

CALL TO ORDER AND ROLL CALL

Mayor Warner called the April 22, 2008 Town Council Meeting to order at 7:45 p.m. The following members answered roll call: Mr. Bergeron, Mr. Joyce, Mr. Mamula, Ms. McAtamney, Mr. Rossi, and Mayor Warner.

COMMUNICATIONS TO COUNCIL

- A. Comments Related to Council Appointment (please limit to a couple of people per Council candidate; 2 minute limit)
1. Barree Stimson- Endorsed Carol Rockne for Council.
 2. Lucy Kay- Endorsed Rob Millisor for Council.
 3. Carl Nilson- Endorsed Carol Rockne for Council.
 4. Steve Lapinsohn- Endorsed Rob Millisor for Council.

ELECTION OF COUNCIL MEMBER & OATH OF OFFICE

Mayor Warner stated: "The first item of business on tonight's agenda is the election of a new Councilmember. The Council currently has a vacancy that was caused when I resigned after my election as Mayor. At the time of my resignation there were two years remaining on my term.

Section 4.8(c) of the Town Charter provides that when a Council seat becomes vacant the remaining members of the Council shall, within 60 days after the vacancy occurs, choose by majority vote a duly qualified person to fill the vacancy. The person who is elected tonight to fill the vacancy on the Council will serve only until the next regular Town election in April, 2010. At that time, his or her successor will be elected for a full 4 year term.

Neither the Charter nor the Town Code specifies a procedure to be used to fill a vacancy on the Town Council. As a result, the Council selected a procedure that we think is fair and will lead to the seating of the new Councilmember at the earliest practical date. We advertised for applications from interested persons. We received a total of 7 applications. This afternoon, we interviewed each of the 7 applicants. It is now time for us to fulfill our duty under the Charter by electing a person to fill the current vacancy on the Council.

In this situation, the Town Council's "Procedures and Rules of Order" establishes the procedure we are to follow when electing the new Councilmember. Section 9.2 of the Council Rules provides as follows:

Elections to fill a vacancy on the Council will be held by ballot. After the votes are cast, the Town Manager will collect and count the votes. The Town Manager will then announce the results. If any of the nominees receives a vote of the majority of the remaining Councilmembers in office on the first ballot, he or she shall be declared elected without further Council action. If none of the nominees receives such a majority vote at the end of the first balloting, the candidate receiving the fewest number of votes will be dropped as a candidate unless the elimination of such name (or names in cases of a tie vote) would leave only one candidate for the office. This process will continue until one candidate receives the majority vote of the remaining Councilmembers in office.

Because the Council chose to solicit applications to fill the current Council vacancy, each of the 7 persons who submitted an application will be considered to be a "nominee" within the meaning of Council Rule 9.2, and it is not necessary for any of the 7 candidates to be formally nominated to fill the current vacancy. No person other than the 7 persons who have submitted nominations will be considered to fill the current vacancy.

I also want to be clear that both the Charter and the Council Rules require that for a person to be elected tonight he or she will have to receive the vote of a **majority** of the current members of the Council. Since there are 6 current members, it will take 4 votes for any candidate to be elected to fill the current vacancy on Council."

Mayor Warner stated: Does any member of the Council have any question about the procedure we are going to follow to elect the new Councilmember?

Mayor Warner stated: Do any of the candidates have any question about the procedure we are going to follow to elect the new Councilmember?

Public comment was taken earlier in the meeting.

The Council members voted and passed ballots to Town Manager.

Town Manager, Tim Gagen counted ballots and announced the results. There was a tie vote between Rob Millisor and Carol Rockne. A new ballot was created that included the names of just those two applicants.

The Council members voted and passed ballots to Town Manager.

Town Manager, Tim Gagen counted ballots and announced the results. The majority vote went to Rob Millisor.

Mayor Warner stated: "In accordance with Section 4.8(c) of the Town Charter and Rule 9.2(a) of the Town Council's 'Procedures and Rules of Order', Rob Millisor is declared to have been elected by the Town Council to fill the current vacancy on the Breckenridge Town Council, and to serve until the next regular Town election in April, 2010."

