

Town of Estes Park, Larimer County, Colorado, September 22, 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 22nd day of September, 2009. Meeting called to order by Mayor Pinkham.

Present: William C. Pinkham, Mayor
Mayor Pro Tem Chuck Levine
Trustees Eric Blackhurst
John Ericson
Richard Homeier
Jerry Miller

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

Absent: Trustee Dorla Eisenlauer

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

PRESENTATION

A group of five EPHS students, including Carly Bowles, Peter and Carmen Buttler, Max Liddle and Ben Van der Werf, provided an overview of their recent three week student exchange with the Town's Sister City Monte Verde, Costa Rica. The Board expressed their appreciation of the presentation and encouraged future exchanges amongst the Sister Cities. Eight students plus chaperones from Costa Rica attended the meeting as one of the planned activities during their three week exchange in Estes Park.

PUBLIC COMMENT

David Habecker/Town Citizen read a prepared statement requesting the Board stop reciting the 'under God' Pledge. He commented on the Town forming a Street and Drainage Utility and stated it should not be another property tax. He encouraged the Board to move forward with self collection of sales tax.

TOWN BOARD COMMENTS.

Trustee Ericson stated Jackson Hole has a downtown square that is utilized in a similar fashion as the proposed Bond Park Master Plan alternative design, which reinforces the notion the Town is headed in the right direction with the redevelopment of the park. He commented on the retirement of EPURA Director Wil Smith and wished him well.

Mayor Pinkham stated the Town Board has discussed a bear proof trash can ordinance because of the increased encounters between bears and people. He encouraged the citizens of the valley to not leave trash out that attracts the wildlife.

1. CONSENT AGENDA:

1. Town Board Minutes dated September 8, 2009 and Town Board Study Session Minutes dated September 8, 2009.
2. Bills.
3. Committee Minutes:

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- A. Community Development, September 3, 2009:
 - 1. Resolution #18-09 - Surprise Sale Days, October 10 & 11, 2009.
- B. Utilities, September 10, 2009:
 - 1. Wood Chipper – Altec Industries, \$30,259 – Budgeted.
 - 2. Bucket Truck – Altec Industries, \$118,489 – Budgeted.
 - 3. Meter Dept. Jeep - Plymouth Jeep, \$18,578 – Budgeted.
- 4. Estes Valley Planning Commission Minutes August 18, 2009 (acknowledgement only).
- 5. Estes Valley Board of Adjustment Minutes August 4, 2009 (acknowledgement only).

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

2. REPORTS AND DISCUSSION ITEMS:

1. COFFEE ROASTING IN CO ZONING DISTRICT.

Director Joseph provided a review of the current roasting operations of Kind Coffee at 552 W. Elkhorn. Staff finds no evidence to suggest that there have been any significant changes to the general character of the operation over the past three years. The August 2009 field inspection by the Colorado Department of Public Health and Environment demonstrated the roasting operation continues to adhere to the applicable emission standards set by the State, and the emissions permit remains current and active. Allegations of current code violations at the location are without substantiated evidence. Several concerns of the neighborhood have been addressed by the business owner, including running the after burner longer, replaced exhaust fan with swamp cooler, raised chimney stack twice, increased retail square footage and added outdoor seating, increased hours open, screened dumpster, installed interior windows to block odor and limit roasting time to weekdays.

Amy Hamrick/Owner of Kind Coffee LLC questioned the need for the report/review of her business because the accessory use of coffee roasting at the location was appealed to and upheld staff's decision by the Board of Trustees in February 2008. She stated her business has been cooperative with local, county and state departments to ensure compliance with all zoning and state regulations. The percentage of roasting operations has not changed since the appeal hearing in 2008. Kind Coffee has gone to great expense to attempt to alleviate the neighborhood's concerns and has no guarantee that additional equipment would address their issues. Kind Coffee holds a five year air quality permit for up to 45,000 pounds of coffee per year, and less than 30,000 pounds was roasted in 2008. In order to roast the additional 15,000 pounds, thirty minutes would be added to the daily roasting operations.

Comments opposed to the roasting of coffee were heard from Bob and Judy Ayres/Town Citizen, Linda Farrell/Town Citizen, Margaret Scott/Town Citizen, and Verd Bailey/Town Citizen. The gaseous omissions from the roasting are a health concern and the noxious gas can linger for up to four hours after roasting. The roasting of coffee at this location has been conducted as a principle use and not an accessory use. The building has been used as an industrial manufacturing facility. Noise, odor control and fumes from a business should be considered during the sighting of businesses and was not considered during the staff level review for Kind Coffee's roasting facility.

Ron Norris/Town Citizen read from a prepared statement. He spoke to the chemistry of coffee roasting and the toxic compounds released, and stated the

venting of the material can cause health issues. The current stack configuration would not alleviate the issue. He stated some of the concerns could be addressed through engineering practices.

David Habecker/Town Citizen questioned the state report and the apparent lack of testing for irritants. He stated concern with the gases that may be emitted by the roasting of coffee.

Town Board comments are summarized: Issues related to health concerns cannot be addressed by the Town and are the concern of the County and the State; expressed concern with the situation; and suggested Mr. Norris could work with Mrs. Hamrick to determine what may be accomplished to mitigate the roasting issues.

2. **TOWN ADMINISTRATOR REPORT.**

- Deputy Town Administrator Richardson would be acting as interim Director for EPURA with the retirement of Wil Smith in addition to his other daily responsibilities.
- The Town Board would hold Budget Study Sessions on the first four Fridays in October from 8:30 a.m. to 12:00 p.m. in the Board Room.

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

1. **ACTION ITEMS:**

- A. Wildlife Amendments to the Estes Valley Development Code – Public Hearing – Second Reading. Director Joseph reviewed the proposed changes to the code that were reviewed at the August 25, 2009 Town Board meeting.

Public comment against the proposed code changes were heard from Fred Mares/Town Citizen, Sandy Lindquist/ Town Citizen, Sandy Osterman/ Town Citizen and David Habecker/ Town Citizen. The section of the code is nebulous and may affect property rights. The current code would protect the large species at the detriment to the other species. The proposed changes contain ambiguous language, an unresolved problem, and it creates new issues. The proposal lacks an explicit list of requirements; does not require the mitigation measures to be effective; and removes two of the five unique habitats in the current code. A definition of significant adverse impact should be included in the proposed code changes.

Board comments are summarized: questioned the monitoring of a wildlife plan to ensure it is maintained and whether or not language should be added to the code to require monitoring; elk calving occurs throughout the valley and should be removed from the code; the proposed code language clarifies the issues the Town has faced in the past; and the CDOW has been removed from the code at their request.

Trustee Miller expressed concern with the removal of raptors from the code and would recommend adding their habitat to the code language.

Town Attorney White read the Ordinance. It was **moved and seconded** (Homeier/Ericson) **approve Ordinance #08-09**, and it passed unanimously.

4. **ACTION ITEMS:**

1. **HISTORY MURAL AT WEST PARK CENTER.**

At the June 5, 2008 Community Development Committee meeting, Dan Valley, Chairman of the Local Roots Co-Op, presented a conceptual mural to be painted on the north side of West Park Center. The Committee requested a more complete rendering of the mural be presented to the full Board for approval as a non-sign mural before it could be painted.

Dave Valley/ Town Citizen and Chairman of the Local Roots Co-Op stated the mural was never intended to be a sign. It was conceived out of a desire to clean up the backside of the building and to provide a historical mural for the community.

Discussion followed amongst the Board on the definition of a sign and whether or not the sign attracts business from people enjoying Performance Park. Trustee Blackhurst raised concern with the content of the mural as it relates to businesses currently renting space in the building. He stated the mural depicts many artists and one of the current tenants is the Cultural Arts Council of Estes Park. He views the mural as a sign.

Judy Aryes/ Town Citizen and Linda Farrell/ Town Citizen spoke in favor of the mural. The mural should not be considered a sign and could draw people to the Town as well as the west end of downtown.

After further discussion, it was **moved and seconded** (Miller/Ericson) **to approve the West Park Center historical mural as a non-sign as it 1) does not call specific attention to any business, 2) does not face a right-of-way, and 3) repairs a blighted area**, and it passed with Trustee Blackhurst voting “No”.

2. **FALL RIVER TRAIL PHASE 4B CONSTRUCTION CONTRACT.**

Director Zurn stated construction project bid packages for this phase of the trail, beginning at Castle Mountain Lodge and ending the west side of the Blackhawk Lodge, were mailed, advertised and posted on the Town’s website. Eleven responses were received ranging from \$277,827.90 to \$413,448.23. This portion of the trail is located entirely within the CDOT right-of-way and a License Agreement with CDOT was approved in May. This project would be partially funded by the \$140,000 acquired through the American Recover Reinvestment Act, and the remaining \$150,000 has been budgeted from the Larimer County Open Space Fund. On September 15, 2009, CDOT awarded the contract to the low bidder, Cornerstone Concrete. It was **moved and seconded** (Levine/Blackhurst) **to approve contracting with Cornerstone Concrete to build the Fall River Trail Phase 4B in the amount of \$277,827.90 from account #220-4600-462-35-60 for \$150,000 and the American Recovery and Reinvestment Act funding in the amount of \$140,000**, and it passed unanimously.

3. **INTERGOVERNMENTAL AGREEMENT (IGA) WITH ESTES PARK LOCAL MARKETING DISTRICT REGARDING CONVENTION AND VISITORS BUREAU EMPLOYEES.**

Trustee Blackhurst recused himself from the discussion and took a seat in the audience. Attorney White reviewed the IGA that outlines the terms and conditions for the supervision of the four Town CVB employees to be managed by the Local Marketing District (LMD), the hiring of a “working director” by the LMD, and the payment by the Town of all compensation and benefits for the four employees. In the event the LMD wishes to provide additional compensation and/or benefits to any of the employees, the increase would be the responsibility of the LMD. The IGA provides sufficient space within the Visitors Center for the four employees; however, the LMD would be responsible for IT costs associated with all office equipment utilized by the LMD employees.

The agreement would be for the 2010 calendar year. After further discussion, it was **moved and seconded** (Ericson/Miller) **adopt the Intergovernmental Agreement between the Estes Park Local Marketing District and the Town of Estes Park** and it passed with Trustee Blackhurst recusing himself due to a conflict of interest.

4. **LARIMER EMERGENCY TELEPHONE AUTHORITY (LETA) BOARD APPOINTMENT.**

Deputy Town Administrator Richardson was appointed to one of two seats on the LETA Board reserved for representation by small communities in Larimer County that will expire on December 31, 2009. The recently adopted LETA Intergovernmental Agreement affords the small communities the opportunity to nominate a replacement. It was **moved and seconded** (Miller/Levine) **to nominate Police Chief Wes Kufeld for appointment to the LETA Board for a two-year term expiring December 31, 2012**, and it passed unanimously.

Whereupon Mayor Pinkham adjourned the meeting at 10:40 p.m.

William Pinkham, Mayor

Jackie Williamson, Town Clerk