

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, MARCH 8, 2011
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CALL TO ORDER and ROLL CALL

Mayor Warner called the March 8, 2011 Town Council Meeting to order at 7:34 p.m. The following members of council answered roll call: Mr. Bergeron, Mr. Dudick, Mr. Mamula, Ms. McAtamney, Mr. Joyce, and Mayor Warner. Mr. Burke was absent.

APPROVAL OF MINUTES – February 22, 2011 Regular Meeting

With no changes or corrections to the meeting minutes of February 22, Mayor Warner declared they would stand approved as presented.

APPROVAL OF AGENDA

Mr. Gagen, Town Manager, stated there will be a new title for Council Bill 14. Currently, that title reads "...by extending the sunset date". That portion of the title will be changed to "...by eliminating the sunset date".

COMMUNICATIONS TO COUNCIL

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

Dan Corwin addressed council concerning snow plowing on sidewalks and town streets. He stated Public Works is doing a good job. Mr. Corwin felt the process should be looked at to determine if there are better ways of doing the job. He understood problems associated with "high alpine environment" conditions and budget cuts. He felt the town could do better as a "world class resort". Mayor Warner relayed an event he recently witnessed and wondered how the town can make its guests aware of the importance of wearing appropriate shoes and clothing.

Ron Shelton was present to talk about the proposed solar panels. He was not in favor of having panels near the sidewalk adjacent to the Riverwalk Center. Mayor Warner summarized where the process is at this point. During the work session five members of council were in favor of solar panels at the Riverwalk Center and two members were in opposition to the panels. It was decided to move forward with the planning process. The solar panel application will go through the Planning Commission process. At that time the public will have its first opportunity to make public comment. Once that process is complete, town council will act on the matter. At that time there will be another opportunity to make public comment.

B. BRC Director Report

John McMahon was present and reported on Mardi Gras. The parade saw a very good turnout. Mark Burke was kingly. Snow Sculpture was a strong event. Spring break begins next week. The Spring Fever event is taking shape. Town will see concerts, Easter egg hunts and programs in conjunction with the Restaurant Association. Mr. McMahon indicated a need to begin a conversation about April Fool's Day. This year the town's April Fool's Day event will be on April 2. Mr. Bergeron asked how the Bacchus Ball was received. The event saw 200 people and appears to be growing. The BRC has been investigating the possibility of holding Ullr Fest in December. The bonfire would be on December 8 with Ullr activities being held throughout the next week. The Dew Tour will follow. In closing, Mr. McMahon reported on the Quizno Pro Challenge.

C. Earth Hour Proclamation

Patrick Paden was present and gave a brief history of how Earth Hour came to be. He thanked council for their support. Mayor Warner read the Proclamation declaring Saturday, March 26, 2011 from 8:30 – 9:30 p.m. to be "Earth Hour".

CONTINUED BUSINESS

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

1. Council Bill No. 10, Series 2011 - AN ORDINANCE CONCERNING THE OPERATION OF PEDICABS WITHIN THE TOWN OF BRECKENRIDGE

Mr. Berry explained if approved on second reading, this ordinance would create traffic rules associated with the use of Pedicabs on public streets within the town. These regulations are loosely based on the State's regulations that are applicable to bicycles. There are no changes from first reading.

Mayor Warner opened a public hearing. There were no comments from the public. He closed the public hearing and asked for any further questions or comments from council. There were none.

Mr. Bergeron moved to approve Council Bill No. 10, Series 2011 as previously read into the record. Mr. Mamula seconded the motion. A roll call vote was taken. The motion passed 6-0.

2. Council Bill No. 11, Series 2011 – AN ORDINANCE AMENDING ORDINANCE NO. 16, SERIES 2010 AND ORDINANCE NO. 38, SERIES 2010, TO ALLOW FOR THE CHANGE OF LOCATION OF TOWN OF BRECKENRIDGE MEDICAL MARIJUANA DISPENSARY PERMITS; AND SETTING FORTH THE TERMS AND CONDITIONS UNDER WHICH SUCH CHANGE OF LOCATION MAY BE APPROVED.

Mr. Berry explained the purpose of this council bill is to amend the existing Medical Marijuana Dispensary Moratorium Ordinance to allow for a change of location for existing dispensaries within the Downtown Overlay District. There were a few changes made to the ordinance since first reading. The first change prohibits signage that is visible from any

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public street within the Downtown Overlay District. The second change changes reference to “garden level” to “ground floor” and matches the language in the existing Dispensary Ordinance. The third change addresses the entryway provision to refer to Ridge Street and Lincoln Avenue as well as referencing Main Street. Mr. Berry asked if there is a motion to approve this council bill that it referenced the form include in the council’s agenda packet.

Mayor Warner opened a public hearing. There were no comments from the public. He closed the public hearing and asked for any further questions or comments from council. There were none.

Mr. Bergeron moved to approve Council Bill No. 11, Series 2011 in the form included in the council’s agenda packet. Ms. McAtamney seconded the motion. A roll call vote was taken. The motion passed with five members of council in favor of the motion. Mr. Joyce voted in opposition to the motion.

3. **Council Bill No. 12, Series 2011 – AN ORDINANCE APPROVING AN OPTION AGREEMENT WITH THE BRECKENRIDGE OUTDOOR EDUCATION CENTER, A COLORADO NONPROFIT CORPORATION; AUTHORIZING THE SALE OF CERTAIN TOWN-OWNED REAL PROPERTY PURSUANT THERETO; AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH (524 WELLINGTON ROAD)**

Mr. Gagen stated the Breckenridge Outdoor Education Center (BOEC) has approached the town concerning the possibility of purchasing the property at 524 Wellington Road. In the Option Agreement, Article 7.1 has been revised to include a subsection (d) which includes language related to the town’s right to repurchase the property if BOEC decides to sell it at a later date. This item is before council as a second reading.

Mayor Warner opened a public hearing. Tim Casey was present to comment. He thanked council and staff for working with the BOEC on this item. He stated this community has been very generous to the BOEC. This opportunity enables the organization to make capital improvements to the building and have an even longer presence in the community.

With no further comments from the public, Mayor Warner closed the public hearing and asked if there were any further questions or comments from council. There were none.

Ms. McAtamney moved to approve Council Bill No. 12, Series 2011 as previously read into the record. Mr. Mamula seconded the motion. The motion passed 6-0.

NEW BUSINESS

- A. **FIRST READING OF COUNCIL BILL, SERIES 2011**

4. **Council Bill No. 13, Series 2011 - AN ORDINANCE AMENDING POLICY 5 (RELATIVE) (ARCHITECTURAL COMPATIBILITY) OF SECTION 9-1-19 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE”, CONCERNING THE ALLOWED USE OF FIBER-CEMENT SIDING**

Mr. Berry introduced this council bill for first reading. After the work session he was able to work on language to amend the council bill. That version was handed out to council before the evening meeting. Line 32 of the revised council bill states “fiber-cement siding may be used without the assignment of negative points only if there are natural materials on each elevation of the structure (such as accents or a natural stone base) and the fiber-cement siding is compatible with the general design criteria listed in the Land Use Guidelines”. Mr. Berry asked if there is a motion to approve this council bill the motion reference the change on line 32. Mr. Mamula asked if the word “other” should be included in “...only if there are other natural materials...” It was determined that the word “other” would not be included in the language.

Mr. Bergeron moved to approve Council Bill No. 13, Series 2011 in the version handed out to council before the meeting referencing the change appearing on line 32 which states “fiber-cement siding may be used without the assignment of negative points only if there are natural materials on each elevation of the structure (such as accents or a natural stone base) and the fiber-cement siding is compatible with the general design criteria listed in the Land Use Guidelines”. Ms. McAtamney seconded the motion. The motion passed 6-0.

5. **Council Bill No. 14, Series 2011 – AN ORDINANCE AMENDING ORDINANCE NO. 9, SERIES, 2009, BY ~~ELIMINATING~~ **EXTENDING** THE SUNSET DATE FOR THE “TOWN OF BRECKENRIDGE OPEN HOUSE SIGN ORDINANCE”**

Mr. Berry introduced this council bill for first reading. The current ordinance has been in effect since March 24, 2009 and had a one year sunset provision. That sunset provision was extended on February 9, 2010 and due to expire on April 1, 2011. After the work session discussion today, it was determined that council did not want to eliminate the sunset date, but rather extend the sunset date until April 1, 2014. Prior to that date, council will need to take some action to extend the Open House Sign provision or it will be automatically repealed. He believes the amended version of the council bill handed out to council before the evening meeting captures the desires of the council. Mr. Berry asked if there is a motion to approve this council bill the motion reference the form submitted to council before the meeting.

