

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, NOVEMBER 8, 2011
PAGE 1**

CALL TO ORDER and ROLL CALL

Mayor Warner called the November 8, 2011 Town Council meeting to order at 7:31 p.m. The following council members answered roll call: Mr. Bergeron, Mr. Burke, Mr. Dudick, Mr. Mamula, Ms. McAtamney and Mayor Warner. Mr. Joyce was absent.

APPROVAL OF MINUTES – October 25, 2011 Regular Meeting

With no changes or corrections to the meeting minutes of October 25, Mayor Warner declared they would stand approved as presented.

APPROVAL OF AGENDA

Mr. Gagen, Town Manager, stated there are no changes to the agenda.

COMMUNICATIONS TO COUNCIL

A. Citizen's Comments - (Non-Agenda Items ONLY; 3 minute limit please) For the record Mayor Warner stated; if the Planning Commission Decision PC#2011061 concerning Breckenridge Stables Horse and Carriage is called off the Planning Commission consent calendar, the hearing will be held on December 13. No public comment will be taken on that matter tonight.

Craig Campbell, Builders' Association, spoke in opposition to the potential lay-off of a building inspector. He thanked Tim Gagen for the time he took to explain the situation. Mr. Cambell stated cutting a position in the building department will impact many people in the community.

Sheri Shelton, Hand In Glove, presented a petition to council circulated by Abbie Norton of the Crown Café and Tavern. The petition was signed by business owners of South Main Street and addressed a rumor that the Tiger Dredge or F Lot might be replaced by a park or other structure. Mayor Warner assured Ms. Shelton there are no plans to get rid of the parking at the Tiger Dredge or F Lot. He will call or stop by to see Ms. Norton. Additionally, Mayor Warner commented on business owners and/or their employees who occupy parking spaces on Main Street instead of leaving the spaces for the visitors.

Dan McCrerey, general contractor at the Wellington Neighborhood, cited the numbers of inspections he has called in to the Building Department during past construction seasons. He stated there are aspects of construction that are very time sensitive and the prospect of having to wait for inspections could slow up a very short construction season even more. He spoke about the plan check process. If the Building Official is taken off the job of checking plans to do field inspections it could slow things up even more. The construction industry is starting to come back, he asked council to reconsider cutting a building inspector position. Mayor Warner stated the public hearing on the budget will be held on November 22. At that time, public comment will be taken. Mr. McCrerey stated they will try to mobilize as much as they can.

Sean McPherson, Innovative Energy, stated he has valued the building inspectors' expertise. He would not have been able to complete projects in a timely manner without being able to consult with inspectors on site. In the solar energy business, technology is changing daily. The permits he has pulled have double this year. It is critical to have these inspectors and their expertise.

With no further comments from the public, Mayor Warner closed the citizen comment portion of the meeting

B. Breckenridge Resort Chamber Update – John McMahon reported bookings look encouraging. Central Reservations is beating the budget it set for 2011. Sales staff is attending consumer shows. Public Relations staff is working with the ski area for the 50 year celebration and other events. The new website will be launched soon. Ullr bonfire is coming back to town. It is slated for the Thursday night of Ullr week and will occur at the south Gondola lot. The crowning of the King and Queen will also be brought back into town. On November 21, the BRC board will be meeting with BMAC. The BRC will meet with council in January. December 3 is the Running of the Santas. Mr. Bergeron asked how Oktoberfest went. Mr. McMahon reported there was approximately the same amount of people attending. He would not comment on the amount of money raised until the BRC has compiled the final report. The event is getting a lot of attention statewide. Mr. McMahon commented on the upcoming 50th anniversary for the ski area. If negotiations go well and the contract is signed the town will have a really good band for the event. It's going to be a very important event with some of the founders in attendance. They will be paraded to the Riverwalk Center. Mr. Gagen stated later in the meeting Mayor Warner will report on the CAST meeting held in Park City. At that meeting Mayor Warner asked the communities of Deer Valley and Park City if they have noticed an impact on their lodging communities with the presence of 4 and 5 star hotels. Representatives of those communities stated they have seen little if any impact.

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, NOVEMBER 8, 2011
PAGE 2**

C. Ski Area Update – Pat Campbell, Vail Resorts, stated they are getting ready for Wake Up Breck. The ski area's opening day is Friday, November 11. Gary Shimanowitz, Director of Mountain Operations, reported on slope conditions, runs that will be open and lifts that will be operating. The snow surface will be excellent. The ski area is on track for the Dew Tour. Ms. Campbell talked about the Uphill Access Policy. A press release went out this week. Once on the hill, routes have been designated for safety reasons. Parking will be allowed at certain locations and is time restricted. She reported on the federally passed Summer Activity Bill which enables the Forest Service to broaden their policy and allow leasees to broaden what they can offer on federal land. Breckenridge is in good shape to begin to offer different types of summer activity because of what is already in place. Keystone opened last week. The Epic Mix, including photo, has been well received. The on line and mobile application should be completely operational by Thanksgiving. They believe it will help build the Breckenridge brand and reach out to family and friends of guests via email and/or twitter. Opening Day is not only the beginning of the 50 year anniversary, it is also Veteran's Day. They have activities planned to honor service people, a flag raising and singing of the National Anthem. In closing she thanked the town for allowing Breckenridge Ski Area employees to participate in the parking lottery.

CONTINUED BUSINESS

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

None

NEW BUSINESS

A. FIRST READING OF COUNCIL BILL, SERIES 2011

1. Council Bill No. 39, Series 2011 – An Ordinance Setting The Mill Levy Within The Town Of Breckenridge For 2012

Mr. Gagen, introduced this council bill. On an annual basis the town considers a property tax mill levy. This year the mill is proposed in two parts. The first part is the 5.07 mills the town historically passes to support the town's general operations. The second part of the mill levy (2.226) supports the debt service on General Obligation Bonds described in Ordinance No. 35, Series 1998. These bonds will be paid off by 2013. This first reading tonight gets council ready for the public hearing scheduled for November 22. The Mill Levy needs to be certified to the County in December. This levy represents a total of 7.296 mills per dollar of assessed valuation of property within the town limits. The 2011 mill levy was set at 6.945 mills.

Mr. Dudick was not in favor of the .351 mill increase for 2012. He moved to amend the council bill to keep the debt service mills for 2012 at the same rate as they were in 2011 or at 1.875 mills. Mr. Mamula made the second. Mayor Warner clarified the town will see approximately \$171,000 less if this motion is approved. Ms. McAtamney stated the town would be taking away \$171,000 from the childcare and housing fund and asked where that money would come from. Mr. Dudick responded from the General Fund. Ms. McAtamney was concerned the town would be pulling away funds from the childcare scholarship fund. Mr. Mamula felt childcare scholarships should come from the General Fund. He stated if home values go down, citizens expect to be given a tax break. Mayor Warner stated these property tax rates will stay with us for 2 years. Mr. Dudick estimated there is approximately \$32,000,000.00 sitting with no proposed use at this time. Mr. Burke was concerned about making any changes to this council bill tonight. He wanted to see what comes out of the Budget Retreat. Based on conversations at the retreat changes to the council bill during second reading might be in order. Mayor Warner stated council may see people at the retreat and at the Mill Levy hearing wanting service levels raised. There are critical services the town should be offering that people expect. Mr. Bergeron was willing to vote for this amended council bill. He believed childcare is important but those amounts can be made up elsewhere. Ms. McAtamney disagreed. Mr. Dudick stated this is not about defunding childcare but rather being fiscally responsible. Instead of having \$33 million dollars in reserve the town will have \$32 million in reserve. For clarification, if a vote on this amendment to Council Bill No. 39, Series 2011 results in a 3-3 tie, the motion will fail.

Mr. Berry, Town Attorney, stated Roberts Rules of Order provides for a primary motion and secondary motions (or amendments to primary motions). He recommended, for procedural purposes, Mr. Dudick withdraw his amended motion. Someone will then make a motion to approve the original council bill as written, Mr. Dudick can then make a motion to amend the original motion, the council votes on the secondary motion and then if the secondary motion fails, council can then vote on the original motion as stated.

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, NOVEMBER 8, 2011
PAGE 3**

Ms. McAtamney moved to approve Council Bill No. 39, Series 2011 An Ordinance Setting the Mill Levy within the Town of Breckenridge for 2012. Mr. Burke made the second. Mayor Warner stated a motion has been made to approve Council Bill 39, Series 2011 as previously read into the record.

Mr. Dudick made a secondary motion (an amendment to the original motion) to keep the debt service mill levy for 2012 at 1.875 mills, the same level as 2011. Mr. Mamula made the second. For clarification, Mr. Berry, pointed out in the council's packet on Page 60, Section 2 the 2.226 mill would read 1.875 mill if the secondary motion passes. Mayor Warner summarized there is a secondary motion to the original motion on the table made by Mr. Dudick and seconded by Mr. Mamula. With no further questions from council a roll call vote was taken on the secondary motion. The motion failed 3-3 with Ms. McAtamney, Mr. Burke and Mayor Warner voting in opposition to the secondary motion.

Mayor Warner then announced there is still a primary motion on the table made by Ms. McAtamney and seconded by Mr. Burke to approve Council Bill 39, Series 2011 as previously read into the record. He asked if there were any further questions from council. With none, he asked for a roll call vote. The primary motion passed 5-1, with Mr. Dudick voting in opposition to the motion.

The public hearing on Council Bill 39, Series 2011 will be held on November 22.

B. RESOLUTIONS, SERIES 2011

1. A Resolution Approving A "Buy-Down Agreement" With The Summit Housing Development Corporation

Mr. Berry introduced this resolution stating Laurie Best's memo is in the packet. Council heard Ms. Best's explanation at the work session today. If approved this resolution would approve a Buy-Down Agreement, reaffirm the town's yearly relationship with the Summit Housing Development Corporation and establish the town's intent to use SHDC for buy downs. Staff recommends approval of the resolution and the agreement.

Mayor Warner asked if council had any questions. With none, he asked for a motion. Mr. Bergeron moved to approve A Resolution Approving A "Buy-Down Agreement" With The Summit Housing Development Corporation. Mr. Burke made the second. A roll call vote was taken, the motion passed 6-0.

2. A Resolution Approving An Encroachment License Agreement With Rugarats Properties, LLC, A Colorado Limited Liability Company

Tim Berry, stated a letter from Felice Huntley, West Brown Huntley & Hunter, P.C., attorney for Rugarats Properties LLC, is included in council's packet. Recently an encroachment onto the town's property was identified. An Encroachment License Agreement is being requested to allow the Rugarats Properties LLC to keep a small portion of their driveway, underground pipes associated with the driveway heating system and a turn off valve for the system. Ms. McAtamney asked if a survey was ever done. Mr. Gagen could not say for sure. Mr. Burke asked if Mr. Joyce's comment during the work session was correct; this encroachment is easy to fix? No one at the meeting could say for sure. Mayor Warner was concerned that approval of this resolution might send a message that this sort of contractor error is okay and the town would simply be willing to issue Encroachment License Agreements to correct this type of error. Mr. Dudick agreed. Mr. Bergeron pointed out, for sustainability reasons, it might be better to handle this type of situation with an Encroachment License Agreement rather than asking the owner to rip up asphalt and put in a new driveway on their own property. In closing Mr. Berry stated this agreement will run with the land.

Mayor Warner asked if council had further questions. With none, he asked for a motion. Mr. Bergeron moved to approve A Resolution Approving An Encroachment License Agreement With Rugarats Properties, LLC, A Colorado Limited Liability Company. Mr. Mamula made the second. A roll call vote was taken, the motion passed 5-1 with Mr. Dudick voting in opposition to the motion.

C. OTHER

1. PUBLIC HEARING – 2012 Budget

Mr. Gagen introduced this matter by stating because of the date of the scheduled Budget Retreat, the information he is about to give will be more relevant for the November 22 Budget Public Hearing. Town staff has prepared a budget reflecting the General Fund to be the same as 2011's. It reflects a budget philosophy consistent with what the town was trying to accomplish in 2009 as the 2010 Budget was being prepared. At that time the town was trying to get back to 2006 expenditure levels. The 2012 Budget anticipates no growth in revenues; flat, but up from this year's Budget. The town has chosen to remain conservative based on the national economy, a federal climate reflecting little or no action at the congressional level, the state economy, and the state budget being in terrible shape. Water Fund is in good shape, this will be

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, NOVEMBER 8, 2011
PAGE 4**

explained at the retreat. Marketing will be discussed with Mr. Dudick speaking on behalf of BMAC. The Open Space fund is in good shape mainly because the town opted to pay off the Cucumber Gulch debt; however, the land exchange payment is not included in the budget at this time. Capital projects will be discussed. Dollars for projects are a result of RETT being up from what was budgeted. Special projects will also be discussed. Childcare, which has been debated extensively tonight, along with affordable housing, will also be a discussion. A potential amusement tax relative to a possible ballot question will be brought up. Included currently in the budget is a 3% merit increase for staff. A cut in 2 ½ positions within the town is also reflected in the budget. This is subject to council's discussion. He concluded by stating staff will have more details after the November 9 Budget Retreat.

Mayor Warner stated this is the first of two public hearings. He asked if there was anyone present who would like to make public comment about the budget. There was no public comment. He closed the public hearing and stated at the November 22 meeting, council will be asked to approve the 2012 Budget Resolution.

PLANNING MATTERS

A. Planning Commission Decisions of November 1, 2011

Chris Neubecker, Senior Planner, handed out the Findings and Conditions for PC 2011061. It has been requested if this item is called off the consent calendar that the hearing be scheduled for the December 13 meeting. Mr. Neubecker and Mr. Berry will be out of town for the November 22 meeting. Since their existing permit has expired and Breckenridge Stables Horse and Carriage has a number of events coming up including weddings and the Thanksgiving holiday, they have asked if it would be permissible to operate under a temporary permit. Mr. Neubecker recommended a Class D permit which is reviewed at the staff level. Breckenridge Stables Horse and Carriage would be asked to operate under the existing criteria in the Findings and Conditions document handed out to council, with one exception; they will base from the current location on Washington and Main Street. Mr. Mamula asked why this sort of thing is not addressed as a Land Use. Mr. Berry explained it doesn't quite work. He did say he and Mr. Neubecker are working on a separate ordinance for the licensing of horse drawn carriages. Mayor Warner asked if there were further comments or questions. With none, he asked for a motion. Mr. Burke move to call up PC 201161. Mr. Mamula made the second. The motion passed 6-0. Staff closed by stating they hope there will be an opportunity to find a work out between the applicant and the citizen who initiated the complaint.

Mayor Warner asked if there were any further requests to call an item off the consent calendar. There was no further request. Mayor Warner declared the remaining three items on the consent calendar would stand approved as presented.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen reminded council of Terry Perkins' retirement party at Mi Casa on December 8. He encouraged council members to attend the Summit Foundation Philanthropy event scheduled for 5:30 at Beaver Run, Friday, November 18. Mayor Warner reported the next Coffee Talk will be at Cuppa Joe, 118 S. Ridge Street. Additionally, he reminder council of the Vail Resort/Council mixer on Friday, December 2, times to be determined.

REPORT OF MAYOR AND COUNCILMEMBERS

A. **CAST/MMC** (Mayor Warner) Mayor Warner emailed council a full report that included details related to a recent trip to Park City, UT for the CAST meeting. He felt council should make a plan to attend at least one meeting (either CAST or CML) each year. At the CAST meeting, Park City reported on their sustainability successes. He attended the November 1 Planning Commission meeting and the November 3 Mayors and Managers meeting. Those notes were included in the emailed report.

B. **Breckenridge Open Space Advisory Commission** (Mr. Dudick) No meeting

C. **Breckenridge Resort Chamber** (Mr. Burke) Mr. Burke reported BMAC and the BRC will have a joint meeting on November 21. He felt there was confusion as to BMAC's role as a marketing advisory board to the council and felt the meeting might help BRC board members better understand BMAC's role.

D. **Marketing Committee** (Mr. Dudick) No meeting

E. **Summit Combined Housing Authority** (Mr. Joyce) No report

F. **Breckenridge Heritage Alliance** (Mr. Burke) Mr. Burke handed out a letter from Wendy Wolfe concerning the Reiling Gold Dredge in French Gulch. The letter states that experts from the State and National Historical Fund conducted a full-scale mapping and documentation study. The study revealed

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, NOVEMBER 8, 2011
PAGE 5**

artifacts, camps and remnants from the mining era, both near the dredge boat as well as up and down the valley floor. This information was also presented to the Board of County Commissioners.

G. **Water Task Force** (Mr. Mamula) No report

OTHER MATTERS

Council discussed carpooling to the Budget Retreat. Ms. McAtamney commented on a street light that was turned off. It is at the top of a path. Mr. Gagen stated James Phelps is addressing the situation. Ms. McAtamney asked about the Quigley sidewalk. Mr. Gagen stated it has been explained to Mr. Quigley that the town has discontinued the plowing of any sidewalks within subdivisions. Contrary to Mr. Quigley's opinion, this sidewalk is an underutilized area and per the town's ordinance, maintenance of all sidewalks is the responsibility of the owner.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 9:20 p.m.

Submitted by Wanda Creen, Deputy Town Clerk.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor