

**CALL TO ORDER AND ROLL CALL**

Mayor Blake called the February 26, 2008 Town Council Meeting to order at 7:30 p.m. The following members answered roll call: Mr. Bergeron, Ms. McAtamney, Mr. Rossi, Mr. Millisor, Dr. Warner and Mayor Blake. Mr. Mamula was absent.

**APPROVAL OF MINUTES** – February 12, 2008 Regular Meeting

There were 2 changes to the minutes. Mayor Blake commented that under “Citizens Comments” Marty Twissler’s statement was not completed. Jen McAtamney commented that under “Citizens Comments” the new childcare facilitator is Leslie Davis not Davidson. . They were approved with those two changes.

**APPROVAL OF AGENDA**

Town Manager, Tim Gagen, had no changes to the agenda.

**COMMUNICATIONS TO COUNCIL**

A. Citizens Comment - (Non-Agenda Items ONLY; 3 minute limit please)

B. BRC Director’s Report – Corry Mihm- Corry reported that on average about 45-50% of visitors to Welcome Center are using the restrooms. International visits are up to 17% as compared to 12% last year. What are people doing while they are here??- Alpine skiing declined slightly, 45% of skiers are alpine skiing as compared to 50% last year. Snowboarding increased 33% this season as compared to 30% last year. Shopping is at 68% as compared to 61% last year. Museums & Historical sites are at 19% and Arts and Cultural activities are at 12% as compared to 10% last year. The estimated expenditures per person per day have increased to \$241/person/day. Mr. Bergeron questioned whether we could do human surveying instead of using computers.

**CONTINUED BUSINESS**

**A. SECOND READING OF COUNCIL BILLS, SERIES 2007 & 2008 – PUBLIC HEARINGS\*\***

**1. Council Bill No. 5, Series 2008- AN ORDINANCE AUTHORIZING A SECOND AMENDED GRANT OF EASEMENTS TO B & D LIMITED PARTNERSHIP**

Tim Berry commented that this ordinance would grant an access Easement to the buildings located off Highway 9. \$126,000 was the estimated cost that the BBC would have paid for the road. The town has agreed to reimburse the access amount over that amount.

Mayor Blake asked for public comment. There was no comment. He closed the public hearing.

Mr. Bergeron moved to approve Council Bill No. 5, Series 2008 on second reading with the easement agreement in the form in the packet. Ms. McAtamney made the second. The motion passed 6-0.

**2. Council Bill No. 7, Series 2008- AN ORDINANCE AMENDING SECTION 1-7-1 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE COMPENSATION OF THE MAYOR AND COUNCILMEMBERS ELECTED OR APPOINTED ON OR AFTER APRIL 1, 2008**

Tim Berry commented that the ordinance would amend the portion of the Town Code that sets the salaries of the Mayor and the Councilmembers. If adopted, the ordinance will raise the monthly salaries of the Mayor and the Councilmembers to \$1,200 and \$800, respectively.

Because an elected official’s salary can neither be increased nor decreased during his or her term of office, if this ordinance is adopted the change will apply only to persons elected at the regular Town election this April and thereafter.

Mayor Blake asked for public comment. There was no comment. He closed the public hearing.

Ms. McAtamney moved to approve Council Bill No. 7, Series 2008 on second reading. Mr. Millisor made the second. The motion passed 5-1 with Mr. Rossi objecting.

**3. Council Bill No. 8, Series 2008- AN ORDINANCE AMENDING SECTION 1205 OF THE MODEL TRAFFIC CODE FOR COLORADO, 2003 EDITION**

Tim Berry commented that the ordinance would amend the Model Traffic Code to allow for angle parking within the Town. The Model Traffic Code contemplates that angle parking may properly be used within a municipality, but the Code requires that it be authorized by ordinance. As you know, we have several locations within Town where angle parking is required.

The ordinance would amend Section 1205 of the Model Traffic Code to authorize angle parking within the Town where determined to be appropriate by the Town Engineer. As you will note, once a street is designated for angle parking the Town will have to make or sign the street to indicate that angle parking is permitted and at angle at which vehicles shall be parked.

Any person who parks improperly in a designated angle parking slot will be guilty of a civil traffic violation. The Municipal Judge will establish the appropriate fine.

This ordinance will not be applicable to Colorado Highway 9, so it will not be necessary to get CDOT’s approval before this ordinance can become effective.

Mayor Blake asked for public comment. There was no comment. He closed the public hearing.

Mr. Bergeron moved to approve Council Bill No. 8, Series 2008 on second reading. Dr. Warner made the second. The motion passed 6-0.