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Mr. Mamula moved to approve on first reading Council Bill No. 14, Series 2011 as previously read into the record in the form handed out by the town attorney including changes on lines 19 and 20; deleting "is" and replacing it with "are" and adding an effective date. "Section 8. Section 1 and Section 2 of this ordinance ~~is~~ **are** repealed effective **April 1, 2014.**" Mr. Bergeron seconded the motion. The motion passed 6-0.

6. **Council Bill No. 15, Series 2011 – AN ORDINANCE AMENDING POLICY 3 (ABSOLUTE) OF SECTION 9-1-19 THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING THE DENSITY EXEMPTION FOR BASEMENT AREAS OF TOWN-DESIGNATED LANDMARK COMMERCIAL STRUCTURES**

Mr. Berry stated this council bill, if approved, would amend the town's absolute density provision in the Development Code by eliminating the requirement that free density underneath a building be restricted for use as storage only. Mr. Berry pointed out this council bill also makes it clear that this amendment applies only to this provision of the Development Code and does not apply to any other provision of the Town Code, such as water PIFs. Mr. Joyce excused himself from the discussion and vote due to a pending project that would stand to benefit from the adoption of this ordinance. Mr. Joyce left the room. Mayor Warner asked for further discussion. There was none.

Mr. Bergeron moved to approve Council Bill No. 15, Series 2011 as previously read into the record. Ms. McAtamney seconded the motion. The motion passed 5-0. Mr. Joyce re-joined the meeting.

B. RESOLUTIONS, SERIES 2011

1. A RESOLUTION AUTHORIZING THE DEFERRAL OF PLANT INVESTMENT FEES PURSUANT TO SECTION 12-4-9 OF THE BRECKENRIDGE TOWN CODE (PEAK 7 DEVELOPMENT COMPANY, LLC-LOT 1, PEAK 7 SUBDIVISION)

Mr. Berry introduced this resolution stating the town's Water Ordinance allows the town council to approve a deferred payment of PIFs under certain limited circumstances. Previously the council approved a PIF Deferral of Payment Agreement with Peak 7 Development Company for the first phase of the Peak 7 development. That agreement was fully performed by the developer.

Peak 7 Development Company LLC has applied for a building permit for the entire North Building, Phases Four and Five and has requested a second deferral of PIFs for Phase Five until the earlier of: (i) the issuance of a Certificate of Occupancy for Phase Four, or (ii) December 15, 2012. The second PIF Deferral Agreement is included in the council's packet. Mr. Berry handed out new language to be added to #4 Substantial Public Benefit. The language reads "However, the amount paid as a substantial public benefit for the prior agreement and this second agreement is not intended to act as the substantial public benefit for any other agreement." Mr. Berry asked that the record reflect that Mr. Dudick, as a principal of Peak 7 Development Company LLC, excused himself from the discussion and vote. Mr. Dudick left the room. Mayor Warner asked for further discussion. There was none.

Mr. Mamula moved to adopt a Resolution Authorizing the Deferral of Plant Investment Fees Pursuant to Section 12-4-9 of the Breckenridge Town Code (Peak 7 Development Company, LLC-Lot 1, Peak 7 Subdivision) in the form handed out by the town attorney with the addition that appears on line 28, page 2, Section 4 of the agreement, stating "However, the amount paid as a substantial public benefit for the Prior Agreement and this Second Agreement is not intended to act as the substantial public benefit for any other agreement." Mr. Joyce seconded the motion. Mayor Warner asked for a roll call vote. The motion passed 5-0. Mr. Dudick re-joined the meeting.

C. OTHER

None.

PLANNING MATTERS

A. Planning Commission Decisions of February 15, 2011

With no request to call an item off the consent calendar, Mayor Warner declared the Planning Commission Decisions of February 15, 2011 would stand approved as presented.

