

Town of Estes Park, Larimer County, Colorado, April 28, 2009

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 28th day of April, 2009. Meeting called to order by Mayor Pro Tem Levine.

Present: Mayor Pro Tem Chuck Levine
Trustees Eric Blackhurst
Dorla Eisenlauer
Richard Homeier
Jerry Miller

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

Absent: William C. Pinkham, Mayor
John Ericson, Trustee

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

PROCLAMATION - Arbor Day (May 8th)/ May - "Month of the Tree".

Mayor Pro Tem Levine read a proclamation designating May as the month of the Tree. The official Town celebration of Arbor Day would be held on May 8th at the school campus.

PROCLAMATION – 21st Annual Estes Park Duck Race – May 2, 2009.

Mayor Pro Tem Levine read a proclamation designating May 2, 2009 as the 21st Annual Duck Race Day in Estes Park and acknowledged representatives of the Noon Rotary Club.

PROCLAMATION - Estes Park Memorial Observatory Grand Opening.

Mayor Pro Tem Levine read a proclamation recognizing the grand opening of the observatory on April 25, 2009.

PUBLIC COMMENT

David Habecker/Town citizen requested the Town Board refrain from reciting the 'under God' Pledge of Allegiance at Board meetings.

Mark Elrod/Town citizen requested the Town's pandemic flu plan be available to the public on the Town's website.

Pam Duemig/County resident stated she received a bill for a small fire at her residence last year because she had not paid the fire subscription fee. She questioned the fairness of the bill and stated her insurance company only covered a quarter of the cost. Town Administrator Halburnt stated staff would meet with the Duemigs to discuss the charges.

Eric Waples/ Town citizen encouraged the Board to limit the number of restrictions on the architectural design of the new buildings at the Stanley Park Fairgrounds. He stated creative solutions or designs may be overlooked.

Sandy Burns/County resident thanked the Board for providing the necessary resources to establish Estes Park as a Tree City.

TOWN BOARD COMMENTS.

Mayor Pro Tem Levine announced the third annual Tree Symposium would be held on May 6, 2009 at the Holiday Inn starting at 8:00 a.m.

1. CONSENT AGENDA:

1. Town Board Meeting Minutes dated April 14, 2009 and Town Board Study Session dated April 14, 2009.
2. Bills.
3. Committee Minutes:
 1. Utilities and Public Safety Committees cancelled in April.
4. Estes Valley Planning Commission, March 17, 2009 (acknowledgement only).
5. Estes Valley Board of Adjustment, January 6, 2009 & March 2, 2009 (acknowledgement only).
6. Estes Park Urban Renewal Authority, March 18, 2009 (acknowledgement only).
7. Resolution #10-09 – Schedule public hearing date of May 12, 2009 for New Beer & Wine Liquor License Application filed by JDSM Holdings, LLC dba WINGS WEST, 861 Moraine Avenue.

It was **moved and seconded** (Homeier/Eisenlauer) **to approve the consent agenda**, and it passed unanimously.

2. REPORTS AND DISCUSSION ITEMS.

1. SUPPORTERS OF THE PERFORMING ARTS UPDATE.

Chris Woods/Capital Campaign Manager for SOPA presented the Board with the newest fundraising packet and video on the theater. A redesign of the theater was done after receiving comments and concerns from supporters/contributors on the appearance of the building. SOPA has raised \$1.5 million to date and has hired a grant writer with the current potential of \$250,000 in funding. He stated the Gates Foundation has continued to renew their grant; however, 2009 may be the last renewal. The committee appreciates the Town Board's ongoing support for the theater.

3. LIQUOR ITEMS.

1. PUBLIC HEARING: NEW BEER & WINE LIQUOR LICENSE APPLICATION FILED BY ELK MEADOW RV ESSENTIAL GROUP, LLC dba ELK MEADOW LODGE & RV RESORT, 1665 HIGHWAY 66.

