

Town of Estes Park, Larimer County, Colorado, October 27, 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 27th day of October, 2009. Meeting called to order by Mayor Pinkham.

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

Also Present: Jacquie Halburnt, Town Administrator
Lowell Richardson, Deputy Town Administrator
Town Attorney White
Cynthia Deats, Deputy 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.

SWEARING-IN OF OFFICER ROBERTSON.

The swearing-in ceremony for Officer Robertson was removed from the agenda.

PROCLAMATION – AMERICAN INDIAN HERITAGE MONTH.

Mayor Pinkham read a proclamation declaring November as American Indian Heritage Month.

PUBLIC COMMENT.

David Habecker, Town resident, urged the Town Board to discontinue reciting the “under God” pledge. He commented on the additional financial obligation the proposed fire district will require of commercial property owners and supported the continuation of EPURA.

Mark Elrod, Town resident, requested the minutes of the October 16th and the October 23rd budget study sessions be made available for public review prior to the November 10th Town Board meeting. He commented on the conditions of approval for the Deer Ridge Subdivision Final Subdivision Plat passed at the April 28th Town Board meeting stating that, to date, the developer has not met the conditions. He stated it is time for the Town Board to revoke or enforce the conditions of approval, and pointed out Planning Commission items for the same developer are included on tonight’s meeting agenda.

TOWN BOARD COMMENTS.

Trustee Blackhurst commended the professionalism of the Volunteer Fire Department, the Police Department, and Town staff in responding to the Park Theater Mall fire on Monday, October 19, 2009. He stated he is proud of the extraordinary contributions of all departments and agencies involved.

Trustees Ericson and Eisenlauer concurred with Trustee Blackhurst’s statement and expressed pride in staff.

Trustee Homeier expressed appreciation to the neighboring communities for their support in responding to the fire.

Trustee Miller commended the Estes Park Volunteer Fire Department for taking immediate control of the situation and thanked all Town departments for their contributions.

Mayor Pinkham said that the situation was handled in a methodical and well-thought out manner. He said an extraordinary job was done in keeping all occupants and firefighters safe and commented on erroneous reports regarding the fire that were made by individuals using cell phones, text messaging, and photos. He said the fire occurred on private property and the owner will take appropriate steps to deal with the situation, and stated that clean up procedures are being professionally handled in accordance with regulations.

1. CONSENT AGENDA:

1. Town Board Minutes dated October 13, 2009, Town Board Study Session Minutes dated October 13, 2009, and Town Board Budget Study Session Minutes dated October 9, 2009.
2. Bills.
3. Committee Minutes:
 - A. Utilities, October 8, 2009.
 1. Prospect Avenue Electrical Undergrounding – A-1 Excavating, \$110,289.36 – Budgeted.
 2. Wire Puller Trailer, \$97,500 – Budgeted.
4. Purchase of One Ton Vehicle for Parks Department, \$32,340.32 – Budgeted.
5. Estes Valley Planning Commission Minutes September 15, 2009 (acknowledgement only).
6. Estes Valley Board of Adjustment Minutes September 1, 2009 (acknowledgement only).
7. Estes Park Urban Renewal Authority Minutes September 16, 2009 (acknowledgement only).

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

2. REPORTS AND DISCUSSION ITEMS.

1. TABOR EMERGENCY RESERVE OPTIONS.

Finance Officer McFarland stated the 3% Tabor Emergency Reserve is calculated on expenditures in the governmental fund, excluding the enterprise funds, which for 2009 is approximately \$600,000. The money can be used in emergency situations and would require that the Board of Trustees declare a disaster situation. He said that if Tabor Emergency Reserve monies are utilized, they must be paid back to the fund within a 12 month period. Tabor regulations also allow for an increase to sales tax in the event of a bona fide emergency for a finite period of time before a vote would be required to permanently approve the increase. Attorney White said that the Colorado State Constitution does not provide a definition of a declared emergency, but in his opinion a financial need of the Town's related to the Park Theater Mall fire would qualify. The catastrophic fund currently has a balance of \$1.2 million that

could be utilized, if necessary, for expenses related to the fire that are not covered by insurance. Such expenditures would be appropriated through the supplemental budget appropriation process.