Mayor Warner stated: "The next order of business is for the oath of office to be administered to Rob Millisor by the Town Clerk, Mary Jean."

Town Clerk, Mary Jean administered the oath of office to newly elected Councilmember, Rob Millisor.

CONTINUED COMMUNICATIONS TO COUNCIL

- B. Turf Field Group- 6 representatives were present from this group to promote an artificial turf for the High School, Jim Heese- Summit High School Principle, Rob Godell, Gretchen Neis- Summit High School Athletic Director, Mark Burke- Citizen, Erin Major- Summit High School Board, Tom Looby

Mr. Rossi asked if they have looked at other high altitude communities. How long are they going to last and what are maintenance costs.

Erin Major talked about the entire philosophy of replacing all playing field materials, tennis, track, grass, etc. They do not plan to leave it up to a board in 12 years to replace it. They consider the maintenance fees a wash to the revenues that will be generated.

Mr. Bergeron asked if they were already going with the company that was represented on the sample. Gretchen Neis commented that the sample was from just one company they are looking at and there is a multitude of companies.

Mr. Mamula asked about the dedications of money being taken away from maintenance of other fields in the District? Erin commented that they are looking at an entire plan for all the fields. Tom Looby commented. They have been asked to have a maintenance plan for just this facility and it would not entail taking money away from the maintenance of other fields.

Mr. Joyce asked if the fees collected from this field would go to maintenance of other fields or just this field. They commented that the money would go towards the maintenance of this field.

Mr. Bergeron questioned the lead issue related to health that he read about. The representatives said they were looking into this.

Mr. Gagen asked whether the school district is willing to make a commitment that all the fields for public use will be maintained. Erin commented that this plan will address the current lack of maintenance issue by the School District. Mark Burke commented that they have created a plan now that has never existed.

Marty Lessow- Citizen commented that he saw a program on TV and that he is 100% behind the project but wants to see more about the lead tests that he has been seeing on news reports.

- C. Citizens Comment - (Non-Agenda Items ONLY; 3 minute limit please)
1. Jen McAtamney- presented a Certificate of Notable Achievement to the Town of Breckenridge for tremendous support and funding for professional training/spanish literacy.
 2. Amy Carlson Phelps- Public Art Commission- She promoted Jessie Paige for a Public Art Commission seat.
- D. BRC Director's Report- Corry Mihm- Results of Spring Massive- positive feedback. Preparing for summer and next winter. Just attended some industry conferences. Economy and SummerTravel was a big topic at the conference. Research shows that \$3.50/gallon for gas is when people tend to change their patterns. They will not necessarily stop traveling but they will try to conserve or save in other ways. Thanked the Council for committing to the remodel of the Welcome Center.

Mr. Gagen commented that Council has not committed to the Welcome Center yet but they will be getting a plan soon.

APPROVAL OF MINUTES – April 8, 2008 Regular Meeting

With no changes to the minutes Mayor Warner declared they were approved.

APPROVAL OF AGENDA

Town Manager, Tim Gagen, added an Executive Session under Other Matters.

REUSABLE BAG DAY PROCLAMATION

CONTINUED BUSINESS

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

1. Council Bill No. 17, Series 2008- AN ORDINANCE AMENDING SECTION 9-1-27 OF THE BRECKENRIDGE TOWN CODE, KNOWN AS THE “BRECKENRIDGE DEVELOPMENT CODE” CONCERNING TOWN PROJECTS

Tim Berry commented that this ordinance would amend Section 9-1-27 of the Breckenridge Town Code. The purpose of this amendment is to allow “Attainable Workforce Housing Projects” to be reviewed pursuant to Section 9-1-27 (Public Improvement Projects by Town) of the Breckenridge Town Code under circumstances when the Town owns, leases, or controls the land. There are no changes from first reading.

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

Mr. Mamula moved to approve Council Bill No 17, Series 2008 on second reading. Ms. McAtamney made the second. The motion passed 7-0.

2. Council Bill No. 18, Series 2008- AN ORDINANCE AUTHORIZING THE GRANTING OF UTILITY EASEMENTS TO PUBLIC SERVICE COMPANY OF COLORADO

Tim Berry commented that the ordinance would authorize 2 easements to Xcel Energy on the new child care property. There were no changes from first reading.

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

Mr. Bergeron moved to approve Council Bill No 18, Series 2008 on second reading. Mr. Mamula made the second. The motion passed 7-0.

B. FIRST READING OF COUNCIL BILLS, SERIES 2008-

1. Council Bill No. 19, Series 2008- AN ORDINANCE AMENDING ARTICLE F OF CHAPTER 3 OF TITLE 6 OF THE BRECKENRIDGE TOWN CODE CONCERNING THE MUNICIPAL OFFENSES RELATED TO ALCOHOL

Tim Berry commented that the ordinance will amend the Town Code to create three new Town Code violations related to the operation of liquor-licensed establishments. All three new regulations apply only to activities occurring at an establishment that holds a license to sell alcoholic beverages issued by the Town.

The first new violation prohibits the sale of an alcoholic beverage to a visibly intoxicated person (§1 of the ordinance). There is an existing state law regulating this same subject matter (in fact, the proposed ordinance mirrors the language from the existing state law). However, the Police Department believes that it would be beneficial to have a Town ordinance in place so that violations could be prosecuted in the Town’s Municipal Court, instead of having to be filed in the County Court.

The second new violation is a prohibition against an employee of a liquor-licensed establishment being visibly intoxicated while on duty. There is no state law or current Town ordinance prohibiting this kind of conduct. There have been several instances recently where it appears that employees of liquor-licensed establishments have been intoxicated while at work. An employee who is intoxicated while at work may not be in a position to assure compliance with applicable liquor-related laws, such as checking IDs, watching out for visibly intoxicated patrons or reporting disturbances. The Police Chief has indicated that he thinks the adoption of this proposed ordinance will help the Department’s efforts to combat the problems that have recently developed at some of the liquor-licensed establishments within the Town. Note that the rule does not absolutely prohibit an employee from consuming alcoholic beverages while on duty; it simply prohibits an employee from consuming so much alcohol that they become visibly intoxicated.

The third and final regulation deals with several issues related to the conduct of the liquor-licensed establishment. The broad wording of the proposed new regulation is taken from the current “Conduct of Establishment” administrative regulation promulgated by the Colorado Department of Revenue, Liquor Enforcement Division, and currently enforced throughout the state by the state and local licensing authorities. The adoption of the proposed ordinance, however, would make noncompliance with the “Conduct of Establishment” rule a municipal offense that can be prosecuted and punished in the Town’s Municipal Court. The Police Chief has indicated that he believes the adoption of this regulation will also help address some of the problems that have cropped up at several of the Town’s liquor-licensed establishments.

As with the other Town Code liquor offenses, a violation of any of the three new offenses would be a misdemeanor offense punishable by a fine of up to \$999; imprisonment in the county jail for up to one day less than one year; or both such fine and imprisonment. The actual punishment in a particular case would be determined by the Municipal Judge based upon the facts of the case; the defendant’s criminal history; any mitigating or aggravating factors brought to the attention of the judge; and other factors that the judge felt was relevant to the issue of punishment.

Mr. Dick Carlton commented that after discussions with the Chief of Police, Rick Holman, he is comfortable with it and feels the Restaurant Association didn’t fully understand it when they saw it.

Mr. Bergeron moved to approve Council Bill No 19, Series 2008 on first reading with the deletion of the word “profanity” in line 43. Mr. Mamula made the second. The motion passed 7-0.

2. Council Bill No. 20, Series 2008- AN ORDINANCE ANNEXING TO THE TOWN OF BRECKENRIDGE CERTAIN REAL PROPERTY OWNED BY THE TOWN OF BRECKENRIDGE (Thompson Parcel)

Tim Berry commented that the next 2 ordinances are related to the annexation of a small tract of land that was recently acquired by the Town. The property is located near the intersection of Fairview Blvd. and Highway 9, and it consists of approximately .3 acres. The property is located in unincorporated Summit County and staff believes that it should be annexed since it is now owned by the Town. Staff has reviewed the eligibility requirements for an annexation and believes this parcel is eligible. Colorado law requires that annexed land be zoned within 90 days of annexation. This means that the property must be placed in a Land Use District within 90 days of annexation. An ordinance to place the property in Land Use District 43 follows this ordinance and is the next action item on the agenda.

Mr. Bergeron moved to approve Council Bill No 20, Series 2008 on first reading. Mr. Mamula made the second. The motion passed 7-0.

3. Council Bill No. 21, Series 2008- AN ORDINANCE PLACING RECENTLY ANNEXED PROPERTY IN LAND USE DISTRICT 43 (Thompson Parcel)

Tim Berry commented that the Ordinance would place the property being annexed in the previous Ordinance in Land Use District 43.

Ms. McAtamney moved to approve Council Bill No 21, Series 2008 on first reading. Mr. Bergeron made the second. The motion passed 7-0.

C. RESOLUTIONS, SERIES 2008

1. A RESOLUTION APPROVING A THREE-PARTY VOLUNTEER DRIVER AGREEMENT (VPSI, Inc.)

Tim Berry commented that the resolution addresses the lease arrangement between the Town of Breckenridge and VPSI, Inc. The Town has been working with VPSI, a van pooling company, to provide alternative transportation options at a reasonable cost to employees commuting in from outlying communities. The Town plans to enter into a three-way agreement in which we will be the financial support provider together with a volunteer driver (a Town employee who is one of the people commuting) and VPSI. There is also the ability for an alternate driver to be approved.

As the provider, the Town agrees to take the responsibility for paying VPSI for the expenses, service, and other fees that relate to the vanpooling program. The driver will take on the responsibility of fueling and making sure that the van gets maintained, cleaned, and repaired when necessary. The driver will operate the vehicle in accordance with all applicable laws, ordinances, rules and regulations. VPSI represents in the agreement that it will provide the vehicle, as well as its licensing, registration, insurance and maintenance. VPSI will also assume the risk of loss of or damage to the vehicle. Staff will fill in the appropriate details, such as monthly fees, mileage allowance, etc. prior to the Town Manager signing the agreements. Some of these figures will depend on the actual vehicle and the number of riders that will be participating.

At the present time, there is one van that is set up and ready to go, pending the approval of the attached resolution. This van will be travelling from Fairplay to Breckenridge with mainly public works employees. This vanpool will likely begin operating at the beginning of May. Our hopes are that this will be a model vanpool that will encourage expansion of the program in numbers and geographic extent. Through the Green Team budget, the Town has committed to pay 50% of the costs of each program participant.

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

Mr. Bergeron moved to approve the Resolution, Series 2008. Mr. Mamula made the second. The motion passed 7-0.

2. A RESOLUTION APPROVING A "RIGHT START CAPACITY BUILDING IMPROVEMENT PROGRAM GRANT AGREEMENT FOR THE TIMBERLINE LEARNING CENTER"

Tim Berry commented that the resolution would approve an agreement between the Town and the County concerning a \$200,000 grant for the new childcare center. The County awarded the Town a grant to help defray the cost of construction of the center. This agreement outlines the terms and conditions for the grant.

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

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

3. A RESOLUTION CONCERNING THE "TRANSPORTATION ELECTRONIC AWARD & MANAGEMENT PROCESS (TEAM)" DATABASE

Tim Berry commented that the resolution would designate the staff positions that have signatory authority for Transportation Electronic Award & Management Process (TEAM). This is the grant management program on the web for the FTA. With the absence of the Transit Division Manager the Town is unable to initiate current grants for the hybrid buses. This will allow the Town to apply for the FTA money for those buses.

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

Mr. Mamula moved to approve the Resolution, Series 2008. Mr. Millisor made the second. The motion passed 6-1.

D. OTHER

1. Planning Commission Appointment

A vote was taken by paper ballot. The vote resulted in a majority for Leigh Girvin.

2. BOSAC Appointment

A vote was taken by paper ballot. The vote resulted in a majority for Ellen Hollinshead, Scott Yule and Dennis Kuhn.

3. PAC Appointment

A vote was taken by paper ballot. The vote resulted in a majority for Jessie Paige.

4. LLA Appointment

Mr. Mamula moved to appoint Turk Montepare to the LLA. Mr. Rossi made the second. All were in favor.

5. Council Committee Appointments

Mayor Warner commented on the appointment of a Town Council Representative on the Planning Commission. He does not see the value. He asked for the Town Council's thoughts. They discussed the options and ideas behind it. Mr. Rossi asked if the Mayor had spoken with the Planning Commission. Mayor Warner commented that he had not spoken with them yet. Ms. McAtamney and Mr. Rossi commented that the minutes need to be better and more detailed. Mr. Mamula doesn't think there should be any minutes for Planning except for the items that are Final Hearings. Mr. Bergeron commented that it really takes a long time to learn the Planning process and codes. Mr. Joyce questioned what the process is for a Council member and what they are allowed to do. Mr. Rossi does not want detail taken out of the minutes and to take a Council member out of the process. Mr. Mamula commented that he doesn't think they need to beef up all the items in the minutes but possibly the final items. Mayor Warner commented that they would need to talk to Planning Commission and Tim Berry. Tim Berry commented that this is what he has been pushing towards. He said it is not fundamentally fair for a Council member to sit on both the Planning Commission and Town Council which is why the Council member is disqualified from voting on a call-up. He believes it is important to have a full Council vote for a call-up to make a final decision on a controversial application. It is cleaner from a legal standpoint not to have a member on the Planning Commission but does not want that to drive the decision. Mr. Mamula commented that if they do go down this road then they need to have more frequent meetings with the Planning Commission. Mayor Warner asked the Council if it was ok to delay the appointments until a future meeting. They may confirm them at the retreat.

PLANNING MATTERS

• **Planning Commission Decisions of April 15, 2008.**

With no requests for call up, Mayor Warner stated the Planning Commission decisions of the April 15, 2008 meeting will stand as presented.

• **Town Council Representative Report.**

REPORT OF TOWN MANAGER AND STAFF

Tim Gagen, Town Manager, had nothing to add.

REPORT OF MAYOR AND COUNCILMEMBERS

A. Report of Mayor (CAST/MMC)

Mayor Warner had nothing to report.

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

Tim Gagen had nothing to report.

E. Breckenridge Heritage Alliance (Ms. McAtamney)

Ms. McAtamney commented that things are proceeding with the Carter Museum. Also working hard on engine #9.

OTHER MATTERS

Tim Gagen commented on a memorial or donation for Beau Beiling. He explained the process to the Council. Mr. Joyce commented that he would love to see the support of the Town.

Mr. Mamula commented on the piles of dirt on the roads from the Peak 7 projects. Chris Neubecker commented that staff has been looking into this.

SCHEDULED MEETINGS

ADJOURNMENT

At 10:20p.m. Mr. Rossi 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(b) of Section 24-6-402, C.R.S., relating to

conferences with the Town Attorney for purposes of receiving legal advice on specific legal questions. Mr. Joyce made the second. All were in favor.

At 10:33 p.m. Mr. Mamula moved to convene in the Town Council's regular meeting. Mr. Rossi made the second. All were in favor of the motion.

The Council discussed Retreat dates. They decided on May 20th if that works for staff.

With no further business to discuss the regular meeting was adjourned at 10:45pm.

Submitted by Alison Kellermann, Administrative Services Coordinator

ATTEST:

Mary Jean Loufek, CMC, Town Clerk

John Warner, Mayor