

CALL TO ORDER and ROLL CALL

Mayor Warner called the March 22, 2011 Town Council Meeting to order at 7:30 p.m. The following members answered roll call: Ms. McAtamney, Mr. Bergeron, Mr. Mamula, Mr. Joyce, Mr. Burke, and Mr. Dudick and Mayor Warner.

APPROVAL OF MINUTES – March 8, 2011

Mayor Warner corrected a misspelling under page 73 paragraph C explain not loses, loses with one O. Mr. Dudick page 73, correction it is not his employees parking at the trail head. With no other changes to the minutes Mayor Warner declared the minutes were approved as corrected.

APPROVAL OF AGENDA

Tim Gagen added under Other Matters an Executive Session relating consultation with the Town Attorney. Mr. Gagen mentioned that the Council can move to the Planning Matters after Communications to Council. The Council agreed to move the discussion to immediately after Communications to Council.

COMMUNICATIONS TO COUNCIL

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

Mayor Warner explained the process that would be followed on the Solar Panel hearing. He thanked everyone for their emails and communications.

Michael Niemkiewicz passed out a pamphlet on lethal control of urban coyotes to the Council. He appreciates the Council's efforts on the public awareness campaign, but is concerned that coyotes are becoming increasingly aggressive and he fears for the safety of his family and tourists. He thanked Council for their time.

PLANNING MATTERS

A. Planning Commission Decisions of March 15, 2011

Mayor Warner described the four projects. He asked for a motion to call up any of the four decisions. No motions were made and Mayor Warner stated the consent calendar will stand as submitted. The Council discussed the placement of the roof mounts at other locations on Town buildings, leaving in nine out of eleven locations; discussed that although the Riverwalk and Golf Course Clubhouse are not part of the plan there will be Solar Panels at the Golf Maintenance building; and, free standing solar farms are not available under the Power Purchase Agreement (PPA).

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

CONTINUED BUSINESS

A. SECOND READING OF COUNCIL BILLS, SERIES 2011 - PUBLIC HEARINGS

1. 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 stated this ordinance if adopted would amend the development code for circumstances where Fiber-Cement siding is used without negative points. Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

Mr. Bergeron moved to approve Council Bill No. 13, Series 2011. Mr. Joyce seconded the motion. The motion passed 7-0.

2. Council Bill No. 14, Series 2011 – An Ordinance Amending Ordinance No. 9, Series, 2009, By Eliminating The Sunset Date For The "Town Of Breckenridge Open House Sign Ordinance"

Mr. Berry stated when the Council adopted this ordinance it contained a Sunset date, which would end it unless the Council approved the ordinance to extend it. If the Council does not take any action the ordinance will be repealed. If they vote to extend, the new Sunset date will be April 1, 2014.

Mayor Warner opened the public hearing. Daniel Johnson is a licensed real estate broker in Colorado. He thanked the Council for extending it for another 3 years and will continue to self-police, and if there are any concerns, please talk to him directly. Mayor Warner stated that he appreciated the self-policing. Mr. Johnson stated it is creating transfer tax. Sarah Thorsteinson from the Summit Association of Realtors thanked the Council for helping to get it started again. She stated the Summit Association of Realtors will reiterate the policy, as they do every year, and if they do see extra signs they will send out another mailing. She mentioned The National Association of Realtors, cited Breckenridge as one of the strange policies and this is a great example of how it works. She mentioned the realtors appreciate the color, that it doesn't block up the town, and the sign policy works to sell houses. Mayor Warner closed the public hearing.

Mr. Mamula pointed out the title reads "eliminating," not "extending." Mr. Berry will make the change to the title.

Mr. Burke moved to approve Council Bill No. 14, Series 2011. Mr. Bergeron seconded the motion. The motion passed 7-0.

3. **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. Joyce abstained from the discussion.

Mr. Berry said this would modify the existing policy with the density allowance for underground structures in the historic district. He stated there are no changes to this ordinance from first reading.

Mayor Warner opened the public hearing. Janet Sutterly, JL Sutterly Architect stated her concerns with the ordinance; she cited the Gold Pan’s opportunity to stabilize the building; she stated the Gold Pan has been quoted the Plant Investment Fees (PIFs), and parking fees for restaurant density, when it should be charged fees for commercial storage. Ms. Sutterly stated her second example, the Blue Front Bakery in which the basement space was initially used as commercial space, and will now be used as a kitchen; and, stated in this case it makes sense to pay the PIFs and parking fees. The council discussed the implications of the amendment to the ordinance; discussed if the fee structure should be part of the plan before they approve it; and, considered the incentives for buildings to be stabilized. Lee Edwards, DRC Company, remarked the ordinance allows for using a new space for anything the occupant wants; stated the building code requires positive drainage; and recommended striking the line in the code regarding USGS, and adding the fees later. The Council discussed approving the ordinance without the fees, or waiting until the fees have been added to approve the ordinance; and the timeliness of approving the ordinance now when projects are waiting.

Mayor Warner closed the public hearing.

Mr. Dudick moved to continue Council Bill No. 15, Series 2011. Mr. Bergeron seconded the motion. The motion passed 6-0, with Mr. Joyce abstaining.

NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2011

1. **Council Bill No. 16, Series 2011** – An Ordinance Making Miscellaneous Amendments To Chapter 1 Of Title 9 Of The Breckenridge Town Code, Known As The “Breckenridge Development Code”, Chapter 2 Of Title 9 Of The Breckenridge Town Code, Known As The “Breckenridge Subdivision Standards”, And Chapter 10 Of Title 9 Of The Breckenridge Town Code Concerning Development And Subdivision Application Fees

Mr. Berry stated if adopted the ordinance would allow the Director of Community Development to lower the classification of a particular development permit. He mentioned the current code allows a change to a higher classification but not to a lower classification. He stated this amendment also changes administrative rules and regulations, and codifies how fees are handled if a development permit is reclassified.

Mr. Dudick moved to approve Council Bill No. 16, Series 2011. Mr. Mamula seconded the motion. The motion passed 7-0.

2. **Council Bill No. 17, Series 2011** – An Ordinance Amending Section 4-3-2 Of The Breckenridge Town Code To Authorize The Issuance Of An Optional Premises Liquor License For A Performing Arts Facility

Mr. Berry stated the Colorado Liquor Code allows for the issuing of an optional premise liquor license, which are currently authorized for the golf course, and the ski area. If adopted this ordinance would add performing arts centers to the list, including but not limited to the Riverwalk center lawn.

Mr. Bergeron moved to approve Council Bill No. 17, Series 2011. Mr. Mamula seconded the motion. The motion passed 7-0.

B. RESOLUTIONS, SERIES 2011

1. None

C. OTHER – Motion to cancel April 12 Town Council meeting

Mr. Dudick moved to cancel the April 12 Town Council Meeting. Ms. McAtamney seconded the motion. The motion passed 4-3, with Mr. Burke, Mr. Bergeron, and Mayor Warner voting against.

REPORT OF TOWN MANAGER AND STAFF*

Mr. Gagen reported Governor Hickenlooper is coming to Breckenridge on Wednesday, March 30, in the Town Council Chambers at 3:30 pm. The Governor will lead discussion on tourism and economic development.

Mr. Gagen mentioned the Council should contact Sherilyn Gourley if they are interested in tickets to the Summit Foundation Hockey Classic.

REPORT OF MAYOR AND COUNCILMEMBERS*

A. CAST/MMC (Mayor Warner)-No report.

B. Breckenridge Open Space Advisory Commission (Ms. McAtamney)-Ms. McAtamney reported on the March 21 meeting in which the commission discussed: the Cucumber Gulch Preserve Management Plan, which would

memorialize the decisions made regarding the Gulch, and set specific goals for the management of the area, including a mission statement; recommendations for monitoring the gulch, including a week where the Gondola is not running; and, the Wildlife and Vegetative Monitoring to be conducted by Dr. Christy Carello. BOSAC recommended cutting the water sampling since the original budget does not take into account water quality monitoring; ERO will no longer be the consultant; switching to EcoMetrics out of Fairplay which is more solution orientated; ERO is willing to assist with the transition while handing over the database. The EcoMetrics proposal is divided into 3 tasks: the Functional Assessment of Colorado Wetlands (FACwet), which reviews past data and studies; implementation and initiation of monitoring, which would be coordinated with Dr. Carello; wetland delineation which monitors and makes comparisons over time; and, BOSAC supports all of this and sees the need for assessment and regular monitoring. The ADA requires a document regarding trail use, including a comprehensive and thorough plan of the devices that may be used, and mentioned the information will be on the website. The commission discussed the Swan Mountain Recreation path; the money set aside for it; reported they are ready to complete the final portion by the Fourth of July; the trail is now simpler to increase road safety; \$4.5 million budget includes improving the road itself; the BOCC is supportive of this project; and that the commitment to fund this was made years ago to help the rest get funded. The Council discussed that these appropriations will be brought to Council, and some of these items may be cut.

- C. BRC (Mr. Dudick)-No report
- D. Marketing Committee (Mr. Dudick)-No report
- E. Summit Combined Housing Authority (Mr. Joyce)-No report
- F. Breckenridge Heritage Alliance (Mr. Burke)-Mr. Burke stated the alliance is continuing to work and progress on the projects mentioned last time, and asked Mr. Gagen to push the staff to acquire the tender. Mr. Gagen stated they are trying to see if the engine money is available.
- G. Sustainability Committee (Mr. Bergeron, Mr. Joyce, Mayor Warner)-No report
- H. Joint Upper Blue Master Plan Update Committee (Mr. Bergeron, Mr. Mamula)-No report

OTHER MATTERS

Mr. Burke asked the Council to regard the current parking situation, and requested Chief Holman bring the issue back to the Police Advisory to prevent drinking and driving, and to prevent parking tickets. He stated as a resort community, they should address this ongoing issue. Mr. Gagen stated that cars are only towed during a snow event. Mr. Dudick mentioned the available parking in the exchange lot. Mr. Burke stated the Summit Education Foundation is hosting an adult spelling bee as a fundraiser on April 30; there are teams of 3 people with an entry fee of \$300.00; the winners get iPads; and the foundation is giving away a Mini Cooper to the closest guess of the number of ping pong balls inside the car. He stated some teams are sponsored and asked if the Town of Breckenridge would be willing to sponsor a team, if staff members want to do it together. Mr. Dudick said he would sponsor a team for the town. Mayor Warner said he would think about a dental team. Mr. Burke asked Kim DiLallo if she would help put together a team of staff, and she agreed.

Mr. Mamula followed up on an email he sent to the rest of the Council regarding retiring 25 percent of the density into a lockbox, which includes putting some into affordable housing, and some to be used at a later date. The Council discussed the logistics and numbers regarding reducing the density; that it is not a requirement; and that the Town has the Highlands, The Ski Area, and Main Street station, as bigger players. The Council discussed the County's current position, and that 25 percent is a hall mark of JUBMP (Joint Upper Blue Master Plan); and that it has been traditionally used as a negotiating tool for density. Mr. Gagen stated he agreed with the philosophy of the strategies to reduce, and the Town will probably not have to use the lock box.

Mr. Bergeron asked the Council to consider a sustainability project which allows electric cars to plug in and recharge at the Riverwalk Center. He stated the program would not use much electricity; people can drive up from Denver for the day, plug into the Riverwalk and go to lunch; electric cars have about a 100 mile range, where they can get up to Breckenridge but do not have enough power to drive home; and, the outlets would have to be in town. The Council discussed the charging time, and that they may need to stay overnight for a full charge.

Mayor Warner introduced Mr. Joyce's designs for solar array displays at the Riverwalk Center. He passed around the mock up drawing which showed an arch over the Riverwalk Center holding ten solar panels. He remarked that the issue is not about using solar, but how it is presented to the public, and there may be creative opportunities we are missing, and the plan could be less expensive without the trenching, and I-beam stone columns. Mr. Burke asked if the mock up was comparable since the other solar arrays were bigger. Mayor Warner reiterated there are different ways to approach it, an industrial way, and a creative way that may be more palatable. Mr. Gagen stated they are not out of it until construction at the other locations end. Mr. Burke remarked that it would have to generate enough power, because without the free standing arrays they could not have the arrays on the roof. Mr. Mamula discussed the feasibility of the Town developing its own solar farm. Mr. Gagen stated it is the same issue as in the San Luis Valley where they have the issue of Xcel accepting the energy into their system, and that there may not be credits and rebates available. The Council discussed the April deadline for the

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Power Purchase Agreement; array farms somewhere else in available open space or further away where land is cheaper; the arch design may not make the deadline; and the architecture firm is working pro bono to come up with aesthetically pleasing designs.

At 9:07 p.m. Mr. Burke moved that the Town Council go into Executive Session pursuant to 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. Mamula seconded the motion.

The Mayor stated a motion has been made for the Town Council to go into an Executive Session pursuant to Paragraph (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 involves negotiations concerning the Town's water rights.

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

At 9:20 p.m. Mr. Mamula moved to reconvene the regular meeting. Mr. Burke 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 9:20 p.m.

Submitted by Cathy Boland, Municipal Court Clerk.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor