

*Town of Estes Park, Larimer County, Colorado, June 10, 2008*

Minutes of a Regular meeting of the Board of Trustees of the Town of Estes Park, Larimer County, Colorado. Meeting held in the Town Hall in said Town of Estes Park on the 10<sup>th</sup> day of June, 2008. Meeting called to order by Mayor William C. Pinkham.

Present: William C. Pinkham, Mayor  
Trustees Eric Blackhurst  
Dorla Eisenlauer  
John Ericson  
Richard Homeier  
Jerry Miller

Also Present: Attorney Greg White  
Jacquie Halburnt, Town Administrator  
Lowell Richardson, Deputy Town Administrator  
Jackie Williamson, Town Clerk

Absent: Chuck Levine, Mayor Pro Tem

Mayor Pinkham called the meeting to order at 7:00 p.m. and invited any person desiring to participate to stand and recite the Pledge of Allegiance.

PUBLIC COMMENT

Linda Farrell/Town Citizen addressed the upcoming redevelopment proposal of the Elkhorn Lodge and requested the development not move forward unless the following issues are addressed: less density, increase setbacks from existing development, less lighting of the property, bypass road centered through the property, wetland protection, river and waterfall protected. Current development/neighborhoods should be protected from new development.

Jim Tawney/Ponderosa Lodge owner spoke to the 1993 tourist season in which lodges were full, parking was difficult to find and traffic jams were an everyday occurrence during the summer. The Town should focus on how to reenergize the community to what it once was.

David Habecker/Town Citizen again requested the Board refrain from reciting the pledge at the Town Board meetings.

TOWN BOARD COMMENTS

Trustee Blackhurst reminded the public that the Estes Park Housing Authority would meet Wednesday, June 11<sup>th</sup> at 8:30 a.m. in Room 203, and the Utilities Committee would meet Thursday, June 12<sup>th</sup> at 8:00 a.m. in the Board room.

**1. CONSENT AGENDA (Approval of):**

1. Town Board Minutes dated May 27, 2008.
2. Bills.
3. Committee Minutes:
  - A. Community Development, June 5, 2008:  
CVB
    1. CVB South Parking Lot Closure, June 21, 2008.
    2. Colorado Hunter Jumper Show Contract, July 25-27, 2008.

It was **moved and seconded** (Eisenlauer/Ericson) **the Consent Agenda be approved**, and it passed unanimously.

## **2. REPORTS AND DISCUSSION ITEMS:**

1. **Rocky Mountain National Park Update.** Superintendent Baker provided an update on issues and activities within the park:
  - Lumpy Ridge Trailhead – Trail was completed and opened to the public last summer. Gem Lake and Twin Owls Trailheads are now closed.
  - USPS Apline Tundra Stamps – Ten new stamps have been available since August of 2007.
  - Naturalization Ceremony – The Park hosted the ceremony in Moraine Park Campground and 46 people became U.S. citizens in 2007.
  - Sister Park Relationship – An agreement was signed with the Tatra National Park in both Slovakia and Republic of Poland.
  - Road Projects – No major road projects are scheduled for the Park this summer; however, a couple of chip seal projects are scheduled. Last year's project was completed on time and 10,000 tons of asphalt was recycled.
  - Fire Operations Center – The center was opened in the fall of 2007 and is fully operational. A Town structural fire engine has been placed in the center.
  - Wilderness Legislation – Senate Bill 1380 was introduced in May 2007. The bill has been held up due to other provisions related to the Grand Ditch. The Senate Energy and Natural Resource Committee has reported out an amended version of the bill in May, and therefore, is clear for floor action in the Senate. The bill could move forward later this year.
  - Grand River Ditch Breach – In 2003, a damage assessment was conducted and a claim was filed with the operators of the ditch. On May 5<sup>th</sup> the party settled for \$9 million. The Park will now move forward are restoration of the area.
  - Elk & Vegetation Management Plan/EIS – The Park is proceeding with the implementation of the plan including the use of fencing, redistribution and culling. WildEarth Guardians have filed a lawsuit claiming the Park has inadequately considered the reintroduction of a self regulated population of wolves in the park.
  - Elk Research – RMNP is the testing grounds for a new live test for Chronic Wasting Disease within the free ranging elk herd. 11% prevalence of CDW was found. A multi-year fertility control agent was also tested on 60 of the animals.
  - Air Quality – Ozone alerts will only be issued when Park equipment determines it is needed. In the past, ozone alerts have been issued in conjunction with the Denver Metro area; however, with the lowering of the standards by the EPA and the State, more ozone alerts are forthcoming for the Denver Metro area.
  - Recycling – The Park program has been increased to include plastics.
  - Shuttle System – Beginning the third year of a cooperative agreement with the Town. The Hiker shuttle will run seven days a week beginning June 28<sup>th</sup> through Labor Day. A new Trail Ridge Road tour to the Alpine Visitor Center will run on Wednesdays in July and August. Tickets will be sold at the Beaver Meadows Visitor Center.
  - Highway Corridor Plan – A draft plan will be available this summer.
  - East Side Projects – Chasm Meadow Patrol cabin is scheduled to be rebuilt. A new roof will be place on the Alpine Visitor Center.
  - CRD Projects – 2008 projects include Timber Creek Campground entrance and primary power line rehabilitation from Grand Lake. 2009 projects include resurfacing of Trail Ridge Road from the west park

boundary to Colorado River trailhead and rehabilitation of Grand Lake entrance station.

- Recreation Fee Program – The Park is proposing an increase for the RMNP Annual Pass from \$35 to \$40 in 2009.
- Centennial Initiative – Additional money has been made available for seasonal employees for needed improvements prior to the Centennial in 2016 for restoration projects. Rocky Mountain Nature Association is promoting The Next Generation Fund to raise \$10 million to cultivate the next generation of youth as future stewards of our public lands.
- Mike Lewelling/Fire Management Officer provided an update on the Park's fuel treatment and beetle management. In the past mechanical fuel treatments have been completed. With the development of a new fire management plan, prescribe burning will be used to address fuel loading in the future. The Park's pine beetle management has been and continues to be focused on removing hazardous trees and fuels as it is tied to the protection of life and property. The campgrounds will not be opened until the areas are safe to occupy. The Park has environmental approval to spray 5,000 trees on both the east and west sides and will concentrate on historic districts and high value areas like the campgrounds. New flyers have been posted at the trailheads with regard to falling tree hazards.

### 3. ACTION ITEMS:

#### 1. COMPREHENSIVE PLAN STATISTICAL UPDATE.

Director Joseph stated the Estes Valley Housing Authority Needs Assessment and the 2006 Intercept Study have been incorporated into the revised statistical update to the Comprehensive Plan as requested by the Board. In addition, the 2007 Housing Needs Assessment determined Estes Valley build out is at 72%. It was **moved and seconded** (Blackhurst/Homeier) **to recommend approval of the statistical updates to the Estes Valley Comprehensive Plan as amended to the Estes Valley Planning Commission**, and it passed unanimously.

#### 2. SAPLING GREEN DEVELOPMENT, LOT 35, GRAND ESTATES SUBDIVISION.

Planner Shirk reviewed the staff report. The proposed development would locate a daycare/school/fenced playground on the west end of the lot and nine residential units on the eastern portion of the lot with four deed restricted for low (median) income housing for those earning 100 to 120% AMI. The current "CO" zoning allows both schools and daycare centers as permitted "use-by-right". The applicant requests the rezoning to allow the multi-family dwellings that are not allowed in the "CO" zoning district. The proposed "RM" zoning allows schools but requires Special Review for the daycare center. The preliminary condominium map is required to allow the sale of individual units. The Estes Valley Comprehensive Plan (EVCP) includes policy to encourage commercially zoned property to be used for commercial uses and to encourage housing infill; provide mixed use developments; encourage a variety of housing types and price ranges, and identify affordable housing opportunities. The development addresses a loss of daycare and affordable housing; compatible and consistent with polices of the EVCP by providing a mixed use. Planning Commission recommended approval of the development contingent on the rezoning of the property.

Attorney White reviewed the effects of the proposed development if approved on two adjacent properties that currently hold liquor licenses. The State Liquor Code prohibits a new liquor license within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary. The proposed school

meets the definition of a school. The two current liquor establishments are grandfathered and can be renewed and/or transferred. However if the licenses lapsed, revoked or a change of class was filed, the state law would apply and a new license could not be issued.

Steve Lane/Basis Architecture stated the Estes Park Early Childhood Center has been housed in the Community Church of the Rockies; however, the school has outgrown the location. The school has been looking for property for the past two years and run into difficulty in areas where land was affordable, limited to location based on code requirements, and commercial property where a school and daycare are permitted uses has been too expensive. The proposed development combines the school/daycare with affordable housing in an effort to make the project feasible. The proposal encompasses the two current uses in the neighborhood, commercial and residential multi-family, on this transitional property and accomplishes the goals of the EVCP. The affordable housing targets an income level (100 – 120% AMI) not addressed by either Habitat for Humanity (50% AMI) or the Estes Park Housing Authority (80% AMI). A traffic study was conducted and approved by CDOT. Building heights meet the standards of the EVDC. Mr. Lane reiterated Attorney White's comments regarding the effect of the proposed school for the adjacent property owners and liquor licensees. He also stated there is no state or local law that prohibits a school from being built within 500 feet of a liquor establishment. The state statute anticipated this circumstance and provides municipalities the ability to eliminate the 500 foot requirement. The proposed development would be an asset to the community, provide child care, and affordable housing.

Nancy Johnson/ Estes Park Early Childhood Center Director provided a brief history of the school that began in 2001 with a daycare facility. The center has grown and now provides private kindergarten and first grade along with the daycare to more than 67 children.

Trustee comments/questions are summarized: why is the housing needed for this project if the main goal is the development of a school/daycare; questioned the neighborhoods response to the development; do local modifications to the liquor code need to be adopted prior to the approval of the development.

Mr. Lane stated the housing units are needed to provide financing for the purchase of the commercial property and the construction of the school. Neighborhood comments have been favorable with the exception of concerns from the adjacent liquor licensees and concerns regarding drainage.

Rita Kurelja/Director of Estes Park Housing Authority spoke in favor of the development. Based on the recent Housing Needs Assessment, 47 additional housing units will be needed by 2015 for those earning 100% to 120% AMI. Those units would need to be developed by a private developer because the Housing Authority only serves those earning 80% AMI, as regulated by state and federal law.

Mary Bolgeo/President of Estes Valley Investment in Early Childhood Success, Stacy Ferree/County Resident, Eric Waples/Town Resident, Amy Lane/ Town Resident spoke in favor of the project. Affordable and reliable daycare is needed within the valley to recruit and retain families. The project demonstrates reasonable and responsible development by encompassing multiple uses on the lot.

David Habecker/ Town Resident supports the project; however, expressed concern with the location of a school directly adjacent to a liquor establishment. As a liquor license holder, businesses need to be assured their businesses are protected.

Bill Kaufman/Attorney representing Monte and Carole House (Grumpy Gringos) and Larry and Cherie Pettyjohn (property owners for Rambos Liquor) requested the Board deny the rezoning and Special Review. The proposal does not meet the standards set forth in Chapter 1 of the EVDC or the State Liquor Code requiring a liquor establishment not be located within 500 feet of a school. He stressed the importance of a restaurant to have a liquor license and that a new license could not be issued at a later date if the school was built.

John Phipps/Attorney representing Sapling Green Development stated the statutory requirements for the issuance of the two liquor licenses in question have been met and the two businesses are grandfathered. He stated the liquor license establishments are seeking future protection beyond the state statute. The statute does not apply to this proposed development. He stated to deny the proposal based on the state statute would be an arbitrary application of an inapplicable law. He reiterated the local licensing authority has the capability to reduce the standards set forth in the state statute.

Monte and Carole House/Grumpy Gringos stated their concern for their property values and the effects the proposal would have on their livelihood. A school should not be built so close to a major highway in a commercial zone. The school should be located with the other schools.

Trustee discussion is summarized: the proposal is well designed but not a good use or fit for the commercial property; the proposal brings forward two needs in the community; the adjacent liquor licensee concerns can be addressed by the local government; there is a lack of commercial land available; if the situation was reversed, the Board would not approve a liquor license next to a school, the proposal places residential uses next to an established commercial use which creates constant noise, smell and activity; adjacent commercial property owners should be protected by either denial of the proposal or a commitment to amend the 500 foot regulation locally.

It was **moved and seconded** (Blackhurst/Homeier) **to deny Ordinance #09-08** and it passed with Eisenlauer and Miller voting “No”. No action was taken on the Special Review or Preliminary Plat due to the denial of the rezoning.

3. **APPEAL PLANNING COMMISSION APPROVAL OF DEVELOPMENT PLAN 08-04 FOR SAPLING GREEN, LOT 35, GRAND ESTATES SUBDIVISION.**

The rezoning was denied for the proposed development plan, and therefore, an appeal of the approved development plan contingent on the rezoning was not considered.

4. **PUBLIC INFORMATION OFFICER.**

Administrator Halburnt stated at the Town Board retreat in April, the Board requested staff investigate adding an additional position to focus on public information. Staff originally suggested a joint position entitled Executive Assistant/Community Outreach Coordinator. However, the Board has since indicated a preference for a position focused solely on public information. Once approved the position would be advertised both internally and externally and filled within a month.

Discussion followed amongst the Board: questioned whether or not an individual with the skill set necessary could be hired for the proposed salary; the Town Administrator and Deputy Town Administrator should be able to act as the Public Information Officer (PIO) as it is in their job descriptions; questioned whether a small town needs a PIO; does the Administrative office need an additional administrative staff member; there is a need to reach out to the citizens/citizen groups and the Administration should determine how to

accomplish this task; Administration's function is to administer the day to day operations of the Town; the job description conflicts with work being performed by the CVB staff currently; internal communication should be included in the duties; better communication is needed throughout the community; a perception exist that administration should know what is going on and therefore, should fill the role of PIO.

Administrator Halburnt stated Administration could perform the duties; however, she questioned if it was the best use of staff time. The position would allow staff to concentrate on the core government issues. The PIO would represent all departments in a cooperative effort to provide a consistent message and provide information in a timely fashion.

**The Board requested staff bring forward a complete job description for the Board's consideration at an upcoming meeting.**

5. **TOWN ADMINISTRATOR REPORT.**

- The second Local Marketing District meeting will be held on June 26, 2008 at 7:00 p.m. in the Board room with the County Commissioners.

6. **REQUEST TO ENTER EXECUTIVE SESSION:**

24-6-402(4)(e) C.R.S. – For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators – Big Bear Estates Annexation Agreement.

It was **moved and seconded** (Eisenlauer/Ericson) **the Town Board enter into Executive Session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators Section 24-6-402(4)(e) with regard to the Big Bear Estates Annexation Agreement**, and it passed unanimously.

Whereupon Mayor Pinkham adjourned the meeting to Executive Session at 10:50 p.m.

Mayor Pinkham reconvened the meeting to open session at 12:10 a.m. and adjourned the meeting at 12:10 a.m.

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William C. Pinkham, Mayor

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Jackie Williamson, Town Clerk