**B. FIRST READING OF COUNCIL BILLS, SERIES 2008-**

**1. Council Bill No. 9, Series 2008- AN ORDINANCE AMENDING SECTION 6-3B-10 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE MUNICIPAL OFFENSE OF "JOYRIDING"**

Tim Berry commented that municipal ordinances may only regulate conduct that constitutes a "misdemeanor" under state law (misdemeanors are less serious crimes than felonies). Simply stated, the Town cannot make a municipal offense out of what would otherwise be a felony under state law.

Section 6-3B-10 of the Town Code defines the municipal offense of "Joyriding." Joyriding is basically taking someone else's vehicle on a temporary basis without permission. The ordinance was carefully drafted so that it did not apply to criminal conduct that constitutes a "felony" under Colorado law.

State law provides several classifications of motor vehicle theft ranging from a misdemeanor offense to the more serious felony crime of "aggravated motor vehicle theft in the first degree." Both classifications of state law violations require the culprit to knowingly obtain control or exercise control over the motor vehicle of another person. However, what changes the misdemeanor violation into the felony crime is if the person also does one of a series of other bad things while in possession of the stolen vehicle. The list of aggravating factors that can turn the misdemeanor violation into the felony includes causing \$500 or more of property damage while in possession of the stolen vehicle. Thus, a person who steals a car and causes \$500 or more of property damage may be prosecuted in the state court for the felony crime of motor vehicle theft.

In order to make it clear that the Town's Joyriding Ordinance does not apply to felony auto theft the ordinance expressly provides that it does not apply if the perpetrator commits \$500 or more of property damage in the course of the joyride.

However, as noted, the state's first degree aggravated motor vehicle theft statute contains a list of bad conduct which, if combined with the simple act of stealing a vehicle, can turn a lesser crime into the more serious crime of first degree aggravated motor vehicle theft. One of those aggravating factors is causing \$500 or more of property damage while in unlawful possession of someone else's vehicle. The list of aggravating factors, however, includes more than the property damage provision, and refers to such other bad conduct as causing bodily injury to another person while in possession of the other person's vehicle, or using the vehicle in the commission of a crime other than a traffic offense.

When the Town's Joyriding Ordinance was enacted many years ago it adopted verbatim the list of aggravating factors that were present in the state motor vehicle theft law at that time. However, subsequent to the adoption of the Town's ordinance the state's list of aggravating factors has changed in a number of respects, and the Town ordinance was not updated. As a result, the list of state law aggravating factors in the Town's ordinance is out of date and requires revision.

Instead of updating the ordinance by once again adopting verbatim the list of aggravating factors from the revised state law (and running the risk of the updated list itself becoming outdated at some point in the future), I have instead just eliminated the list entirely and replaced it with generic language providing that the Town's Joyriding Ordinance does not apply to a felony violation of the state motor vehicle theft law. That approach will keep our ordinance from becoming outdated the next time the state motor vehicle theft law is updated by the legislature.

Dr. Warner moved to approve Council Bill No. 9, Series 2008 on first reading. Mr. Rossi made the second. The motion passed 6-0.

**C. RESOLUTIONS, SERIES 2008**

**1. A RESOLUTION MAKING A SUPPLEMENTAL APPROPRIATION TO THE 2008 TOWN BUDGET FOR PROJECTS NOT COMPLETED IN BUDGET YEAR 2007**

Tim Gagen commented that the resolution would make changes to the 2008 budget to authorize a roll-over amount of \$191,167 of 2007 General Fund budget authority from 2007 to 2008 to fund ongoing projects and programs budgeted and/or initiated in 2007, but not completed by year end, to authorize \$167,687 of additional Affordable Housing Fund spending authority be rolled over from 2007 to 2008 for childcare scholarships and supplements, to authorize \$37,000 of additional Marketing Fund authority be rolled over to offset expenses related to relocation of Spring Massive.

Mayor Blake asked for public comment. There was no comment. He closed the public hearing.

Mr. Bergeron moved to approve the Resolution, Series 2008. Dr. Warner made the second. The motion passed 6-0.

**2. A RESOLUTION MAKING A SUPPLEMENTAL APPROPRIATION TO THE 2007 TOWN BUDGET**

Tim Gagen commented that the resolution would make changes to the 2007 budget by authorizing an increase of \$150,000 in additional budget authority within the Water Utility Fund for water line repairs.

Mayor Blake asked for public comment. There was no comment. He closed the public hearing.

Mr. Bergeron moved to approve the Resolution, Series 2008. Dr. Warner made the second. The motion passed 6-0.

**D. OTHER**

**PLANNING MATTERS**

- **Planning Commission Decisions of February 19, 2008.**

With no requests for call up, Mayor Blake stated the Planning Commission decisions of the February 19, 2008 meeting will stand as presented.

- **Town Council Representative Report.**

Dr. Warner commented that the fun park is going to move to the gondola parking lot and will butt up against the gondola building. Base of Peak 8 will be closed for construction. The Planning Commission called it up to see what kind of fencing there will be, etc. They asked for more substantial fencing. They also talked a lot about solar panels in and out of the conservation district. They would like to review solar panels on historic structures. Mr. Bergeron asked where people will park for the fun park. Dr. Warner commented that they will park on the Northside. He also questioned what they will have for food and if there may be potential for liter problems.

**REPORT OF TOWN MANAGER AND STAFF**

Tim Gagen, Town Manager, had nothing to report.

**REPORT OF MAYOR AND COUNCILMEMBERS**

**A. Report of Mayor (CAST)**

Mayor Blake commented that the next meeting is next week.

**B. Breckenridge Open Space Advisory Commission (Mr. Bergeron)**

Mr. Bergeron had nothing to report.

**C. BRC (Mr. Rossi)**

Mr. Rossi had nothing to report.

**D. Multi-Jurisdictional Housing Authority (Mr. Millisor)**

Mr. Millisor had nothing to report.

**E. Breckenridge Heritage Alliance (Ms. McAtamney)**

Ms. McAtamney commented that EDA out of Estes Park will be doing the restoration project for Carter Museum.

**F. Liquor Licensing Authority (Mr. Bergeron)**

Mr. Bergeron commented that the Chief gave a report and they are busy at work with the bar owners. Dr. Warner commented that he has gotten complaints about how dirty it is outside of the Salt Creek.

**OTHER MATTERS**

Mr. Millisor commented that Dave Newkirk came to see him about the ball fields. He is concerned that the ball fields will not be maintained for the kids in the community. Tim helped to clarify the history for Mr. Millisor. Mr. Millisor understands that the school district will not maintain the fields. He wants to look at who has the resources to maintain them and if the Town can help then maybe we should. Tim commented that we maintained the fields for 15 years. The School District said they wanted to take over the maintenance of the fields so the Town let them. Mayor Blake commented that he wants to hear directly from the School District and they need to come directly to council and fess up that they need help with the fields instead of sending a middleman. Dr. Warner commented that he wants the end result to be that the kids have a field but he does want to talk directly with the School Board.

Mayor Blake passed out a sheet of information on the late night bars and what Jeffrey and himself have been working on. This document is a part of the record contained at the end of these minutes. On March 6<sup>th</sup> the Chief and Assistant Chief have set a meeting with bar owners. They will try to get them all in one room to sign up for what he passed out. They would like them to abide by what was presented by Mayor Blake and Mr. Bergeron. The main points were for the bar staff to 1) try to stop the problem at the door, 2) don't over-serve, 3) no shot specials offered for less than \$3, 4) don't offer drink specials after 11pm, 5) utilize responsible marketing as to not promote getting liquored up. It would be voluntary to sign up. They feel this is a starting point. Mr. Bergeron commented that even if this doesn't do anything they have gotten some face time and bar owners know now that the Council is taking this seriously. Several of the bars would welcome stiffer enforcement. Mr. Rossi asked whether there was any discussion on what got us to this point. Mayor Blake commented that we seem to be dealing with a young age group (young 20's), and there seems to be some anger. Mr. Bergeron commented that it is very different than it used to be. There are more fights, more violence, it is a different crowd these days than what we used to see 20 years ago. Mr. Rossi asked if we could put an ad in the paper thanking the people for signing the agreement. Dr. Warner really appreciated Mayor Blake and Mr. Bergeron doing the work they have thus far.

**SCHEDULED MEETINGS**

**ADJOURNMENT**

With no further business to discuss the regular meeting was adjourned at 8:31 pm.

Submitted by Alison Kellermann, Administrative Services Coordinator

**ATTEST:**

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Mary Jean Loufek, CMC, Town Clerk

Ernie Blake, Mayor

**WE, THE OWNERS AND MANAGERS OF LATE NIGHT LICENSED  
ALCOHOL PREMISES IN THE TOWN OF BRECKENRIDGE:**

- Recognize that Breckenridge is a resort community and that a positive, collective image as servers of alcohol in the Town, improves all of our business opportunities;
- Strive for a vibrant, restaurant and bar business community;
- Agree that a favorable guest experience by our patrons is good business;
- Agree that over service of alcohol to intoxicated persons is not only illegal but creates a negative guest experience for our other patrons,

Therefore:

We the undersigned bar manager/owners voluntarily support the following five initiatives to improve the guest experience in our licensed liquor establishments and minimize negative patron behaviors:

1. Stop trouble at the door; emphasize with our employees the early recognition of intoxicated persons and persons exhibiting aggressive behavior and preventing their admission into our businesses. Don't allow patrons who have caused problems on more than one occasion back into our establishments.
2. Don't overserve: do not serve alcoholic beverages to visibly intoxicated persons.
3. No "shot specials" will be offered for less than \$3.00.
4. Don't offer any drink specials after 11 :00 pm.
5. Utilize only responsible advertising without the promotion of the excessive consumption of alcohol.