

**TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
TUESDAY, MARCH 13, 2012
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CALL TO ORDER, ROLL CALL

Mayor Warner called the March 13, 2012 meeting to order at 7:30 pm.

The following members answered roll call: Mr. Bergeron, Mr. Burke, Mr. Dudick, Mr. Mamula, Ms. McAtamney, Mr. Joyce, and Mayor Warner.

APPROVAL OF MINUTES - FEBRUARY 28, 2012

Mayor Warner made on correction on page 2, top of the page Christie Heights Partnership, change from "marketing" to "market" conditions. Mayor Warner declared the minutes would stand approved as corrected.

APPROVAL OF AGENDA

Mr. Gagen requested addition of an executive session under Other Matters for negotiations and acquisition updates.

COMMUNICATIONS TO COUNCIL

A. CITIZEN'S COMMENT - (NON-AGENDA ITEMS ONLY: 3-MINUTE LIMIT PLEASE)

Daniel Lewis, owner of The Flatbread Pizza Co, stated he is in the process of opening a restaurant in Breckenridge, and is in negotiations with the Planning Department where there is an issue with air quality. He stated the EPA regulations are meant for a fireplace in the home, and because he leases the space instead of owning the space he receives negative points for the wood burning pizza oven. He asked that the Town Council consider a way to work this into the points system. Mayor Warner asked if he owned if he could work the points system. Mr. Lewis stated that is correct. Chris Neubecker, Senior Planner, stated they are looking for numbers regarding wood burning pizza ovens, but cannot find hard numbers, so there is not enough evidence to make a code change. He stated 6 out of 7 Planning Commission members said they are all right with a code change, but would like some direction. Town Council agreed the planning department should look at the numbers, and see if they could put together a recommendation for the Planning Commission and the Town Council.

George Ulrich, addressed the Council regarding Vendor Carts. Mayor Warner asked Dr. Ulrich to refrain until the Vendor Cart agenda item, when he would allow comments during the first reading.

B. BRECKENRIDGE RESORT CHAMBER UPDATE

John McMahon, mentioned they are currently looking at Winter occupancy where ADR is up; February Mtrip occupancy is up 5%, and ADR is up 1%. The BRC has deployed tactics to promote the early opening of the Gondola to help broaden Kingdom Days, which includes the NRO performing on Friday, and a Sunday picnic for overnight guests to enjoy; they are deep in the process of the Spring and Summer process; they spoke with "Today in America" which features shows that are made for television hosted by Terry Bradshaw, could have tourism opportunities for this destination, and airs on Fox media and 19 different markets, but thinks the show is about working and living in a community, and is less about tourism; the BRC received an award as a Destination Marketing Organization of the Year for a population under 25,00 in Colorado, which comes from peers. He thanked the staff, stake holders, and Town Council for making it possible. Mr. Gagen asked about the General Managers meeting regarding the lodging survey. Mr. McMahon stated the original discussion looked unfavorably at the survey, and then opinion was turned around at the next GM round table. He mentioned they are looking at key hotels, and looking to obtain insight regarding the quality of accommodations and the experience of Breckenridge, which would gain net promoter scores for how likely a guest is to recommend Breckenridge. He remarked they will hear about the new initiative from the BRC moving forward.

CONTINUED BUSINESS

A. SECOND READING OF COUNCILS BILLS, SERIES 2012 - PUBLIC HEARINGS

1. COUNCIL BILL NO. 9, SERIES 2012 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING DENSITY

Mayor Warner read the title into the minutes. Mark Truckey, Assistant Director Community Development, stated they adjusted a few small portions of the development code for the transfer of density from the town to town properties, from the Joint Upper Blue Master Plan to allow transfers of density to any new affordable housing sights, and the Town will use this to transfer to density to the Valley Brook development sight. He mentioned there are other few changes with employee housing, and with the JUBMP policy by not transferring out to Blue River that which is already in the Town.

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Mayor Warner opened the public hearing. There were no comments and the public hearing was closed. Mr. Mamula moved to approve COUNCIL BILL NO. 9, SERIES 2012 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING DENSITY. Mr. Bergeron seconded.

The motion Passed 7-0.

NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2012

1. COUNCIL BILL NO. 10, SERIES 2012 - AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE BY ADOPTING BY REFERENCE "THE HANDBOOK FOR DESIGN STANDARDS FOR THE TRANSITION CHARACTER AREAS OF THE CONSERVATION DISTRICT, BRECKENRIDGE, COLORADO, MARCH 2012"; AND MAKING CONFORMING AMENDMENTS TO THE BRECKENRIDGE TOWN CODE

Mayor Warner read the title into the minutes. Chris Neubecker, Senior Planner, stated they have been working on getting standards adopted for some time since the original standards were written back in 1992. He mentioned some disagreements regarding map boundaries have been worked out. He stated staff is recommending approval on first reading of the standards, and will make suggested changes before the second reading. Mayor Warner asked if they are going to publish it in paper form, or just publish on the web. Mr. Neubecker said they usually direct people to the web site or email it to them. Mayor Warner thanked them for their persistence and efforts.

Mr. Bergeron moved approve COUNCIL BILL NO. 10, SERIES 2012 - AN ORDINANCE AMENDING CHAPTER 5 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE BY ADOPTING BY REFERENCE "THE HANDBOOK FOR DESIGN STANDARDS FOR THE TRANSITION CHARACTER AREAS OF THE CONSERVATION DISTRICT, BRECKENRIDGE, COLORADO, MARCH 2012"; AND MAKING CONFORMING AMENDMENTS TO THE BRECKENRIDGE TOWN CODE. Mr. Mamula seconded the motion.

The motion Passed 7-0.

2. COUNCIL BILL NO.11, SERIES 2012 - AN ORDINANCE AMENDING CHAPTER 14 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE TOWN OF BRECKENRIDGE MEDICAL MARIJUANA LICENSES AND REGULATIONS

Mayor Warner read the title into the minutes. Tim Berry, Town Attorney stated as a result of the discussion during the work session he revised and handed out a new ordinance to the Town Council. The revised ordinance updates the licensing fee to reflect the State's annual fee structure and administrative fees; due to the conflict between the State's 1,000 foot rule and the Town's 500 foot rule, he has removed the distance section from this ordinance; and has added a one year renewal period, stating the license is valid for one year, and may be renewed.

Mr. Bergeron moved to approve the revised COUNCIL BILL NO.11, SERIES 2012 - AN ORDINANCE AMENDING CHAPTER 14 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE TOWN OF BRECKENRIDGE MEDICAL MARIJUANA LICENSES AND REGULATIONS. Mr. Mamula seconded the motion.

The motion Passed 6-1 with Mr. Dudick voting in opposition.

3. COUNCIL BILL NO. 12, SERIES 2012 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", BY ADOPTING A NEW POLICY 49 (ABSOLUTE), ENTITLED "VENDOR CARTS", AND MAKING MISCELLANEOUS AMENDMENTS TO THE BRECKENRIDGE TOWN CODE RELATED TO SUCH NEW DEVELOPMENT POLICY

Mayor Warner read the title into the minutes. Mr. Neubecker stated policy 36 addresses temporary vendor carts, and this ordinance would set new regulations for design standards and take vendor cards out of policy 36 and create policy 49 with more clear rules of what is required. He mentioned the earlier cap of 4 small vendor carts, a cap of existing vendor carts for large vendor carts, a couple of changes in the revisions passed out by the Town Attorney. He stated the policy previously did not allow outdoor seating, and now allows 3 tables with up to 4 seats; now allows extension cords in places where they do not cross a public place; trailer hitches be covered, shrouded or removed; and added landmark status for Crepes a la Carte, that has been in operation for more than 25 years. He stated staff is making the recommendation to approve on first reading. He stated he appreciates the willingness of the Town Council to take public comments tonight. He stated landscaping would be approved by the Planning Commission, with a higher level of scrutiny. He also mentioned the ordinance includes language on colors which limits the value of the color, so there will be no light-colored trailers, and addressed signage to fit in with the existing sign code. He mentioned there will be

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revisions to the overall sign code which will be addressed in the new ordinance at that time. Mayor Warner opened the public hearing.

