

TOWN OF BRECKENRIDGE
TOWN COUNCIL REGULAR MEETING
Tuesday, June 26, 2012
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CALL TO ORDER/ROLL CALL

The following members answered roll call: Mr. Brewer, Mr. Burke, Mr. Dudick, Mr. Gallagher, Ms. McAtamney, Ms. Wolfe, and Mayor Warner.

APPROVAL OF MINUTES - JUNE 12, 2012

Mayor Warner declared the minutes would stand as submitted.

APPROVAL OF AGENDA

Mr. Gagen added under First Readings Council Bill No. 21 - a Development Agreement related to the Breckenridge Outdoor Education Center, and under Other Matters and Executive Session for the purpose of negotiation positions for a possible acquisition item.

COMMUNICATIONS TO COUNCIL

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

Dan McCrery, President of the Summit Nordic Ski Club thanked the Council for the Gold Run Nordic Center; stated the wax room is the key to how a ski club functions; and, thanked them for allowing the Summit Ski Club sign outside. Mr. McCrery mentioned the donated materials from the Breckenridge Building Center for the hot box; they are picking up members each year; the Bill Koch learn-to-ski program; the number of qualifiers for the Junior Nationals has doubled; and three skiers are rated nationally in the top 20. The Council discussed the Bill Koch league; that parents need to car pool, as there is no after-school bus transportation from the Elementary Schools; the school busses have the Breckenridge Recreation Center on their route; the Gold Run Nordic Center is more convenient because it is closer to town than in other municipalities; \$60.00 includes rentals, a locker, and Nordic pass; and, the program competes with the best athletic programs in the County, with more contact with coaches.

Mr. McCrery introduced Grant Miller as the project manager for the Wellington Neighborhood. Mr. Miller guaranteed the dust has been alleviated near the construction site, and stated they are trying to fast-track the project to keep the dust down and eliminate the disturbance to the neighbors. He stated if they stay on schedule the asphalt will be completed by the end of the summer. Mr. Gagen stated the Town needs to share in the responsibility for the dust, as the Town's contractors were not doing dust mitigation as they were supposed to, and Public Works has taken care of the issue.

A group of local students ages 7 to 12 years addressed the Council regarding the use of plastic bags and bottles. ~~Maira~~ Mairi McAtamney read a prepared statement about how plastic seems good, but is not, and plastic bags are a good example of it; one trillion bags are used; plastic bags are not easily recycled; nearly every one that gets in the ocean is eaten by an animal; asked the council to ban them; stated China and San Francisco have banned them; Ireland has put a fee on their bags and reduced use by 90%; and, that we are a little town, but can make a difference too. Anna Rose Craig read a prepared statement against plastic bags stating we spend hundreds of thousands of dollars shipping tap water, while other places in the world have no water; oil is used to make plastic bottles, and uses CO₂; in 2008 the world used 12,000 billion bottles of water; and, that Breckenridge is a small town and probably isn't ready, but every step counts. Miss Craig asked where does it go, when it goes away? Mack explained the different posters the group was holding. Mayor Warner stated the Council hears you, wants to move in that direction, and plastic bags are on the Town Council Top 10 list.

CONTINUED BUSINESS

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

1. Council Bill No. 15, Series 2012- AN ORDINANCE APPROVING A LEASE WITH THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO (Part Of Town's Public Works Facility)

Mayor Warner read the title into the minutes. Tim Berry, Town Attorney stated Town staff continues to negotiate with County staff to revise lease, and the staff recommends continuing the matter to the first meeting in July.

Ms. McAtamney moved to continue Council Bill No. 15, Series 2012- AN ORDINANCE APPROVING A LEASE WITH THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO (Part Of Town's Public Works Facility). Ms. Wolfe seconded the motion. The motion passed 7-0.

2. Council Bill No. 16, Series 2012- AN ORDINANCE AMENDING ARTICLE F OF CHAPTER 3 OF THE BRECKENRIDGE TOWN CODE CONCERNING MUNICIPAL OFFENSES RELATING TO ALCOHOL, CIGARETTES AND AMUSEMENT ESTABLISHMENTS

Mayor Warner read the title into the minutes. Mr. Berry stated the Ordinance makes several technical amendments to a housekeeping ordinance; and, there are no changes to ordinance from first reading. Mayor Warner opened the public hearing, there were no comments and the public hearing was closed.

Mr. Gallagher moved to approve Council Bill No. 16, Series 2012- AN ORDINANCE AMENDING ARTICLE F OF CHAPTER 3 OF THE BRECKENRIDGE TOWN CODE CONCERNING MUNICIPAL OFFENSES RELATING TO ALCOHOL, CIGARETTES AND AMUSEMENT ESTABLISHMENTS. Ms. McAtamney seconded the motion. The motion passed 7-0.

3. Council Bill No. 17, Series 2012- AN ORDINANCE AMENDING SECTION 5-5-5 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE ISSUANCE OF A SPECIAL PERMIT AUTHORIZING OPEN BURNING WITHIN THE TOWN

Mayor Warner read the title into the minutes. Mr. Berry stated the Town Code authorizes the Town Council to issue a special open burning permit, which they have issued periodically, and the ordinance changes to the process to the Town Manager approving open burning permits instead of the Town Council. He stated there are no changes since the first reading. Mayor Warner opened the public hearing. There were no comments and the public hearing was closed.

Mr. Brewer moved to approve Council Bill No. 17, Series 2012- AN ORDINANCE AMENDING SECTION 5-5-5 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE ISSUANCE OF A SPECIAL PERMIT AUTHORIZING OPEN BURNING WITHIN THE TOWN. Ms. McAtamney seconded the motion. The motion passed 7-0.

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NEW BUSINESS

A. FIRST READING OF COUNCIL BILLS, SERIES 2012

1. Council Bill No. 18, Series 2012, AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING AIR QUALITY

Mayor Warner read the title into the minutes. Chris Neubecker, Senior Planner stated this Ordinance makes two primary changes to current Development Code policies on Air Quality which is to eliminate negative points for wood fire ovens, such as pizza ovens, and to allow for replacement of older wood-burning fireplaces with cleaner burning EPA Phase II wood-burning fireplaces. He stated is staff has recommended approval of this ordinance, and there are a few changes to clarify various items that are allowed.

Mr. Burke moved to approve Council Bill No. 18, Series 2012, AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE "BRECKENRIDGE DEVELOPMENT CODE", CONCERNING AIR QUALITY. Mr. Gallagher seconded the motion. The motion passed 7-0.

2. Council Bill No. 20, Series 2012, AN ORDINANCE AUTHORIZING THE EXECUTION OF A FOURTH AMENDMENT TO LEASE WITH BRECKENRIDGE VILLAGE APARTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY (PINWOOD)

Mayor Warner read the title into the minutes. Mr. Gagen stated the Town entered into a lease with Breckenridge Village Apartments in 1999 and others over time; this agreement provides a ~~\$60,000~~ \$600,000 loan for refinance of the entire project, the terms of the loan, and possession after the debt term; the loan is advance of the permanent financing from HUD, and requires two readings from Council. Mr. Berry stated the Council should refer to the updated version handed out after the work session.

Mr. Dudick moved to approve Council Bill No. 20, Series 2012, AN ORDINANCE AUTHORIZING THE EXECUTION OF A FOURTH AMENDMENT TO LEASE WITH BRECKENRIDGE VILLAGE APARTMENTS, LLC, A COLORADO LIMITED LIABILITY COMPANY (PINWOOD) the version distributed after the work session. Ms. Wolfe seconded the motion. The motion passed 7-0.

Mr. Gagen stated this money comes from the housing fund, where there are sufficient funds, and the money will be repaid into that fund which is part of the sustainable housing project.

3. Council Bill No. 21, Series 2012, AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH THE BRECKENRIDGE OUTDOOR EDUCATION CENTER, a Colorado nonprofit corporation (Lower Level-The Maggie Building)

Mayor Warner read the title into the minutes. Mr. Berry stated this ordinance follows up the discussion at the work session regarding the development agreement put forth by the BOEC; the ordinance has been finalized; waives application fees; and, will have some minor change between the first and second readings.

Ms. Wolfe moved to approve Council Bill No. 21, Series 2012, AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH THE BRECKENRIDGE OUTDOOR EDUCATION CENTER, a Colorado nonprofit corporation (Lower Level-The Maggie Building). Ms. McAtamney seconded the motion. The motion passed 7-0.

4. Council Bill No. 22, Series 2012-AN ORDINANCE AUTHORIZING THE MAYOR TO IMPOSE NECESSARY FIRE RESTRICTIONS IN TIME OF EXTREME FIRE HAZARD; DECLARING AN EMERGENCY; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE OF THIS ORDINANCE

Mayor Warner read the title into the minutes. Mr. Berry stated this creates a special procedure for the Mayor to declare fire restrictions in the event of a fire emergency; a version changing the proclamation to a declaration has been handed out after the work session; it is drafted as an emergency ordinance, so there will only be one reading; the ordinance will be published on the website; the ordinance will be effective immediately; and, if adopted will be banned by the declaration which will be read later in the agenda. Shannon Haynes, Breckenridge Chief of Police made herself available for questions. There were none.

Mr. Dudick moved to approve Council Bill No. 22, Series 2012-AN ORDINANCE AUTHORIZING THE MAYOR TO IMPOSE NECESSARY FIRE RESTRICTIONS IN TIME OF EXTREME FIRE HAZARD; DECLARING AN EMERGENCY; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE OF THIS ORDINANCE in the form handed out after the work session. Ms. McAtamney seconded the motion. The motion passed 7-0.

B. RESOLUTIONS, SERIES 2012

1. A RESOLUTION APPROVING AN AMENDED ANNEXATION AGREEMENT WITH MAGGIE PLACER, LLC, A COLORADO LIMITED LIABILITY COMPANY (MAGGIE PLACER ANNEXATION)

Mayor Warner read the title into the minutes. Laurie Best, Planner III stated the amended annexation agreement replaces the current agreement in effect; reduces the total units to 20, where a percentage are market units; requires the use of local labor and suppliers for construction; extends the agreement to 2014; commences work prior to June 2013; and, changes #6 from 90% to 10% down payment.

Ms. McAtamney moved to approve A RESOLUTION APPROVING AN AMENDED ANNEXATION AGREEMENT WITH MAGGIE PLACER, LLC, A COLORADO LIMITED LIABILITY COMPANY (MAGGIE PLACER ANNEXATION) as changed after the work session. Mr. Gallagher seconded the motion. The motion passed 7-0.

2. A RESOLUTION ADOPTED PURSUANT TO SECTION 6-3C-11(F) OF THE BRECKENRIDGE TOWN CODE PROHIBITING THE POSSESSION, USE, DISCHARGE OR EXPLOSION OF "PERMISSIBLE FIREWORKS" WITHIN THE TOWN OF BRECKENRIDGE BETWEEN JULY 3, 2012 AND JULY 5, 2012; AND PROVIDING A PENALTY FOR THE VIOLATION OF SUCH PROHIBITION

Mayor Warner read the title into the minutes. Mr. Berry stated the Town firework ordinance is based on the state statute which defines fireworks and permissible fireworks; we ban fireworks, and allow permissible fireworks for those three days each year; and, given the current conditions, the Police Department staff recommends the Council suspend the use this year between July 3 and July 5 to avoid the possibility of a wildfire. Mr. Burke stated they need to clarify the dates. Mr. Gagen mentioned they will simply say they are banned this year, and not be specific about the dates since the other

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362 days of the year, fireworks are banned.

Mr. Gallagher moved to approve A RESOLUTION ADOPTED PURSUANT TO SECTION 6-3C-11(F) OF THE BRECKENRIDGE TOWN CODE PROHIBITING THE POSSESSION, USE, DISCHARGE OR EXPLOSION OF "PERMISSIBLE FIREWORKS" WITHIN THE TOWN OF BRECKENRIDGE BETWEEN JULY 3, 2012 AND JULY 5, 2012; AND PROVIDING A PENALTY FOR THE VIOLATION OF SUCH PROHIBITION. Ms. McAtamney seconded the motion. The motion passed 7-0.

C. OTHER

1. A MAYORAL PROCLAMATION DECLARING THAT CONDITIONS OF EXTREME FIRE HAZARD EXIST WITHIN THE TOWN OF BRECKENRIDGE; AND IMPOSING TEMPORARY RESTRICTIONS TO REDUCE THE CHANCE OF WILDFIRE

Mayor Warner read the title of the declaration. Mr. Berry stated this is the declaration from Ordinance No. 22 which has just been adopted by council; a change was added to page 2 lines 5&6 that smoking is not allowed at the outdoor premises of the golf course, where it is already not allowed inside; the declaration does not require any formal council approval. Mayor Warner read the three page declarative statement, as handed out by the Town Attorney after the work session. Mayor Warner entered the declaration with the Council and Town Manager present, and notification was given.

PLANNING MATTERS

A. PLANNING COMMISSION DECISIONS - JUNE 19, 2012

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

B. PLANNING COMMISSION REPORT (MR. GALLAGHER)

No report.

REPORT OF TOWN MANAGER AND STAFF

Mr. Gagen mentioned as a follow up to the retreat the meeting norms have been posted on the wall in Council Chambers next to the vision plan. Mr. Gagen and Mr. Gallagher discussed the increased number of calls due to the smoke from the Lake County/Leadville fire; Fire Department responses do not have protocol with the Town Manager, so the Council was not informed as it would be with a Breckenridge Police Department response; and, Mr. Gallagher will discuss with Lori Miller, Red, White, and Blue Fire Chief about future notification. The Council discussed the time delay with Summit County alerts, which can be up to half an hour, and allows for the County to release the most accurate information; and, that people should be calling 911, because dispatchers will have the best updated information. Shannon Haynes, Breckenridge Police Chief mentioned several ways that citizens and the Council can find information regarding wildfires including twitter news station and a website that gives information on every wildfire in the nation. Mr. Gagen stated in the future he will get information out as soon as possible to Council members.

REPORT OF MAYOR AND COUNCILMEMBERS

A. CAST/MMC (MAYOR WARNER)

Mayor Warner reported on the Colorado Municipal League (CML) conference including a meeting with David Agnew, Director of Intergovernmental Affairs, in which he discussed forest health, wildfire danger, I-70 congestion, the health of the economy, and, what the Federal Government could be doing. He mentioned he attempted to contact Marty Getz regarding the Entrada property but he was unavailable, and will speak with him on Friday, July 6, 2012.

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

Mr. Brewer reported that he could not make the meeting but the committee made a field visit to cucumber gulch. Mr. Gagen mentioned there has been some contact with Doug Tomlinson of Country Boy mines, which uses part of the road which winds through town and mine property, and the issue of continued trespassing on his property of both Firecracker 50 competitors test-running the route, and other local traffic; and, his second issue with the bermed road which he claims is blocking his access. Mr. Gagen stated that all appropriate parties have been notified of the issue; the Town has agreed to put up better signs; the Town will not change the road; Mr. Tomlinson will need to address legal access through the proper channels; and, the Council may receive calls regarding this issue. Ms. McAtamney mentioned that the trespassing by locals has been in the social areas of the neighborhood, and she has sent letters to residents to mind the trespassing signs.

C. BRC (MR. BURKE) – No report.

D. MARKETING COMMITTEE (MR. DUDICK) – No report.

E. SUMMIT COMBINED HOUSING AUTHORITY (MS. WOLFE)

Ms. Wolfe reported on a discussion of the Non-Profit unit led by the Town of Breckenridge to gain grants on housing projects; streamlining the process; taking advantage of foreclosures; allowing Town Managers to be part of the committee; the optimism in the housing market in general; how the title companies are busy; the inventory being bought up; construction is picking up; vacant land transactions are up; and other towns have seen more movement on affordable housing projects; and the \$13 million target for the housing investment fund in Colorado, which will be used a mortgage insurance.

F. BRECKENRIDGE HERITAGE ALLIANCE (MR. BREWER)

Mr. Brewer reported on his update from Larissa O'Neil on the good momentum of the Wakefield-Sawmill project; the Alliance has stopped charging \$3.00 at venues due a drop of 40% in the number of visitors, since the fee was a deterrent for many people; and, the museums will be free with a donation box. Mr. Burke mentioned that when they charged, people would stay and look around; and, before they began charging, a visitor counted as someone who would just walk in, peak and walk out. Mr. Brewer mentioned Kingdom Days numbers were down by 40%; the Alliance will work with the BRC to publicize the event better next year; and, they will try to figure out with help from the BRC why the numbers were down. He added the inaugural Theobald Award event will be on Friday, August 10 at the Barney Ford Museum.

G. WATER TASK FORCE (MR. GALLAGHER)

No report.

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H. LANDFILL TASK FORCE (MS. WOLFE)

Ms. Wolfe reported she was updated by James Phelps, Assistant Director of Public Works. She mentioned the pay as you throw discussion; that haulers are skeptical of how it will work financially; the program is definitely the best driver for recycling and diversion; the concern of how to get tourists and guests to participate; the concern of multi-family dwellings; discussion was strong and positive; that the crux of the issue is to start putting a business model and numbers to the plan to see the costs and impact at the landfill; and, Mr. Phelps volunteered to be on a that committee. Mr. Burke gave Ms. Wolfe a contact he met at the CML conference about using trash for energy production. Mr. Gagen stated the County has done some research on those topics, and the Hospital looked at burning wood.

OTHER MATTERS

1. Mark Truckey, Assistant Director of Community Development discussed his memo which outlined the latest information on plastic bags; the issue has been tackled with the SustainableBreck business group; the hope that in a year to a year and a half Breckenridge could be plastic bag free; the commitment to incentivize the program; and, an outline of options for the Council to consider at this time. He stated they are at the start of the discussion of this issue; and, the task force has done some research on the elimination of plastic bags. Mayor Warner stated the options to consider are on page 194. Mr. Truckey recommended an incentive type of approach; and asked the Council where they are on this issue. The Council discussed realizing the goal by coming up with a plan by the end of 2012; a phased approach with large grocery stores first; a fee for paper bags to pay for the administrative costs of the program; that a voluntary program does not seem to work; methods to fill the room with people that are passionate about it, by putting the issue as a first reading that would bring people to the Town Council meeting, both for and against the issue; a ban by December and work backwards to see what people are really thinking; starting a movement that creates national attention; celebrating the movement with marketing in social media; that we do not do it here, simply because we do not do it here; utilizing resources like the children that presented earlier to gain momentum; the movie "Bag it" is very compelling; that this change is a no-brainer; there are issues to be discussed including retailers, vacationers that do not show up with cloth bags, and, restaurant take-out; people forget their bag when they arrive at City Market, and if you charge for the bag, they would think again; families on vacation in Breckenridge buy carts full of food, not just one bag; need to get to Homeowners' Associations, restaurateurs, and lodging people to weigh in during a work session; need to approach the community for their input like they did with the rodeo; determining the phasing in of the change; the lodging companies will need to assist in educating their guests that may not be aware the first time they visit Breckenridge; need to provide lodging companies with inexpensive alternatives for their guests; a grass roots movement will be a lot stronger if have a partner in the community; children provide a powerful message when are simply asking for their lives, themselves and the earth; they need viable alternatives to what peoples' habits are; this is an opportunity to brand Breckenridge with a reusable take-home bag to remind them of their vacation; consider the unintended consequences of the program, citing that when the citizens heard the implementation of the solar panels they became engaged; and, should also include a movement against single-use water bottles, since the water is not as good as the water that comes out of our own taps here in Breckenridge. Mayor Warner summed it up stating the Council wants to get something done by the end of the year; they should engage the public with the goal in mind that we do want to eliminate plastic bags; and, the public will help to shape the goal and the process to get to the goal. Mr. Gagen stated the Town has a sustainability committee which has representatives in these sectors; the committee is identifying the issues, and working to get those people engaged in the conversation; the group is excited about taking this on; and, that they should utilize this group to get the issue back in front of the Council. Mr. Truckey added some mechanisms for community engagement are the Business Task Force, community talks, and online surveys. The Council agreed to let Mr. Truckey and the task force reach out to different sectors.
2. Mr. Burke mentioned a few people came with concerns with behavior of cyclists on the recreation path from Breckenridge to Frisco, in which cyclists are rude to walkers, and asked to clarify if the path is a recreation path meant for everyone. Mr. Gagen stated the recreation path is not patrolled, and that signs could be added to show the rules. Mr. Burke mentioned the issue with his email being hacked; his concerns that the hackers may have gained access to everything; and, inquired if the Council members could have Town email addresses. Mr. Gagen mentioned if they use Town email they are open to public record. Mr. Brewer asked if there was drone training. Chief Haynes said they had a demonstration at the Police Department. Mayor Warner mentioned the Breckenridge Ski Resort mixer day trip to the Fun Park is June 28 from 3:30 until 6:00 p.m.
3. EXECUTIVE SESSION
Mr. Gallagher moved to go into executive session pursuant to: (i) 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 (ii) 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. Burke made the second. All roll call was taken and all were in favor of the motion for item (i), ~~6-1~~ 6-0 in favor of the motion for item (ii) with Mr. Dudick ~~voting against~~ recused himself due to a conflict of interest. Mr. Dudick left the meeting at 9:30 p.m. prior to the discussion of the development agreement. Mr. Gallagher moved to adjourn the executive session at 10:04 pm. Ms. Wolfe made the second.

SCHEDULED MEETINGS

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 10:04 pm.
Submitted by Cathy Boland, Accounting Coordinator
ATTEST:

Laura Kennedy, Town Clerk

John Warner, Mayor

