

**CALL TO ORDER AND ROLL CALL**

Mayor Blake called the March 11, 2008 Town Council Meeting to order at 7:30 p.m. The following members answered roll call: Mr. Bergeron, Mr. Mamula, Ms. McAtamney, Mr. Rossi, Mr. Millisor, Dr. Warner and Mayor Blake.

**APPROVAL OF MINUTES** – February 26, 2008 Regular Meeting

Dr. Warner commented that on the last page of the minutes the title should say “licensed” not “ucensed”.

**APPROVAL OF AGENDA**

Town Manager, Tim Gagen, removed the first resolution, The Chihuahua Resolution from the agenda.

**COMMUNICATIONS TO COUNCIL**

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

1. Marty Lessow- commented that Woods Drive and French where the skiers cross from the free parking lot to the Gondola lot does not have a crosswalk. He believes there will be a tragedy. He wondered why the Elite Athletes April Fools Day was cancelled.
2. Dave Newkirk- He wanted to make it clear that the letter he wrote to the Council was his letter and not on behalf of the School District. He has been working on this for a while. Mr. Bergeron asked how bad the fields are. Dave commented that last year no one took care of them in the beginning of the year and some things were done mid season. He would like to keep them to the standard that they
2. Tony Lord addressed a speed limit change on Tiger Road. The last traffic study was done in the summer. He feels that 40 MPH is too high especially because of the increase in residents. Visibility is impaired during the winter because of the high snow banks. He feels the speed limit needs to reduce and is the cause of Wendy Fields death. It goes back to 30 MPH after the Town limits when it becomes County Road. In the future there will be even more dump trucks on that road so it will be heavily traveled. He thinks it needs to be looked at.
3. David Jefferson- echoed Tony’s comments. His driveway is a school district bus stop. It is not a good situation. Feels it can be dropped. There is not another 40 MPH speed limit in Town other than Highway 9.
4. Alton Scales, CMC President- Ground breaking on April 8<sup>th</sup> at 3:00. On St. Patrick’s day they are sponsoring a Poetry Slam.

B. BRC Director’s Report – Corry Mihm- Addressed some of Marty’s concerns about April Fools Day. They have been working to minimize some of the counter productive efforts associated with April Fools. The ski area, town and BRC have been trying to stop some of the negative aspects of April Fools Day because of Gapper Day which has come out of it. Restaurant Association decided not to do the BBQ because they did not want to look like they are supporting Gapper Day. Focus for Spring Massive is on comedy and music. Candidate Meet and Greets are coming up- March 13 and March 27. They have hosted some media over the last week. They have had some freelancers in and family focused media that the State brought in. Group Sales Numbers for 2007- Total group sales portion of lodging revenue is 15.2% of the total, roughly \$14.4 million of group lodging out of the total lodging. 8.2% is groups that the BRC has been involved with. They have been trying to focus on how to help people manage their experience while here on our super peak times. They have put together travel tips so guests understand what to expect. They hope to help people understand what the experience will be like.

Mayor Blake commented on Dave Newkirk’s comments and that they did go to the School District who committed to maintaining the fields. He also commented on the speed limit comments and said that going to the Chief was the right person to go to and that they will continue to look at it.

**CONTINUED BUSINESS**

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

**1. Council Bill No. 6, Series 2008- AN ORDINANCE ADOPTING AMENDED GUIDELINES FOR LAND USE DISTRICT 33**

Tim Berry commented that at the last meeting the Council adopted an ordinance placing the recently annexed Stan Miller property in Land Use District 33. However, as was acknowledged in the Annexation Agreement, the Land Use Guidelines for District 33 need to be amended in order to allow for the development of the Stan Miller property as contemplated by the annexation proposal. It is a condition of the Stan Miller Annexation Agreement that the Land Use District 33 Guidelines be amended to accommodate the proposed Stan Miller development.

The revised guidelines will allow for the Planning Commission to consider and ultimately approve (if appropriate) the proposed Master Plan for the development of the Stan Miller property. Without the amendment to the Land Use District 33 Guidelines, the proposed Stan Miller Master Plan cannot be approved as submitted.

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

Mr. Bergeron moved to approve Council Bill No. 6, Series 2008 on second reading. Mr. Mamula made the second. The motion passed 7-0.

**2. 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 the ordinance would amend the Town's 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. Town's Joyriding Ordinance does not apply to felony auto theft therefore 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.

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

Mr. Bergeron moved to approve Council Bill No. 9, Series 2008 on second reading. Mr. Millisor made the second. The motion passed 7-0.

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

**1. Council Bill No. 10, Series 2008- AN ORDINANCE AMENDING SECTION 12-6-4 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE DISCONTINUANCE OF WATER SERVICE TO OUT OF TOWN WATER CUSTOMERS WHEN NECESSARY TO COMPLY WITH A CEASE AND DESIST ORDER**

Tim Berry commented that the Town's Water Ordinance authorizes the Town to discontinue water service to customers under certain circumstances, the most common being non-payment of water charges.

The ordinance would authorize the Town to discontinue water service when a final, nonappealable order has been issued directing an out-of-town water customer to stop using his or her septic system.

Mr. Mamula moved to approve Council Bill No. 10, Series 2008 on first reading. Mr. Bergeron made the second. The motion passed 7-0.

**2. Council Bill No. 11, Series 2008- AN ORDINANCE REPEALING CHAPTER 6 OF TITLE 4 OF THE BRECKENRIDGE TOWN CODE CONCERNING SECURITY GUARDS**

Tim Berry commented that this ordinance would repeal the Town's Security Guard Licensing Ordinance. Under the current ordinance, the Town has the duty and responsibility to provide a license for security guard applicants of all employers in Breckenridge. By providing this license, this ordinance also requires the Town to review and evaluate the application, and ensure that applicants are "...of good character and reputation". In addition, the Town must review evidence that demonstrates that the applicant's "*mental and physical conditions are such as to warrant confidence that his performance will not jeopardize the health, safety or welfare of any person.*"

By assuming responsibility for the above, the Town is in a position of being required to conduct thorough background reviews of all local security guard applicants. In the past, this has not proven too difficult, as generally only one security guard was hired by a local establishment. There has recently been an addition of ten (10) new Breckenridge Emergency Services staff members hired by Vail Resorts, and we anticipate further use of security guard services by local employers.

As such, placing the burden on the Town to make certain that the backgrounds of these individual security applicants is appropriate is no longer feasible. This appears to be a responsibility of any employer when hiring an employee, and can now be obtained through a variety of service providers who verify backgrounds of applicants. The Chief does not feel the Town should be in the position of regulating the application and hiring process for security guards retained by local employers.

Mr. Millisor moved to approve Council Bill No. 11, Series 2008 on first reading. Ms. McAtamney made the second. The motion passed 7-0.

**3. Council Bill No. 12, Series 2008- AN ORDINANCE APPROVING AN AGREEMENT TO EXCHANGE REAL ESTATE WITH THE ROCK PILE RANCH OWNERS ASSOCIATION, INC., A COLORADO NONPROFIT CORPORATION**

Tim Berry commented that the ordinance would approve a proposed land exchange with the Rock Pile Ranch Owners Association. The purpose of the exchange from the Town's perspective is to acquire 25,364 square feet of land owned by the association located just north of the Rock Pile Ranch Condominium on Airport Road and west of the Town's Block 11 property. In exchange, the Town would convey to the Association a parcel of equal size to be carved out of the Town's Block 11 property adjacent to (and easterly of) the Rock Pile Ranch Condominium.

Dr. Warner moved to approve Council Bill No. 12, Series 2008 on first reading. Mr. Rossi made the second. The motion passed 7-0.

**4. Council Bill No. 13, Series 2008- AN ORDINANCE APPROVING A FRANCHISE AGREEMENT BETWEEN THE TOWN OF BRECKENRIDGE AND PUBLIC SERVICE COMPANY OF COLORADO**

Tim Berry commented that the ordinance would approve a 20 year franchise agreement. Both Mr. Fellman and a representative from the PSCo will be here for second reading.

Mr. Mamula didn't feel right about it. He felt like the Town was just having to say "yes". It would be nice to have some leverage. Their level of customer service is not great up here. The Town does not get much except electricity from this and a small franchise fee.

Tim Berry commented that Franchise Agreements do not vary much from municipality to municipality and he feels they have done a good job with this agreement. He will indicate to Todd Anderson that the Council was not completely happy with the franchise agreement.

Dr. Warner moved to approve Council Bill No. 13, Series 2008 on first reading. Ms. McAtamney made the second. The motion passed 4-3 with Mr. Bergeron, Mr. Mamula and Mr. Rossi opposing.

**5. Council Bill No. 14, Series 2008- AN ORDINANCE APPROVING AN AGREEMENT WITH STILES PARTNERSHIP LLP AND STILES II PARTNERSHIP LLP**

Tim Berry commented that In December of 2007 the Council supported the proposed cost for exterior façade improvements to the back of the Bunchman building (215 S. Main St.) in exchange for a perpetual easement for the remaining property (less the existing outdoor seating area for the Crown) to allow for riverwalk improvements and staging of special events.

The agreement and easement would commit the Town to pay up to \$127,182 for the proposed facade improvements. Any cost savings would be a savings for both parties. The Town in turn will be able to construct walkways, landscaping improvements, locate street furniture and lighting and stage special events within the easement area. The proposed facade improvements and landscaping will receive the appropriate development permit prior to any construction.

Mr. Bergeron moved to approve Council Bill No. 14, Series 2008 on first reading. Dr. Warner made the second. The motion passed 7-0.

**6. Council Bill No. 15, Series 2008- AN ORDINANCE REPEALING AND READOPTING WITH CHANGES CHAPTER 1 OF TITLE 8 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE BUILDING CODES OF THE TOWN OF BRECKENRIDGE; ADOPTING BY REFERENCE AND AMENDING THE INTERNATIONAL BUILDING CODE, 2006 EDITION; THE INTERNATIONAL RESIDENTIAL CODE, 2006 EDITION, INCLUDING APPENDIX CHAPTERS G AND K; THE INTERNATIONAL MECHANICAL CODE, 2006 EDITION, INCLUDING APPENDIX A; THE INTERNATIONAL PLUMBING CODE, 2006 EDITION; INCLUDING APPENDICES C, E, F AND G; THE INTERNATIONAL ENERGY CONSERVATION CODE, 2006 EDITION; THE NATIONAL ELECTRICAL CODE, 2008 EDITION; THE ICC ELECTRICAL CODE—ADMINISTRATIVE PROVISIONS, 2006 EDITION; THE INTERNATIONAL FUEL GAS CODE, 2006 EDITION, INCLUDING APPENDICES A AND B; THE UNIFORM CODE FOR BUILDING CONSERVATION, 1997 EDITION, INCLUDING APPENDIX CHAPTER 3; AND THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, 1997 EDITION; AND PROVIDING PENALTIES FOR THE ENFORCEMENT OF SAID CODES**

Tim Berry commented that the Building Codes currently adopted by the Town are the 2000 International Code series and the 2002 National Electric Code. The International Code series is published and updated by the International Code Council on a three-year basis. The 2006 series of codes are the most updated published codes. The Electrical Code is published by the National Fire Protection Agency and the 2008 Code is the latest published edition. To enforce the provisions of the latest published codes, Council must adopt those codes by reference along with local amendments as deemed appropriate.

In conjunction with the code update, an additional code the 2006 International Energy Conservation Code has been included for adoption. Colorado House Bill 07-1146 effective July 1, 2007, requires that any Municipality that has adopted a Building Code must adopt an energy code by July 1, 2008. An energy code means, at a minimum, the 2003 International Energy Conservation Code, or any successor (such as the 2006 Code). Breckenridge does not currently have an adopted energy code. The State legislation applies to all buildings, including mixed use, commercial and residential. Adoption of the 2006 International Energy Conservation Code will satisfy the state legislation.

Mr. Bergeron moved to approve Council Bill No. 15, Series 2008 on first reading. Mr. Mamula made the second. The motion passed 7-0.

**7. Council Bill No.16, Series 2008- AN ORDINANCE AMENDING CHAPTER 1 OF TITLE 9 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE”, BY ADOPTING POLICY 4 7(ABSOLUTE) CONCERNING FENCES AND GATES**

Tim Berry commented that the version of the ordinance has changes from the last time the Council saw it on January 2, 2008 which include the following: They have modified the definition of “solid to void ratio” to indicate that the measurement is at each section of the fence, rather than an average along the entire length of the fence. They have added a definition of “landscape wall” and “gateway entrance monument”. Landscape walls and entrance monuments would be prohibited similarly as fences. The definition of “gateway entrance monument” has been modified from the January 2, 2008 version. They did not make any changes to the proposal to allow non-natural and recycled materials (“Trex”), where an applicant can demonstrate to the Town that the alternate material would be indistinguishable from natural materials. They did not feel there was clear direction on this issue at the January 2, 2008 meeting. They have proposed to allow fenced in children’s play areas, with design criteria similar to pet fences. They propose an exemption to developments subject to vested master plans containing design criteria for fences written into the plan, where the master plan was approved prior to the adoption of this ordinance. This would include Vista Point and the new Block 11 development (if fence design standards are incorporated into the final master plan.) The Wellington Neighborhood does not currently include fence criteria in the master plan. The master plan would need to be modified via a Class C minor development permit in order to include the fence criteria. Exempt cemetery fences, but we have encouraged designs similar to fences in the historic district.

Mr. Mamula moved to approve Council Bill No. 16, Series 2008 on first reading. Ms. McAtamney made the second. The motion passed 7-0.

**C. RESOLUTIONS, SERIES 2008**

**1. A RESOLUTION RESTRUCTURING AND REESTABLISHING THE TOWN OF BRECKENRIDGE PUBLIC ARTS COMMISSION**

Tim Berry commented that the resolution would restructure the Breckenridge Public Art Commission (BPAC) from nine members back to seven.

When the Town Council Representative was added to the BPAC several years ago they added an additional Commission member to keep an uneven number of Commissioners, while still allowing the existing Commission to fulfill their terms. Since the BPAC no longer has a Town Council representative they believe that it is appropriate to go back to a seven member Commission.

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

Dr. Warner moved to approve the Resolution, Series 2008. Ms. McAtamney made the second. The motion passed 7-0.

**D. OTHER**

**1. Recreation Center Campfires-** The Town of Breckenridge Recreation Department would like to hold two Family Campfires as part of its 2008 program schedule. The events are scheduled for Tuesday, March 18, and Tuesday November 25, 2008, from 7:00 pm to 8:00 pm at Carter Park, and will be open to the public. This program is a donation based program with proceeds going towards Outdoor Recreation and Education programs and events (formally known as the "Nature Series"). The fire itself would take place in a portable metal fire pit, most likely on a layer of snow. The location of the fire would be in the open field/space east of Carter Park Pavilion at the bottom of the sledding hill. The area would be clear of sledders, since the sledding hill is closed after dark. In keeping with fire regulations from the Red, White, and Blue Fire Protection District, the campfire will be at least 20 feet from the Carter Park Pavilion or any other structure. The fire will not be a bonfire, but a small family campfire complete with an educational component, songs, skits, stories, and marshmallow roasting.

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

Mr. Millisor moved to approve a special permit to allow the Breckenridge Recreation Department (specifically Outdoor Recreation and Education) to present a family campfire to the public, on Tuesday March 18, and Tuesday, November 25, 2008, from 7:00 pm to 8:00 pm at Carter Park. All burning at the family campfire shall comply with the "Open Burning" requirements of Section 307 of the International Fire Code, 2003 Edition. Ms. McAtamney made the second. The motion passed 7-0.

**PLANNING MATTERS**

• **Planning Commission Decisions of March 4, 2008.**

With no requests for call up, Mayor Blake stated the Planning Commission decisions of the March 4, 2008 meeting will stand as presented.

• **Town Council Representative Report.**

Dr. John Warner commented that he believes he had an ex-parte contact with Don Nilson at a social gathering. They were talking about the value of the bike path and that he felt the bike path on the west side of Blue River would be a great idea. It is pending application with the planning commission right now.

**REPORT OF TOWN MANAGER AND STAFF**

Tim Gagen, Town Manager, commented on Marty's comments on Highway 9 and that we have made a commitment to CDOT to not make crosswalks. Mr. Mamula commented that we will have to push the ski area to do something and this is the ski areas problem and they need to solve it. Mr. Gagen commented that it would be tough to go back on our word. Chief Holman commented that he would prefer to go after the ski area to do something than create a crosswalk because we'll have the same problem we do at the village. Dr. Warner felt we have some responsibility to make this right and create a good guest experience. Mr. Mamula commented that because the ski area charges for parking in the other lots that is what is creating the problem because people have to park in the Gold Rush lot to get free parking. Mr. Rossi wants there to be a crosswalk because he doesn't care about upsetting CDOT and going back on our word..

**REPORT OF MAYOR AND COUNCILMEMBERS**

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

Mayor Blake commented that Mr. Gagen commented on CAST earlier.

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

Mr. Bergeron commented that they talked about Cucumber Gulch Signage and Erin McGinnis created some great signs. It will cost \$11,000. Heide Anderson presented pictures of what the signs will look like. There will be a site visit on Monday 3/31 at 4:00 pm at the Peabody Trailhead. The agenda item is to discuss the proposed Golden Horseshoe Nordic expansion.

**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 had nothing to report.

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

Mr. Bergeron had nothing to report.

***OTHER MATTERS***

They met with the bar owners and they heard from many bar owners that they feel that lack of late night transit service is a cause for altercations. He told them about the problems we are already having with employing bus drivers.

Dr. Warner commented that he called the City Market Manager about Single Use Bags. She is in favor of the canvas bags. Corporately they are aware of the problem and they are selling canvas bags. Mr. Mamula asked if there was a way of linking the cards to whether someone uses a reusable bag.

***SCHEDULED MEETINGS***

***ADJOURNMENT***

With no further business to discuss the regular meeting was adjourned at 9:10 pm.

Submitted by Alison Kellermann, Administrative Services Coordinator

**ATTEST:**

---

Mary Jean Loufek, CMC, Town Clerk

---

Ernie Blake, Mayor