Mayor Pro Tem Levine opened the Public Hearing and reviewed the procedures. Town Clerk Williamson presented the application and confirmed the Town has not received any communications or evidence in support or opposition to the application, and required T.I.P.S. training has been scheduled. Mayor Pro Tem Levine encouraged the applicant to be vigilant on checking identification prior to selling/serving alcohol and that the Board takes very seriously the operation of liquor licenses and the Liquor Code. There being no further testimony, Mayor Pro Tem Levine closed the Public Hearing. Stating the Board of Trustees finds that the reasonable requirements of the

neighborhood are not met by the present liquor outlets in the neighborhood and that the desires of the adult inhabitants are for the granting of this liquor license, it was **moved and seconded** (Blackhurst/Miller) **the Beer & Wine Liquor License application filed by Elk Meadow RV Essential Group, LLC dba ELK MEADOW LODGE & RV RESORT be approved**, and it passed unanimously. Mgr. Jones stated the resort provided the lodge for a SOPA fundraiser last year and again offered their facilities for future fundraisers.

4. **PLANNING COMMISSION ITEMS.** Items reviewed by Planning Commission or staff for Town Board Final Action.

Mayor Pro Tem Levine: Open the Public Hearing for all Consent Agenda Items.

1. **CONSENT ITEMS:**

A. FINAL SUBDIVISION PLAT

1. Deer Ridge Subdivision Lots 1, 2, 3 and 4, Paul & Kathy Kochevar and John A. Skoog/Applicant.

B. SUPPLEMENTAL CONDOMINIUM MAP

1. Stanley Avenue Condominiums, Third Supplemental Condominium Map, Phase IV, 450Q and 450R Stanley Avenue, Stanley Avenue Condominiums, LLC/Applicant.

As there were no comments, the Mayor Pro Tem closed the public hearing and it was **moved and seconded** (Homeier/Miller) **the Consent Agenda be approved with Staff conditions of approval**, and it passed unanimously.

2. **REPORT:**

- A. Presentation of Estes Valley Development Code Block 12 Amendments – First Reading: Accessory Dwelling Units (Town Board Public Hearing will be held May 26, 2009). Planner Shirk reviewed the proposed changes recommended by the Estes Valley Planning Commission for ADUs at their March 17, 2009 meeting. The current code section 5.2.B.2a allows ADUs in single-family residential zoning district on lots that are 1.33 times the minimum lot size, and are required to be integrated within the principal dwelling, limited to 800 s.f. and cannot be rented separately. The Board of Adjustment requested staff review the regulations after a variance request was reviewed for the conversion of a garage into an accessory dwelling unit as determined by staff. The proposed regulations are to allow ADUs in all zoning districts except R-1 and R-2, remove the minimum lot size requirements, and add various site plan considerations (front door location, exterior lighting, driveways, parking requirements and landscaping). The ADU would be integrated or attached, no more than 49% of the floor area of the principal dwelling unit or one thousand s.f., cannot be rented and a land use affidavit would be required. Staff conducted extensive research and held focus group meetings with other interest groups, including builders, architects, Housing Authority, etc. The topic was discussed at seven public meeting and seven EVPC meetings. Staff determined ADUs are commonly allowed throughout the country and are allowed in other parts of Larimer County. Concerns expressed during the public hearings included rental, neighborhood character, detached units and property values. Support for the units focused on rentals, guesthouses, caretaker quarters and property rights. He stated only a third of the properties in the valley are eligible for an

ADU with the current regulations and the proposed regulations would allow ADUs on approximately half the properties in the valley.

Discussion followed amongst the Board and has been summarized: ADUs can be controlled through deed restrictions or covenants; questioned whether an existing ADU could be remodeled; the new regulations would penalize the existing ADUs or those properties that currently have the ability of an ADU without all the restrictions; the ADU requirements are more stringent than the current requirements for a single-family home, i.e. landscaping a parking spot or exterior lighting; detached units should be an option; off-street parking language is redundant and unclear; proposed regulations that addressed detached units are still included and would be onerous for an attached unit; a number of ADUs (attached and detached) exist in the valley and it remain unclear how these units will be handled in the future, i.e. redevelopment or expansion of the units; there is no enforcement mechanism; the Comprehensive Plan encourages rental units and high density development; and rental of ADUs should be allowed.

Trustee Blackhurst expressed concern that the Town is addressing a small problem with only approximately six requests a year and the issue has been overstated.

Planner Shirk stated the Planning Commission has stated the rental of ADUs would be addressed at a later date in an effort to study all housing issues in the valley before bringing forward a recommendation.

Public Comment:

Those speaking in support of ADUs: Betty Nickel/County resident, David Habecker/Town citizen, Rita Kurelja/EPHA Director, Peter Plaut/County resident, Eric Waples for Milt Garrett/Town citizen, Steve Nickel/County resident and Matthew Heiser/Town citizen. Land owners should be able to use their property with as few restrictions as possible; however, the units should not be used for short-term rentals. The proposed code addresses ADUs as an accessory use, and therefore, competes with garage s.f. which is considered accessory. The valley is in need of additional housing units; therefore, ADUs should be available for rent. Ms. Kurelja stated it is difficult to address ADUs and not address the rental of the units at the same time. ADUs could be a resource for seasonal housing during the tourist season, increase supply of affordable housing with little to no new infrastructure and increase property taxes. Detached units should be considered for lots that can be subdivided.

Joanna Darden spoke in opposition of ADUs. She expressed concern with growth in the valley and stated ADUs are not the answer to the housing needs of Estes Park. High density development would have a negative impact on wildlife.

Dave Schultz/Town citizen stated public comment should be accepted on the issue of detached units and rentals. He expressed concern with the many sub-issues that arise with the rental of ADUs.

John Spooner/County resident stated the ADU regulations should not be approved without addressing the issue of detached units and rentals.

Paul Brown/County resident and Contractor Association representative stated the Town should review the County's current regulations for ADUs. The current proposal is over regulated and does not address all the issues.

5. **ACTION ITEMS:**

1. **REVISED MEMORANDUM OF UNDERSTANDING WITH THE SUPPORTERS OF THE PERFORMING ARTS.**

Town Administrator Halburnt stated the Town Board reviewed the MOU with SOPA at a Study Session on March 24, 2009. The revised MOU removes a specific dollar amount for the site preparation for the theater at Stanley Park Fairgrounds, any reference to the sale of Lot 4, Stanley Historic District and updates dates for the theater design and pro-forma. The changes were suggested by SOPA to aid with fundraising efforts. It was **moved and seconded** (Homeier/Eisenlauer) **to approve the revised Memorandum of Understanding with the Supporters of the Performing Arts**, and it passed unanimously.

2. **RESOLUTION #11-09, SURPRISE SIDEWALK SALE.**

Town Administrator Halburnt stated the Estes Park Merchants Association (EPMA) would like to have a second sidewalk sale since the first one in April was snowed out. Paul Fishman/Representative for EPMA stated a majority of the members support holding a sale on May 2nd and 3rd. It was **moved and seconded** (Miller/Blackhurst) **to approve Resolution #11-09 for the second spring surprise sidewalk sale on May 2nd and 3rd**, and it passed unanimously.

3. **TOWN ADMINISTRATOR REPORT.**

A public forum would be held on April 30, 2009 at 6:30 p.m. in the Town Board room to discuss small scale wind turbines. The current Estes Valley Development Code does not contain regulations to address wind turbines.

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

It was **moved and seconded** (Eisenlauer/Blackhurst) **the Town Board enter into Executive Session for the discussion of specialized details of security arrangements under C.R.S. Section 24-6-4-2(4)(d)**, and it passed unanimously.

Mayor Pro Tem Levine called a 5-minute break at 9:24 p.m. prior to entering into Executive Session.

Mayor Pro Tem Levine reconvened the meeting at 10:54 p.m. from Executive Session whereupon he adjourned the meeting at 10:54 p.m.

Chuck Levine, Mayor Pro Tem

Jackie Williamson, Town Clerk