2. **TOWN ADMINISTRATOR REPORT.**

- The Park Theater Mall fire call came in at 6:19 a.m. with firefighters on scene by 6:28 a.m. and police arriving at 6:32 a.m. The Town is proud of the Volunteer Fire Department, Police Department, and Town staff, all who have been highly trained, and handled the emergency well. A claim has been opened with CIRSA related to damage that occurred to Town property during the fire including damage to vegetation, parking lot damage, and damage to equipment. Information related to coverage should be available in a few weeks.
- Two benefit events are being planned in the aftermath of the fire: a community dinner and an effort to encourage shopping in the downtown shops on November 7th and 8th.
- The Town's Halloween activities will be held as planned on Saturday, October 31, 2009, from 5:00 p.m. till 9:00 p.m. A temporary walkway has been built in front of the fire site to allow pedestrian access along Elkhorn Avenue.

Trustee Blackhurst added that the Estes Valley Partners for Commerce, the Local Marketing District, and the Convention and Visitors Bureau are coordinating efforts for a community outreach website to provide information related to assisting affected business owners and businesses.

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

Mayor Pinkham: Open the Public Hearing for all Consent Agenda Items. If the Applicant, Public or Town Board wish to speak to any of these consent items, they will be moved to the "Action Item" Section.

1. **CONSENT ITEMS:**

A. CONDOMINIUM MAP

1. Wonderview Village Condominiums, Supplemental Condominium Map #3, 140 Willowstone Drive, Unit 12, Crystal Creek Development Inc./Applicant.

B. AMENDED SUBDIVISION PLAT

1. Amended Plat, Lots 9, 10, 11, 12 & a portion of Lot 8, Block 1, 2nd Amended Plat, Town of Estes Park, Thomas E. Widawski/Applicant.

C. FINAL SUBDIVISION PLAT

1. Final Plat, Lots 15, 16, and 17, Block 2, The Neighborhood, Pawnee Meadows, LLC/Applicant.

D. DEVELOPMENT AGREEMENT

1. First Amendment to the Development Agreement for The Neighborhood Subdivision, Pawnee Meadows, LLC/Applicant.

Trustee Miller requested that Consent Items B1, C1, and D1 be removed from the Consent Agenda. It was **moved and seconded** (Levine/Homeier) **that Consent Agenda Item A1 be approved with Staff conditions of approval**, and it passed unanimously.

In regard to Consent Agenda Item B1, Trustee Miller stated he has a fiduciary interest in the project and recused himself. It was **moved and seconded** (Homeier/Eisenlauer) **to approve Consent Agenda Item B1 with Staff conditions of approval**, and it passed unanimously with Trustee Miller abstaining.

Trustee Miller stated he requested removal of Items C1 and D1 from the Consent Agenda based on concerns heard earlier in the meeting related to the Deer Ridge Subdivision and delays by the applicant in complying with the conditions of approval. Atty. White said that Deer Ridge and The Neighborhood are separate corporations with an individual involved who is a principal in both corporations, and urged the Board not to link the two. Dir. Joseph cautioned the Trustees about delaying one project because of concerns about another project. The Trustees discussed complaints that had been received about conditions at The Neighborhood. Staff reports there has been adequate performance and progress related to the complaints and recommends approval of the first amendment to the development agreement for The Neighborhood. It was **moved and seconded** (Homeier/Miller) **that Consent Agenda Items C1 and D1 be approved with staff conditions of approval**, and it passed unanimously.

The Trustees requested that Community Development staff provide a status report on Deer Ridge Subdivision and information related to the original conditions of approval.

4. **ACTION ITEMS:**

1. **RESOLUTION #20-09 – OFFICIALLY SCHEDULING SPECIAL MAIL BALLOT ELECTION – JANUARY 12, 2010.**

A Special Election related to the EPURA Initiated Ordinance has been set by the Town Board for January 12, 2010. Resolution #20-09 authorizes Larimer County to conduct a mail ballot election, appoints Larimer County Clerk Scott Doyle as the designated election official, approves the Mail Ballot Plan, and authorizes the Town Clerk to fix the ballot title for the Initiated Ordinance. An Intergovernmental Agreement (IGA) between the Town of Estes Park and Larimer County outlines the services to be provided by the County at a cost of \$5,279 budgeted in account #101-1400-414-26-01. It was **moved and seconded** (Levine/Ericson) **to approve Resolution #20-09 and the Intergovernmental Agreement with Larimer County for the Special Election on January 12, 2010**, and it passed unanimously.

Whereupon Mayor Pinkham adjourned the meeting at 8:04 p.m.

William C. Pinkham, Mayor

Cynthia Deats, Deputy Town Clerk