department within Town Hall to understand their needs. These needs were then used to evaluate each building.

Even though the Police moved out of Town Hall the existing Town Hall is currently crowded with limited meeting space. An addition would be required to meet build out needs. The area around the building is limited and does not allow many options for an addition. MDA determined that an addition could be put on the building over the north parking lot but staging the construction would be difficult.

The CMC building on Harris Street could be remodeled to meet the Town's needs without an addition. The existing uses stated in the MOU could also be maintained and meet the future need although meeting spaces would be tight.

Parking Space

The existing parking lots at Town Hall do not meet the need for the current number of employees. The guest parking is lacking, as can be seen on Council days or Municipal Court days. The staff currently uses approximately 25 parking spaces in the ski area parking lot for parking employees that are unable to find a spot in the Town's employee parking. The ski area will be developing that property and it can be expected that the Town will no longer have free use of that land for parking once that is developed. If the Town wished to provide parking for all of Town Hall employees the Town would need an estimated additional 30 spaces based on the Facilities Master Plan.

The location of the current Town Hall also puts pressure on parking in the area because currently 25 employees are competing for parking. Taking Town Hall parking out of the area will ease the parking pressure on the area.

The parking at the CMC site is more than adequate for Town Hall needs. There are currently approximately 90 spaces which would allow for employee parking along with Council and Municipal Court uses. The CMC parking lot can also be used as public parking which would expand the number of spots near the core of Town.

Building Systems

The existing Town Hall systems are adequate. The building has had one addition and several small remodels that have caused the HVAC system to be rerouted and changed so that it does not work optimally. Any additions to this building should have a major rework of the heating and cooling to optimize its efficiency. The structure and electrical systems will have to be altered to fit any addition that occurs.

The CMC building can meet the Town's needs within the existing walls. Without performing selective demolition the condition of the structure cannot be evaluated in depth. There are not signs of any structural problems from inspecting the exterior and ceiling. Cooling and circulation systems will have to be installed during a remodel for a use of this type. The heating system was recently upgraded by the CMC and will provide adequate heating. The CMC also removed and abated the asbestos that was present in the building some years ago.

Disruption of Service

Expanding the existing Town Hall would be done while occupied or other accommodations would have to be made during construction. Either option would disrupt the Town Hall business. The staging that would be required would displace parking, and would make doing business at Town Hall difficult and add costs to the construction.

The CMC building could be remodeled while unoccupied and the move could happen once completed. That would have a comparatively small impact on Town Hall business. Maintaining the uses for CMC outlined in the MOU and the Theatre would have to be considered during construction but that would be the only phasing issue to deal with.

Costs

We used an estimator to provide some preliminary estimates to compare what each building would cost to meet the build out need. The architect provided a basic floor plan for each building. The current Town Hall showed an expansion of 5,400 square feet while the CMC building can accommodate the future need within the existing structure. In order to do an “apples to apples” comparison we are assuming that adequate parking will be provided for all employees.

Town Hall		
Construction Costs (5,400 sq ft addition)		\$2,500,000
Parking expansion	30 spaces @ \$22,000 =	\$660,000
Total		\$3,160,000
CMC		
Remodel Costs		\$2,000,000

Conclusion

Using the assumptions of the Facilities Master Plan noted earlier, and taking into account the above issues, indications are that remodeling the CMC would provide more benefits than adding onto the existing Town Hall.

Remodeling CMC would be more cost effective, provide more opportunities to expand parking in the core of Town, provide adequate parking for the Town Hall needs, cause less disruption of Town business and be an appropriate adaptive reuse of a historic Breckenridge building.

The CMC building is not immediately required for Town Hall which could be an advantage as the building could be remodeled over time as funds are available. The CMC building also has the possible opportunity to lease space to other governmental and/or non-profit organizations in the short term as there will be excess space unoccupied by the Town until build out which has been a need expressed in the past.

Memo

To: Town Council
From: Julia Puester, AICP
Date: January 31, 2011 for meeting of February 8, 2011
Re: Economic Indicators

One of the priority recommendations of the Breckenridge Economic Development Advisory Committee (BEDAC) was to develop a system for monitoring economic indicators. Members of BEDAC, along with staff formed the Economic Indicators Task Force (EITF) to further develop the program. This monitoring effort has since been combined with Sustainable Breck efforts and related environmental indicators which are under development. Staff presented the economic indicators to the Council at their December 14, 2010 worksession.

The purpose of the economic indicators monitoring is to track trends that would assist citizens, business owners and the Town in forecasting local economic activity. These indicators are now available on the Town website as an interactive feature which will be updated monthly.

Indicators being monitored:

- S&P 500 and Real Estate Transfer Tax
- Unemployment-national, state, and county levels
- Occupancy rate, ADR, RevPAR, and 6 month forecast (via MTrip)
- Accommodation tax and sales tax relationship
- Town sales tax in comparison to other Colorado resort town sales tax revenues
- Real estate sales and foreclosure and distressed properties
- CDOT traffic count at Eisenhower tunnel and Highway 9 at Tiger Rd.
- CDOT Highway 9 traffic count and town sales tax
- Consumer Confidence Index
- Town accommodation tax in comparison to other Colorado resort town lodging tax revenues*
(*Not yet available-expect to publish for the March report)

For the purposes of this worksession, staff has included the full reports on each indicator with changes as suggested by Council. Staff has also included an Executive Summary as previously requested which will be included in the Council packet monthly. Staff does not plan on including the full reports on each indicator in future packets, however, these will be available on the website for viewing in detail.

Staff will be available at the meeting to answer any questions or comments.

Town of Breckenridge Executive Summary
Economic Indicators
(Published February 2011)

Indicator Monitoring System

Up and down arrow symbols are used to show whether the indicator appears to be getting better, appears stable, or is getting worse. We have also designated the color green, yellow or red to display if the indicator is currently good, fair or poor.



*(*Note that the unemployment indicator arrows are the exception to this key. In the case of unemployment, if an arrow is pointing downward, this means that the unemployment rate is dropping which is actually 'getting better'.*)*

Unemployment: Local* (November 2010)

Summit County's November unemployment rate decreased to 8.3% from October's 9.1% rate. But November 2010 remains significantly higher than the November 2009 rate of 6%. Summit County unemployment rate showed a decrease while Pitkin and Eagle counties showed an increase. (Source: BLS)



Unemployment: State* (December 2010)

The Colorado State unemployment rate rose from November to December, registering at 8.8%, stemming from less jobs and more people re-entering the job market search. This is the highest unemployment rate the State has seen since 1983. The unemployment rate for December 2010 shows an increase from the December 2009 rate of 7.3%. (Source: BLS)



Unemployment: National* (December 2010)

National unemployment rate dropped slightly in December to 9.4% from 9.8% the prior month of November. December 2010 is also down from last December's rate of 10%. (Source: BLS)



Destination Lodging Reservations Activity (December 2010)

The Occupancy rate (+6.4%), ADR (+0.7%) and RevPAR (+7.5%) were up for the month of December over December 2009. However the near term outlook is not as positive as advanced bookings for the next 6 months are below 2009 levels. (Source: MTrip)



6 Month Projected YTD Occupancy (December 2010)

Future bookings for the upcoming January-June 2011/2012 period show a decline of 1.3% in projected occupancy rate over the corresponding period last year. This indicator will continue to be monitored closely however this may be reflective of a recent trend of visitors booking vacations later than they used to. (Source: MTrip)



Traffic Counts and Sales Trend (December 2010)

December traffic count in town on Highway 9 at Tiger Road was 19,458 total vehicles. As the traffic count was near 20,000, we expect to see a higher range of December sales tax revenue. (Source: CDOT and Town of Breckenridge Finance)



Traffic Count at Eisenhower Tunnel and Highway 9 (December 2010)

During the month of December, the traffic count at the Eisenhower tunnel was down 4% over December 2009. However, traffic in town on Highway 9 was down only 1% over the same time last year. The Town perceives this as an indication that the “gap” of the capture rate is closing over 2009. (Source: CDOT)



Consumer Confidence Index-CCI (January 2011)

The CCI which dipped in December, rebounded in January. The Index for January 60.6 (1985=100), up 7.3 points over December.

Says Lynn Franco, Director of The Conference Board Consumer Research Center: “Consumers have begun the year in better spirits. As a result, the Index is now near levels not seen since last spring (May 2010, Index 62.7). Consumers rated business and labor market conditions more favorably and expressed greater confidence that the economy will continue to expand and generate more jobs in the months ahead. Income expectations are also more positive. Although pessimists still outnumber optimists, the gap has narrowed.” (Source: CCB)



Mountain Communities Sales Tax Comparisons (November 2010)

The Town sales tax revenue collected for November 2010 is down 6.03% from the November 2009 levels. The Town showed the most significant percentage decline in sales tax revenues among the tracked mountain communities for this month. Total sales tax collection is down 1.71% over YTD 2009. (Source: City of Steamboat Springs)



Standard & Poor’s 500 Index and Town Real Estate Transfer Tax (December 2010)

As of December 2010, the S&P 500 is in an upward trend. The S&P 500 adjusted closing price has not been this high since July 2008. We are pleased that our RETT this month is also up from what the Town collected in December 2008 and 2009. We do believe that RETT will somewhat lag the S&P 500 recovery due to seasonality of real estate sales. But a prolonged positive change in RETT will likely require a sustained recovery in the S&P 500 index, with an increase in the wealth effect. (Source: S&P 500 and Town Finance)



Town of Breckenridge RETT Collection (December 2010)

December 2010 RETT collection (\$406,202) is up from December 2008 (\$217,937) and December 2009 (\$358,422). (Source: Town Finance)



Real Estate Sales (December 2010)

December's Summit County real estate sales were down from 2009 levels for the 4th month in a row. Sales show a 4% drop from a 2009 YTD basis with December 2010 at approximately 50% of the December peak level of 2006. Looking at the entirety of 2010, Breckenridge saw 46% of \$ volume of all County sales. The County overall saw a 2% increase in \$ volume in 2010, a significant increase over the previous 2 years which had -35% and -36% in \$ volume. We are optimistic to see a change for the positive in \$ volume for 2010 and will continue to monitor how the town performs during the next big real estate sales season for 2011 (primarily May-November). (Source: Land Title)



Foreclosure Stressed Properties (December 2010)

YTD 2010 Breckenridge showed properties (excluding timeshares) which have started the foreclosure process at 35% of the total units which have begun the foreclosure process within Summit County. This is a consistent percentage as previous months. Due to the foreclosure process, these properties may sell at an accelerated rate and lower price per square foot in the short term. (Source: Land Title)



Sales and Accommodation Tax Trend (October 2010)

As we enter the winter season and the peak of our tourism yearly period, we expect the number of lodging rooms booked to rise over previous down season months and therefore, we expect sales tax will also increase. The occupancy rate has been higher than 2009. However, the number of advanced booking reported to MTrip (see 'Destination Lodging' indicator) are slightly lower than YTD 2009 which will be continued to be monitored closely for later bookings. (Source: Town Finance)



COMING SOON: Mountain Town Lodging Tax Comparisons

Unemployment: Local, State and National

(November/December 2010-Monitored Monthly)



Summit County's **November** unemployment rate decreased to 8.3% from October's 9.1% rate. But November 2010 remains significantly higher than the November 2009 rate of 6%. Summit County unemployment rate showed a decrease while Pitkin and Eagle counties showed an increase.



The Colorado State unemployment rate rose from November to **December**, registering at 8.8%, stemming from less jobs and more people re-entering the job market search. This is the highest unemployment rate the State has seen since 1983. The unemployment rate for December 2010 shows an increase from the December 2009 rate of 7.3%.



National unemployment rate dropped slightly in **December** to 9.4% from 9.8% the prior month of November. December 2010 is also down from last December's rate of 10%.

Unemployment

Unemployment is an indicator of the health of our economy. Since the recession started in 2007, we have seen a continuous increase in the unemployment rate on a national, state and local level. The national rate appears to have stabilized over the past year. Resort areas such as Summit County and neighboring Eagle and Pitkin Counties typically see seasonal changes in the unemployment rate, based on the operations of the ski areas. Although this seasonal trend continues our trend line does not appear to stabilize with the percentage of unemployed persons significantly higher than we have seen in the past. Recovery from this level of local unemployment will take time as a significant portion of the lost jobs were in construction. New residential construction will be dependent on a reduction of some of the present home inventory before resuming and to our knowledge a comparatively small number of large scale development projects are scheduled to start this year.

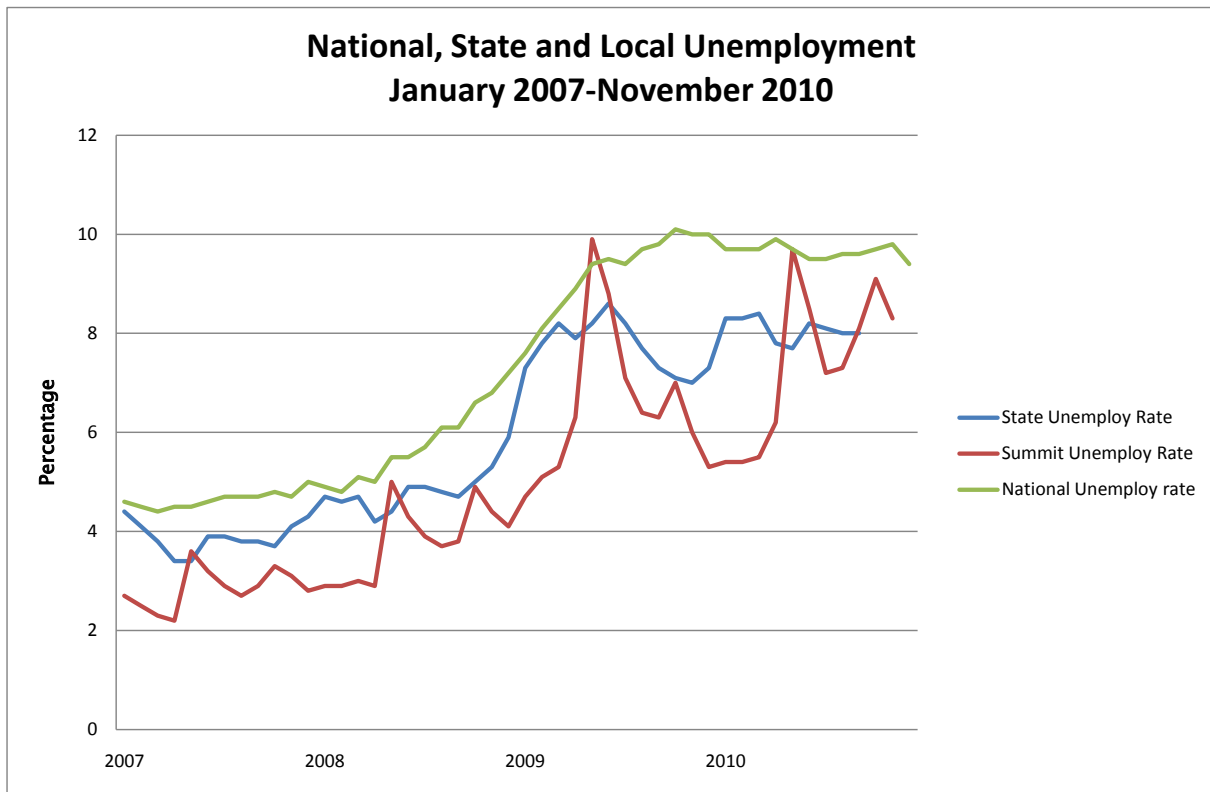
What do these charts tell us?

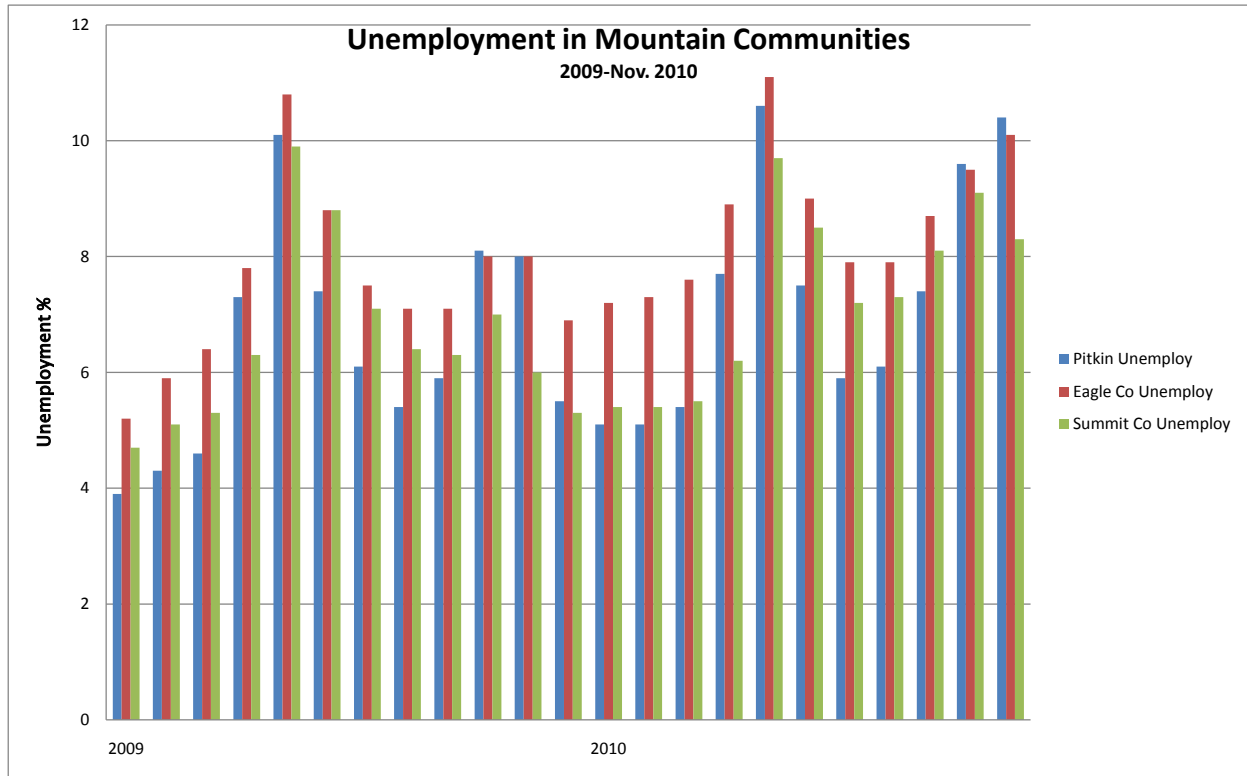
It is concerning that not only is our local unemployment rate at levels we have not seen for a long time, the national and state unemployment rate is reaching higher and recovery will be lengthy. As a resort community, the Town depends on visitors and suffice to say, when people are unemployed or underemployed, they are not often traveling to vacation. However, that being said, many destination visitors are in a higher income bracket which is starting to experience

more stability in the job market. People also tend to view economic stability and their own personal financial security based on indicators such as the unemployment rate and the S&P 500 performance. If the job prospect psychology is up (hence, unemployment rate is lower) then it will likely be enough to drive people to travel.

The Town has begun to monitor unemployment at the local community level in addition to the state and national levels. The state and national levels directly affect our local tourist driven economy and is a good indicator of what to expect in the upcoming months. It would be expected that a significant decrease in state and national unemployment will be needed to deliver a large impact on sales tax revenue in our tourist economy. This is due in part to day and destination visitation remaining relatively steady but those visitors spending less than years past. However, it may not be necessary for unemployment rates to decrease to historic levels to see improvements for Town businesses.

A chart has also been included in order to also gauge how Summit County is doing in comparison to neighboring resort counties of Pitkin and Eagle.





More Information/Sources:

- Bureau of Labor and Statistics, United States Department of Labor
<http://www.bls.gov/home.htm>

Destination Lodging Reservations Activity

(December 2010-Monitored Monthly)



The Occupancy rate (+6.4%), ADR (+0.7%) and RevPAR (+7.5%) were up for the month of December over December 2009. However the near term outlook is not as positive as advanced bookings for the next 6 months are below 2009 levels.



6 Month Projected YTD Occupancy: Future bookings for the upcoming January-June 2011/2012 period show a decline of 1.3% in projected occupancy rate over the corresponding period last year. This indicator will continue to be monitored closely however this may be reflective of a recent trend of visitors booking vacations later than they used to.

Summary

Lodging reservations is an indicator of a healthy tourist based economy. An increase in upcoming lodging numbers forecasted translates to more “heads in beds” and therefore, more people in town shopping and eating in local establishments. Our resort area economy experiences regular variations due to seasonal visitation, which is also why we show this forecast in comparison to YTD monthly of the previous year.

The information we use is provided by MTrip and is based on booking information from 17 in-town lodging companies, representing 2,543 units or 76% of the total lodging inventory in town. This is a representative sample of the lodging industry’s performance in Breckenridge- Is the occupancy up or down in comparison to last year? What does the occupancy forecast look like for the next six months? Is the average daily rate going up?

What does the Average Daily Rate and RevPAR tell us?

Occupancy Rate (OR) describes the percentage of rooms full at a given time. Typically, the higher the occupancy rate, the better. However, if a hotel reduces their price in comparison to their competitors to gain a larger occupancy market share, the income does not necessarily translate to more overall profit. We look for total OR for an indicator of revenue.

The *average daily rate (ADR)* is the average amount that a hotel charges for a room in a particular time period. The ADR tells us how hotels in town are doing and is a good tool for hotels to understand how they measure up in part to their competitors. However, ADR is not an all inclusive indicator and should be used to analyze success in conjunction with Revenue per available room (RevPAR) and Occupancy for a more accurate portrait of lodging success.

Revenue per available room (RevPAR) is the amount of revenue collected per available room in

inventory. Revenue collected divided by the number of rooms available in inventory equals RevPAR. This is a widely used indicator of how well the property is performing financially and the best indicator of the ability to raise the ADR.

***Note to In-Town Lodging Companies:** *If you would like to participate in the MTrip Occupancy rate, ADR and RevPAR study, you will be able to receive more detailed information than what is provided on this website pertinent to your business at no cost. Please contact Bill Wishowski at bwishowski@gobreck.com for more information.*

More Information/Sources:

- MTrip, LLC 4841 S. Xenia St., Denver, CO 80237
info@mtrip.org
- Breckenridge Resort Chamber, Bill Wishowski
bwishowski@gobreck.com

DESTINATION LEVEL REPORT DASHBOARD

Produced by MTRiP, LLC. Presented as a community service by the Breckenridge MTRiP subscribing organization



Reservations Activity Outlook of Paid Occupancy as of: Dec 31, 2010

		Prior Month (December)			
Occupancy Rate (December)		Average Daily Rate (December)		RevPAR (December)	
6.4%		0.7%		7.5%	

Previous 6 Months (July to December)

Occupancy Rate (July to December)		Avg Daily Rate (July to December)		RevPAR (July to December)	
10.4%		4.2%		15.3%	

Upcoming 6 Months (January to June)

Occupancy Rate (January to June)		Avg Daily Rate (January to June)		RevPAR (January to June)	
-1.3%		-5.3%		-6.5%	

[Click Here to View the Breckenridge Executive Summary](#)

Daily Occupancy Report of Pure Occupancy as of: Dec 31, 2010

Pure Occupancy Last Month (December)		Pure Occupancy - Winter Season to-date (February to June) **	
1.5%		-8.9%	

** Winter Season = November - April. As of October 31

For more information or to participate

Breckenridge Properties - to participate in the Breckenridge MTRiP research program free of charge contact:

Bill Wishowski, Breckenridge Resort Chamber:

bwishowski@gobreck.com www.gobreck.com

Breckenridge non-lodging properties: to purchase a subscription to Breckenridge data:

MTRiP, LLC Contact Information: 678 S. Franklin St, Denver, CO

info@mtrip.org www.mtrip.org

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DESTINATION LEVEL RESERVATIONS ACTIVITY SUMMARY

Produced by MTRIP, LLC. Presented as a community service by the Breckenridge MTRIP subscribing organization



Destination: Breckenridge

Period: Bookings as of Dec 31, 2010

Executive Summary - Year over Year Variance and Analysis

Data based on a sample of 17 properties in the Breckenridge Community, representing 2,133 Units and 64% of the total community inventory

MARKET OVERVIEW: The critical winter holiday season of 2010 has come and gone, with the all-to-common undertone of mixed performance at the highest levels of the economy and stronger performance within the travel industry. Strong holiday retail sales beginning with the Thanksgiving shopping blitz in November were sustained through December and consumers signalled their return by setting online sales records and spending more per person at traditional retail stores than they have since 2005. The Dow Jones gained 5.2% during December and closed up 16.4% higher than December 2009 while sustained strength in Lead and Coincident Economic Indicators provide further reason for optimism in the markets. However, fundamental underpinnings remain uncertain: Consumer Confidence declined 3.3% in December, settling below levels from December 2009. Unemployment rate, which declined during the month, hides a darker truth, with the decline attributed more to the disengagement of job seekers than to employer hiring. So, with a foundation of good and bad all-round, what of the travel industry? National Occupancy Rates and Travel Prices continue to strongly outpace 2009 and enplanements are making a slow but steady comeback in the face of increased airfares. Based on preliminary MTRIP data, the Mtn Travel industry saw increases in both Occupancy (8.9%) and Rate (1.0%) in December with similar results over the 6 months covered by July - December. Bookings made in December at all MTRIP destinations for arrival December through May were up a strong 23.6% compared to last year. Locally, Breckenridge Occupancy was up in December (6.4%), with slight rate gains (0.7%), while Occupancy for the past 6 months (July - December) was up 10.4% with moderate rate increases (4.2%). Bookings taken in December for arrival December - May were up a modest 7.3% with widely varying results in each of the 6 months covered.

		2010/11	2009/10	Year over Year % Diff
a. Last Month Performance: Current YTD vs. Previous YTD				
Occupancy Rates during last month (December, 2010) were up (6.4%) compared to the same period last year (December, 2009), while Average Daily Rate was also up (0.7%).	Occupancy (December) :	49.9%	46.9%	6.4%
	ADR (December) :	\$257	\$255	0.7%
b. Next Month Performance: Current YTD vs. Previous YTD				
Occupancy Rates for next month (January, 2011) are down (-4.7%) compared to the same period last year, while Average Daily Rate is also down (-7.3%).	Occupancy (January) :	45.6%	47.9%	-4.7%
	ADR (January) :	\$198	\$214	-7.3%
c. Historical 6 Month Actual Performance: Current YTD vs. Previous YTD				
Occupancy Rates for the previous 6 months (July - December) are up (10.4%) compared to the same period last year, while Average Daily Rate is also up (4.2%).	Occ - 6 Month Historic	30.7%	27.8%	10.4%
	ADR - 6 Month Historic	\$164	\$158	4.2%
d. Future 6 Month On The Books Performance: Current YTD vs. Previous YTD				
Occupancy Rates for the upcoming 6 months (January - June) are down (-1.3%) compared to the same period last year, while Average Daily Rate is also down (-5.3%).	Occ % - 6 Month Future	21.2%	21.5%	-1.3%
	ADR - 6 Month Future	\$207	\$219	-5.3%
e. Incremental Pacing - % Change in Rooms Booked last Calendar Month: Dec. 31, 2010 vs. Previous Year				
Booking Pace will be available beginning with the September report of August data	Booking Pace (January) :	7.2%	6.7%	7.6%

LOOKING FORWARD: The knife-edge on which economy appeared balanced last month remains in place as markets continue to feel their way toward recovery. The holiday increases in retail spending and sustained conditions on wall street and others are prompting many economists to revise previous growth projections, now anticipating 4.5% growth in 2011 (up from 3.1% as of last month). Analysts expect hiring to pick up in the first months of 2011, though employers will have to far better the 130,000 jobs created in December to simply outpace population growth, let alone rehire the 14.1 million currently unemployed. With job recovery will come a return of Consumer Confidence - the key to our economy which relies on consumers for 70% of its foundation. While this sounds optimistic on paper, we've become accustomed to being cautious and continue to hope for the best and expect something less. Looking at the upcoming six months in the mountain travel industry, and based on preliminary MTRIP data, traveling consumers continue planning ahead in greater numbers than 2008 and 2009. January Occupancy at MTRIP Destinations is up 5.3% compared to last year, with rate moderately increased 1.2%. The coming 6 months are also looking up as a whole, with occupancy and rate both up (7.6% and 0.1% respectively). Locally, Breckenridge occupancy and rate on the books for the month of January are both down somewhat (-4.7% and -7.3% respectively), while occupancy for the six months January - June 2011 is down slightly (-1.3%) with moderately lower rates than last year (-5.3%). Though bookings in December for arrival December - May are up moderately, there were declines in bookings for January and February arrival, while May experienced negative fill on low numbers.

For more information:

Breckenridge Resort Chamber: Bill Wishowski	bwishowski@gobreck.com www.gobreck.com
MTRIP, LLC Contact Information: 4841 S Xenia St, Denver, CO 80237 303-722-7346	info@mtrip.org www.mtrip.org

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Traffic Counts and Sales Tax Trends

(December 2010-Monitored Monthly)



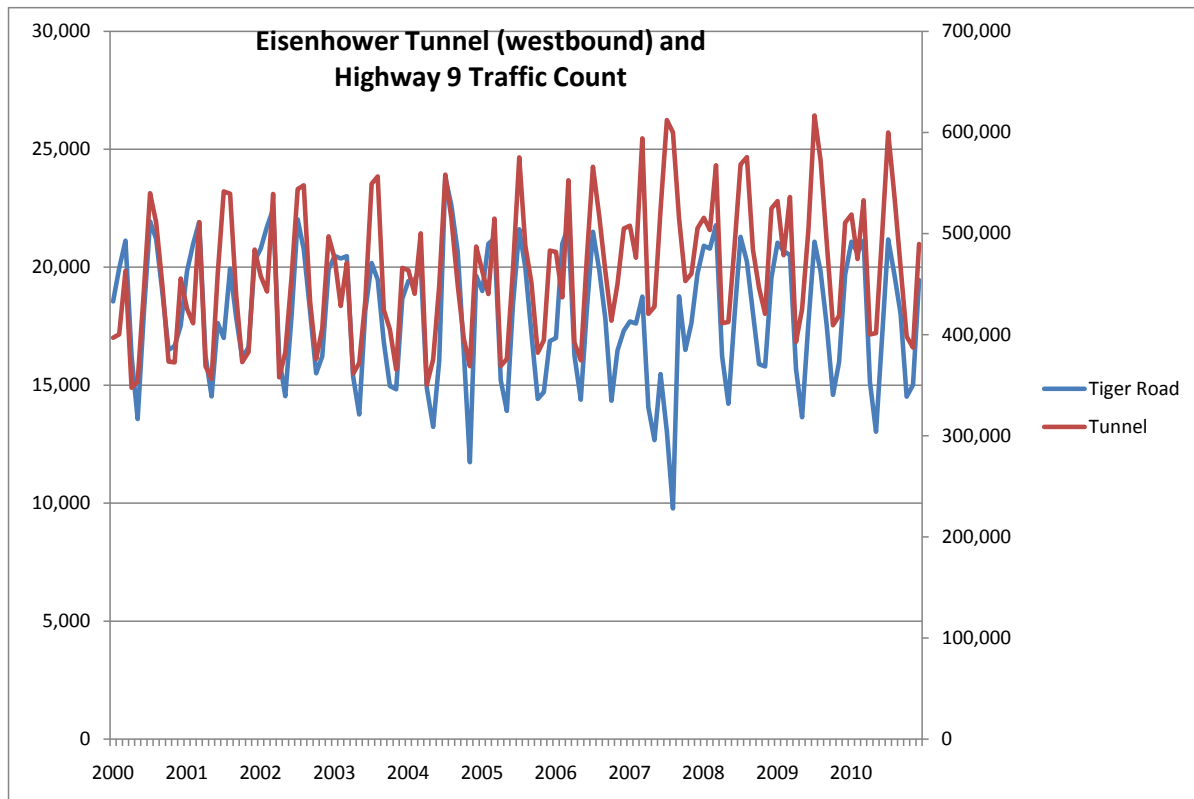
During the month of December, the traffic count at the Eisenhower tunnel was down 4% over December 2009. However, traffic in town on Highway 9 was down only 1% over the same time last year. The Town perceives this as an indication that the “gap” of the capture rate is closing over 2009. We will continue to monitor the capture rate through the season.



December traffic count in town on Highway 9 at Tiger Road was 19,458 total of vehicles. As the traffic count was near 20,000, we expect to see a higher range of December sales tax revenue.

Traffic at Eisenhower Tunnel and Highway 9 at Tiger Road

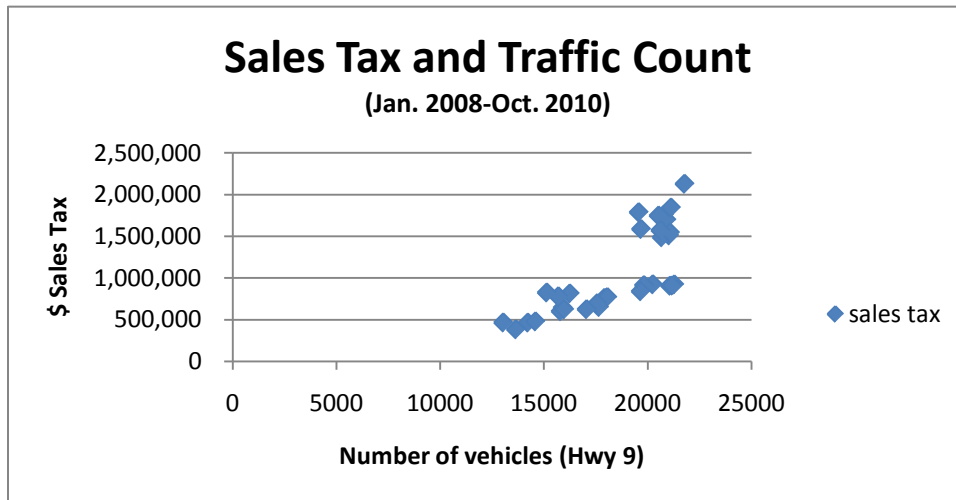
The Town has been monitoring the traffic counts at the Eisenhower Tunnel (westbound) as well as in town at the intersection at Highway 9 and Tiger Road. We are hoping that these traffic numbers will tell us the capture rate of the Front Range over time by looking at how many vehicles travel through the tunnel and within town limits. In addition, we can monitor if there are any months in which the town falls short or rises above the typical rate spread.



Traffic and Sales Tax

There is a high correlation between sales tax and traffic as shown in the chart below. At lower levels of traffic, sales tax revenue can be more predictive as a function of traffic. However above 20,000 vehicles we observe more of a cluster at significantly higher dollar levels.

The lower grouping displays the local economy with the constant amount of local traffic and dollars of tax collected. The upper grouping showing an increase in traffic is accompanied by a significant increase in dollar sales. The increased dollar amounts are when the traffic counts reach 20,000 or more which is not a large increase in vehicles over the rest of the year, however the multiplier effect of dollars spent per vehicle is significantly higher.



More Information/Sources:

- Colorado Department of Transportation Highway traffic data
<http://apps.coloradodot.info/dataaccess/>

Consumer Confidence Index

(January 2011-Monitored Monthly)



The Consumer Confidence Index (CCI), which had dipped in December, rebounded in January. The Index for January 60.6 (1985=100), up 7.3 points over December.

Says Lynn Franco, Director of The Conference Board Consumer Research Center: “Consumers have begun the year in better spirits. As a result, the Index is now near levels not seen since last spring (May 2010, Index 62.7). Consumers rated business and labor market conditions more favorably and expressed greater confidence that the economy will continue to expand and generate more jobs in the months ahead. Income expectations are also more positive. Although pessimists still outnumber optimists, the gap has narrowed.”

Summary

What is the Consumer Confidence Index (CCI)?

The Consumer Confidence Index (CCI) is an indicator which measures consumer confidence or how consumers feel regarding the economy by the activity of either saving and/or spending. Consumer confidence is a leading indicator of economic trends.

The U.S. CCI a monthly report by The Conference Board, an independent economic research organization, and is based on 5,000 households. Such measurement is indicative of consumption component level of the gross domestic product. The Federal Reserve looks at the CCI when determining interest rate changes, and it also affects stock market prices.

The Consumer Confidence Index is base lined at 1985=100. The Index is calculated each month based on a household survey of consumers' opinions on current conditions and future expectations of the economy.

What does the CCI tell us?

Some economists find that index changes of less than 5% are often dismissed as inconsequential. Moves of 5% or more often indicate a change in the direction of the economy. An Index of 50 or more typically translates to a “good” level of consumer confidence and indicates an increase in consumer spending.

The Town will continue to monitor the CCI to provide information that may be useful in local business' planning decisions.

Information Sources:

- Consumer Conference Board website:

<http://www.conference-board.org/data/consumerconfidence.cfm>

Mountain Communities Sales Tax Comparisons

(November 2010-Monitored Monthly)



The Town sales tax revenue collected for November 2010 is down 6.03% from the November 2009 levels. The Town showed the most significant percentage decline in sales tax revenues among the tracked mountain communities for this month. Total sales tax collection is down 1.71% over YTD 2009.

Summary

How the Town's sales tax revenue is performing in comparison to other Colorado mountain resort communities is an important indicator. This indicator tracks Breckenridge's sales tax revenues compared to the other tracked resort areas and provides a monthly and year to date (YTD) basis comparison to judge changes in revenues.

It is important to note that each municipality has a different sales tax rate so data will differ in dollar amount of sales and comparisons should be limited to % changes. Communities included in the sales tax report below are Aspen, Breckenridge, Crested Butte, Glenwood Springs, Snowmass, Steamboat Springs, Winter Park and Vail.

The City of Steamboat Spring Finance Department produces the report attached.

http://steamboatsprings.net/sites/default/files/2010/11/01/MtnCommunities_November10.pdf

More Information/Sources:

- City of Steamboat Springs Mountain Communities Comparison Data

http://steamboatsprings.net/departments/financial_services/sales/use_tax/sales/use_tax_reports

- Town of Breckenridge Monthly Financial Report

<http://www.townofbreckenridge.com/Modules/ShowDocument.aspx?documentid=2533>

Mountain Communities Report

Taxable Sales (based on Sales/Use tax collected) 2010/2009 to 2009/2008

	November 2009/2008	December 2009/2008	January 2010/2009	February 2010/2009	March 2010/2009	April 2010/2009	May 2010/2009	June 2010/2009	July 2010/2009	August 2010/2009	September 2010/2009	October 2010/2009	November 2010/2009
Sales - Winter Park (5%)	\$ 2,673,360	\$ 8,911,020	\$ 7,668,840	\$ 7,861,500	\$ 9,386,660	\$ 3,987,360	\$ 1,752,640	\$ 3,097,760	\$ 4,134,860	\$ 3,197,420	\$ 3,195,580	\$ 1,646,520	\$ 3,152,780
	\$ 2,643,700	\$ 8,823,720	\$ 8,291,240	\$ 7,759,920	\$ 9,244,280	\$ 3,883,660	\$ 1,908,720	\$ 3,431,880	\$ 3,515,100	\$ 3,044,340	\$ 3,130,240	\$ 1,755,500	\$ 2,673,360
<i>Winter Park % Inc(Dec) in sales</i>	1.12%	0.99%	-7.51%	1.31%	1.54%	2.67%	-8.18%	-9.74%	17.63%	5.03%	2.09%	-6.21%	17.93%
												Year-to-date:	0.91%
Sales - Aspen (2.2%)	\$ 18,500,571	\$ 64,032,476	\$ 59,049,952	\$ 49,063,381	\$ 54,395,143	\$ 20,210,143	\$ 15,781,952	\$ 33,878,571	\$ 49,771,048	\$ 41,871,095	\$ 33,256,619	\$ 19,034,952	\$ 20,554,905
Note: 2.1% prior to 09/2009	\$ 20,048,000	\$ 61,421,545	\$ 52,980,364	\$ 50,880,045	\$ 50,903,091	\$ 20,539,091	\$ 16,526,273	\$ 32,461,636	\$ 43,670,818	\$ 42,276,273	\$ 31,730,429	\$ 20,042,143	\$ 18,500,571
<i>Aspen % Inc(Dec) in sales</i>	-7.72%	4.25%	11.46%	-3.57%	6.86%	-1.60%	-4.50%	4.36%	13.97%	-0.96%	4.81%	-5.03%	11.10%
												Year-to-date:	4.30%
Sales - Breckenridge (2.5%)	\$ 15,917,183	\$ 45,127,944	\$ 40,110,228	\$ 39,472,293	\$ 50,006,174	\$ 19,917,465	\$ 11,425,462	\$ 16,219,027	\$ 23,624,523	\$ 20,834,028	\$ 17,062,327	\$ 11,637,360	\$ 14,957,080
	\$ 16,452,360	\$ 46,937,840	\$ 40,190,280	\$ 40,148,320	\$ 46,018,120	\$ 20,780,000	\$ 9,859,320	\$ 16,940,947	\$ 23,166,435	\$ 20,965,860	\$ 22,799,489	\$ 13,088,040	\$ 15,917,200
<i>Breckenridge % Inc(Dec) in sales</i>	-3.25%	-3.86%	-0.20%	-1.68%	8.67%	-4.15%	15.88%	-4.26%	1.98%	-0.63%	-25.16%	-11.08%	-6.03%
												Year-to-date:	-1.71%
Sales - Steamboat Springs (4%)	\$ 23,792,650	\$ 53,258,750	\$ 44,255,600	\$ 43,246,775	\$ 48,556,650	\$ 23,286,025	\$ 21,284,700	\$ 30,031,225	\$ 36,520,275	\$ 32,403,950	\$ 30,649,925	\$ 24,071,400	\$ 24,343,850
	\$ 25,766,350	\$ 58,851,925	\$ 47,516,500	\$ 44,190,550	\$ 50,555,125	\$ 24,008,325	\$ 22,718,225	\$ 30,082,600	\$ 35,486,800	\$ 32,545,950	\$ 29,409,375	\$ 24,192,450	\$ 23,792,650
<i>Steamboat % Inc(Dec) in sales</i>	-7.66%	-9.50%	-6.86%	-2.14%	-3.95%	-3.01%	-6.31%	-0.17%	2.91%	-0.44%	4.22%	-0.50%	2.32%
												Year-to-date:	-1.60%
Sales - Vail (4%)	\$ 16,296,825	\$ 63,849,350	\$ 64,094,800	\$ 64,419,250	\$ 67,110,325	\$ 28,909,900	\$ 10,534,675	\$ 21,830,700	\$ 30,705,450	\$ 28,565,900	\$ 18,915,725	\$ 13,969,925	\$ 16,503,525
	\$ 17,977,725	\$ 66,315,700	\$ 65,491,825	\$ 64,722,225	\$ 62,614,175	\$ 30,898,525	\$ 12,903,750	\$ 17,930,825	\$ 28,046,500	\$ 26,709,775	\$ 18,843,850	\$ 14,525,825	\$ 16,296,825
<i>Vail % Inc(Dec) in sales</i>	-9.35%	-3.72%	-2.13%	-0.47%	7.18%	-6.44%	-18.36%	21.75%	9.48%	6.95%	0.38%	-3.83%	1.27%
												Year-to-date:	1.83%
Sales - Glenwood (3.7%)	\$ 27,488,595	\$ 39,117,459	\$ 25,396,568	\$ 23,367,324	\$ 29,102,703	\$ 24,951,459	\$ 27,237,946	\$ 33,298,541	\$ 32,423,108	\$ 31,561,027	\$ 32,446,459	\$ 27,499,865	\$ 27,048,757
	\$ 32,622,405	\$ 45,377,622	\$ 28,010,324	\$ 25,747,378	\$ 29,781,730	\$ 26,788,243	\$ 29,217,757	\$ 34,960,973	\$ 33,012,919	\$ 32,289,514	\$ 32,859,216	\$ 27,788,541	\$ 27,488,595
<i>Glenwood % Inc(Dec) in sales</i>	-15.74%	-13.80%	-9.33%	-9.24%	-2.28%	-6.86%	-6.78%	-4.76%	-1.79%	-2.26%	-1.26%	-1.04%	-1.60%
												Year-to-date:	-4.15%
Sales - Snowmass (1%)	\$ 2,690,900	\$ 17,029,500	\$ 23,741,000	\$ 21,743,600	\$ 21,687,000	\$ 6,370,300	\$ 2,142,600	\$ 3,981,700	\$ 6,356,000	\$ 5,405,900	\$ 4,411,500	\$ 2,018,700	\$ -
	\$ 3,145,400	\$ 17,611,400	\$ 23,520,100	\$ 23,397,200	\$ 20,788,900	\$ 6,528,800	\$ 2,287,700	\$ 4,442,500	\$ 5,953,800	\$ 5,214,300	\$ 4,137,500	\$ 2,146,100	\$ -
<i>Snowmass % Inc(Dec) in sales</i>	-14.45%	-3.30%	0.94%	-7.07%	4.32%	-2.43%	-6.34%	-10.37%	6.76%	3.67%	6.62%	-5.94%	-
												Year-to-date:	-
Sales - Crested Butte (4%)	\$ 2,243,425	\$ 4,933,925	\$ 3,502,525	\$ 3,619,325	\$ 4,808,575	\$ 1,747,325	\$ 2,069,975	\$ 4,191,025	\$ 7,725,250	\$ 6,145,950	\$ 4,816,625	\$ 2,592,050	\$ 2,280,750
	\$ 2,354,725	\$ 5,347,700	\$ 4,022,000	\$ 3,869,425	\$ 4,757,800	\$ 1,763,375	\$ 2,169,025	\$ 4,348,700	\$ 7,015,700	\$ 6,179,225	\$ 4,660,150	\$ 2,453,000	\$ 2,243,425
<i>Crested Butte % Inc(Dec) in sales</i>	-4.73%	-7.74%	-12.92%	-6.46%	1.07%	-0.91%	-4.57%	-3.63%	10.11%	-0.54%	3.36%	5.67%	1.66%
												Year-to-date:	0.04%

Standard and Poor's 500 Index (S&P 500) and Town Real Estate Transfer Tax (RETT)

(December 2010-Monitored Monthly)



As of December 2010, the S&P 500 is in an upward trend. The S&P 500 adjusted closing price has not been this high since July 2008. We are pleased that our RETT this month is also up from what the Town collected in December 2008 and 2009. We do believe that RETT will somewhat lag the S&P 500 recovery due to seasonality of real estate sales. But a prolonged positive change in RETT will likely require a sustained recovery in the S&P 500 index, with an increase in the wealth effect.



December 2010 RETT collection (\$406,202) is up from December 2008 (\$217,937) and December 2009 (\$358,422).

What is the Standard and Poor's 500 Index?

The S&P 500® has been widely regarded as the best single gauge of the large cap U.S. equities market since the index was first published in 1957. The index has over US\$ 3.5 trillion benchmarked, with index assets comprising approximately US\$ 915 billion of this total. The index includes 500 leading companies in leading industries of the U.S. economy, capturing 75% coverage of U.S. equities.¹ This index is routinely utilized as the 'benchmark' by most investment firms against which private returns are compared.

What is the Town of Breckenridge Real Estate Transfer Tax (RETT)?²

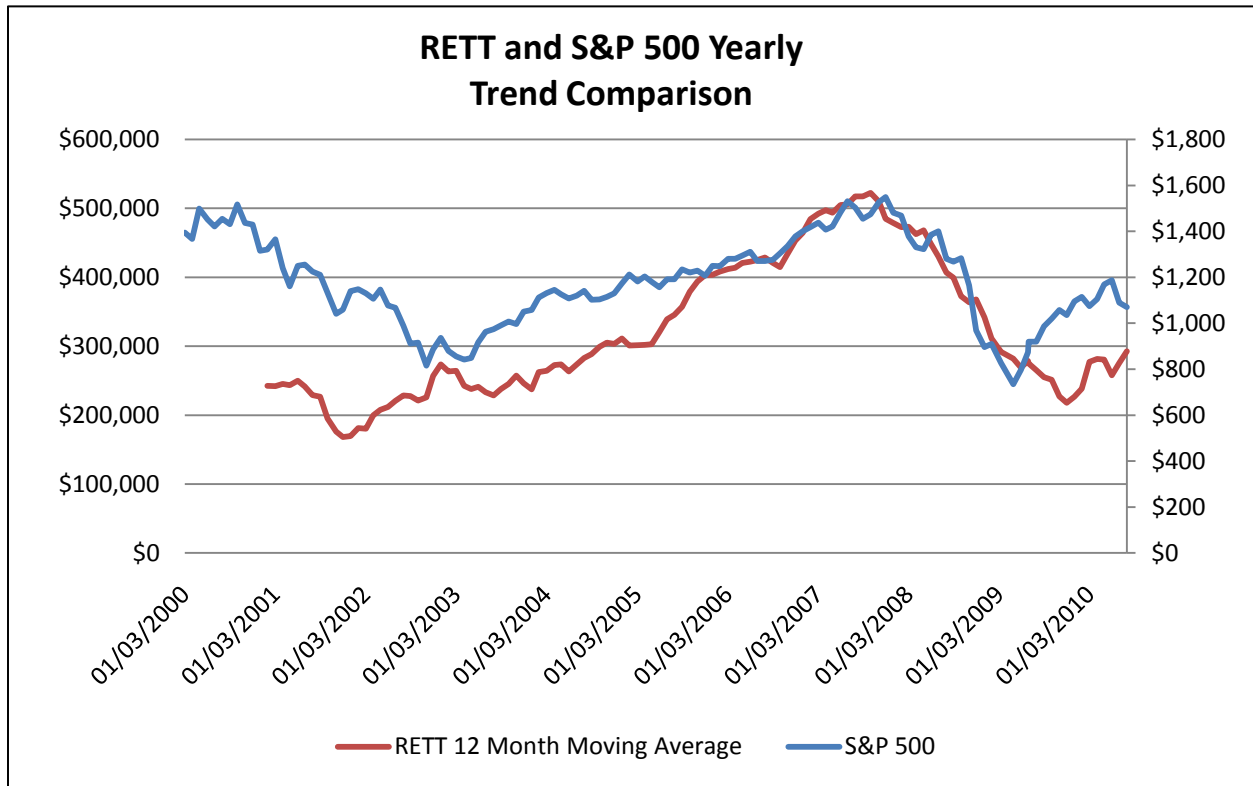
The Town of Breckenridge Real Estate Transfer Tax (RETT) is a 1% tax imposed on the sale price of all property located within the Town of Breckenridge.

What does this chart tell us?

The intent of this chart is to monitor over time whether there is a correlation between the S&P 500 and real estate sales within the Town. The S&P 500 is a good indicator of the national economy, specifically whether or not people's investments are generally going up or down in value. Since a majority of real estate buyers are from out of Town, purchasing property must be considered an investment. We believe that over time, we can prove a correlation between the national investment market and local real estate sales. The S&P 500 chart shows the index's average adjusted monthly closing and Town real estate transfer tax (RETT) as a 12 month moving average.

The chart compares the moving 12 month trend of the S&P 500 in comparison with our RETT receipts. The representation shows a strong relationship from 2000-2010. Prior data beginning in

2001 was influenced by the onetime occurrence of the 9/11 attack on the World Trade Center and Pentagon. The last two US recessions were from March-November 2001 and from December 2007- June 2009 according to the National Bureau of Economic Research³. These last two recessions slowed economic activity, along with the RETT, but the present S&P500 drop begun in 4th Qtr 2008 does not presently show a continuing recovery reaffirming the prior index's highs.



More Information/Sources:

- ¹Standard and Poor's 500 Index website:
<http://www.standardandpoors.com/home/en/us>
- ²Real Estate Transfer Tax description (Town of Breckenridge):
<http://www.townofbreckenridge.com/index.aspx?page=72>
- Real Estate Transfer Tax data (Town of Breckenridge):
<http://www.townofbreckenridge.com/index.aspx?page=633>
- ³National Bureau of Economic Research
<http://www.nber.org>

Sales Tax and Accommodation Tax Trend

(October 2010-Monitored Monthly)



As we enter the winter season and the peak of our tourism yearly period, we expect the number of lodging rooms booked to rise over previous down season months and therefore, we expect sales tax will also increase. The 2010 occupancy rate has been higher than 2009. However, the number of advanced bookings reported to MTrip (see 'Destination Lodging' indicator) are slightly lower than YTD 2009 which will be continued to be monitored closely for later bookings.

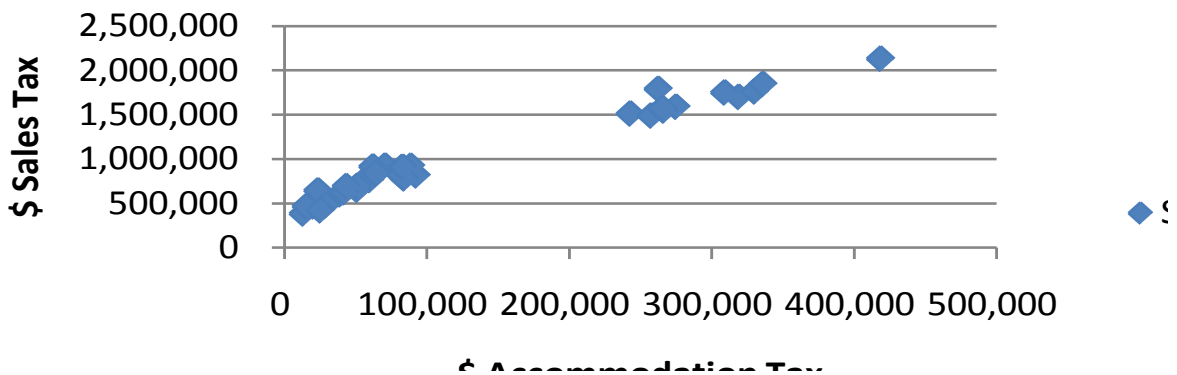
Summary

There is a strong relationship between accommodation tax collected and sales tax collected. With relatively small increases in accommodation tax collected, there is a significantly larger amount of sales tax collected. More "heads in beds" or destination visitors equals more dollars spent in town.

There is a local or off season economic condition which is represented by the lower grouping on the chart below. Further, when lodging increases during the town's peak season, the amount of sales tax follows.

□

Sales Tax and Accommodation Tax (Jan. 2008-Oct. 2010)



Information Sources: Town of Breckenridge Finance
webpage: <http://www.townofbreckenridge.com/index.aspx?page=146>

Real Estate Index within Breckenridge and Other Summit County Areas and County Comparisons (December 2010 Monthly Data-courtesy of Land Title)



Real Estate Sales (excluding timeshares): December's Summit county real estate sales were down from 2009 levels for the 4th month in a row. Sales show a 4% drop from a 2009 YTD basis. We continue at low sales levels as December 2010 registered at only approximately 50% of the December peak level of 2006. Looking at the entirety of 2010, Breckenridge saw 46% of \$ volume of all County sales. The County overall saw a 2% increase in \$ volume in 2010, a significant increase over the previous 2 years which had -35% and -36% in \$ volume. We are optimistic to see a change for the positive in \$ volume and will continue to monitor how the town performs during the next big real estate sales season for 2011 (typically May-November). *(Please note that the 5 county real estate data was not available at the time of this report and will be updated once received.)*



Distressed Properties: YTD 2010 Breckenridge showed properties (**excluding timeshares**) which have started the foreclosure process at 35% of the total units which have begun the foreclosure process within Summit county. This is a consistent percentage as previous months. Due to the foreclosure process, these properties may sell at an accelerated rate and lower price per square foot in the short term.

Real Estate Market Snapshot of Breckenridge and other areas within Summit County

Please find the following information attached to this report, provided by Land Title Guarantee Company:

- Summit County Gross Real Estate Volume: 2004 through 2010
- Market Analysis by Area: \$ transactions and volume, # transactions, average price, median price, price per square foot. (separate Breckenridge counts)
- Year to Date 2010 Market Analysis by Area: \$ transactions and volume, # transactions, average price, median price, price per square foot. (separate Breckenridge counts)
- December Market Analysis % Change
- Local foreclosures

County Comparisons

At the time of this report, the 5 county real estate sales comparison data was not available. Please continue to check the website for the updated information when it becomes available.

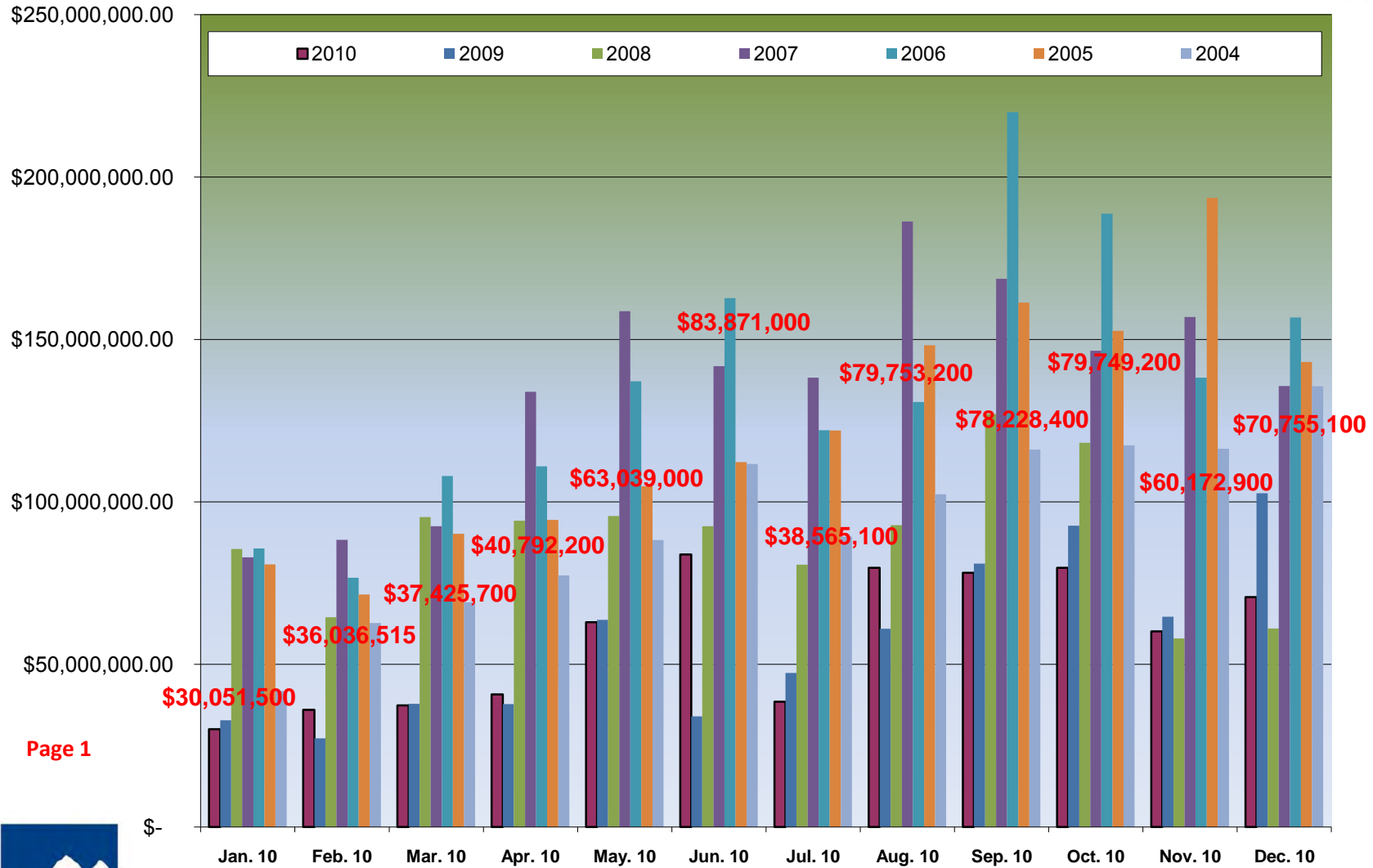
Information Source:

- Land Title Guarantee Company, 200 N. Ridge St., Breckenridge, CO 80424

Summit County Gross Real Estate Volume: 2004 through 2010



December Edition: 2010



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December Market Analysis by Area

Summit County, Colorado

DECEMBER 2010

There were 8 Bank Sales in December 2010, totalling \$2,466,900 in Gross Volume, or \$308,363 per Unit . This accounts for 3.49% of the Overall Gross Volume in Sales.

Red Text indicates a drop compared to the prior month's value; Green Text indicates a rise, Black Text indicates no change, or no comparison value. Colored Text is not used for % Calculations.

Average PPSF is calculated for properties with available Square Footages

Average & Median Residential Price & PPSF Includes: Statistically Viable Sales Only.

Area	\$ Volume Transactions	% of \$ Volume	# of Transactions	% of Transactions	Average \$ Transaction Price	Median \$ Transaction Price	Average \$ Residential Price	Median \$ Residential Price	Average \$ Residential PPSF
Blue River & South to County Line	\$795,000	1%	4	3%	\$198,750	\$100,000	\$332,500	dna	\$ 153
Breckenridge	\$25,681,600	36%	55	36%	\$466,938	\$439,000	\$510,226	\$470,000	\$ 374
Breckenridge Golf Course	\$6,840,300	10%	7	5%	\$977,186	\$986,300	\$1,130,883	\$1,130,650	\$ 337
Central Summit County (non-town)	\$0	0%	0	0%	\$0	\$0	\$0	\$0	\$ -
Copper Mountain	\$7,173,000	10%	8	5%	\$896,625	\$361,000	\$1,120,167	\$822,500	\$ 412
Corinthian Hills & Summerwood	\$0	0%	0	0%	\$0	\$0	\$0	\$0	\$ -
Dillon Town & Lake	\$517,600	1%	2	1%	\$258,800	dna	\$258,800	dna	\$ 325
Dillon Valley	\$270,000	0%	2	1%	\$135,000	dna	\$135,000	dna	\$ 180
Farmers Corner	\$1,038,800	1%	1	1%	\$1,038,800	dna	\$1,038,800	dna	\$ 363
Frisco	\$4,167,200	6%	13	8%	\$320,554	\$290,000	\$323,100	\$294,500	\$ 206
Heeney	\$310,000	0%	1	1%	\$310,000	dna	\$310,000	dna	\$ 189
Keystone	\$5,198,500	7%	16	10%	\$324,906	\$302,500	\$344,233	\$315,000	\$ 308
Montezuma	\$200,000	0%	1	1%	\$200,000	dna	\$200,000	dna	\$ 439
North Summit County (rural)	\$4,700,000	7%	2	1%	\$2,350,000	dna	\$2,270,000	dna	\$ 487
Peak 7	\$790,000	1%	2	1%	\$395,000	dna	\$395,000	dna	\$ 191
Silverthorne	\$5,702,800	8%	14	9%	\$407,343	\$334,000	\$421,654	\$335,000	\$ 228
Summit Cove	\$2,653,400	4%	7	5%	\$379,057	\$247,500	\$379,057	\$247,500	\$ 238
Wildernest	\$2,185,200	3%	10	6%	\$218,520	\$194,450	\$218,520	\$194,450	\$ 237
Woodmoor	\$755,000	1%	2	1%	\$377,500	dna	\$625,000	dna	\$ 244
Quit Claim Deeds	\$1,776,700	3%	7	5%	\$253,814	\$60,000	\$0	\$0	\$ -
TOTAL	\$70,755,100	100%	154	100%	\$469,241	\$317,450	\$492,512	\$350,000	\$ 307

Please note: The above figures do not include time share interests or refinance transactions. Average & Median price calculations do not include Quit Claim Deed transactions.

Calculations are an unofficial tabulation of Summit County records that are believed to be reasonably accurate but are not guaranteed.

Land Title Guarantee

Breckenridge.Frisco.Dillon
Brooke Roberts - broberts@ltgc.com
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200 North Ridge Street
Breckenridge, CO 80424

970.453.2255

BUY LOCAL



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December Market Analysis by Area

Summit County, Colorado

FULL YEAR 2010

There have been 50 Bank Sales YTD through December 2010, totalling \$19,622,100 in Gross Volume, or \$392,442 per Unit . This accounts for 2.81% of the Overall Gross Volume in Sales.

Average PPSF is calculated for properties with available Square Footages

Average & Median Residential Price & PPSF Includes: Statistically Viable Sales Only.

Area	\$ Volume Transactions	% of \$ Volume	# of Transactions	% of Transactions	Average \$ Transaction Price	Median \$ Transaction Price	Average \$ Residential Price	Median \$ Residential Price	Average \$ Residential PPSF
Blue River & South to County Line	\$24,492,100	4%	64	5%	\$382,689	\$365,000	\$509,493	\$525,000	\$ 228
Breckenridge	\$246,301,600	35%	340	26%	\$724,416	\$465,150	\$674,931	\$475,000	\$ 437
Breckenridge Golf Course	\$74,619,700	11%	104	8%	\$717,497	\$507,500	\$1,058,998	\$983,150	\$ 323
Central Summit County (non-town)	\$0	0%	0	0%	\$0	\$0	\$0	\$0	\$ -
Copper Mountain Less Ski Area Sale	\$25,981,800	4%	44	3%	\$590,495	\$385,000	\$632,820	\$393,000	\$ 419
Corinthian Hills & Summerwood	\$4,538,900	1%	9	1%	\$504,322	\$437,000	\$630,750	\$660,000	\$ 233
Dillon Town & Lake	\$12,940,400	2%	29	2%	\$446,221	\$295,000	\$471,362	\$302,150	\$ 294
Dillon Valley	\$8,176,500	1%	40	3%	\$204,413	\$155,000	\$208,700	\$160,000	\$ 194
Farmers Corner	\$3,356,200	0%	7	1%	\$479,457	\$429,000	\$503,533	\$454,500	\$ 244
Frisco	\$68,854,800	10%	150	11%	\$459,032	\$385,000	\$472,564	\$400,000	\$ 291
Heeney	\$2,063,000	0%	11	1%	\$187,545	\$107,000	\$248,417	\$270,000	\$ 228
Keystone	\$65,933,415	9%	178	13%	\$370,412	\$302,500	\$400,221	\$330,000	\$ 338
Montezuma	\$1,040,000	0%	5	0%	\$208,000	\$140,000	\$266,667	\$200,000	\$ 366
North Summit County (rural)	\$10,395,000	1%	12	1%	\$866,250	\$700,000	\$830,000	\$700,000	\$ 234
Peak 7	\$6,979,700	1%	13	1%	\$536,900	\$554,000	\$536,900	\$554,000	\$ 218
Silverthorne	\$75,753,500	11%	125	9%	\$606,028	\$479,000	\$627,148	\$531,500	\$ 252
Summit Cove	\$17,792,100	3%	45	3%	\$395,380	\$340,500	\$445,846	\$390,000	\$ 229
Wilderness	\$34,044,700	5%	101	8%	\$337,076	\$294,000	\$336,824	\$292,000	\$ 249
Woodmoor	\$11,141,900	2%	19	1%	\$586,416	\$595,000	\$672,306	\$680,000	\$ 242
Quit Claim Deeds	\$4,034,500	1%	23	2%	\$175,413	\$108,200	\$0	\$0	\$ -
TOTAL	\$698,439,815	100%	1319	100%	\$535,807	\$379,000	\$554,802	\$423,750	\$ 326

Please note: The above figures do not include time share interests or refinance transactions. Average & Median price calculations do not include Quit Claim Deed transactions.

Calculations are an unofficial tabulation of Summit County records that are believed to be reasonably accurate but are not guaranteed.

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December Market Analysis % Change

% Change: 2004 through 2010

Month to Month Comparison # of Transactions and \$ Volume

Month	2004	% Change 04 to 05	2005	% Change 05 to 06	2006	% Change 06 to 07	2007	% Change 07 to 08	2008	% Change 08 to 09	2009	% Change 09 to 10	2010
January	\$41,825,900	93%	\$80,788,900	6%	\$85,701,700	-3%	\$82,933,400	3%	\$85,497,600	-62%	\$32,813,600	-8%	\$30,051,500
February	\$62,725,300	15%	\$72,151,200	6%	\$76,698,900	15%	\$88,392,000	-27%	\$64,539,900	-58%	\$27,246,500	32%	\$36,036,515
March	\$69,129,000	30%	\$90,177,800	20%	\$108,018,500	-14%	\$92,555,500	3%	\$95,396,600	-60%	\$37,878,500	-1%	\$37,425,700
April	\$77,378,000	22%	\$94,438,600	17%	\$110,949,200	21%	\$133,878,100	-30%	\$94,201,300	-60%	\$37,792,900	8%	\$40,792,200
May	\$88,236,800	19%	\$104,834,400	31%	\$137,133,800	16%	\$158,745,300	-40%	\$95,667,500	-33%	\$63,752,300	-1%	\$63,039,000
June	\$111,700,400	0%	\$112,232,799	45%	\$162,725,600	-13%	\$141,802,500	-35%	\$92,536,900	-63%	\$34,049,300	146%	\$83,871,000
July	\$89,310,400	37%	\$122,040,800	0%	\$122,097,500	13%	\$138,251,700	-42%	\$80,686,100	-41%	\$47,401,000	-19%	\$38,565,100
August	\$102,320,900	45%	\$148,269,200	-12%	\$130,811,400	42%	\$186,302,600	-50%	\$92,825,200	-34%	\$60,975,000	31%	\$79,753,200
September	\$116,154,100	39%	\$161,353,500	36%	\$219,939,000	-23%	\$168,704,900	-25%	\$127,090,100	-36%	\$81,015,200	-3%	\$78,228,400
October	\$117,417,900	30%	\$152,693,400	24%	\$188,770,200	-22%	\$146,546,900	-19%	\$118,230,800	-22%	\$92,709,100	-14%	\$79,749,200
November	\$116,352,500	66%	\$193,562,600	-29%	\$138,233,900	14%	\$156,934,000	-63%	\$58,002,400	12%	\$64,690,000	-7%	\$60,172,900
December	\$135,624,700	6%	\$143,084,300	10%	\$156,795,100	-13%	\$135,691,900	-55%	\$61,054,700	68%	\$102,685,700	-31%	\$70,755,100
Year-to-Date TOTAL	\$1,128,175,900	31%	\$1,475,627,499	11%	\$1,637,874,800	0%	\$1,630,738,800	-35%	\$1,065,729,100	-36%	\$683,009,100	2%	\$698,439,815
Month to Date	\$1,128,175,900	31%	\$1,475,627,499	11%	\$1,637,874,800	0%	\$1,630,738,800	-35%	\$1,065,729,100	-36%	\$683,009,100	2%	\$698,439,815

Month to Month Comparison by Number of Transactions

Month	2004	% Change 04 to 05	2005	% Change 05 to 06	2006	% Change 06 to 07	2007	% Change 07 to 08	2008	% Change 08 to 09	2009	% Change 09 to 10	2010
January	118	82%	215	-11%	192	-4%	185	-11%	165	-67%	54	0%	54
February	221	-23%	171	6%	181	-8%	166	-23%	128	-57%	55	20%	66
March	212	24%	262	2%	266	-23%	206	-21%	162	-56%	71	21%	86
April	240	3%	247	12%	276	-5%	261	-38%	163	-58%	68	34%	91
May	247	6%	263	18%	310	5%	324	-50%	162	-46%	88	7%	94
June	278	10%	305	11%	340	-17%	283	-45%	155	-48%	80	73%	138
July	229	41%	323	-3%	312	-4%	301	-55%	136	-30%	95	-21%	75
August	293	37%	400	-27%	291	24%	361	-49%	183	-38%	114	3%	117
September	368	21%	445	0%	444	-32%	301	-33%	201	-27%	147	1%	149
October	371	5%	389	3%	400	-22%	311	-43%	176	-9%	160	-4%	154
November	343	11%	381	-14%	326	-14%	281	-63%	105	29%	135	4%	141
December	326	-9%	298	-9%	271	-19%	220	-55%	98	82%	178	-13%	154
Year-to-Date TOTAL	3,246	14%	3,699	-2%	3,609	-11%	3,200	-43%	1834	-32%	1245	6%	1319
Month to Date	3,246	14%	3,699	-2%	3,609	-11%	3,200	-43%	1834	-32%	1245	6%	1319

Please note: The above figures do not include time share interests or Refi's and are an unofficial tabulation of Summit County records that are believed to be reasonably accurate.

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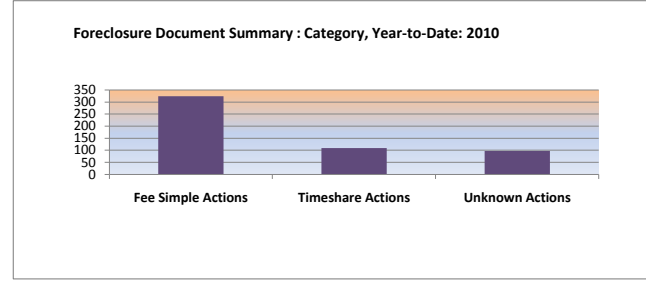
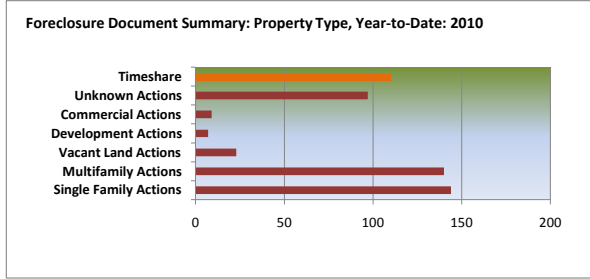


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YEAR-TO-DATE SUMMARY OF FORECLOSURE ACTIONS: December Edition

Property Foreclosure Summary:	
Fee Simple Actions	324
Timeshare Actions	109
Unknown Actions	97
Property Type Breakdown:	
Single Family Actions	144
Multifamily Actions	140
Vacant Land Actions	23
Development Actions	7
Commercial Actions	9
Unknown Actions	97
Timeshare	110

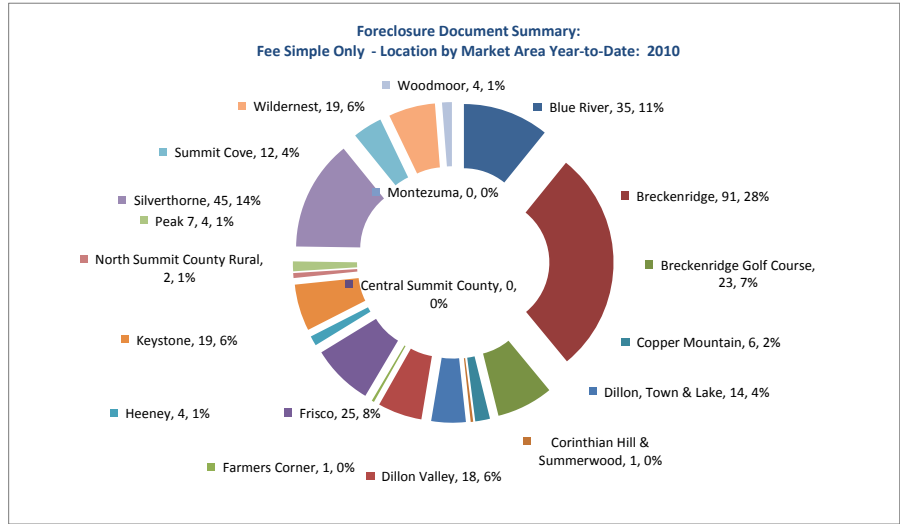
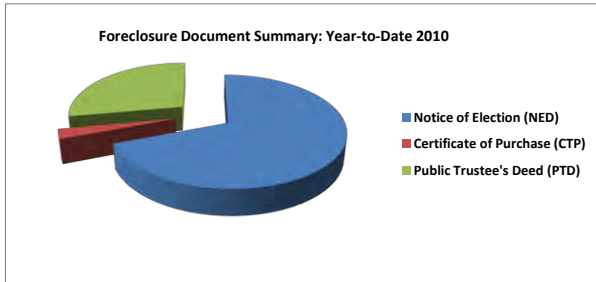


Location Summary: ALL TYPES	
Blue River	35
Breckenridge	200
Breckenridge Golf Course	23
Central Summit County	0
Copper Mountain	6
Corinthian Hill & Summerwoo	1
Dillon, Town & Lake	14
Dillon Valley	18
Farmers Corner	1
Frisco	25
Heeney	4
Keystone	19
Montezuma	0
North Summit County Rural	3
Peak 7	4
Silverthorne	45
Summit Cove	12
Wilderness	19
Woodmoor	4

Location Summary: Fee Simple Only	
Blue River	35
Breckenridge	91
Breckenridge Golf Course	23
Central Summit County	0
Copper Mountain	6
Corinthian Hill & Summerwo	1
Dillon, Town & Lake	14
Dillon Valley	18
Farmers Corner	1
Frisco	25
Heeney	4
Keystone	19
Montezuma	0
North Summit County Rural	2
Peak 7	4
Silverthorne	45
Summit Cove	12
Wilderness	19
Woodmoor	4

* Location Summaries do not include recordings with Unknown Legal Descriptions

Document Summary:	
Notice of Election (NED)	367
Certificate of Purchase (CTP)	15
Public Trustee's Deed (PTD)	148



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BRECKENRIDGE TOWN COUNCIL REGULAR MEETING
Tuesday, February 8, 2011; 7:30 p.m.
Town Hall Auditorium

I	CALL TO ORDER and ROLL CALL	
II	APPROVAL OF MINUTES – January 25, 2011	97
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 2011 - PUBLIC HEARINGS	
	1. Council Bill No. 4, Series 2011 -An Ordinance Making Miscellaneous Amendments To The <u>Breckenridge Town Code</u> To Allow For The Publication Of Town Notices To Be Made By Posting On The Town’s Official Website, Instead Of Requiring Publication In A Newspaper	100
	2. Council Bill No. 5, Series 2011 -An Ordinance – An Ordinance Adopting Chapter 13 Of Title 9 Of The <u>Breckenridge Town Code</u> Concerning The Residential Growing Of Medical Marijuana	107
VI	NEW BUSINESS	
	A. FIRST READING OF COUNCIL BILLS, SERIES 2011	
	1. Council Bill No. 6 - An Ordinance Making Miscellaneous Amendments to Title 12 Of The <u>Breckenridge Town Code</u> , Known As The “Town of Breckenridge Water Ordinance”	121
	2. Council Bill No.7 - An Ordinance Amending Chapter 1 of Title 9 Of The <u>Breckenridge Town Code</u> , Known As The “Breckenridge Development Code”, By Adopting Procedures To Be Followed To Amend The Town of Breckenridge “Land Use Guidelines”	127
	B. RESOLUTIONS, SERIES 2011	
	1. A Resolution Making Supplemental Appropriations to the 2010 Town Budget – PUBLIC HEARING	132
	2. A Resolution Making Supplemental Appropriations To The 2011 Budget Including Projects Not Completed In Budget Year 2010 – PUBLIC HEARING	139
	C. OTHER	
VII	PLANNING MATTERS	
	A. Planning Commission Decisions of February 1, 2011	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. Marketing Committee (Mr. Dudick)	
	E. Summit Combined Housing Authority (Mr. Joyce)	
	F. Breckenridge Heritage Alliance (Mr. Burke)	
	G. Sustainability Committee (Mr. Bergeron, Mr. Joyce, Mayor Warner)	
	H. Joint Upper Blue Master Plan Update Committee (Mr. Bergeron, Mr. Mamula)	
X	OTHER MATTERS	
XI	SCHEDULED MEETINGS	140
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 January 25, 2011 Town Council Meeting to order at 7:39 p.m. The following members answered roll call: Mr. Dudick, Ms. McAtamney, Mr. Bergeron, Mr. Mamula, Mr. Joyce, Mr. Burke, and Mayor Warner.

APPROVAL OF MINUTES – January 11, 2011 Regular Meeting

Mr. Dudick pointed out a spelling correction on page 43 under the section of Communications to Council in the second paragraph. The word budget was misspelled.

With no other changes or corrections to the meeting minutes of January 11, Mayor Warner declared the minutes were approved.

APPROVAL OF AGENDA

Town Manager Tim Gagen added an item under Planning Matters regarding whether or not to retain Rodney Allen on the Planning Commission.

COMMUNICATIONS TO COUNCIL

- A. Citizen’s Comments - (Non-Agenda Items ONLY; 3 minute limit please) - None.

CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILL, SERIES 2011 – PUBLIC HEARINGS

- 1. **Council Bill No. 1, Series 2011 - AN ORDINANCE REPEALING AND READOPTING WITH CHANGES POLICY 33 (RELATIVE) OF SECTION 9-1-19 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE”, CONCERNING ENERGY CONSERVATION; AND MAKING CONFORMING AMENDMENTS TO THE BRECKENRIDGE DEVELOPMENT CODE**

Town Attorney Tim Berry explained that this ordinance would revise the Town’s development code concerning energy conservation. After the work session, Mr. Berry made one change on the second page, second box, changing the allocated starting points from two to one. Mr. Berry had nothing to add to Julia Puester’s (Community Development Department) memo that was included in the packet.

Mayor Warner opened the public hearing. Mayor Warner thanked the Planning Commission and Ms. Puester for their work and patience. There were no further comments and the public hearing was closed.

Mr. Dudick moved to approve Council Bill No. 1, Series 2011. Mr. Mamula seconded the motion. The motion passed 7-0.

NEW BUSINESS

A. FIRST READING OF COUNCIL BILL, SERIES 2011

- 1. **Council Bill No. 4, Series 2011 – AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO THE BRECKENRIDGE TOWN CODE TO ALLOW FOR THE PUBLICATION OF TOWN NOTICES TO BE MADE BY POSTING ON THE TOWN’S OFFICIAL WEBSITE, INSTEAD OF REQUIRING PUBLICATION IN A NEWSPAPER**

Mr. Berry explained that in April of 2010 voters gave approval for most town notices to be published on the town website. This ordinance would make appropriate changes to various sections of the Breckenridge Town Code to allow for publication on the town website.

Mr. Bergeron moved to approve Council Bill No. 4, Series 2011. Mr. Mamula seconded the motion. The motion passed 7-0.

- 2. **Council Bill No. 5, Series 2011 – AN ORIDANANCE ADOPTING CHAPTER 13 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE RESIDENTIAL GROWING OF MEDICAL MARIJUANA**

Town Attorney Tim Berry explained that this ordinance would put Breckenridge in line with only a few other municipalities specifically dealing with the residential growing of medical marijuana. It is a conceptual ordinance created by using certain ideas from the ordinances used by Denver and Aurora. The ordinance would limit a residence to six plants per caregiver. A residence of two caregivers could have up to 12 plants. Mr. Berry added that this ordinance was drafted on his understanding of the current law.

Mayor Warner invited Peter Caamano, age 13, to speak before council even though this ordinance wasn’t open for public hearing. Mr. Caamano thanked council for their response to a letter he had submitted to council. He reminded council that in the letter he spoke of truth, saying that if it is not true for everyone, then it isn’t true for anyone. Mr. Caamano was in favor of the ordinance and encouraged council to consider that when voting for the ordinance. Mayor Warner thanked Mr. Caamano for speaking before the council.

Mr. Mamula moved to approve Council Bill No. 5, Series 2011. Mr. Burke seconded the motion. The motion passed 7-0.

B. RESOLUTIONS, SERIES 2011

- 1. **A RESOLUTION RATIFYING AND APPROVING THE TOWN MANAGER’S SIGNING OF AN ASSIGNMENT OF PARTIAL INTEREST IN REAL ESTATE OPTION AGREEMENT WITH SUMMIT COUNTY, COLORADO, AND THE CLOSING OF THE TOWN’S PURCHASE OF AN INTEREST IN CERTAIN REAL PROPERTY PURSUANT THERETO (LOTS 42 AND 43, LOMA VERDE, FILING NO. 2)**

Mr. Berry explained that council previously authorized this purchase with the County and that it is currently under contract with Summit County. This resolution would ratify and approve the town manager’s signature on the contract. The closing for this property occurred last Friday, January 21.

Mr. Mamula moved to approve a Resolution Ratifying And Approving The Town Manager’s Signing Of An Assignment Of Partial Interest In Real Estate Option Agreement With Summit County, Colorado, And The Closing Of The Town’s Purchase Of An Interest In Certain Real Property Pursuant Thereto (Lots 42 and 43, Loma Verde, Filing No. 2). Mr. Joyce seconded the motion. The motion passed 7-0.

C. OTHER

- 1. None.

PLANNING MATTERS

A. Planning Commission Decisions of January 18, 2011

There were no requests for call up. Mayor Warner declared the Planning Commission decisions were approved as presented with one approval of a Class C application.

Mr. Gagen pointed out the Planning Commission code requirements on page 23 of the council packet and that council would need to take action concerning Rodney Allen's position on the commission. The council had a discussion on the proper process for this subject. Mr. Berry encouraged council to vote on the decision and let the vote determine the outcome. Mayor Warner thanked Mr. Allen for submitting his letter to the Council. Mr. Allen emphasized his commitment to the Planning Commission. Mr. Burke stated that he would like to retain Mr. Allen. Mr. Bergeron asked Mr. Allen for clarification of his schedule in the upcoming year. Mr. Allen anticipated that he would miss two meetings in the next 12 months.

Mayor Warner asked for a roll call vote to retain Mr. Allen on the Planning Commission. The vote passed 7-0.

B. Town Council Representative Report (Mr. Burke)

Mr. Burke encouraged council to consider issues concerning vendor carts. These issues were outlined in the minutes from the Planning Commission. Mr. Gagen reminded council of the land use issues associated with vendor carts. Ms. McAtamney added that size and portability are also things to consider. Mr. Burke reminded council that the length of time that they will have the business is also something to consider and the need to preserve the character of the town. Mr. Joyce questioned fire issues associated with having a vendor cart.

REPORT OF TOWN MANAGER AND STAFF

None.

REPORT OF MAYOR AND COUNCILMEMBERS

A. **CAST/MMC** (Mayor Warner) – Mayor Warner reported during the work session.

B. **Breckenridge Open Space Advisory Commission** (Ms. McAtamney) – Ms. McAtamney reported during the work session.

C. **Breckenridge Resort Chamber** (Mr. Dudick) – Mr. Dudick reported during the work session.

D. **Summit Combined Housing Authority** (Mr. Joyce) – No meeting.

E. **Breckenridge Heritage Alliance** (Mr. Burke) – No meeting.

F. **Sustainability** (Mr. Bergeron, Mr. Joyce, Mayor Warner) – Mr. Bergeron reported that the committee is looking at how the town could implement a multi-use bag program with businesses and possible participation with the rest of the county. Mr. Joyce mentioned the use of a green business certification for main street retailers who are participating and have the business display the certificate on their door to show community members that retailers are behind sustainability and saving money along the way. They also discussed energy efficiency in our own town buildings along with scrutinizing the use of our fleet vehicles and taking a better look at their use. Mr. Joyce was happy to inform council that the town has saved 22,000 miles with the shared ridership program and that behavioral-based energy savings - such as turning off the lights when you leave a room – has shown a 25% cost savings.

G. **Marketing Committee** (Mr. Dudick) – Mr. Dudick reported during the work session.

H. **Joint Upper Blue Master Plan Update Committee** (Mr. Bergeron, Mr. Mamula) – Reported during the work session.

OTHER MATTERS

Mr. Bergeron asked if the town could change the timing of the street lights in the town, stating that they tend to turn on too early in the evening and shut off too late in the morning. Mr. Gagen clarified that the lights operate on photo cells and that wouldn't be possible at this time but the town is working on a plan to take some of the lights out of service in areas where they aren't needed. Mr. Bergeron mentioned a second issue regarding being approached by business owners who operate on Airport Road in the special overlay district. The business owners would like to use sandwich boards in order to bring in more customers. Mr. Burke mentioned that in-town businesses have the same issue, stating that he had tried placing a sandwich board towards the front of LaCima Mall but it was taken away because policy states that the sign needs to be near the front door. Mr. Bergeron asked all council members if they were in favor of discussing this issue. There were no council members in favor of discussing or eventually approving any changes to the sign code regarding sandwich board signage in the special overlay district.

Mr. Mamula wanted to discuss the parking issues at the Peaks Trailhead parking lot. He would like the ski area to take care of the issue of the lot filling up early in the morning and felt that it is unfair to customers of the Nordic Center and people who are there to use the Peaks Trail. Mr. Dudick felt that part of the blame falls on Grand Lodge due to the fact that people come up and expect to be able to park there, but doesn't feel that it would be fair to characterize it as ski area employees who are parking there. Mr. Mamula mentioned that the signage needs to be improved at the trailhead. Mr. Gagen added that it's very difficult to define who is using the trail. Therese Dayton of the Breckenridge Nordic Center informed council that their guests do not use the Peaks Trailhead for parking their vehicles. Ms. Dayton believes it is being used by locals and employees of the ski area. Ms. Dayton expressed her concern for the safety of her customers using the Nordic Center because alpine skiers sometimes ski down into the nordic area neighborhood. Mayor Warner suggested having this issue as an item during a later work session.

Mr. Bergeron was concerned with the exaggerated weather forecasts given by a particular Denver news television station. Mr. Bergeron felt that the meteorologist would make the weather conditions sound worse than they actually are.

Ms. McAtamney informed council of a letter from the Bureau of Land Management and recommended support of Ken Salazar and BLM's desire to manage its own wilderness area lands. Ms. McAtamney felt that it was very important for them to be able to manage their own lands.

Mr. Dudick would like Mr. Berry to bring a definition of "seriously ill" to a work session as it pertains to medical marijuana.

Mr. Dudick expressed his concern for the safety issues of the people using the tubing hill at Carter Park. He felt that the priority has always been centered around the dog park and a recent personal experience was quite terrifying. He gave the suggestion of routing people up one side of the tubing hill. Mr. Gagen explained that the hill doesn't have any staff to supervise the area. Mr. Mamula added that it is a great amenity for the town. Mr. Bergeron would be happy to see staff look at the costs associated with potential staffing of the area.

Mr. Joyce asked Mr. Gagen about the status of the Speakeasy lease located in the old Colorado Mountain College (CMC) building. Mr. Gagen informed council that the lease has been renewed but that the theater is still not covering its costs. The theater is looking for a longer term lease; however, the town won't allow for a longer lease until we know more details about the plan to move town hall into the building. Mayor Warner would like to see the town move forward on the plan for CMC and enjoys seeing the Speakeasy at the CMC building. He also stated that he would support their request for a multi-year lease and would like to hear from the whole council before making a decision. Mr. Burke agreed with Mayor Warner on that process. Mr. Gagen stated that he would have Town Engineer Tom Daugherty review the plan again.

Mayor Warner received a phone call from Holly Robb of Holly's Pizzazz expressing her desire to revive the "unofficial high school reunions" that used to occur in Breckenridge many years ago for Summit High School graduates. She would like to see this activity come back to the community through the use of the building at Carter Park. Council members explained that a general reservation and payment were all that is required to rent the facility. They also recommended that Ms. Robb reserve the facility as quickly as possible because the reservation list fills up during summer months. Mr. Burke thought that it was a great idea.

Mayor Warner reminded Ms. Dayton that BOSAC would like to see a map of current nighttime operations for the Nordic Center. The committee was concerned with possible disturbances of birds, etc towards the northern boundary of the Theobald property line. Ms. Dayton clarified that the Nordic Center does not use any part of the Cucumber Gulch during the nighttime snowshoeing sessions. She also added that they limit the number of nights per week and that the amount of people in each group is very small.

SCHEDULED MEETINGS

None.

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 8:57 p.m.

Submitted by Jena Taylor, Administrative Specialist.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor

MEMO

TO: Town Council
FROM: Town Attorney
RE: Council Bill No. 4 (Web Site Publication Ordinance)
DATE: January 31, 2011 (for February 8th meeting)

The second reading of the ordinance amending various Town Code sections to replace the requirement for newspaper publication with a requirement that the notice or document be published by posting on the Town's web site is scheduled for your meeting on February 8th. 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 – FEB. 8**

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. 4

9
10 Series 2011

11
12 AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO THE
13 BRECKENRIDGE TOWN CODE TO ALLOW FOR THE PUBLICATION OF TOWN
14 NOTICES AND OTHER DOCUMENTS ON THE TOWN'S OFFICIAL WEB SITE INSTEAD
15 OF REQUIRING PUBLICATION IN A NEWSPAPER
16

17 WHEREAS, at the regular Town election held April 6, 2010 the electors approved an
18 amendment to the Breckenridge Town Charter to allow publication of Town laws and notices to
19 be made by posting on the Town's official website, unless a different method of publication is
20 required by applicable law; and
21

22 WHEREAS, the Town Council finds and determines that it is necessary to make
23 conforming amendments to various sections of the Breckenridge Town Code in order to fully
24 implement the recent amendment to the Breckenridge Town Charter.
25

26 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
27 BRECKENRIDGE, COLORADO:
28

29 Section 1. Section 1-17-8(B) of the Breckenridge Town Code is amended so as to
30 read in its entirety as follows:

31 B. If the custodian cannot determine the owner of unclaimed property, or the
32 owner's last known address, then prior to disposing of any such unclaimed
33 property the custodian shall cause a notice to be published ~~once in a newspaper of~~
34 ~~general circulation in the town~~ **in accordance with Section 1-22-2 of this Code.**
35 The notice shall include a description of the property and the amount or estimated
36 value of the property. The notice shall state where the owner may make inquiry
37 about or claim the property. The notice shall also state that if the owner fails to
38 provide the custodian with a written claim for the return of the property within
39 sixty (60) days of the date of the publication of the notice, the property shall
40 become the sole property of the town, and any claim of the owner to such
41 property shall be deemed forfeited.
42

43 Section 2. Section 1-17-12(A) of the Breckenridge Town Code is amended so as to
44 read in its entirety as follows:

1 A. Any public sale of forfeited property shall be preceded by a ~~single~~ the
2 publication of a notice of sale. Such notice shall be published in accordance with
3 Section 1-22-2 of this Code, and such publication shall be completed at least
4 two (2) weeks in advance of sale ~~in a newspaper of general circulation within the~~
5 ~~limits of the town.~~ The notice of sale shall describe the forfeited property and
6 shall state where and when the sale shall take place.
7

8 Section 3. Section 1-18-3 of the Breckenridge Town Code is amended so as to read
9 in its entirety as follows:

10 1-18-3: PROCEDURE FOR PROMULGATION OF RULES AND
11 REGULATIONS:
12

13 A. Proposed rules and regulations shall be submitted to and approved by the town
14 attorney prior to promulgation.
15

16 B. Before becoming effective, all rules and regulations shall be published in
17 accordance with either of the methods set forth below as determined by the
18 promulgating authority:
19

20 1. By publishing the rules and regulations ~~as finally promulgated in full one time~~
21 ~~in a newspaper of general circulation within the town~~ in accordance with Section
22 1-22-2 of this Code; or
23

24 2. By filing one copy of the rules and regulations with the town clerk; one copy
25 with the town attorney; and one copy with the promulgating authority; provided,
26 however, that if this method is selected, ~~there shall be published once in a~~
27 ~~newspaper of general circulation within the town a notice~~ a notice shall be
28 published in accordance with Section 1-22-2 of this Code, stating: a) that such
29 rules and regulations have been adopted; b) the effective date of such rules and
30 regulations; and c) a brief summary of the purpose and content of such rules and
31 regulations.
32

33 C. Not later than two (2) weeks prior to the date rules and regulations are
34 promulgated pursuant to this chapter, the promulgating authority shall provide a
35 copy of the proposed rules and regulations to the town council.
36

37 Section 4. Section 2-2-6 of the Breckenridge Town Code is amended so as to read in
38 its entirety as follows:

39 2-2-6: APPOINTMENTS TO FILL VACANCIES:
40

41 Within thirty (30) days of any vacancy on the commission, the town council, by
42 majority vote of all the council members in office at the time of the appointment,
43 shall appoint a town resident and elector to fill such vacancy for the unexpired
44 term of the vacated position. Appointment shall be made only after publication in
45 accordance with Section 1-22-2 of this Code of a solicitation of applications by

1 advertisement in a newspaper of general circulation, and review of all such
2 applications by the town council.

3
4 Section 5. Section 2-3-5 of the Breckenridge Town Code is amended so as to read in
5 its entirety as follows:

6 2-3-5: APPOINTMENTS TO FILL VACANCIES:

7
8 Within thirty (30) days of any vacancy on the Board of Appeals, the Town
9 Council by majority vote shall appoint a Town resident and elector to fill such
10 vacancy for the unexpired term fee the vacated position. Appointment shall be
11 made only after **publication in accordance with Section 1-22-2 of this Code of**
12 **a solicitation of applicants by advertisement in a newspaper of local circulation,**
13 and review of all such applications by the Town Council.

14
15 Section 6. Section 2-5-13(B) of the Breckenridge Town Code is amended so as to
16 read in its entirety as follows:

17 B. The town clerk shall serve as the official secretary of the authority, and shall designate
18 a person or persons to provide the necessary secretarial and reporting services for the
19 authority. The town clerk or the clerk's designee shall attend the meetings of the
20 authority, **and shall publish and post those notices that are required by law.** All
21 ~~public notice by publication in a and by posting of signs, as required by law, shall be~~
22 ~~accomplished by the town clerk.~~

23 Section 7. Section 9-4-4 of the Breckenridge Town Code is amended so as to read in
24 its entirety as follows:

25 9-4-4: PROCEDURES FOR ADOPTION OF MASTER PLAN:

26 The council may adopt the master plan as a whole by a single resolution or may by
27 successive resolutions adopt successive parts of the plan (said parts corresponding with
28 major geographical sections or divisions of the town or with functional subdivisions of
29 the subject matter of the plan) and may adopt any amendment or extension thereof or
30 addition thereto. Before the adoption of the plan or any such part, amendment, extension,
31 or addition, the council shall hold at least one public hearing thereon, notice of the time
32 and place of which shall be given by ~~one publication in a newspaper of general~~
33 ~~circulation in the town~~ **in accordance with Section 1-22-2 of this Code.** The resolution
34 shall refer expressly to the maps and descriptive and other matter intended by the council
35 to form the whole or part of the plan. If the master plan affects any portion of
36 unincorporated Summit County, an attested copy of the plan or part thereof shall be
37 certified by the town clerk to the board of county commissioners of Summit County and,
38 after the approval of such board, shall be filed with the Summit County clerk and
39 recorder.

40 Section 8. Section 9-6-6 of the Breckenridge Town Code is amended so as to read in
41 its entirety as follows:

1 9-6-6: NOTICE OF HEARING ON CREATION:

2 Notice of the public hearing on the creation of the improvement district shall be given by
3 publishing the creation ordinance ~~one time in a newspaper of general circulation in the~~
4 ~~Town~~ **in accordance with Section 1-22-2 of this Code**. The Town Clerk shall, by
5 registered or certified mail, send a copy of the creation ordinance to the last known
6 address of each last known owner within the improvement district whose property will be
7 assessed for the cost of the improvements, such addresses and owners being those
8 appearing on the real property assessment rolls for general (ad valorem) taxes of Summit
9 County, Colorado, wherein the property is located. Any such list of names and addresses
10 pertaining to any improvement district may be revised from time to time, but such a list
11 need not be revised more frequently than at twelve (12) months' intervals. The creation
12 ordinance shall be mailed as soon as practicable but in no case later than seven (7) days
13 prior to the public hearing. The creation ordinance shall be published at least four (4)
14 days prior to the public hearing.

15 Section 9. Section 9-6-15 of the Breckenridge Town Code is amended so as to read
16 in its entirety as follows:

17 9-6-15: NOTICE OF HEARING ON ASSESSMENT ROLL:

18
19 Notice of the public hearing on the assessment roll shall be given by publishing
20 the assessment ordinance ~~one time in a newspaper of general circulation in the~~
21 ~~Town~~ **in accordance with Section 1-22-2 of this Code**, and by posting the
22 assessment ordinance, as provided in the Charter. The Town Clerk shall, by
23 registered or certified mail, send a copy of such ordinance to the last known
24 address of each last known owner of land within the improvement district whose
25 property will be assessed for the cost of the improvements, such addresses and
26 owners being those appearing on the real property assessment rolls for general (ad
27 valorem) taxes of Summit County, Colorado, wherein said property is located.
28 Any such list of names and addresses pertaining to any improvement district may
29 be revised from time to time, but such a list need not be revised more frequently
30 than at twelve (12) months' intervals. The assessment ordinance shall be mailed as
31 soon as practicable but in no case later than seven (7) days prior to the public
32 hearing. The assessment ordinance shall be published at least four (4) days prior
33 to the public hearing.
34

35 Section 10. Section 9-6-22 of the Breckenridge Town Code is amended so as to read
36 in its entirety as follows:

37 9-6-22: CASH PAYMENT OF ASSESSMENTS; NOTICE:

38
39 Payments may be made to the Director of Finance at any time within thirty (30)
40 days after the effective date of the assessing ordinance, without penalty or the
41 payment of interest. The Director of Finance shall give notice by publication in a
42 ~~newspaper of general circulation in the Town~~ at least once **accordance with**
43 **Section 1-22-2 of this Code, such publication to be completed** at least twenty

1 (20) days before the end of said thirty (30) day period, of the place of payment
2 and the time for the cash payment period to close. At the expiration of said thirty
3 (30) day period, the Director of Finance shall prepare or cause to be prepared a
4 permanent assessment roll reflecting the cash payments and the amounts
5 remaining due in installments.
6

7 Section 11. Section 9-9-10(D) of the Breckenridge Town Code is amended so as to
8 read in its entirety as follows:

9 D. In addition to the ~~newspaper~~ notice required by subsection 5.10(d) of the town
10 charter, notice of the required public hearing shall be given in the same manner as
11 is required for a final hearing on a class A development permit application
12 pursuant to chapter 1 of this title.
13

14 Section 12. Section 11-4-2 of the Breckenridge Town Code is amended so as to read
15 in its entirety as follows:

16 11-4-2: PUBLIC HEARING AND NOTICE:

17 The Council shall hold a public hearing on the vacation ordinance at the time of the
18 second reading of the ordinance. Notice of such hearing shall be published in a
19 ~~newspaper of general circulation in the Town~~ **accordance with Section 1-22-2 of this**
20 **Code, such publication to be completed** at least four (4) days prior to such hearing. In
21 addition, the Town Clerk shall mail notice of such hearing to all owners of property
22 adjacent to the public way sought to be vacated as shown in the request for vacation and
23 to all public utility companies providing service within the Town. Such notice shall be
24 mailed at least four (4) days prior to the public hearing.

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

27 12-4-4: PLANT INVESTMENT FEE; AUTOMATIC ANNUAL ADJUSTMENT:

28 On January 1 of each year, commencing in 2007, the amount of the PIF to be paid to the
29 town pursuant to section 12-4-3 of this chapter shall be increased by an amount equal to
30 five percent (5%) of the previous year's PIF. The increased PIF rate shall apply to all
31 applications for water service that have not been fully paid by the effective date of such
32 rate increase. Not later than thirty (30) days after the PIF is adjusted each year as
33 provided in this section, the town clerk shall cause to be published a public notice setting
34 forth the amount of the adjusted PIF. Such notice shall be published ~~one time in a~~
35 ~~newspaper of general circulation in the town~~ **in accordance with Section 1-22-2 of this**
36 **Code**; provided, however, that the failure of the town clerk to cause such notice to be
37 published shall not affect the validity of the adjustment to the PIF as made by the finance
38 director pursuant to this section.

39 Section 14. Except as specifically amended hereby, the Breckenridge Town Code, and
40 the various secondary codes adopted by reference therein, shall continue in full force and effect.

MEMO

TO: Town Council

FROM: Town Attorney

RE: Council Bill No. 5 (Residential Medical Marijuana Ordinance)

DATE: February 1, 2011 (for February 8th meeting)

The second reading of the ordinance regulating the residential growing of medical marijuana is scheduled for your meeting on February 8th.

I have not proposed any changes to ordinance from the version that was approved on first reading.

However, I did receive the enclosed e-mail from Sean McAllister yesterday. In his e-mail, Mr. McAllister suggests several modifications to the ordinance. I wanted you to see his e-mail since I do not think Mr. McAllister will be at next Tuesday's meeting.

Most of Mr. McAllister's points are policy issues that fall within Council's legislative purview; however, item 3 raises a legal issue that I will double-check and be prepared to discuss with you on Tuesday.

If you want to make any of Mr. McAllister's suggested changes to the ordinance (or any other changes for that matter), I will be able to make the change(s) in time for the ordinance to be considered on second reading at the nighttime meeting.

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

Tim Berry

From: Sean T. McAllister <mclawoffice@comcast.net>
Sent: Monday, January 31, 2011 5:05 PM
To: Tim Berry
Subject: In home grow suggestions

Tim,

Thanks for the opportunity to give input on your medical marijuana in home grow statute. Given the council's lack of affinity for my original suggestions, I humbly offer the following as more moderate reforms. Please pass these on as I will not be able to attend the next meeting.

1. I dont like that a violation of the policy on the first offense is a criminal offense misdemeanor. Why does everything having to do with marijuana have to turn into a criminal issue. I obviously believe those involved with marijuana are in no way criminals. Why can't the policy be that a violation of the new ordinance triggers a civil penalty? Or at least just a civil penalty on the first offense, then maybe a criminal offense on the second offense? Why should Judge Buck Allen have to see criminal defendants who may be growing medical marijuana for a few too many people in their home in Breckenridge? If the home occupant is committing a criminal offense by growing non-medical in his home or too many plants, then surely the Breck cops will turn him over to the County Court for criminal prosecution. Any criminal prosecutions for marijuana violations in the Town of Breckenridge should really be handled by the County or District Courts, funded by the state, given the Town's clear preference for non-criminalization of marijuana users.
2. I agree with a few councilpeople's comments that the ordinance should have some exception for increased plant numbers over 6 per patient if the patient's doctor has recommended that. If the DAs think up to 24 plants is legitimate for those patients that make edibles, shouldn't the Town recognize that?
3. I dont know what's involved with an "inspection warrant" or whatever the term is for what the cops need to get to come in the house. However, if the warrant doesn't require the showing of probable cause like a normal criminal warrant, I would object to that process. I would also like your ordinance to say that the smell of marijuana alone is not probable cause of a crime. I have several cases I can cite on this issue, but I will admit there is no uniformity on this issue in the Courts when a totality of the circumstances evaluation generally allows smell to be considered in conjunction with other indicia to form probable cause. However, while I dont think the police would abuse this authority, I dont think you should have an ordinance drawn so broad that police can essentially enter and search anyone's house in Breck at any time based on very flimsy suspicion. That is too much power. I would want there to be something more than a hunch of a violation of the policy. They should have solid tips or evidence.
4. I think the council's position, and your draft, does not appreciate the difficulty for serious ill patients to "do it themselves" as your draft requires. I will freely admit that perhaps as few as 10-20% of all patients are truly "debilitated" by cancer or other serious ills as the law anticipates, but those people clearly cannot grow it themselves. Growing requires attention every day. It requires investment of thousands of dollars in lights and chemicals. Under this ordinance, no one can allow someone outside of their house to grow it for them. So if I have an uncle with cancer who lives a block away, I have to tell him to go to a dispensary and pay \$100/ounce while he is in the midst of chemo and likely broke? I would have to say no, rather than grow it for him in my home for free? That makes no sense and is cruel. The law should allow some limited exception, maybe for at least one patient from outside the home, so that this problem can be solved.

Thanks for you work. I hope your ordinance is improved prior to passage as I continue to believe it is illegal in its current form. Good luck,

Sean T. McAllister, Esq.
McAllister Law Office, P.C.
111 S. Main St., #C11 (FedEx/UPS Address)
PO Box 3903 (US Post Office Address)
Breckenridge, CO 80424
(Ph) 970-453-6594

MEMORANDUM

To: Mayor and Town Council
From: Rick Holman, Chief of Police
Date: February 1, 2011
Subject: Residential Growing of Medical Marijuana

At the first reading of this ordinance governing the residential growing of medical marijuana, questions arose from the Council which I will attempt to answer in this memorandum. At the last meeting I attempted to illustrate for the council the usable amount of marijuana that is derived from a plant. The information I am quoting was obtained from consumer generated marijuana websites and a local medical marijuana advocate attorney. Most of the information states that the average medical marijuana grower should yield between 4-8 ounces of usable marijuana for each plant and the average grow cycle for harvesting takes 3 months. I will use the middle of that average (6 ounces) for this illustration.

- One plant yields 6 ounces every 3 months
- One ounce equals 28 grams
- One plant yields 168 grams every 3 months (6 x 28)
- A marijuana cigarette is approximately $\frac{1}{2}$ gram so you could yield 336 cigarettes from one plant.
- If you have 3 plants harvested that would be 1008 (3 x 336) marijuana cigarettes every 3 months or 11.2 /day (1008 divided by 90 days).

If one patient can grow up to six plants at any given time that would probably mean they would want three plants in a cycle to harvest at the same time and another 3 plants somewhere later in the grow cycle, so we will assume they are harvesting 3 plants for each patient.

Some members of the Council also had questions about edible forms of marijuana versus smoking and the amount that is required for that. I could not find information that made a direct comparison to smoking amounts versus eating amounts. Generally it does take more usable form of marijuana to use in cooking because you are cooking down the product to extract the THC oil out of the plant. While it does take more product, it is also much more potent. Most cooking with marijuana is done in the form of "cannabutter" which is made from cooking the plant with real butter and then sifting out the cooked plant material. It takes about one ounce of marijuana plant to make one pound of cannabutter. A typical stick of butter is 4 ounces and a typical cookie recipe calls for a stick and a-half (6 ounces) of butter for every 24 cookies. So for comparison purposes:

- One ounce of marijuana for smoking would yield 56 cigarettes
- One ounce of marijuana for edible consumption would yield 64 cookies

As to how much space is needed to grow a typical marijuana plant, we heard from one individual at the last meeting who stated approximately 4 square feet per plant. We typically find most plants growing in a container about the size of a five-gallon bucket so I would infer that approximately 4 square feet is needed per plant. Our proposed limit of a 150 square feet per single family residential structure still allows plenty of room for growing with some circulation space.

Lastly, it was asked how the state defines “debilitating medical condition” for those who use medical marijuana. Amendment 20 defines a debilitating medical condition as:

(I) Cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome, or treatment for such conditions;

(II) A chronic or debilitating disease or medical condition, or treatment for such conditions, which produces, for a specific patient, one or more of the following, and for which, in the professional opinion of the patient's physician, such condition or conditions reasonably may be alleviated by the medical use of marijuana: cachexia; severe pain; severe nausea; seizures, including those that are characteristic of epilepsy; or persistent muscle spasms, including those that are characteristic of multiple sclerosis; or

(III) Any other medical condition, or treatment for such condition, approved by the state health agency, pursuant to its rule making authority or its approval of any petition submitted by a patient or physician as provided in this section.

I will be present at the February 8, 2011 Town Council work session and meeting should any other questions arise.

1 **FOR WORKSESSION/SECOND READING – FEB. 8**

2
3 **NO CHANGE FROM FIRST READING**

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

7
8 COUNCIL BILL NO. 5

9
10 Series 2011

11
12 AN ORDINANCE ADOPTING CHAPTER 13 OF TITLE 9 OF THE BRECKENRIDGE
13 TOWN CODE CONCERNING THE RESIDENTIAL GROWING OF MEDICAL
14 MARIJUANA

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

18
19 Section 1. The Breckenridge Town Code is amended by the addition of a new Chapter 13
20 of Title 9, to be entitled “Residential Growing of Medical Marijuana”, which shall read in its
21 entirety as follows:

22
23 **CHAPTER 13**

24
25 **RESIDENTIAL GROWING OF MEDICAL MARIJUANA**

26
27 **SECTION:**

28
29 **9-13-1: SHORT TITLE**

30 **9-13-2: FINDINGS**

31 **9-13-3: PURPOSE**

32 **9-13-4: AUTHORITY**

33 **9-13-5: DEFINITIONS**

34 **9-13-6: REGULATIONS FOR THE GROWING OF MEDICAL MARIJUANA IN A**
35 **RESIDENTIAL STRUCTURE**

36 **9-13-7: INSPECTION; INSPECTION WARRANT**

37 **9-13-8: APPLICABILITY OF NUISANCE ORDINANCE**

38 **9-13-9: CONDITION PRECEDENT TO CHALLENGE**

39
40 **9-13-1: SHORT TITLE: This Chapter is to be known and may be cited as the “Town Of**
41 **Breckenridge Residential Medical Marijuana Ordinance.”**

42
43 **9-13-2: FINDINGS: The Town Council adopts this Chapter based upon the following**
44 **findings of fact:**

- 1 A. On November 7, 2000 the voters of the State of Colorado approved
2 Amendment 20. Amendment 20 added §14 of Article XVIII to the Colorado
3 Constitution, and created a limited exception from criminal liability under
4 Colorado law (as opposed to federal law) for seriously ill persons who are in
5 need of marijuana for specified medical purposes and who obtain and use
6 medical marijuana under the limited circumstances described in Amendment
7 20.
- 8 B. The Colorado legislature recently passed and the governor signed into law
9 HB10-1284, entitled “An Act Concerning Regulation of Medical Marijuana,
10 and Making an Appropriation Therefor.” HB10-1284 adopted the
11 “Colorado Medical Marijuana Code.” HB10-1284 became effective July 1,
12 2010.
- 13 C. The growing of marijuana plants in a residential setting presents significant
14 regulatory challenges not currently addressed by Town ordinances.
- 15 D. The growing of marijuana plants in a residential setting can affect the health,
16 safety, and welfare of both the occupants of the residential building within
17 which the marijuana is grown, and of persons occupying nearby buildings.
- 18 E. Neither Amendment 20 nor HB10-1284 specifically address the growing of
19 medical marijuana in a residential setting, or the local regulation of such
20 activity.
- 21 F. Nothing in Amendment 20, HB10-1284, or any other applicable law,
22 immunize persons who grow medical marijuana in a residential setting from
23 local regulation, or establish a fundamental legal right to grow medical
24 marijuana within a residence or its curtilage.
- 25 G. Section 12-43.3-103(2)(a), C.R.S., which is part of the Colorado Medical
26 Marijuana Code, provides that prior to July 1, 2011 a municipality may
27 adopt and enforce an ordinance regulating the cultivation of medical
28 marijuana. The provisions of this Chapter are such an ordinance.
- 29 H. The Colorado Medical Marijuana Code further recognizes the power of a
30 municipality to adopt and enforce its own rules and regulations within
31 respect to the growing of medical marijuana within its jurisdiction.
32 Specifically, the Colorado Medical Marijuana Code authorizes municipalities
33 to:
- 34 1. Enact ordinances or resolutions concerning matters authorized to
35 local governments (Section 12-43.3-305(3), C.R.S.); and
- 36 2. Enact reasonable regulations or other restrictions based on local
37 government zoning, health, safety and public welfare laws for the
38 distribution of medical marijuana that are more restrictive than the
39 Colorado Medical Marijuana Code (Section 12-43.3-310(1), C.R.S.);

- 1 I. Section 12-43.3-305(3), C.R.S., further specifically provides that nothing in
2 the Colorado Medical Marijuana Code preempts or otherwise impairs the
3 power of a local government to enact an ordinance concerning matters
4 authorized to local governments.
- 5 J. The Town Council finds, determines, and declares that to the extent the
6 requirements of this Chapter differ from the requirements of the Colorado
7 Medical Marijuana Code, the requirements of this Chapter are more
8 restrictive than the Colorado Medical Marijuana Code.
- 9 K. As of the date of the adoption of this Chapter there are numerous licensed
10 retail medical marijuana outlets within the Town. As a result, medical
11 marijuana is readily available for purchase within the Town by those persons
12 licensed to purchase and possess it.
- 13 L. The Town is a home rule municipal corporation organized and existing
14 under its Charter and Article XX, Section 6 of the Colorado Constitution. As
15 such, the Town possesses all powers granted to home rule municipalities by
16 Colorado law.
- 17 M. This Chapter is necessary and proper to provide for the safety, preserve the
18 health, promote the prosperity, and improve the order, comfort, and
19 convenience of the Town and the inhabitants thereof.

20 9-13-3: PURPOSE: It is the purpose of this Chapter to require that persons growing
21 medical marijuana in a residential setting within the Town do so in a safe manner that does
22 not endanger the public health, safety, and welfare, or create a public nuisance.

23 9-13-4: AUTHORITY: The Town Council hereby finds, determines, and declares that it
24 has the power to adopt this Chapter pursuant to:
25

- 26 A. The Colorado Medical Marijuana Code, Article 43.3 of Title 12, C.R.S.;
27 B. The Local Government Land Use Control Enabling Act, Article 20 of Title
28 29, C.R.S.;
29 C. Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal zoning powers);
30 D. Section 31-15-103, C.R.S. (concerning municipal police powers);
31 E. Section 31-15-401, C.R.S. (concerning municipal police powers, including,
32 but not limited to, the power to declare what is a nuisance and to abate the
33 same);
34 F. The authority granted to home rule municipalities by Article XX, Section 6
35 of the Colorado Constitution; and
36 G. The powers contained in the Breckenridge Town Charter.

1 **9-13-5: DEFINITIONS:**
2

- 3 A. **The definitions contained in Amendment 20, the Colorado Medical**
4 **Marijuana Code, and the Colorado Medical Marijuana Program, all as**
5 **amended from time to time, are incorporated into this Chapter by reference.**
- 6 B. **As used in this Chapter the following words have the following meanings,**
7 **unless the context clearly requires otherwise:**

AMENDMENT 20: **The voter-initiated amendment to the**
Colorado Constitution adopted November 7,
2000. Amendment 20 added §14 of Article
XVIII to the Colorado Constitution.

COLORADO MEDICAL
MARIJUANA CODE: **Article 43.3 of Title 12, C.R.S., as amended**
from time to time.

COLORADO MEDICAL
MARIJUANA PROGRAM: **Section 25-1.5-106, C.R.S., as amended from**
time to time.

MEDICAL MARIJUANA
PLANT: **A marijuana plant that is grown, cultivated,**
or processed pursuant to the provisions of
Amendment 20, the Colorado Medical
Marijuana Code, the Colorado Medial
Marijuana Program, or other applicable
law regulating the growing or cultivation of
medical marijuana.

MULTI-UNIT
RESIDENTIAL
USE: **Has the meaning provided in Section 9-1-5**
of this Code.

PERSON: **Has the meaning provided in Section 1-3-2**
of this Code.

POLICE CHIEF: **The Police Chief of the Town, or his**
designee.

PRIMARY RESIDENCE: **The place that a person, by custom and**
practice, makes his or her principal domicile
and address and to which the person intends
to return following any temporary absence,
such as a vacation. Residence is evidenced
by actual daily physical presence, use, and
occupancy of the primary residence and the
use of the residential address for domestic
purposes, such as, but not limited to,

slumber, preparation of and partaking of meals, regular mail delivery (if available), vehicle and voter registration, or credit, water and other utility billing. a person shall have only one primary residence. A primary residence must be within a residential structure. A primary residence does not include any accessory buildings.

RESIDENTIAL STRUCTURE:

A structure devoted to a residential use.

RESIDENTIAL USE:

Has the meaning provided in Section 9-1-5 of this Code.

SECURE:

An area within a primary residence that is accessible only to the patient or primary caregiver. Secure premises shall be located or partitioned off to prevent access by children, visitors, passersby, thieves or anyone else not licensed to possess medical marijuana.

SINGLE-FAMILY RESIDENTIAL UNIT:

Has the meaning provided in Section 9-1-5 of this Code.

STRUCTURE:

Has the meaning provided in Section 9-1-5 of this Code.

TOWN:

Has the meaning provided in Section 1-3-2 of this Code.

1
2 **9-13-6: REGULATIONS FOR THE GROWING OF MEDICAL MARIJUANA IN A**
3 **RESIDENTIAL STRUCTURE: Medical marijuana may not be grown, cultivated, or**
4 **processed in or around any residential structure within the Town except in compliance**
5 **with the following regulations:**
6

- 7 **A. The growing, cultivation, or processing of medical marijuana within a residential**
8 **structure shall be done in full compliance with all applicable provisions of**
9 **Amendment 20, the Colorado Medical Marijuana Code, the Medical Marijuana**
10 **Program, and other applicable law.**
11
12 **B. Medical marijuana may be grown, cultivated, or processed only within a patient's**
13 **or his or her primary caregiver's primary residence. Medical marijuana may not be**
14 **grown, cultivated, or process in the yard, curtilage, or other area outside of the**
15 **patient's or his or her primary caregiver's primary residence.**
16

1 C. Medical marijuana may be grown, cultivated, or processed within a primary
2 residence only by a primary caregiver for his or her patients, or a patient for
3 himself or herself. A primary caregiver may not lawfully grow, cultivate, or process
4 medical marijuana for a patient who does not reside at the primary residence where
5 the growing, cultivating, or processing occurs.
6

7 D. Not more than six medical marijuana plants may be grown, cultivated, or processed
8 within a primary residence; provided, however, that up to twelve medical
9 marijuana plants may be grown, cultivated, or processed within a primary
10 residence if more than one patient or primary caregiver resides within the primary
11 residence.
12

13 E. The growing, cultivation, and processing of medical marijuana plants shall be
14 limited to the following areas within a patient's or primary caregiver's primary
15 residence:
16

17 1. Within a detached single-family residential unit, medical marijuana
18 may be grown, cultivated, or processed only within a secure, defined,
19 contiguous 150 square foot area;

20 2. Within any residential structure other than a detached single-family
21 residential unit, medical marijuana may be grown, cultivated, or
22 processed only within a secure, defined, contiguous 100 square feet
23 area; and

24 3. Medical marijuana shall not be grown, cultivated, or processed within
25 the common area of any real property that is devoted to a residential
26 use.

27 F. If a patient or primary caregiver is authorized by law to grow, cultivate, and process
28 quantities of medical marijuana requiring more than the square footage or number
29 of plant limitations set forth above, such patient or primary caregiver must act in
30 full compliance with all applicable laws, and:
31

32 1. Such patient or caregiver may grow, cultivate, and process medical
33 marijuana plants in excess of the square footage limitation and plant
34 number limitations set forth above only in those locations where a
35 medical marijuana center may be licensed under Chapter 14 of Title 1
36 of this Code; and

37 2. Such patient or caregiver must ensure that such premises are secure,
38 and that no children, visitors, passersby, thieves or anyone else not
39 licensed to possess medical marijuana may access the premises.

40 3. Such growing is subject to the requirements of subsections G and H of
41 this section.

1 **G. The growing, cultivation, and processing of medical marijuana shall not be**
2 **perceptible from the exterior of the primary residence, including, but not limited to:**

3
4 **1. Common visual observation;**

5 **2. Light pollution, glare, or brightness that disturbs the repose of another;**

6 **3. Undue vehicular or foot traffic, including unusually heavy parking in front of the**
7 **primary residence; and**

8 **3. Noise from an exhaust fan in excess of the maximum permissible noise level**
9 **described in Section 5-8-5 of this Code.**

10
11 **H. The smell or odor of marijuana growing within the primary residence shall not be**
12 **capable of being detected by a person with a normal sense of smell from any**
13 **adjoining lot, parcel or tract of land not owned by the owner of the primary**
14 **residence, or from any adjoining public right of way.**

15
16 **I. The space within the primary residence where medical marijuana is grown,**
17 **cultivated, or processed shall meet all applicable requirements of the Town's**
18 **building and technical codes adopted in Chapter 1 of Title 8 of this Code.**

19
20 **J. If a patient or primary caregiver grows, cultivates, or processes medical marijuana**
21 **within a primary residence that he or she does not own, the primary caregiver or**
22 **patient shall obtain the written consent of the property owner before commencing to**
23 **grow, cultivate or process medical marijuana on the property.**

24
25 **K. No chemical shall be used by a patient or primary caregiver to enhance or extract**
26 **tetrahydrocannabinol (THC) from medical marijuana that is grown in a primary**
27 **residence.**

28
29 **L. It is unlawful and a misdemeanor offense for a person to violate any provision of**
30 **this section. In accordance with Section 1-4-1(B) of this Code, a person shall be**
31 **guilty of a separate offense for each and every day during any portion of which any**
32 **violation of the requirements of this section is committed, continued, or permitted**
33 **by such person.**

34
35 **9-13-7: INSPECTION; INSPECTION WARRANT:**

36
37 **A. Subject to the requirements and limitations of this section, the Police Chief shall**
38 **have the right to enter upon any residential structure within the Town where**
39 **medical marijuana is being grown, cultivated, or processed during reasonable**
40 **hours for the purpose of conducting a physical inspection of the premises to**
41 **determine if the premises comply with the requirements of this Chapter. However,**
42 **no agent or employee of the Town shall enter upon any property to conduct such an**
43 **inspection without either the permission of the landowner or occupant, or without**
44 **an inspection warrant issued pursuant to this section.**

45
46 **B. If verbal permission to inspect the residential structure from the affected**

1 landowner or occupant is not obtained, or if the residential structure is locked and
2 the Police Chief has been unable to obtain permission of the landowners or
3 occupant, the Police Chief may request that an inspection warrant be issued by the
4 municipal court judge pursuant to Rule 241 of the Colorado Municipal Court Rules
5 of Procedure.

6
7 C. In case of an emergency involving imminent danger to public health, safety, or
8 welfare, the Police Chief may enter any residential structure within the Town to
9 conduct an emergency inspection for the growing, cultivation, or processing of
10 medical marijuana without a warrant and without complying with the
11 requirements of section.

12
13 D. The Town Council declares that this Chapter is an ordinance involving a serious
14 threat to the public safety or order within the meaning of Rule 241(a)(1) of the
15 Colorado Municipal Court Rules of Procedure.

16
17 E. The municipal court judge may issue an inspection warrant authorizing the
18 inspection of a residential structure for the growing, cultivation, or processing of
19 medical marijuana in accordance with Rule 241(b) of the Colorado Municipal
20 Court Rules of Procedure. Any inspection warrant issued pursuant to this section
21 shall fully comply with the applicable provisions of Rule 241 of the Colorado
22 Municipal Court Rules of Procedure.

23
24 F. The municipal judge may impose such conditions on an inspection warrant as may
25 be necessary in the judge's opinion to protect the private property rights of the
26 landowner of the property to be inspected, or to otherwise make the warrant
27 comply with applicable law.

28
29 G. It shall be unlawful and a misdemeanor offense for any landowner or occupant to
30 deny the Police Chief or other authorized person access to the property owned or
31 occupied by such landowner or occupant if the Police Chief or other authorized
32 person presents an inspection warrant issued pursuant to this Section.

33
34 **9-13-8: APPLICABILITY OF NUISANCE ORDINANCE: The cultivation of medical**
35 **marijuana within a residential structure in the Town in any manner that is not in**
36 **compliance with the requirements of Section 9-13-6 is declared to be a public nuisance, and**
37 **may be abated in the manner provided in Chapter 1 of Title 5 of this Code. Section 5-1-12**
38 **of this Code concerning the non-exclusivity of the nuisance abatement procedure described**
39 **in Chapter 1 of Title 5 of this code applies with respect to the enforcement of this Chapter**
40 **as well.**

41
42 **9-13-9: CONDITION PRECEDENT TO CHALLENGE: It is a condition precedent to any**
43 **legal challenge to any portion of this chapter, or the application of any portion of this**
44 **chapter to any specific property, that the person initiating such challenge shall have first**
45 **given the Town written notice of intent to bring such challenge not less than ninety days**
46 **before filing any legal proceeding. Such notice shall be sent to the Town Council of the**

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500-294\Residential Medical Marijuana Ordinance_2 (01-31-11)(Second Reading)

MEMO

TO: Town Council

FROM: Town Attorney

RE: Proposed Amendments to Town's Water Ordinance

DATE: January 28, 2011 (for February 8th meeting)

For several months I have been working with the staff on an ordinance making a series of amendments to the Town's Water Ordinance. The staff believes the ordinance is now ready for your consideration. The proposed ordinance is enclosed with this memo.

The ordinance has been drafted to address a series of problems and concerns that have arisen since the Water Ordinance was enacted in 2001. Some of the proposed changes are mere clarifications; other changes are more substantive in nature.

The changes to the Water Ordinance that would be made by the proposed ordinance are as follows:

1. Section 1 of the ordinance adds a new definition of "Town Water Easement" to the Water Ordinance. This term is used in the ordinance, but has never been defined.
2. Section 2 of the ordinance authorizes the Public Works Director or an employee of the Public Works Department to temporarily use up to ten feet of a customer's land located outside of a dedicated water easement if necessary to perform required maintenance or repairs of the Town's water system. This has become an issue because occasionally it is necessary for a Town employee to work outside of a dedicated water easement in order to perform necessary maintenance or repairs of the Town's water system. The ordinance clarifies that the Town employee can use up to ten feet of the customer's land when necessary, but requires the Town employee to clean up and restore the customer's land following use.
3. Section 3 of the ordinance adds a new section to the Water Ordinance prohibiting a person from re-selling water obtained from the Town's Water System, except for bulk water.
4. Section 4 of the ordinance specifically authorizes the Public Works Director to require a customer to repair a leak in the customer's water service line within a reasonable time. The section also contains standards for how the Director will determine what a reasonable repair period is.
5. Section 5 of the ordinance adds a new section to the Water Ordinance authorizing customers to use a Town water easement for landscaping, paving, and similar surface uses that do not impair the Town's use of the water easement, but provides that the customer does so at his/her own risk. The section provides that if the customer's surface improvements to the Town easement must be removed, damaged, or destroyed by the Town in the performance of the Town's lawful duties under the Water Ordinance, the

Town is not liable for such damage or destruction. This section resolves a problem that has cropped up recently when landscaping had to be removed from a dedicated Town water easement and there was uncertainty about whether the Town was required to replace the landscaping.

6. Section 6 amends the portion of the Water Ordinance dealing with water meter testing and maintenance to refer to the customer's obligation to pay the new fee related to testing the customer's water meter (see number 8, below)
7. Section 7 revises the portion of the Water Ordinance dealing with the sale of bulk water. The revision establishes a rate of \$20 for 1,000 gallons of bulk water sold by the Town, and requires a \$1,000 refundable damage deposit to assure the Town will be paid for any damage to the Town's water meter and hydrant caused by the delivery of the bulk water. The unused damage deposit will be returned to the bulk water purchaser within 30 days after sale.
8. Finally, Section 8 of the ordinance establishes a new fee for the Town's performance of a second or subsequent check of the accuracy of a customer's water meter. The first such meter check will continue to be performed by the Town at no cost to the customer. Staff has suggested that this fee is necessary to encourage customers with high water use problems to find the real source of the problem with their water service, instead of continually requesting the Town to come out and re-check the accuracy of the water meter.

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

1 **FOR WORKSESSION/FIRST READING – FEB. 8**

2
3 Additions To The Current Breckenridge Town Code Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. ____

7
8 Series 2011

9
10 AN ORDINANCE MAKING MISCELLANEOUS AMENDMENTS TO TITLE 12 OF THE
11 BRECKENRIDGE TOWN CODE, KNOWN AS THE “TOWN OF BRECKENRIDGE WATER
12 ORDINANCE”

13
14 BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE,
15 COLORADO:

16
17 Section 1. Section 12-1-6 of the Breckenridge Town Code is hereby amended by the
18 addition of a new definition of “Town Water Easement (or easement)”, which shall read in its
19 entirety as follows:

TOWN WATER EASEMENT (OR EASEMENT):

An easement created in accordance with Colorado law that authorizes the Town to locate, operate, and maintain its underground water utility transmission lines and appurtenances, over, under, upon, across, in and through certain specified real property.

20
21 Section 2. Section 12-1-13 of the Breckenridge Town Code is amended by the addition
22 of a new subsection C, which shall read in its entirety as follows:

23 **C. If necessary for the Director or any Public Works employee to perform a**
24 **lawful function described in the first sentence of this section, the Director or**
25 **Public Works employee may temporarily use so much of the water using**
26 **property as is required in order to perform the required act; provided,**
27 **however, the Director or Public Works employee shall, at Town expense,**
28 **clean up and restore any area outside of a Town water easement to its prior**
29 **condition immediately following the use of such area, and provided, further,**
30 **the Director or Public Works employee shall not use any portion of the water**
31 **using property that is more than ten feet outside the boundaries of the Town**
32 **water easement.**

33
34 Section 3. Chapter 1 of Title 12 of the Breckenridge Town Code is hereby amended by
35 the addition of a new Section 12-1-16, to be entitled “Resale of Water Prohibited”, which shall
36 read in its entirety as follows:

1
2 12-1-16: RESALE OF WATER PROHIBITED: No person shall resell water
3 received from the water system. No water from the water system may be
4 used on or at any premises other than the water using property specified in
5 the application for water service submitted to the Town. This section does
6 not apply to bulk water sold by the Town as authorized by this Chapter.
7

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

10 12-2-7: INSTALLATION AND MAINTENANCE OF CERTAIN WATER
11 FACILITIES BY OWNER:
12

13 A. In addition to the provisions of Section 12-2-9 with respect to frozen water
14 lines, it shall be the responsibility of the owner of a water using property to install
15 and maintain the owner's individual service line and other related water facilities
16 which extend from the stop-and-waste valve to the water using property. The
17 stop-and-waste valve or sub-main loop valve shall be installed at or near the
18 property line in an easement or right of way dedicated to the Town.
19

20 B. The Director has the authority to require the owner of a water using
21 property to repair any leak in the owner's individual service line and other
22 related water facilities within such reasonable period of time as may be
23 established by the Director. In establishing a reasonable period of time for
24 the repair of a leak, the Director shall take into consideration: (i) the location
25 of the leak; (ii) the amount of water that is escaping from the leak; (iii) any
26 threat to nearby buildings and structures posed by the leak; (iv) any threat to
27 the Town's water system posed by the leak; (v) the time of year when the
28 leak occurs; (vi) any practical construction difficulties the owner is likely to
29 incur in repairing the leak; and (vii) all other relevant factors.
30

31 Section 5. Chapter 1 of Title 12 of the Breckenridge Town Code is hereby amended by
32 the addition of a new Section 12-2-14-1 to be entitled "Use of Town Water Easement For
33 Landscaping, Paving, and Other Uses; Town's Nonliability for Damage to Landscaping, Paving,
34 or Other Property Placed With Town Water Easement", which shall read in its entirety as
35 follows:

36 **12-2-14-1: USE OF TOWN WATER EASEMENT FOR LANDSCAPING,**
37 **PAVING, AND OTHER USES; TOWN'S NONLIABILITY FOR DAMAGE TO**
38 **LANDSCAPING, PAVING, OR OTHER PROPERTY PLACED WITHIN TOWN**
39 **WATER EASEMENT:**

40 **A.** **The owner of real property abutting a Town water easement may place:**
41 **(i) grass, trees, shrubs, and similar landscaping items, and (ii) asphalt and**
42 **other surface paving materials, within the easement without prior**
43 **authorization from the Town. The Town Manager may also authorize the**
44 **owner of real property abutting a Town water easement to place other items**

1 of personal property within the Town's easement if the Town Manager
2 determines that the placement of such personal property within the easement
3 will not interfere with the Town's lawful exercise of its rights under the
4 easement.

5
6 B. Any person who places any landscaping, asphalt or other surface paving
7 material, or any other personal property, within a Town water easement
8 does so at such person's own risk. If any landscaping, asphalt or other
9 surface paving material, or other personal property located within a Town
10 water easement, is removed, damaged, or destroyed by the Town, or its
11 contractors, in the lawful exercise of the Town's rights under the Town's
12 water easement, the Town is not liable for such damage or destruction under
13 any legal theory, and the owner of such property shall bear all costs
14 associated with the replacement or repair of such landscaping, asphalt or
15 other surface paving material, or personal property.

16
17 Section 6. Section 12-2-23 of the Breckenridge Town Code is amended so as to read in
18 its entirety as follows:

19 12-2-23: WATER METER MAINTENANCE AND TESTING:

20
21 All water meters and remote readouts shall be maintained by the Town, ~~and~~
22 Subject to the fee provided in Section 12-4-22, all water meters and remote
23 readouts shall be tested and repaired by the Town as necessary. All meter pits,
24 vaults, covers, and meter risers located in a Town right of way or a Town
25 easement shall be maintained by the Town.

26
27 Section 7. Section 12-4-14 of the Breckenridge Town Code is amended so as to read in
28 its entirety as follows:

29
30 12-4-14: BULK WATER: ~~The rate for each one thousand (1,000) gallons of bulk~~
31 ~~water sold by the Town, or fraction thereof, shall be calculated at the same rate as~~
32 ~~the residential excess use charge set forth in Section 12-4-11B of this Chapter in~~
33 ~~effect at the time bulk water is sold. In addition, a base charge of twenty five~~
34 ~~dollars (\$25.00) will be charged to each bulk water user for meter setting,~~
35 ~~inspection, and service turnoff by the Town. The rate for each one thousand~~
36 (1,000) gallons of bulk water sold by the Town shall be shall be \$20.00. In
37 addition, a connection fee of \$100, and a \$1,000 deposit shall be collected at
38 the time of each bulk water sale. The damage deposit, less any amount
39 necessary to reimburse the Town for damage to the Town's water meter and
40 hydrant arising from the sale and delivery of the bulk water, shall be
41 returned to the purchaser of the bulk water within thirty (30) days after the
42 sale.

43
44 Section 8. Chapter 4 of Title 12 of the Breckenridge Town Code is amended by the
45 addition of a new Section 12-4-22, which shall read in its entirety as follows:

1 12-4-22: FEE TO CHECK WATER METER: At the request of a water user
2 the Town shall, at the Town's expense, check the accuracy of the water user's
3 water meter. There shall be no fee for the first water meter accuracy check.
4 The fee for the second and each subsequent water meter accuracy check
5 requested by the same water user shall be one hundred dollars (\$100.00). The
6 fee established by this Section shall be a water charge within the meaning of
7 Section 12-1-6 of this Title, and shall be due and payable to the Town at the
8 same time and in the same manner as other water charges are due and
9 payable to the Town under this Chapter.

10
11 Section 9. Except as specifically amended hereby, the Breckenridge Town Code, and the
12 various secondary codes adopted by reference therein, shall continue in full force and effect.

13
14 Section 10. The Town Council hereby finds, determines, and declares that it has the
15 power to adopt this ordinance pursuant to the provisions of: (i) Section §31-35-402, C.R.S.; (ii)
16 Article XIII of the Breckenridge Town Charter; and (iii) the powers possessed by home rule
17 municipalities in Colorado.

18 Section 11. This ordinance shall be published and become effective as provided by
19 Section 5.9 of the Breckenridge Town Charter.

20 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
21 PUBLISHED IN FULL this ____ day of _____, 2011. A Public Hearing shall be held at the
22 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
23 _____, 2011, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
24 Town.

25 TOWN OF BRECKENRIDGE, a Colorado
26 municipal corporation

27
28
29
30 By _____
31 John G. Warner, Mayor

32
33 ATTEST:

34
35
36
37 _____
38 Mary Jean Loufek, CMC,
39 Town Clerk

MEMO

TO: Town Council

FROM: Town Attorney

RE: Ordinance Placing LUG Amendment Procedures in Town Code Book

DATE: January 31, 2011 (for February 8th meeting)

The Town's "Land Use District Guidelines" were adopted in 1987. As you know, the LUGs are an integral portion of the Town's land use system.

As originally adopted the LUGs did not specify the procedure to be followed to amend the LUGs. Amendment procedures were added to the LUGs in 1997. However, because the ordinance originally adopting the LUGs was not "codified" in the Town Code, the amendment procedures ordinance was similarly not codified in the Town Code.

It seems that it would be prudent to place the LUG amendment procedures into the Town Code where they can be more easily located than if they are left in a stand-alone, uncodified ordinance.

A proposed ordinance installing the LUG amendment procedures into the Town Code is enclosed. Except as noted below, there are no substantive changes proposed to the current LUG amendment procedures. All the ordinance does is to codify the existing LUG Amendment Procedure Ordinance in the Town Code book.

While preparing the ordinance I noticed a couple of places where the current LUG Amendment Procedures Ordinance requires a special size font for the required newspaper notice of the Council's hearing to consider a LUG amendment. I think continuing to publish this kind of notice in the newspaper still makes good sense because such notice is an essential element of the due process requirements of a rezoning process, and I have not seen any case law (yet) that holds that a web notice published in connection with a proposed rezoning carries the same legal weight as a traditional newspaper notice. However, I do not see any reasons to continue the special font size requirements for this particular notice, and I have proposed eliminating such special requirements. You will notice proposed modification language in Sections B and C on the second page of the ordinance.

The proposed ordinance also contains several other minor editorial revisions to update the LUG amendment procedures as you will see. These changes are in Section F and Section 2 on the third page of the ordinance. These few changes are not substantive in nature.

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

1 ***FOR WORKSESSION/FIRST READING – FEB. 8***

2
3 Additions To The Current Uncodified LUG Amendment Procedures Ordinance Are
4 Indicated By **Bold + Double Underline**; Deletions By ~~Strikeout~~

5
6 COUNCIL BILL NO. ____

7
8 Series 2011

9
10 AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE
11 TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE”, BY
12 ADOPTING PROCEDURES TO BE FOLLOWED TO AMEND THE TOWN OF
13 BRECKENRIDGE “LAND USE GUIDELINES”

14
15 WHEREAS, by Ordinance No. 18, Series 1997, the Town Council adopted procedures to
16 amend the Breckenridge “Land Use Guidelines”; and

17
18 WHEREAS, by Ordinance No. 12, Series 2001, the Town Council amended the
19 procedures to amend the Land Use Guidelines; and

20
21 WHEREAS, neither Ordinance No. 18, Series 1997, nor Ordinance No. 12, Series 2001,
22 were codified in the Breckenridge Town Code; and

23
24 WHEREAS, the Town Council finds and determines that including the substantive
25 provisions of Ordinance No. 18, Series 1997, and Ordinance No. 12, Series 2001, in the
26 Breckenridge Town Code will make the code easier to work with and more useful; and

27
28 WHEREAS, the Town Council find and determines that the minor changes made by this
29 ordinance to the procedures adopted by Ordinance No. 18, Series 1997, and Ordinance No. 12,
30 Series 2001 are appropriate.

31
32 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
33 BRECKENRIDGE, COLORADO:

34
35 Section 1. The Breckenridge Town Code is amended by the inclusion of a new Section 9-
36 1-15-1, to be entitled “Amendments to Land Use Guidelines”, which shall read in its entirety as
37 follows:

38
39 9-1-15-1: AMENDMENTS TO LAND USE GUIDELINES:

- 40
41 A. Authority. From time to time the Town Council may by ordinance amend the
42 number, shape, boundaries, or area of any Land Use District, or any regulation of or
43 within such Land Use District, or any other provision of the Land Use Guidelines.
44

1 B. Legislative Amendment. In connection with any amendment to the Land Use Guidelines
2 that is determined by the Town Council to be legislative or quasi-legislative in nature, the
3 procedures set forth in Section 5.10 of the Breckenridge Town Charter for the adoption of
4 Town ordinances shall be followed; provided, however, that no ordinance involving a
5 legislative or quasi-legislative amendment to the Land Use Guidelines shall be adopted as an
6 emergency ordinance. In addition to any other notice of public hearing that may be required
7 by the Breckenridge Town Charter, notice of a public hearing to consider the proposed
8 adoption of a legislative or quasi-legislative amendment to the Land Use Guidelines shall be
9 published twice in a newspaper of general circulation in the Town, the first publication
10 occurring at least twelve (12) days prior to the hearing and the second publication occurring
11 at least four (4) days prior to the hearing. Such newspaper notice shall ~~be not less than five~~
12 ~~and one-half inches in height by four inches in width when published, and shall~~ contain the
13 date and time of the public hearing on the proposed amendment; the location of the hearing
14 on the proposed amendment; and a brief description of nature of the proposed amendment to
15 the Land Use Guidelines. Such newspaper notice is reasonably calculated to afford affected
16 persons the realistic opportunity to protect their interests.

17
18 C. Quasi-judicial Amendment. In connection with any amendment to the Land Use Guidelines
19 that is determined by the Town Council to be quasi-judicial in nature, the procedures set
20 forth in Section 5.10 of the Breckenridge Town Charter for the adoption of Town
21 ordinances shall be followed; provided, however, that no ordinance involving a quasi-
22 judicial amendment to the Land Use Guidelines shall be adopted as an emergency
23 ordinance. In addition to any other notice of public hearing that may be required by the
24 Breckenridge Town Charter, notice of a public hearing to consider the proposed adoption of
25 a quasi-judicial amendment to the Land Use Guidelines shall be published twice in a
26 newspaper of general circulation in the Town, the first publication occurring at least twelve
27 (12) days prior to the hearing and the second publication occurring at least four (4) days
28 prior to the hearing. Such newspaper notice shall ~~be not less than five and one-half inches in~~
29 ~~height by four inches in width when published, and shall~~ contain the date and time and of
30 the public hearing on the proposed amendment; the location of the hearing on the proposed
31 amendment; and a brief description of nature of the proposed amendment to the Land Use
32 Guidelines. Such newspaper notice is reasonably calculated to afford affected persons the
33 realistic opportunity to protect their interests. In addition to the newspaper notice, not less
34 than twelve (12) days prior to the date of the public hearing the Director shall mail a copy of
35 the text of the newspaper notice by first class mail to all owners of real property located
36 within the Land Use District(s) that would be affected by the proposed Land Use Guidelines
37 amendment as shown by the records of the Summit County Clerk and Recorder; provided,
38 however, that the failure of the Director to mail such notice, or the failure of a person to
39 receive such mailed notice, shall not impair the validity of the public hearing or any
40 amendment made by the Town Council to the Land Use Guidelines following such hearing.

41
42 D. Public Hearing. The public hearing required to be held in connection with the adoption of an
43 ordinance amending the Land Use District Guidelines shall be the same public hearing as is
44 required by Section 5.10 of the Breckenridge Town Charter in connection with the second
45 reading of a Town ordinance.

46

1 E. Application of Land Use Guidelines to Specific Lot, Tract or Parcel. Any change in the
2 manner in which the Land Use Guidelines are to be applied to a specific lot, tract or
3 parcel of land, including, without limitation, the recommended density for such lot, tract
4 or parcel, shall be accomplished either by written agreement with the owner(s) of the
5 subject lot, tract or parcel (such as an Annexation Agreement), a Master Plan or by
6 ordinance adopted by the Town Council using the procedures for a quasi-judicial
7 amendment to the Land Use Guidelines as set forth in Subsection C, above. Following
8 the introduction of an ordinance as described in the preceding sentence, the Director shall
9 not accept an application to develop or subdivide the real property that is the subject of
10 the ordinance until such time as the ordinance has either been finally approved or rejected
11 by the Town Council, and any applicable referendum period has expired.

12
13 F. Legal Standards for Land Use Guideline Amendments. In considering a proposed
14 amendment to the Land Use Guidelines, the Town Council shall apply the following
15 standards:

16
17 1. If the proposed change is found by the Town Council to be consistent with or
18 in compliance with the Town's Master Comprehensive Plan, and all parts
19 thereof, the proposed change need only bear a reasonable relationship to the
20 welfare of the community.

21
22 2. If the proposed change is found by the Town Council to be in conflict with or
23 inconsistent the Town Master Plan, or any part thereof, the applicant seeking the
24 change must show either: (1) that a manifest error was made in establishing the
25 current Land Use Guidelines or its application to a specific lot, tract or parcel, or
26 (2) that the proposed change bears a reasonable relationship to the welfare of the
27 community and there has been a change in the conditions of the neighborhood
28 that supports the requested change.

29
30 Section 2. Subsection C of Section 9-1-15 of the Breckenridge Town Code is amended
31 so as to read in its entirety as follows:

32
33 C. If, in accordance with Section 9-1-15-1 ~~the provisions of this Chapter or the~~
34 ~~Land Use District Guidelines~~, changes are made in land use district boundaries or
35 other matters portrayed on the Official Land Use District Map, such changes shall
36 be entered on the map. No amendment to the Official Land Use District Map shall
37 become effective until entry of such change has been made on said map.

38
39 Section 3. Except as specifically amended hereby, the Breckenridge Town Code, and the
40 various secondary codes adopted by reference therein, shall continue in full force and effect.

41
42 Section 4. The Town Council hereby finds, determines and declares that it has the power
43 to adopt this ordinance pursuant to: (i) the Local Government Land Use Control Enabling Act,
44 Article 20 of Title 29, C.R.S.; (ii) Part 3 of Article 23 of Title 31, C.R.S. (concerning municipal
45 zoning powers); (iii) Section 31-15-103, C.R.S. (concerning municipal police powers); (iv)
46 Section 31-15-401, C.R.S.(concerning municipal police powers); (v) the authority granted to

1 home rule municipalities by Article XX of the Colorado Constitution; and (vi) the powers
2 contained in the Breckenridge Town Charter.

3
4 Section 5. The Town Council hereby finds, determines and declares that it has the power
5 to adopt this ordinance pursuant to the authority granted to home rule municipalities by Article
6 XX of the Colorado Constitution and the powers contained in the Breckenridge Town Charter.

7
8 Section 6. This ordinance shall be published and become effective as provided by
9 Section 5.9 of the Breckenridge Town Charter.

10
11 INTRODUCED, READ ON FIRST READING, APPROVED AND ORDERED
12 PUBLISHED IN FULL this ____ day of _____, 2011. A Public Hearing shall be held at the
13 regular meeting of the Town Council of the Town of Breckenridge, Colorado on the ____ day of
14 _____, 2011, at 7:30 P.M., or as soon thereafter as possible in the Municipal Building of the
15 Town.

16
17 TOWN OF BRECKENRIDGE, a Colorado
18 municipal corporation

19
20
21
22 By _____
23 John G. Warner, Mayor

24
25 ATTEST:

26
27
28
29 _____
30 Mary Jean Loufek, CMC,
31 Town Clerk

INTEROFFICE MEMORANDUM

TO: MAYOR AND TOWN COUNCIL
FROM: FINANCE DEPARTMENT
SUBJECT: 2010 & 2011 SUPPLEMENTAL APPROPRIATION RESOLUTION
DATE: FEBRUARY 2, 2011

Purpose: The two attached resolutions have been prepared for Council's review during the February 8th work session and subsequent action as appropriate during the Council meeting.

Description: The resolution titled "**A Resolution Making a Supplemental Appropriation to the 2010 Town Budget**" is intended to provide additional 2010 budget authority for the following purposes:

Golf Debt Service: to reflect transfers between General Fund and Golf Fund for Golf Debt Service. The tax payments for the golf debt are paid into the General Fund (001), but debt service payments are made from the Golf Fund (005):

General Fund Revenue:	\$659,460
General Fund Expense:	\$659,460
Golf Fund Revenue:	\$659,460
Golf Fund Expense:	\$659,460

General Fund Revenues and Expenses (001): to reflect revenue received and expenses paid in 2010 that were unforeseen at the time of the adoption of the 2010 budget.

Revenue

- Police facility settlement \$1,046,746
- Transit Operating Grant \$100,000
- CMC Rental Income \$38,600
- RWC-change in accounting for third party tickets \$427,000
- Benefits committee wellness grant \$2,000
- Community Development:
 - Phase V cultural resource survey grant from state: \$12,600
 - Arts District revenues/contributions: \$5,260
- Police Department
 - COPLINK data sharing grant through State Chiefs \$45,000
 - Justice Assistance Grant (flashing school zone lights) \$11,080
 - Grant for bullet proof vests \$1,200

General Fund (continued):

Expense

- Acquisition of the parking lot property behind Schoonover: \$50,000
- High Country Conservation Center grant \$10,000
- CMC Building Expenses \$34,000
- RWC-change in accounting for third party tickets \$426,000
- Wellness grant expenditures-lunch and learns, etc. \$2,000
- Sustainable Breck project: \$12,290
- Coyne Valley Bridge Repair \$48,000
- Transfer to Capital Fund for PD Building Improvements \$100,000

Excise

Revenue

- State sales tax correction \$1,200,000

Expense

- Transfer to Capital for Recreation Center \$108,000
- Transfer to Capital for Locomotive \$10,500

Garage Fund

Revenue

- ARRA Bus Refurbishment Grant \$285,906
- FTA Bus Refurbishment Grant \$140,542

Expense

- 3 Bus Refurbishments: \$468,952

Capital Fund

Revenue

- Transfer from General Fund for PD building improvements \$100,000
- Transfer from Excise to Capital for Recreation Center \$108,000
- Transfer from Excise for Locomotive \$10,500

Expense

- Recreation Center Remodel \$108,000
- PD Building Improvements \$100,000
- Locomotive #111 functional restoration \$10,500

Affordable Housing

Revenue

- Housing grants \$912,803

Expense

- Valley Brook Expenditures \$850,000

Open Space

Revenue

- Summit Wildfire Council grant \$71,160

Facilities Fund

Expenses

- Building improvements and maintenance \$86,000

Special Projects Fund

Revenue

- State Grant for Locomotive #111 \$50,000

Expense

- Restoration and Railroad Park for Locomotive #111 \$95,000

Description: The resolution titled “**A Resolution Making a Supplemental Appropriation to the 2011 Town Budget**” requests changes to the 2011 budget authority for the following purposes:

The Police Department has two rollover requests for 2010.

1. **COPLINK Revenue**: the police department received a data sharing grant of \$45,000 through the State Chiefs for implementation of the COPLINK system. Only \$17,000 of the revenue was expended in 2010, so the remaining \$28,000 will be paid out in 2011.
2. **Variable Message Sign**: in 2010, the police department began a signage project involving the purchase of variable message signs. The department applied and was approved for a grant to purchase a portable sign; however grant funds may not be encumbered until after January 1, 2011. As a result, the police department requests the rollover of 2010 funds to complete this project in 2011. Funds include:
 - a. \$4,000 to match funds for the portable VMS
 - b. \$7,000 to match funds for a VMS in the gondola area

The Arts District has one rollover request. Donations to support the Arts District exceeded expenditures by \$5,529. The Arts District requests that the excess funds be rolled into the 2011 budget to support the 2011 operations.

Recommended Action: We request that Council review the attached resolutions named above. Staff will also be present during the February 8th Work Session to respond to any questions that Council may have. It is also requested that Council hold a public hearing and be prepared to vote on the resolutions during the February 8th Council Meeting.

A RESOLUTION

SERIES 2011

A RESOLUTION MAKING SUPPLEMENTAL APPROPRIATIONS TO THE 2010 TOWN BUDGET

WHEREAS, the Town Council of the Town of Breckenridge desires to amend the Town's 2010 budget by making supplemental appropriations in the amount of \$5,888,037 in revenues and \$3,838,162 in expenditures; and

WHEREAS, pursuant to Section 10.12(a) of the Breckenridge Town Charter, the Finance Department, on behalf of the Town Manager, has certified that there are available for appropriation revenues in excess of those estimated in the Town's 2010 budget or revenues not previously appropriated in an amount sufficient for the proposed supplemental appropriation; and

WHEREAS, a public hearing on the proposed supplemental appropriation was held on February 8, 2011, in accordance with the requirements of Section 10.12(a) of the Breckenridge Town Charter.

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

General Fund Revenues (001):

• Police Facility Settlement	\$1,046,746
• Transit operating Grant	\$100,000
• CMC Rental Income	\$38,600
• RWC-change in accounting for third party tickets	\$427,000
• Benefits Wellness Grants	\$2,000
• PD Grants	\$58,000
• Comm Dev Grants	\$17,860
• Golf Debt Service	\$659,460

Total General Fund Revenue Increase: \$2,349,666

General Fund Expense (001):

• Acquisition of parking lot property	\$50,000
• High Country Conservation Grant	\$10,000
• Golf Debt Service	\$659,460
• CMC Building Expenses	\$34,000
• RWC-change in accounting for 3 rd party tickets	\$426,000
• Wellness grant expenditures-lunch and learns, etc.	\$ 2,000
• Sustainable Breck project:	\$12,290
• Coyne Valley Bridge Repair	\$48,000
• Transfer to Capital Fund for PD Building Improvements	\$100,000

Total General Fund Expenditure Increase: \$1,341,750

Excise Fund Revenue (006):

• State sales tax correction:	\$1,200,000
-------------------------------	-------------

Total Excise Fund Revenue Increase: \$1,200,000

Excise Fund Expense (006):

• Transfer to Capital for Recreation Center	\$108,000
• Transfer to Capital for Locomotive	\$10,500

Total Excise Fund Expenditure Increase: \$118,500

<u>Capital Fund Revenue (003):</u>	
• Transfer from General Fund for PD building improvements	\$100,000
• Transfer to Capital for Recreation Center	\$108,000
• Transfer to Capital for Locomotive	\$10,500
Total Capital Fund Revenue Increase:	\$218,500
<u>Capital Fund Expense (003):</u>	
• PD building improvements	\$100,000
• Recreation Center Remodel	\$108,000
• Locomotive #111 functional restoration	\$10,500
Capital Fund Expenditure Increase:	\$218,500
<u>Golf Fund Revenue (005):</u>	
• Debt Service-transfer from General Fund	\$659,460
Total Golf Fund Revenue Increase:	\$659,460
<u>Golf Fund Expense (005):</u>	
• Debt Service	\$659,460
Total Golf Fund Expenditure Increase:	\$659,460
<u>Affordable Housing Revenue (007):</u>	
• Housing Grants	\$912,803
Total Affordable Housing Revenue Increase:	\$912,803
<u>Affordable Housing Expense (007):</u>	
• Valley Brook Expenditures	\$850,000
Total Affordable Housing Expenditure Increase:	\$850,000
<u>Open Space Revenue (008):</u>	
• Summit Wildfire Council grant	\$71,160
Total Open Space Fund Revenue Increase:	\$71,160
<u>Garage Fund Revenue (010):</u>	
• ARRA Bus Refurbishment Grant	\$285,906
• FTA Bus Refurbishment Grant	\$140,542
Total Garage Fund Revenue Increase:	\$426,448
<u>Garage Fund Expense (010):</u>	
• 3 bus refurbishments	\$468,952
Total Garage Fund Revenue Increase:	\$468,952
<u>Facilities Fund Expenses (012):</u>	
• Building Improvement and Maintenance	\$86,000
Total Facilities Fund Expense Increase:	\$86,000
<u>Special Projects Fund Revenue (013):</u>	
• State grant for Locomotive #111	\$50,000
Total Special Projects Fund Revenue Increase	\$50,000
<u>Special Projects Fund Expenses (013):</u>	
• Restoration and Railroad Park for Locomotive #111	\$95,000
Total Special Projects Fund Expense Increase	\$95,000

This Resolution shall become effective upon its adoption.

RESOLUTION APPROVED AND ADOPTED THIS 8th DAY OF FEBRUARY 2010.

ATTEST

TOWN OF BRECKENRIDGE

Mary Jean Loufek, CMC, Town Clerk

By _____
John Warner, Mayor

APPROVED IN FORM

Town Attorney Date

A RESOLUTION

SERIES 2011

A RESOLUTION MAKING A SUPPLEMENTAL APPROPRIATION TO THE 2011 TOWN BUDGET FOR PROJECTS NOT COMPLETED IN BUDGET YEAR 2010

WHEREAS, the Town Council of the Town of Breckenridge desires to amend the Town's 2010 budget by making supplemental appropriations in the amount of \$44,529; and

WHEREAS, pursuant to Section 10.12(a) of the Breckenridge Town Charter, the Finance Department, on behalf of the Town Manager, has certified that there are available for appropriation revenues in excess of those estimated in the Town's 2010 budget or revenues not previously appropriated in an amount sufficient for the proposed supplemental appropriation; and

WHEREAS, a public hearing on the proposed supplemental appropriation was held on February 8th, 2011, in accordance with the requirements of Section 10.12(a) of the Breckenridge Town Charter.

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

Section 1. A supplemental appropriation is made to the General Fund in the amount of \$44,529 to rollover 2010 authority to continue funding of police equipment purchases (\$39,000) and Arts District operations (\$5,529).

Section 2. This Resolution shall become effective upon its adoption.

RESOLUTION APPROVED AND ADOPTED THIS 8th DAY OF FEBRUARY 2011.

ATTEST TOWN OF BRECKENRIDGE

Mary Jean Loufek, CMC, Town Clerk

By _____
John 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, unless otherwise noted.

FEBRUARY 2011

Tuesday, February 8; 3:00/7:30 p.m. First Meeting of the Month

Tuesday, February 22; 3:00/7:30 p.m. Second Meeting of the Month

OTHER MEETINGS

1 st & 3 rd Tuesday of the Month; 7:00p.m.	Planning Commission; Council Chambers
1 st Wednesday of the Month; 4:00p.m.	Public Art Commission; 3 rd floor Conf Room
2 nd & 4 th Tuesday of the Month; 1:30p.m.	Board of County Commissioners; County
2 nd Thursday of every other month (Dec, Feb, Apr, June, Aug, Oct) 12:00 noon	Breckenridge Heritage Alliance
2 nd & 4 th Tuesday of the month; 2:00 p.m.	Housing/Childcare Committee
2 nd Thursday of the Month; 5:30p.m.	Sanitation District
3 rd Monday of the Month; 5:30p.m.	BOSAC; 3 rd floor Conf Room
3 rd Tuesday of the Month; 9:00 a.m.	Liquor Licensing Authority; Council Chambers
3 rd Thursday of the Month; 7:00p.m.	Red White and Blue; Main Fire Station
4 th Wednesday of the Month; 9a.m.	Summit Combined Housing Authority
4 th Wednesday of the Month; 8:30a.m.	Breckenridge Resort Chamber; BRC Offices
TBD (on web site as meetings are scheduled)	Breckenridge Marketing Advisory Committee; 3 rd floor Conf Room

Other Meetings: CAST, CML, NWCCOG, RRR, QQ, I-70 Coalition