B. Town Council Representative Report (Mr. Burke) – Mr. Burke was absent.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen referenced Planning Commission discussion concerning wood burning appliances. Since then, staff has received a letter concerning the use of wood burning ovens. Council will receive a copy of that letter. Staff will be looking at the matter further. Council may be seeing this matter at a later time.

REPORT OF MAYOR AND COUNCILMEMBERS

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

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B. **Breckenridge Open Space Advisory Commission** (Ms. McAtamney) – Ms. McAtamney reported the group talked about Cucumber Gulch and the decision to allow Nordic activities. The group also talked about forest health.

C. **Breckenridge Resort Chamber** (Mr. Dudick) - Mr. Dudick reported the group will be taking a look at long term calendar approval. The group wants to do the \$100 cash back deal in April. He voted in opposition to the idea. Mr. Dudick explained Central Reservations loses \$100 for every reservation they make (overhead). With this program they will then give away another \$100. He was concerned about the viability of this type of business model.

D. **Marketing Committee** (Mr. Dudick) – Mr. Dudick reported the group will meet on March 21.

E. **Summit Combined Housing Authority** (Mr. Joyce) – Mr. Joyce reported the group will meet next week.

F. **Breckenridge Heritage Alliance** (Mr. Burke) – Mr. Burke was absent. Mayor Warner appreciated the report given to council during the work session.

G. **Sustainability** (Mr. Bergeron, Mr. Joyce, Mayor Warner) – Mr. Joyce reported the group finished up talking about forest health. They discussed the summary document to be called The Sustainable Breck Action Plan Matrix. The document, in its final form, will summarize everything the group has been discussing and put that information into presentation form. Mr. Bergeron stated he would like to talk about re-forestation as an option within the public benefit discussion. Mayor Warner stated the group discussed this community embracing the use of electric vehicles and supplying charging stations.

H. **Joint Upper Blue Master Plan Update Committee (JUMB)** (Mr. Bergeron, Mr. Mamula) – Discussion occurred earlier in the day.

OTHER MATTERS

Mr. Bergeron brought up a matter that Mr. Dudick had discussed at an earlier meeting. The discussion concerned parking at the Peak's Trail. Mayor Warner will bring up the matter with Pat Campbell at an upcoming lunch. Mr. Gagen will ask Mr. Iskenderian. Mr. Dudick will confirm that his employees are not parking at that location.

Ms. McAtamney commented on the variable message sign. She thinks it is too small and too hard to see. Concerning JUMB, she wondered if there could be a more unified development code. Could the town's planning staff take a lead on this?

Mr. Dudick thanked Public Works for berming the edges of the Carter Park sledding hill. Another matter for discussion concerned his receipt of a letter for a detox center contribution. He asked if he could pass this contribution letter on to the Police Chief. Mr. Gagen confirmed the town already pays for any person the Breckenridge Police bring to detox.

Mr. Mamula commented on trash trucks picking up the trash and recycling in the same truck. He wondered if the recycling is being recycled. He asked Tim Gagen if he would ask Terry Perkins, Public Works, if he had any information.

Mayor Warner stated he attended the Colorado Immigration Reform meeting. He updated the group on the Arizona Copy Cat Laws. In addition, he and Mr. Joyce attended a meeting with Senator Udall in attendance, where the Summit County business community reported on a perception that our foreign visitors are, often times, making choices not to come to the United States because of difficulties at airports; strict passport evaluation and difficult TSA inspections (x-ray machines). At this meeting, the group talked about immigration reform. Pat Campbell and Alan Henceroth talked about the ski area's process for securing international workers and how difficult it has become.

In closing, CJ Mueller asked Mayor Warner to ask council if there is an interest in having a Pioneers of Skiing event at the Gold Pan. It was mentioned that the Gold Pan might be too small. The Riverwalk Center was suggested.

SCHEDULED MEETINGS

Other than the meetings mentioned on page 156 of the packet, there was no mention of any additional meetings.

ADJOURNMENT

With no further business to discuss, Mr. Mamula moved to adjourn the meeting at 8:42 p.m.

Submitted by Wanda Creen, Deputy Town Clerk.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor