

*Town of Estes Park, Larimer County, Colorado, August 26, 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 26<sup>th</sup> day of August, 2008. Meeting called to order by Mayor Pinkham.

Present: William C. Pinkham, Mayor  
Mayor Pro Tem Levine  
Trustees Eric Blackhurst  
Dorla Eisenlauer  
John Ericson  
Trustee Homeier  
Jerry Miller

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

Absent: None

Mayor Pinkham called the meeting to order at 7:00 p.m. and all desiring to do so, recited the Pledge of Allegiance.

**PUBLIC COMMENT.**

David Habecker/Town Citizen stated the Planning Commission was correct in its application of the Development Code and approval of the Wapiti Crossing development. He encouraged the Board to further define the Development Code to prevent these types of debates in the future. He again requested the Board stop reciting the Pledge at the beginning of the Town Board meetings.

Jim Tawney/Town Citizen and owner of Ponderosa Lodge suggested there are more effective methods that should be use to market Estes Park. He stated in 1993, 1994 and 1995 he had approximately 90%+ occupancy during the season. He would like the Town to reconsider how it is marketing the Town.

**TOWN BOARD COMMENTS.**

Trustee Blackhurst reminded the public that the Public Works Committee would meet Thursday at 8:00 a.m. in the Town Board Room. He stated the growth rate in Estes Park from 1993 to 2007 was 2.3% and from 2000 to 2007 was 1.95%. This is a correction from an earlier statement he made with regard to growth rates.

Mayor Pinkham thanked the Board and staff for the efforts put forth on the pre-budget process. He encouraged all to join in the Longs Peak Scottish-Irish Highland Festival the week of Sept. 4 – 7, 2008.

**1. CONSENT AGENDA:**

1. Town Board Minutes dated August 12, 2008 and Town Board Pre-Budget Study Session Minutes dated August 8, 2008.
2. Bills.
3. Committee Minutes:
  - A. Community Development, August 7, 2008:

1. Team Penning Contract, September 12 – 14, 2008.
  2. Conference Center Roof Repair, B & M Roofing - \$6,492.
- B. Utilities, August 14, 2008:
1. Substation Maintenance Intergovernmental Agreement with Platte River Power Authority.
4. Estes Valley Board of Adjustment, June 3, 2008 (acknowledgement only).
  5. Estes Valley Planning Commission, July 15, 2008 (acknowledgement only).
  6. Estes Park Urban Renewal Authority, July 16, 2008 (acknowledgement only).
  7. Power Line Easements between Della Terra and H.W. Stewart and William Carle.

Trustee Ericson stated the bills contain an additional document that provides an overview of the bills. He spoke in favor of EPURA's recent amendment to their budget to correct an administrative oversight.

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

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

1. Noxious Weed Plan and Management. Deputy Town Administrator Richardson stated George Hockman/Town Citizen claimed the Town was not in compliance with the state laws governing weed management, more specifically C.R.S. 35-5.5-106. The statute requires that each municipality adopt a noxious weed management plan; all municipalities provide for the administration of a noxious weed management plan; municipalities may cooperate with adjoining counties for the management of noxious weeds; and municipalities that have adopted Ordinances to manage noxious weeds have in fact adopted a noxious weed management plan and meet the requirements of the state statute. The Town has Ordinances in place that address the abatement of noxious weeds. In addition, the Town does provide for spraying of noxious weeds on all Town owned properties. Mayor Pinkham stated the Ordinance addressing noxious weeds is an enforcement tool and not practical as many of the plants in question do not bloom until after July 15<sup>th</sup>. He requested the Town develop a program with Mr. Hockman and the Master Gardeners to provide education to homeowners on identifying and treating noxious weeds. Administrator Halburnt suggested an article in the Town Bugle and a web page to educate the public during the spring. Discussion followed: Public Works should be involved in addressing these concerns as a contractor is currently used to abate noxious weeds on Town properties; a simple color flyer should be created to aid the public in addition to the website; and information as to why a particular plant is noxious would be beneficial.

George Hockman/Town Citizen stated he disagrees with earlier statements that the Town is in compliance with state law.

## **3. LIQUOR LICENSING**

1. **LIQUOR LICENSING: TRANSFER OF OWNERSHIP – FROM MARY'S LAKE LODGE LLC, dba MARY'S LAKE LODGE TO RAM'S HORN DEVELOPMENT COMPANY, LLC dba MARY'S LAKE LODGE, DON DEBEY, 2625 MARY'S LAKE ROAD, TAVERN LICENSE.**  
Town Clerk Williamson reviewed the application stating all necessary paperwork had been received. The business was purchased in 2002 by Ram's Horn Development and at that time Don Debey was added to the liquor license

established by the previous owner. During the liquor license renewal process it came to the Town Clerk's attention that the sales tax account for which the liquor license was issued had been closed. This necessitated a transfer of the liquor license to the new entity. Mayor ProTem Levine reminded the applicant that the Town requires liquor licensed establishments to check identification and the Town places the responsibility on the establishment to enforce all liquor laws. It was **moved and seconded** (Eisenlauer/Ericson) **the Transfer of Ownership Application filed by Ram's Horn Development Company, LLC dba MARY'S LAKE LODGE, be approved**, and it passed unanimously.

3. **PLANNING COMMISSION AGENDA:**

1. **ACTION ITEM:**

a. **ESTES PARK MEDICAL CENTER LAND USE ITEMS:**

1. **AMENDED PLAT**, All Hospital Addition, and two Metes and Bounds parcels located in SE S25-T5N-R73W and shown on the Moccasin Saddle Addition Plat as Portions of Tract 9 and 11 and all of Tract 10, Estes Park Medical Center/Applicant.
2. **AMENDED DEVELOPMENT PLAN / LOCATION AND EXTENT REVIEW - SPECIAL REVIEW #06-01B**, All Hospital Addition, and two Metes and Bounds parcels located in SE S25-T5N-R73W and shown on the Moccasin Saddle Addition Plat as Portions of Tract 9 and 11 and all of Tract 10, Estes Park Medical Center/Applicant.
3. **REZONING – ORDINANCE #11-08** - two Metes and Bounds parcels located in SE S25-T5N-R73W and shown on the Moccasin Saddle Addition Plat as Portions of Tract 9 and 11 and all of Tract 10, from E – Estate to RM – Residential Multi-Family, Estes Park Medical Center/Applicant.

Jeff Chamberlain/RLH Engineering reviewed the proposed 4,600 s.f. addition to the emergency facilities at the Estes Park Medical Center (EPMC). The addition would also include site work improvements for drainage, patient drop-off, a new loop road way and additional parking. The project would break ground in September 2008 with the new facility fully operational by the summer of 2009 at a cost of \$4 million. The new parking lot would address drainage; however, there are ongoing discussions with Public Works to determine the best solution for the retention pond. Cornerstone Engineering has been retained to determine the feasibility of pushing Moccasin Circle Drive to the north three to six feet in order to remove the radius curve and bank the road. Public Works has requested the hospital pay for these improvements at a cost estimate of \$50,000.

Planner Chilcott reviewed the staff report. The amended plat would combine three parcels into one to allow the hospital redevelopment/expansion. In conjunction with the amended plat, the hospital is requesting the two smaller parcels zoned "E" Estate be rezoned to "RM" Residential Multi-Family to be consistent with the larger parcel containing the hospital and the Prospect Park Living Center. The rezoning of the property would be contingent on the construction of the road improvements required by Public Works, the recording of the amended plat and compliance with the special review application #06-01B. The Special Review would add 4,606 square feet to the Emergency Department along the southern side of the existing building, reconfigure and expand the upper parking area, improve drainage and extend the public sidewalk along Moccasin Circle Drive. The EPMC is requesting a 6 year vesting period.

It was **moved and seconded** (Homeier/Eisenlauer) **the Amended Plat of the All Hospital Addition and two Metes and Bounds parcels, be approved with staff conditions of approval**, and it passed unanimously.

It was **moved and seconded** (Levine/Homeier) **the Amended Development Plan/Location and Extent Review - Special Review #06-01B of the All Hospital Addition, and two Metes and Bounds, be approved with staff conditions of approval**, and it passed unanimously.

Attorney White read the Ordinance. It was **moved and seconded** (Blackhurst/Miller) **Ordinance 11-08 be approved for the Rezoning of two Metes and Bounds parcels as described above, be approved with staff conditions of approval**, and it passed unanimously.

- b. **REZONING – ORDINANCE #12-08** - a Metes and Bounds parcel located at 1665 W. Highway 66, from RM – Residential Multi-Family to A–Accommodations, Elk Meadow RV Essential Group, LLC/Applicant. Director Joseph reviewed the staff report. The Elk Meadow RV Park was rezoned to “RM” Residential Multi-Family in 2000. RV Parks are an allowed use by right in the “A” Accommodations and the “RM” Residential Multi-Family zoning districts. The RV Park would like to offer an outdoor evening dinner and musical entertainment as a permanent activity for its guests and general public. This accessory use would be a permitted accessory use in the “A” zoning district; however, the “RM” does not allow this use.

Discussion followed amongst the Board: why was the property not zoned “CO”; does the current or proposed zoning allow parking/storage of RVs; could the issue be addressed through a permit versus a rezoning; the uses in the two zoning districts are comparable; the accessory use should be addressed through a code change and not a change in zoning; the zoning should match the use of the property; a site plan delineating the uses of the property would be beneficial; due to the price of gas the property would likely be redeveloped in the future.

Director Joseph stated the “CO” Commercial Outlying does not allow the RV Park as a use. The parking/storage of RVs is a grand-fathered use of the property. The rezoning would allow for a large hotel to be built in the future, which would not be permitted in the current “RM” zoning district. There are no provisions in the code to allow this accessory use; however, temporary permits have been used for the past two seasons and are good for 30 days.

David Habecker/Town Citizen expressed concern with the special permitted uses. He stated the change in use would eliminate the grand-fathering on the property and require other regulations to be addressed such as building code requirements, parking, landscaping, etc. Director Joseph stated the principle use of the property has not been changed, and therefore, only site specific requirements for the accessory use would be reviewed.

After further discussion, Attorney White read the Ordinance. It was **moved and seconded** (Miller/Blackhurst) **Ordinance 12-08 be approved for the Rezoning of a Metes and Bounds parcel**

located at 1665 W. Highway 66 as described above, and it passed unanimously.

- c. **SPECIAL REVIEW #08-02, HORSE-DRAWN CARRIAGE CONCESSION**, Downtown Estes Park, Estes Park Carriage, John Jarros/Applicant. Director Joseph reviewed the staff report. The Special Review proposal would allow a horse-drawn carriage operation within the Town of Estes Park. Services would include wedding transportation, special events and carriage rides along a fixed route already approved for another vendor. The normal hours of operation for the fixed route would be 1:00 p.m. to 9:00 p.m. daily. The Planning Commission did recommend approval at the July 15, 2008 meeting with conditions of approval. After further discussion, it was **moved and seconded** (Blackhurst/Levine) **Special Review #08-02 be approved for a horse-drawn carriage concession with staff conditions of approval**, and it passed unanimously.
- d. **ORDINANCE #13-08**, Estes Valley Development Code **Block 11 Amendments** – Public Hearing: Revisions to the appeal process. Director Joseph stated the purpose of the revisions is to provide a specific time frame for the filing and hearing of appeals under the Estes Valley Development Code. An appeal would be held within sixty (60) days of filing the written notice of the appeal. Attorney White read the Ordinance. As there were no comments, the Mayor closed the public hearing and it was **moved and seconded** (Blackhurst/Ericson) **to approve Ordinance 13-08**, and it passed unanimously.

#### 4. **ACTION ITEMS:**

##### 1. **ESTES PARK MEDICAL CENTER FEE WAIVER.**

Director Joseph stated the Community Development Committee waived the development plan review fees of \$2,500 at the August 7, 2008 meeting per the Fee Waiver Policy; however, the policy allows up to \$3,000. The EPMC requests the Board waive the additional \$14,500 in building plan review fees and inspection fees. Community Development staff did not forward a recommendation; however, staff recommends denial of the request.

Rob Austin/EPMC CEO stated the letter dated August 18, 2008 listed the reasons for the request including: reduced project costs would lower customer charges; emergency departments customarily have a higher percentage of uncollected expenses; as a taxing entity that continually goes to the public for donations to make up shortfalls; the hospital has received fee waivers in the past and is a special district. In addition the fee waiver would provide funding for the improvements that may be needed on Mocassin Circle Drive.

Trustee Blackhurst stated the objective of development fees and plan review fees is to recover 50% of the cost and this fee waiver would be a direct impact to the overall department budget. Director Joseph stated the fee waiver would have a direct impact on revenue projections for 2008. He stated the department has been able to staff the Building Department to meet demand due to cost recovery. Development fees place the cost of development on the developer and not the municipality.

The Board discussed the fee waiver: 71% of the fees waived in the past 5 years have been to the hospital; the Town should continue to be a community partner and waive the fees; waiving the hospital fees could set a precedent for other fee waivers such as the request from the Estes Valley Recreation and Park

District; are fee waivers factored into revenue projections each year; the Town's revenues are down for 2008 and may not meet year-end budget projections.

Trustee Blackhurst stated the Town recently adopted the Fee Waiver Policy and expressed concern with not following the policy. He would suggest the Board consider waiving half of the remaining fees. Trustee Levine agreed.

Director Joseph commented other governmental entities planning large projects should come forward during the budget process with fee waiver requests for the Board to consider and weigh at one time.

After further discussion, it was **moved and seconded** (Eisenlauer/Ericson) **to approve the remaining \$14,500 in building permit and plan review fees**, and it passed with Trustee Levine and Blackhurst voting "No".

**2. TOWN ADMINISTRATOR REPORT.**

The Town and the County are accepting applications for the Local Marketing District Advisory Council. Applications are available and would be accepted through September 8, 2008.

Whereupon Mayor Pinkham adjourned the meeting at 9:42 p.m.

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William C. Pinkham, Mayor

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Jackie Williamson, Town Clerk