

***CALL TO ORDER, ROLL CALL***

Mayor Warner called the June 28, 2011 Town Council Meeting to order at 7:30 p.m. The following members answered roll call: Ms. McAtamney, Mr. Bergeron, Mr. Mamula, Mr. Burke, Mr. Joyce and Mayor Warner. Mr. Dudick was absent.

***APPROVAL OF MINUTES*** – June 14, 2011

The minutes were approved as presented.

***APPROVAL OF AGENDA***

Mr. Gagen requested addition of Ordinance #31 regarding a ballot question to impose an excise tax on medical marijuana under “New Business.” With that change, the agenda was approved.

***COMMUNICATIONS TO COUNCIL***

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

B. Ski Area Update – Pat Campbell, Breckenridge Ski Resort, reported on Q3 earnings and skier numbers: Breckenridge -1.631 million skiers; Vail with an all-time record of 1.746 million skiers; Keystone-7% improvement over last year. Vail’s Colorado Resorts were up 4% over last year, with the rest of the Colorado region up only 1%. Ms. Campbell reported that Season Pass sales are under way with a reorganization of some pass products. Breckenridge Summer Operations opened on June 17. Added amenities include the Coaster, pony rides for smaller children, jeep tours and a 2000-foot snow tubing hill. Hours of operation will be from 10 am – 6 pm. The Annual Mountain Cleanup is Thursday, June 30. Spring Fever results (replaced Spring Massive) showed success, and post season surveys will be shared soon with Breckenridge Resort Chamber (BRC) and Breckenridge Marketing Advisory Committee (BMAC). The Ski Area is working with the Dew Tour on a multi-year contract. The Council discussed the Peak 6 site visit. Mr. Gagen asked about the difference between the sales tax results and lodging. The Council and Ms. Campbell discussed the Peaks trail by the Alpine slide, and the different options and issues that have arisen. She recommended that Council talk to Scott Reid since he was at the site tour.

***CONTINUED BUSINESS***

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

1. **Council Bill No. 26, Series 2011** - An Ordinance Designating Certain Real Property As A Landmark Under Chapter 11 Of Title 9 Of The Breckenridge Town Code (Lot 79, Bartlett And Shock Addition)

Mr. Berry stated this ordinance if approved will designate the Palomo Building as a landmark under the Town’s Historic Preservation Ordinance. There are no changes from the first reading.

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

Mr. Mamula moved to approve Council Bill No. 26, Series 2011. Mr. Burke seconded the motion. The motion passed 6-0.

2. **Council Bill No. 27, Series 2011** - An Ordinance Providing For The Vacation Of A Portion Of Grandview Drive

Mr. Neubecker stated as part of the plan for the new location of the Nordic Center facilities and overflow parking, a portion of the Grandview Drive right of way will be vacated to the adjacent land owners, which is the Town of Breckenridge. The parcel does not have any access issues or possibilities for additional subdivision, and will be public land. Mr. Neubecker said he received some phone calls, which were mainly for information regarding how the parking would work, and how the design would affect the residents and their right of way.

Mayor Warner opened the public hearing.

David Kincheloe, an adjacent homeowner to the Nordic Center stated his concerns regarding the vacation of the property to the Town and not to the adjacent Home Owner’s Association, as was told to him by Town staff nine years ago, and mentioned that while the Nordic Center has been preparing for their new building, blue tarps and logs from clearing trees have been dumped into the open space.

Janet Hoffman, Settlement homeowner on Lot 10, stated she agrees with Mr. Kincheloe, and mentioned bikers park in her driveway, access her hose, which is trespassing, and remarked there is no one to restrict the behavior for that activity. She mentioned her concern about traffic and parking in the area; how the Nordic Center would determine if the guests using the lot are using the Nordic Center or are parking there to go to the Breckenridge Ski Resort; and, her concern of where the plows will put the road snow, if there is another big snow year.

Mr. Gagen addressed the homeowners’ issues stating that the piece of land would remain a flat piece of ground; the portion of land is not going to the Homeowners’ Association because it is not the entire piece of land but just a smaller portion which is not adjacent. He invited the homeowners to view the current site plan proposed by the Nordic Center, and stated the vacated portion will become part of the Town Open Space with no special use, and will not be a road. Mr. Gagen outlined the approval process and cited ways that the homeowners could address their concerns during the public comment

portion of the planning approval process. The Council discussed the current plan which could make the vacated area a buffer, the parking lot plan, and how the operators of the Nordic Center would have a clear understanding of the best practices, including parking the maintenance vehicles inside the new building included in the site plan. The two homeowners cited parking violation issues at the end of that road. Mr. Gagen addressed the parking violations and thought the Police could help with those issues. Kim Dykstra-DiLallo said they could make the provisions for bike races at the Nordic Center part of the Special Event Permit process. Mr. Gagen asked Mr. Neubecker to update the citizens with the recently submitted site plan.

Mayor Warner closed the public hearing.

Ms. McAtamney moved to approve Council Bill No. 27, Series 2011. Mr. Bergeron seconded the motion. The motion passed 6-0.

**3. Council Bill No. 28, Series 2011 - An Ordinance Authorizing The Granting Of An Easement To Public Service Company Of Colorado (Coyne Valley Road)**

Mr. Berry said the Public Service Company has asked the town to grant an easement which does require an ordinance. There are no changes to the first reading.

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

Mr. Mamula moved to approve Council Bill No. 28, Series 2011. Mr. Bergeron seconded the motion. The motion passed 6-0.

**NEW BUSINESS**

**A. FIRST READING OF COUNCIL BILLS, SERIES 2011**

**1. Council Bill No. 29 Series 2011 - An Ordinance Designating Certain Real Property As A Landmark Under Chapter 11 Of Title 9 Of The Breckenridge Town Code (Lot 69, Bartlett And Shock Addition)**

Mr. Joyce abstained from the discussion due to a conflict of interest.

Mr. Berry stated the Planning Commission approved the permit for this property and subsequently the permit was approved by the Council. He stated the property is a landmark structure, and this ordinance meets the required findings for designation.

The Council discussed the requirements for a landmark structure, including if the architect was prominent, and the architectural style and period of the building.

Mr. Bergeron moved to approve Council Bill No. 29, Series 2011. Ms. McAtamney seconded the motion. The motion passed 5-0, with Mr. Joyce abstaining.

**2. Council Bill No. 30, Series 2011 - An Ordinance Allowing The Use Of The Electrical Motor On An Electrical-Assisted Bicycle That Is Being Operated On The Bike Path Within The Town**

Chief Holman stated this ordinance would add an amendment to the Town Code for the use of an Electric Motor on the bike path. He mentioned, currently under the Model Traffic Code, electric motors are not allowed, and this ordinance would authorize their use.

Mr. Bergeron moved to approve Council Bill No. 30, Series 2011. Mr. Burke seconded the motion. The motion passed 4-2, with Mayor Warner and Mr. Mamula voting "no."

**3. Council Bill No. 31, Series 2011 - An Ordinance Submitting To The Registered Electors Of The Town Of Breckenridge At A Special Town Election To Be Held on November 1, 2011 The Question Whether, Commencing January 1, 2012, The Town Of Breckenridge Should Impose An Excise Tax Of Five Percent (5%) On The Retail Sale Of Medical Marijuana By Authorized Medical Marijuana Retailers As A New Tax Pursuant To Article X, Section 20 Of The Colorado Constitution; Requiring Revenues Collected By The Town From The New Tax To Be Used Only For Designated Purposes; Setting Forth The Ballot Title; And Providing For The Conduct Of The Election.**

Mr. Gagen stated this ordinance would place a question on the November election ballot to authorize an excise tax of five percent on Medical Marijuana, and outline how the use of money would be prioritized. He stated because of TABOR, the question must have voter approval.

Mr. Bergeron moved to approve Council Bill No. 30, Series 2011. Ms. McAtamney seconded the motion. The motion passed 6-0.

**B. RESOLUTIONS, SERIES 2011**

**1. A Resolution Approving The Employment Of Rothergerber, Johnson & Lyons, LLP As Special Counsel; And Delegating Certain Powers To The Town Manager In Connection Therewith**

Mr. Gagen said this Resolution would allow for contracting with the counselors to make sure the Town is collecting appropriate taxes. It does not cost anything unless they return lost revenue to the town.

Mr. Berry stated he worked with the counselors to fix the issues in the agreement and is happy with the agreement now.

Mr. Bergeron moved to approve A Resolution Approving The Employment of Rothergerber, Johnson & Lyons, LLP As Special Counsel; And Delegating Certain Powers To The Town Manager in Connection Therewith. Mr. Mamula seconded the motion. The motion passed 6-0.

**C. OTHER**

1. None

**PLANNING MATTERS**

**A. Planning Commission Decisions of June 21, 2011**

With no request for call-up, the Mayor declared the Planning Commission Decisions would stand approved as submitted.

**REPORT OF TOWN MANAGER AND STAFF\***

Mr. Gagen mentioned Dennis Kuhn, Chairman of BOSAC, has not resided within the Town limits of Breckenridge since October 2010. Mr. Kuhn submitted a letter to Mayor Warner explaining that he hoped the Council would retain him, as he intends to move back into the jurisdiction soon and is currently seeking a residence. The Council discussed retention of Mr. Kuhn as Chairman, and a possible deadline for him to move back into the jurisdiction, as well as how to handle a similar situation if it arises in the future. The Council discussed a six-month deadline for Committee, Council or Board members that may temporarily move outside of the jurisdiction. Mayor Warner stated the Council would give Mr. Kuhn until October 1 and volunteered to speak to him directly

Mayor Warner stated Tim Gagen, Town Manager is up for his annual review. The Council discussed the review process, including that the Council reviews the Town Manager, and looks at comparables in similar communities for fair wages and compensation. The Council discussed whether or not the current review form must be followed, or may be used as a guideline. The Mayor stated Kim Dykstra-DiLallo and Sherilyn Gourley will help the Council with the logistics and paperwork of the review process.

Ms. Dykstra-DiLallo mentioned the Fourth of July fireworks will be set off from the top of the Welcome Center, and not in the Gondola parking lots as they have in the past. She stated the fireworks are similar to those set off in Downtown Denver, and the change has been made ahead of schedule, anticipating that the Gondola parking lots will not be available in the future.

**REPORT OF MAYOR AND COUNCILMEMBERS\***

- CAST/MMC (Mayor Warner)-Mayors and Managers meeting is next week.
- Breckenridge Open Space Advisory Commission (Mr. Dudick)-No report. The Council discussed the re-routing of the Peaks trail, and how the Town will share in the cost once the plan is decided.
- BRC (Mr. Burke)-Mr. Burke reported the feedback from the Lyle Lovett concert was very positive; bike week is next week; the Pro Challenge riders will not spend the night in Breckenridge, which could be a reduction of \$40,000 in overall revenue; Gondola cabins will now have access to town happenings via smart phone technology; the Annual Meeting is July 25 at Beaver Run, which includes an economy update by Al White; Central Reservations will come before the Council to discuss five or six options; **if the Central Reservations were to go away, and all the fees they cover which include salaries and rent, then they would see a net gain of \$16,000**; they passed an increase in the marketing surcharge from 2% to 3.11%, which is equal to the lodging tax; and, the vendor agreement increases the commission rates from 17% to 20%, and changes the formula for membership fees. The Council discussed if two separate boards are still necessary, how they are different, and the history of the two boards.
- Marketing Committee (Mr. Dudick)-No report.
- Summit Combined Housing Authority (Mr. Joyce)-No report.
- Breckenridge Heritage Alliance (Mr. Burke)-Mr. Burke reported that he would get the numbers on what they have been making on the tours, and the Alliance is watching to see if the visitor numbers drop; they are working on the arrival of the locomotive tender, which could possibly happen right after July 4; and, there was good attendance for the Kingdom Days, with the biggest attendance being for the Outhouse races.
- Sustainability Committee (Mr. Bergeron, Mr. Joyce, Mayor Warner)-No report.
- Joint Upper Blue Master Plan Update Committee (Mr. Bergeron, Mr. Mamula)-No report. The Committee will meet at noon on Thursday, June 30. The Council discussed how they would address their "no" votes and the issues that were raised.
- Water Task Force (Mr. Mamula)-No report.

**OTHER MATTERS**

Mayor Warner stated the petition for term limits failed due a lack of signatures by the deadline.

*SCHEDULED MEETINGS*

*ADJOURNMENT*

With no further business to discuss, the meeting adjourned at 9:13 p.m.  
Submitted by Cathy Boland, Municipal Court Clerk.

ATTEST:

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Mary Jean Loufek, CMC, Town Clerk

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John Warner, Mayor