Dr. Ulrich stated although he is very in favor of business, it should be done in an aesthetically appropriate manner. He mentioned he has submitted pictures from his view of the food cart which is pretty messy with garbage cans, cooking outside of the food cart, and storage outside of the food cart. He stated he bought a condo in February and noticed the clutter behind. He asked that the Council consider aesthetic styles, shielding and storage. Mayor Warner asked if one of his issues is clutter, and that the cart is not containing it. The Council discussed the containment issue, and that if the cart is going to exist it should be free from garbage, clutter and self-contained. Mr. Berry said he could add self-containment for the second reading. Tara Griffith, Stella's Hungry Horse vendor cart, read a prepared statement citing the Town's Mission; said it is very clear they do not wish to promote a revenue generating business; stated the new ordinance singles some of the carts out; mentioned how each part of the ordinance affects her business; and stated the items make it more of a small building ordinance where she would need to spend \$15,000 - 20,000 to become compliant. She stated that carts are different from everyone else, and consumers enjoy the experience of eating good cheap food at a picnic table. She stated she does not want to keep operating when she feels unwelcome by the very same people that are supposed to represent her. She remarked her main question out of all this is if we could keep rolling along as is until our permits expire, for about 1 year. Mr. Berry clarified that as long as she complies with the current development permit, she is good to go until it expires. Mr. Bergeron saying that no one wants to put anyone out of business and a lot of these restrictions are for the next permits. Alex LaMarca, Crepes a la Carte, did not think the original owner knew what would happen with the cart when it was first parked there. He stated this business has done fairly well, and addressed the issues with outdoor seating, stating that not everyone sitting there is their customer, and that there is public use, with non-customers putting trash in trash the crepe stand's trash can from their car. He mentioned building out the deck helped to hide certain things, including trash in a box or a bear proof container. He stated crepes loves the cart and the situation, and if the landlord puts in a building he hopes he gets preference, but does not want to change the character of the cart and hopes it can continue to be an outdoor eatery. Carla Orlandi wanted to put a fence behind for trash, because she fills up the trash easily in 8 hours, and wants to have trash outside instead of inside, since she limited to very small square footage with all of the appliances inside, only a small space for an extra garbage, and wanted it originally to be a small Victorian house, paint it to the same color as the surrounding building, and she could upgrade the color without too much more expense. She stated one thing that was brought up that concerns her is that a little fencing or more fencing to shade the view of someone else is understandable, but having a cooler outside is a lot of space to keep drinks cold in the summer, and they should allow some sort of provision for extra activity, since the restaurant inspectors said she could have a grill and cook outside as long as I brought it inside to serve. She addressed Dr. Ulrich's issues and said when he took his pictures, it was in the very beginning when they were trying to get organized. She apologized to the neighbors that were offended. She stated she lives here and took over the food business to try and make ends meet; she continues to contribute to the tax base; does not disagree with the proposed improvements; does not want to see more carts; and, has dumped all of her money into living and working in Breckenridge, and it has not got anything out of it yet.

Mr. Bergeron moved approve COUNCIL BILL NO. 12, SERIES 2012 - AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", BY ADOPTING A NEW POLICY 49 (ABSOLUTE), ENTITLED "VENDOR CARTS", AND MAKING MISCELLANEOUS AMENDMENTS TO THE BRECKENRIDGE TOWN CODE RELATED TO SUCH NEW DEVELOPMENT POLICY. Mr. Mamula seconded the motion.

The motion None 7-0.

Mayor Warner asked for discussion. Mr. Burke says you hear the comments from people, and is torn on so many issues. Mayor Warner recommended that Mr. Burke talk with Chris Neubecker. Mr. Neubecker asked about the storage issue and if everything should be contained inside the cart. Mayor Warner said everything should be contained inside the cart, and storage could be monitored. The Council discussed the sprawl of the carts, and that it should be contained; grand-fathering in existing carts to keep them in business; a menu of options, so cart owners could select improvements that they could afford; how every business in town has expenses they must pay that come up; and, that the time Town Council and the planning department has spent on this matter and Medical Marijuana is about trying to keep citizens in business, and trying to find a way to make it work for business owners.

B. RESOLUTIONS, SERIES 2012

1. None

C. OTHER

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1. None

PLANNING MATTERS

A. PLANNING COMMISSION DECISIONS

With no request to call an item off the consent calendar, Mayor Warner declared the Planning Commission Decisions of March 6, 2012 would stand approved as presented.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen stated his items that were not covered during the work session are part of the Executive Session.

REPORT OF MAYOR AND COUNCILMEMBERS

A. CAST/MMC (MAYOR WARNER)

No Report.

B. BRECKENRIDGE OPEN SPACE ADVISORY COMMITTEE (MR. DUDICK)

C. BRC (MR. BURKE)

No Report.

D. MARKETING COMMITTEE (MR. DUDICK)

Mr. Dudick continued his report of the marketing committee from the work session, mentioning that the Dew Tour is scheduled for December 13-16; the tour has added two new events; the room requirement has increased from 500 to 1,100 room nights due to the extra night; Beaver Run has issues with the Ski Resort's focus to open Peak 8 first each year, and then asking Beaver Run to donate rooms to an event that draws guests away from their property. The Council discussed supporting the Dew Tour; the amount of money available from Town funds, and Marketing Committee funds; the revenue that the Dew Tour generates during what is usually a dead week; and that the Dew Tour is an infomercial for Breckenridge that runs all over the world during the winter. Mayor Warner closed the discussion stating that contractual negotiations should be discussed during an executive session. Mr. Dudick reported the Today in America program is an infomercial that runs on CNN and Fox Business News. He mentioned no one in the room has seen it. Mayor Warner will send a link to council members from the production company. Mr. Dudick says in his business he always says no. He stated the program focuses on economic development, where people are encouraged to move here and work out of their homes, and that people move here from skiing here a few times and not because they saw it on TV.

E. SUMMIT COMBINED HOUSING AUTHORITY (MR. JOYCE)

No report.

F. BRECKENRIDGE HERITAGE ALLIANCE (MR. BURKE)

No Report.

G. WATER TASK FORCE (MR. MAMULA)

Mr. Bergeron mentioned the multi-family home energy assessment for energy loss and how they can save energy; and, a green team business menu of options for compliance which could rate a business from bronze to platinum. Mayor Warner remarked that Fort Collins and Aspen have programs that they are looking at.

OTHER MATTERS

Mr. Dudick mentioned the Harris Street building and the earlier library presentation during the work session, as another potential use of the building; his discussion with Mr. Hogan regarding thinking of the building as a new building with 10,000 feet of library space, instead of spending ~~\$2.5 million~~ **\$500,000** to build a library, ~~donating \$50,000~~ **Mr. Dudick suggested that \$2.5 million be spent and then have the library foundation spend another \$2.5 million** to improve the Harris Street building. He mentioned a potential scenario if the Peaks School does well, and they want to use the building while they build their new school. Mr. Joyce stated that we are not talking about a lot of money, \$32,000 for one year, and could expand their space with more rent. Mr. Dudick said the library has 86,000 visitors, that is a lot of use, and libraries are usually in the core of the town not on the perimeter. Mr. Mamula stated that there are not enough trash cans in this town, and requested the town bring in extras when town is busy, and on the edge of the core near Wellington. He mentioned tent presence on the River walk cheapens the town park; the ~~French bakery~~ **boot fitter next to the French bakery** has a sign that does not meet town code; and, Velo News came out with their destination guide

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that has an ad for Frisco, with a picture taken in Breckenridge near his house.

Mr. Joyce mentioned the excellent customer service at the Breckenridge Ski Resort where a scanner printed a pass for his friend who lost his season's pass, while he was waiting in line and did not have to go to the ticket office and lose his spot. He stated he would mention it to Pat Campbell. Mr. Dudick asked the Council members' opinion for rethinking the use of the Harris Street Building as a shell for a new space that can be reprogrammed for libraries and non-profits. Mayor Warner took a verbal survey of the Council members and they ~~generally preferred~~ **were agreeable with** using it for Town Hall with other community uses, but not a private school. **Mayor Warner and Mr. Joyce were agreeable to the use by the library; however, they preferred the space be used as the Town Hall.**

EXECUTIVE SESSION

Mr. Mamula moved to 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, 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. Mayor Warner stated a motion has been made for the Town Council to 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, 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 property that is the subject of the executive session is: (1) the land that is the subject of the pending exchange with the United States Forest Service; and (2) land the Town may have an interest in purchasing. The matters that are subject to negotiation include the new Lease for the Golf Course Clubhouse, and the Dew Tour. Mr. Bergeron made the second. The motion Passed 7-0.

SCHEDULED MEETINGS

ADJOURNMENT

Mr. Bergeron moved to come out of Executive Session. Mr. Joyce seconded the motion. All were in favor of the motion.

With no further business to discuss the meeting adjourned at 10:02 pm.

Submitted by Cathy Boland, Municipal Court Clerk.

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor