

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, DECEMBER 14, 2010
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CALL TO ORDER and ROLL CALL

Mayor Warner called the December 14, 2010 Town Council Meeting to order at 7:34 p.m. The following members answered roll call: Mr. Bergeron, Mr. Burke, Mr. Dudick, Mr. Mamula, Ms. McAtamney, Mr. Joyce, and Mayor Warner.

APPROVAL OF MINUTES – November 23, 2010

With no changes or corrections to the meeting minutes of November 23, 2010 Mayor Warner declared the minutes approved as submitted.

APPROVAL OF AGENDA

Mr. Gagen added an Executive Session under Other Matters.

COMMUNICATIONS TO COUNCIL

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

Dick Taft, Member of the Board of Directors with the Village at Breckenridge and Chairman of the Architecture and Design Committee, appeared to briefly touch base regarding Tony Waits initiative of forming a Metro District with the property owners around Maggie Pond. The District would coordinate efforts to re-open Maggie Pond for use and would include Vail Resorts, the Marriot, Hyatt Main Street Station, and Water Place. Mr. Taft stated he had met with Tim Gagen and Peter Grosshuesch, and with Mayor Warner regarding a strategic planning session. He believes it is important to talk to the entities and formalize an agreement to proceed jointly with the efforts, prepare documentation, and have a formalized plan by July or August of 2011. He promised to keep the Town Council updated.

With no other comments the Mayor closed the citizen's comment period.

B. BRC Director Report

Bill Wishowski, Operations Director for Central Reservations, spoke on behalf of the Breckenridge Resort Chamber. He stated the Lighting of Breckenridge went well, and promised to send a video. He reported that November was up almost 12% compared to last year; sales tax is up; December is up about 2 points; November reported well for the Town of Breckenridge as well as Central Reservations. He stated there has been good growth in November for competitors and Summit County. He reported the winter occupancy is holding flat compared to the November 30 numbers, and that retail and restaurant numbers are good. Overall, he reported that the numbers are positive for December, but that length of stay is down with a lot of last minute business. He reported that the Welcome Center has opened its back desk for activities and Central Reservation calls, and will begin to conduct surveys soon. He reported that the number of calls in November increased, citing a promotion involving a \$100.00 incentive to book a minimum of 4 nights or longer before December 17. This promotion has brought in forty or more four nights or longer stays. He mentioned other factors that contributed to the jump in reservations including marketing, Public Relations Messaging, snow, and the Breckenridge Ski Resort opening. The Town Council discussed the \$100.00 promotion, and requested clarification of some of the lodging numbers. Mr. Wishowski mentioned in closing that the quality of calls coming in is good; Breckenridge has received good Public Relations; and, looking ahead the January Central Reservations numbers are phenomenal in comparison to the rest of Breckenridge and Summit County; and that the numbers may be due to a time shift of reservations into January by consumers who wish to save on room rates.

CONTINUED BUSINESS

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

1. Council Bill No. 32, Series 2010 – AN ORDINANCE SETTING THE MILL LEVY WITHIN THE TOWN OF BRECKENRIDGE FOR 2011

Mr. Gagen stated the Town Council annually adopts a Property Tax Mill Levy that is part of the General Fund. The rate represents a .015 mill decrease from 2010. The Property Tax Mill Levy was certified to Summit County on December 2nd, which requires ratification of the certification.

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

Mr. McAtamney moved to approve Council Bill No. 32, Series 2010. Mr. Bergeron seconded the motion. The motion passed 7-0.

2. Council Bill No. 37, Series 2010 – AN ORDINANCE AMENDING ORDINANCE NO. 16, SERIES 2010, TO ALLOW FOR THE CHANGE OF LOCATION OF TOWN OF BRECKENRIDGE MEDICAL MARIJUANA DISPENSARY PERMITS; SETTING FOR THE TERMS AND CONDITIONS UNDER WHICH SUCH CHANGE OF LOCATION MAY BE APPROVED; AND CONTINUING ALL EXISTING MEDICAL MARIJUANA DISPENSARY PERMITS UNTIL JULY 1, 2011

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Mr. Berry mentioned the Town Council's Moratorium regarding new applications prohibits permits to transfer the location of an existing dispensary. He stated this amendment to the ordinance would allow for the transfer of an existing dispensary to a location outside of the Breckenridge Downtown Overlay District, and continues the existing permits until July 2011 while the Town of Breckenridge and the State of Colorado implement House Bill 24. Mr. Berry stated that Ms. Katz's client does not have any comment on this.

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

Mr. Dudick remarked that the moratorium was meant to decrease the number of dispensaries; the Town Council is being good neighbors; this amendment is inconsistent with the moratorium goals. The Town Council discussed how this amendment will limit the number of dispensaries in the Downtown Overlay District because of where the dispensaries can move and conduct business.

Mr. Joyce moved to approve Council Bill No. 37, Series 2010. Mr. Bergeron seconded the motion. The motion passed 7-0.

NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2010

1. Council Bill No. 38, Series 2010 – AN ORDINANCE REPEALING AND READOPTING WITH CHANGES POLICY 22 (ABSOLUTE) AND POLICY 22 (RELATIVE) OF SECTION 9-1-19 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE”, CONCERNING LANDSCAPING

Mr. Berry mentioned Planner Jen Cram's memo in the packet describing the changes to the ordinance. These changes include the modification to Required Wildfire Mitigation to resemble the existing Voluntary Defensible Space Ordinance while still maintaining recommendations from the Fire Wise Task Force, the clarification of some language by Mr. Berry, and definitions. Mr. Berry mentioned staff is supportive and pleased with how the Ordinance turned out.

The Town Council thanked Ms. Cram for all her hard work.

Mr. Burke moved to approve Council Bill No. 38, Series 2010. Mr. Mamula seconded the motion. The motion passed 7-0.

B. RESOLUTIONS, SERIES 2010

1. A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT FOR ATTORNEY SERVICES WITH TIMOTHY H. BERRY, P.C. FOR 2011

Mr. Gagen stated this Resolution would approve the services agreement for Mr. Tim Berry for 2011, and is the same as 2010. Mr. Gagen mentioned that Mr. Berry is appointed by the Town Council.

Mr. Mamula moved to approve A Resolution Authorizing the Mayor to Sign An Agreement for Attorney Services with Timothy H. Berry, P.C. for 2011. Mr. Dudick seconded the motion. The motion passed 7-0.

2. A RESOLUTION APPROVING AN AGREEMENT FOR MUNICIPAL COURT PROSECUTION SERVICES WITH RICHMOND, SPROUSE & MURPHY, LLC

Mr. Berry spoke regarding Mr. Seth Murphy's services, and stated he has done a great job. He stated this Resolution would extend the contract for 2011 with no changes to the rates from 2010.

Mr. Joyce moved to approve A Resolution Approving An Agreement For Municipal Court Prosecution Services With Richmond, Sprouse & Murphy, LLC. Mr. Mamula seconded the motion. The motion passed 7-0.

3. A RESOLUTION ADOPTING A “COMPLETE STREETS POLICY” FOR THE TOWN OF BRECKENRIDGE

Mr. Berry spoke about the Complete Street Policy, which if adopted is aspirational in nature but not mandatory, and would allow the Town to implement this policy.

Mr. Mamula moved to approve A Resolution Adopting A “Complete Streets Policy” For The Town Of Breckenridge. Mr. Bergeron seconded the motion. The motion passed 7-0.

4. A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING CONCERNING THE PROPOSED EXPANSION OF THE BRECKENRIDGE SKI RESORT ONTO PEAK 6 OF THE TEN MILE RANGE

Mr. Gagen stated the Resolution would approve the Memorandum of Understanding (MOU) related to the proposed Peak 6 expansion of the Breckenridge Ski Resort, which includes the social impacts if it does become approved or developed.

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He remarked that the Memorandum of Understanding has been worked on for months, and is the culmination of many hours of work. He remarked that the County has approved, and the Breckenridge Ski Resort has given a nod to the language in the current Memorandum of Understanding.

Mayor Warner thanked Mr. Bergeron, Dick Carleton, and Dave Rossi for their membership on the task force. Mayor Warner also thanked the Breckenridge Ski Resort, Ellen Hollinshead, and stated the eighteen month discussion broached on many topics not required in an expansion project. The task force broke new ground in the tourist industry, and he respected the process. He stated that the document will serve well for future collaboration. Mr. Bergeron echoed Mayor Warner's statement and stated the task force brought to the table impacts and remedies for future development. Mr. Mamula stated Mr. Dick Carleton's concerns regarding parking. The Town Council agreed there are already solutions to parking in the community and an agreement in the Gondola Lots Master Plan. Mr. Burke added that the experience with the team has been positive.

Mr. Dudick moved to approve A Resolution Approving A Memorandum Of Understanding Concerning The Proposed Expansion Of The Breckenridge Ski Resort Onto Peak 6 Of The Ten Mile Range. Mr. Burke seconded the motion. The motion passed 7-0.

5. 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 (SCOTT PROPERTY – 40.280 ACRES, MORE OR LESS)

Mr. Berry stated that because Summit County already had the Scott property under contract, the mechanism for the Town of Breckenridge to acquire its interest in the property is an "Assignment of Partial Interest in Option Agreement." Such agreement has been prepared and executed by the Town Manager, and it is necessary for the Town Council to ratify his signing of the assignment contract.

Mr. Bergeron 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 (Scott Property – 40.280 Acres, More Or Less). Ms. McAtamney seconded the motion. The motion passed 7-0.

C. OTHER

1. CDBG Public Hearing – Valley Brook Infrastructure

Ms. Laurie Best, Planner for the Town of Breckenridge, came before the Town Council for a Public Hearing regarding the Community Development Block Grant. The State of Colorado requires that the Town of Breckenridge hold a Public Hearing that allows citizens to review and comment on the performance of the Town of Breckenridge in developing the Valley Brook Neighborhood infrastructure, which was financed with Community Development Block Grant funds provided by the State of Colorado Division of Housing. The Public Notice and Notice of Public Hearing were posted in the Summit Daily News and this hearing is an opportunity for the public to comment. Ms. Best reported one email was received which mentioned that it was an organized effort, which made good progress and entered the email into the record.

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

2. Call-up Hearing – Village at Breckenridge Signage Variance

The call up hearing on application number PC2010057 was held in accordance with Section 9-1-18-5 of the Town's Development Code. A verbatim tape recording of the proceedings was made and will be maintained as required by law. No attempt is made in these minutes to set forth a verbatim record of the proceedings of this hearing.

At the conclusion of the hearing Mr. Bergeron moved to approve Application number PC2010057, (as all more fully described in the record of the hearing), with the approval of the Findings and Conditions set forth on pages 130-157, inclusive, of the December 14, 2010 Town Council Agenda Packet, as set forth in the verbatim record of the proceeding of the hearing.

The motion further directed the Town Attorney to prepare a written decision reflecting the Council's determination of this application.

Ms. McAtamney seconded the motion. A roll call vote was taken. The motion passed 6-1 with Mr. Mamula voting against.

PLANNING MATTERS

A. Planning Commission Decisions of December 7, 2010

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

- B. Town Council Representative Report (Mr. Burke)-No report

REPORT OF TOWN MANAGER AND STAFF*

None.

REPORT OF MAYOR AND COUNCILMEMBERS*

- A. CAST/MMC (Mayor Warner)-No report
B. Breckenridge Open Space Advisory Commission (Ms. McAtamney)-No report
C. BRC (Mr. Dudick)-No Report
D. Summit Combined Housing Authority (Mr. Joyce)-No Report
E. Breckenridge Heritage Alliance (Mr. Burke)-No Report
F. Sustainability Committee (Mr. Bergeron, Mr. Joyce, Mayor Warner)-Mr. Bergeron and Mayor Warner mentioned older multi-dwelling units with a Home Owner's Association and developing a prescribed payback with becoming green, and establish more efficient building; the opposition of attaching loans to property tax; and, leaning on the High Country Conservation Center (HC3) to promote the weatherization programs, and implementation of the loan programs. The Council discussed bringing the Home Energy Rating (HERS) rating in house since the High Country Conservation Center has had some staff turnover. Mr. Gagen mentioned the rating is already provided in the private sector.
G. Marketing Committee (Mr. Dudick)-No Report.
H. Joint Upper Blue Master Plan Update Committee (Mr. Bergeron, Mr. Mamula)-No Report.

OTHER MATTERS

Mr. Burke stated his concern regarding private plowing within the Town of Breckenridge. He remarked that the rules are not being adhered to, and voiced concerns regarding regulation and licensing. He cited a problem in the Highlands where the plows are dumping in bad spots. Mr. Burke handed an article to Mr. Gagen regarding the handling of the problem in other mountain municipalities. Mr. Mamula stated that the snow is not supposed to leave the property, and that the plow companies should have a BOLT (Business and Occupational Licenses and Tax) License. Mr. Burke stated his second issue is with late night transportation, which is often discussed at the Safe Bar Meetings. The Council discussed the ongoing issues with the Public Utilities Commission's limitation of one taxi license for Breckenridge; the Town has sent representatives to testify in front of the Commission; and how the Town cannot add an ordinance because it is State Law. Mr. Gagen stated that the best course currently is to talk to legislators. Mr. Burke mentioned the issue of Marijuana growers in residential neighborhoods, and asked if there could be an ordinance put in place. Mr. Berry stated he is researching the issue, and will discuss it next meeting. Ms. McAtamney asked if odor is considered a public nuisance. Chief Holman said there may be a way to mitigate, and they will know soon.

Mr. Mamula asked the Council permission to speak on their behalf and explore avenues to bring more music entertainment to Breckenridge and the Riverwalk Center. He stated he knew a promoter from the William Morris agency, and had already met with promoters in Denver from AEG and Live Nation. He mentioned the AEG guys are willing to come up on Friday and look at the Riverwalk Center. He stated the goal is five to ten events per year, in both the Summer and Winter seasons, and he would like to see some of the bigger events come back, such as Reggae Fest on Peak 9. Mr. Burke mentioned the turf field as a venue. The Council reminded Mr. Mamula to keep the Riverwalk staff in the loop.

Mr. Bergeron expressed concerns regarding the compliance and brightness of the lights behind the Breckenridge Police Station pointing toward the Valley Brook Development. Chief Rick Holman stated the lights point from inside the car port, down toward the parking lot for staff that are finishing the late shift.

Mr. Burke moved that the Town Council go into Executive Session pursuant to Paragraph 4(a) of Section 24-6-402, C.R.S., relating to the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest, Paragraph 4(b) of Section 24-6-402, C.R.S., relating to conferences with the Town Attorney for purposes of receiving legal advice on specific legal questions, and Paragraph 4(e) of Section 24-6-402, C.R.S., relating to determining positions relative to matters that may be subject to negotiations, developing strategies for negotiations, and instructing negotiators. Mr. Joyce seconded the motion.

The Mayor stated a motion has been made for the Town Council to go into an Execution Session pursuant to Paragraph 4(a) of Section 24-6-402, C.R.S., relating to the purchase, acquisition, lease, transfer, or sale of any real, personal,

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or other property interest, Paragraph 4(b) of Section 24-6-402, C.R.S., relating to conferences with the Town Attorney for purposes of receiving legal advice on specific legal questions, and Paragraph 4(e) of Section 24-6-402, C.R.S., relating to determining positions relative to matters that may be subject to negotiations, developing strategies for negotiations, and instructing negotiators.

The subject matter of the Executive Session involves:

1. Land the Town of Breckenridge may be interested in acquiring; and
2. Land the Town of Breckenridge may be interested in selling;

The conference with the Town Attorney involves

1. The Town of Breckenridge's legal options with respect to buildings that encroach upon town-owned lands; and
2. Legal Issues concerning collection of information regarding collecting of sales and accommodation tax from property owners, but may also include conferences with the Town Attorney concerning the other subject matter of executive session or matters protected by the attorney-client privilege that exists between the Town and the Town Attorney.

A roll call was taken. All members of the Council were in favor of the motion.

At 10:58 Mr. Mamula moved to reconvene the regular meeting. Ms. McAtamney made the second. All members of the Council were in favor of the motion.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 10:58 p.m.

Submitted by Cathy Boland, Municipal Court Clerk.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor