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CITY OF STEAMBOAT SPRINGS

AGENDA

REGULAR MEETING NO. 2010-03

TUESDAY, FEBRUARY 2, 2010

5:00 P.M.

Hermacinski called the meeting to order at 5:04pm.

A. ROLL CALL

City Council Members present: Cari Hermacinski, Meg Bentley, Jim Engelken, Walter Magill, Scott Myller, Kenny Reisman and Jon Quinn.

Staff Members present: Jon B. Roberts, City Manager; Anthony B. Lettunich, City Attorney; Julie Franklin, City Clerk; Debra Hinsvark, Interim Director of Financial Services; Philo Shelton, Director of Public Works; Ron Lindroth, Fire Chief; Chris Wilson, Director of Parks, Recreation and Open Space; Tom Leeson, Director of Planning Services; Dan Foote, Staff Attorney, Jonathan Spence, City Planner; Anja Tribble, City Clerk Staff Assistant; JD Hays, Director of Public Safety; and Wendy DuBord, Deputy City Manager.

The Follow-Up Agenda is work product only, and is subject to change. For final approved information, please refer to the official City Council minutes. All documents distributed at the City Council meeting are on file in the Office of the City Clerk.

B. COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:

1. Chamber Board Joint Meeting.

Hermacinski met with Board and government relations committee.

Chamber Board members present: Chris Diamond, Grant Fenton, Jim Schneider, Betse Grassby, Mark Matthews, David Baldinger, Jr., Susan Schlict (ex-officio),

Dean Vogelaar, Bob Larson, Karl Gill, Scott Marr, Jeff Steinke, Randy Rudacious, Shauna Lamansky and Barbara Robinson.

Sandy Evans Hall noted the need to ensure that the items/goals on the Chamber's agenda are meshing with the Council's priorities. She specifically noted the funding of summer marketing and cross promotion; the supplemental funding request for 2010; an active role in regional transportation issues; funding for winter air service; sports facilities; government relations; and business development.

Discussion commenced on funding sources and the possibility of the 1% lodging tax going towards marketing.

Quinn supports looking into changing the use of the lodging tax. Diamond stated that there could be more support for flights from the LMD if there is another source for marketing.

Discussion commenced on having contributions to the air program as a public benefit for development proposals.

Supplemental funding request for 2010: Evans Hall spoke to their "drive events" and "event weekends" and funding for broadcasts and direct mail. She stated that people are reacting more on short time frame windows, which was the pulse throughout the course of the summer.

She stated that the Chamber will work with staff to bring the supplemental request forward. Engelken stated that he will look at it but wants to see how 2010 sales tax is doing. He would consider this in April.

Transportation:

Evans Hall noted her appreciation for the great participation from City staff. She stated that they are seeing things get done like the lodging shuttle stops, striping, and pedestrian and bike access.

Sports facilities:

Wilson stated that staff is working on a 5 year contract with Triple Crown with a 5 year renewable term. Long range they are looking at fields out by the airport.

Discussion commenced on restroom improvement dollars.

URAAC:

Myller spoke to the \$9 million dollar project that was designed. It was expected that URAAC would receive and spend \$6 million over the year 2010 with the remaining money spent in 2011. It has since been found that the project will get \$4.8 million and nothing next year; therefore there will be a much smaller project. He stated that URAAC bring forward options on how to move forward.

Baldinger Jr. spoke to mill levy issues with the School District regarding de-brucing. They are trying to figure out the costs; however it is difficult with "moving targets on both ends". URAAC will need philosophical direction from Council regarding fronting funds that can be backfilled in the future.

Roberts stated that he will attend a special URAAC meeting this Thursday to develop a recommendation and will report back to Council on February 16. Reisman and Engelken will attend this meeting as well.

Baldinger complimented staff on the accuracy of these numbers, which was very helpful to them.

Wrap Ups:

Reisman asked about job creation and drawing business to Steamboat Springs. Evans Hall stated that their philosophy has been to create more within the community. They do work with businesses that want to be here and then grow that business. She stated that transportation infrastructure and communication infrastructure are very important to these types of businesses.

Bob Larson spoke to the disconnect between the business community and elected officials and that this meeting is a step towards addressing that.

Magill stated that there are five different organizations that keep a community calendar, and asked if these can be synchronized? **DIRECTION:** Staff to look into this.

Quinn asked about the Chamber's "synergy" with Mainstreet? Evans Hall stated that the entities have a very good relationship and the Chamber is also working on that with the newly formed Mountain Village Partnership.

Reisman spoke to the recent Snowsports Industry Association (SIA) Show in Denver and if there is someway to take advantage of that. Diamond stated that there is not much there because these are all "industry" people who get free skiing and there is also the "on snow" portion of the show. He noted that there are several local companies active at SIA and this needs to be promoted.

Myller asked if the Chamber can talk to businesses about the housing challenges of their employees. Evans Hall stated that the Chamber can do a survey to gather information.

Quinn asked that the survey also include childcare costs.

Bentley asked about the status of the "Colorado Companies to Watch". Rudacious stated that there are many good applicants this year and we are well represented as a community.

C. CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES FIRST READINGS

- 2. MOTION: Motion for City Council to not accept the 2010 pay increase.**

Hermacinski read the motion into the record.

- 3. MOTION: Motion to approve amending the agreement with Jim Moylan to include the scope of work for compliance officer services for Medical Marijuana Dispensary licenses.**

Hermacinski read the motion into the record.

- 4. RESOLUTION: A resolution adopting the Amended By-Laws and the Amended and Restated Intergovernmental Agreement for the Yampa Valley Airport Commission.**

Hermacinski read the resolution title into the record.

MOTION: To approve items 2, 3, and 4 of the Consent Calendar; Myller/Quinn;
APPROVED; Vote 6/0. Bentley left the meeting for a moment.

Bentley returned to the meeting.

PLANNING COMMISSION REPORT

Brain Hanlen spoke to revisions to the code and that the goal is to create a more predictable and efficient process. He spoke to infill developments within the City, new street standards, and the elimination of blanket utility easements. They are also discussing density/intensity; areas that can be more pedestrian friendly;

random lot shapes and sizes; waterbody setbacks; floodplain and wetlands; re-subdivisions; and small lot subdivisions.

Hermacinski stated that the City is exploring new benefits to get people to volunteer for the Planning Commission. **DIRECTION:** Golf Committee to look at free golf for Planning Commissioners.

Discussion commenced on infill for residential; zoning to allow small lot subdivisions; and traditional neighborhood design.

D. PUBLIC HEARING: ORDINANCE SECOND READINGS

- 5. SECOND READING OF ORDINANCE: An ordinance amending Chapter 26 of the Steamboat Springs Revised Municipal Code, commonly referred to as the Steamboat Springs Community Development Code, to revise Sections 26-68 final plat, 26-141 phasing, and article VIII Agreements.**

Hermacinski read the ordinance title into the record.

PUBLIC COMMENT: No one appeared for public hearing

MOTION: To approve the second reading of an ordinance amending Chapter 26 of the Steamboat Springs Revised Municipal Code, commonly referred to as the Steamboat Springs Community Development Code, to revise Sections 26-68 final plat, 26-141 phasing, and article VIII Agreements; **APPROVED;** Myller/Bentley; Vote 7/0.

- 6. SECOND READING OF ORDINANCE: An ordinance amending certain Articles in Chapters 2 and 26 of the Steamboat Springs Revised Municipal Code pertaining to general administration of the City and execution of various documents, and establishing an effective date.**

Hermacinski read the ordinance title into the record.

Bentley questioned cutting back to 2 meetings a month, feeling that it makes Council less accessible to the public. She also stated that potential changes to the code need to be discussed at a public meeting because there is a public perception that the President and Pro-Tem are advancing their own goals.

Hermacinski believes that decreasing the number of meetings will make Council more accessible to the community because they will have more time to interface with constituents and attend other meetings. She stated that the changes to the Code were discussed at a public meeting.

Magill stated that if necessary, a third meeting can be added.

PUBLIC COMMENT: No one appeared for public hearing.

MOTION: To approve the second reading of an ordinance amending certain Articles in Chapters 2 and 26 of the Steamboat Springs Revised Municipal Code pertaining to general administration of the City and execution of various documents, and establishing an effective date; Magill/Quinn; **APPROVED**; Vote 7/0.

7. **SECOND READING OF ORDINANCE: An ordinance abolishing the Howelsen Hill Commission and repealing Division 13, Section 2-517, Section 2-518 and Section 2-519 of the Steamboat Springs Revised Municipal Code; repealing all conflicting ordinances; providing for severability; and providing an effective date.**

Hermacinski read the ordinance title into the record.

PUBLIC COMMENT: No one appeared for public hearing.

MOTION: To approve the second reading of an ordinance abolishing the Howelsen Hill Commission and repealing Division 13, Section 2-517, Section 2-518 and Section 2-519 of the Steamboat Springs Revised Municipal Code; repealing all conflicting ordinances; providing for severability; and providing an effective date; Myller/Quinn; **APPROVED**; Vote 7/0.

8. **SECOND READING OF ORDINANCE: An ordinance abolishing the Tennis Advisory Committee and repealing Division 14, Section 2-520, Section 2-521 and Section 2-522 of the Steamboat Springs Revised Municipal Code; repealing all conflicting ordinances; providing for severability; and providing an effective date.**

Hermacinski read the ordinance title into the record.

PUBLIC COMMENT: No one appeared for public hearing.

MOTION: To approve the second reading of an ordinance abolishing the Tennis Advisory Committee and repealing Division 14, Section 2-520, Section 2-521 and Section 2-522 of the Steamboat Springs Revised Municipal Code; repealing all conflicting ordinances; providing for severability; and providing an effective date; Reisman/Bentley; **APPROVED;** Vote 7/0.

9. MEDICAL MARIJANUA DISPENSARY LICENSE: D and C, LLC.

Hermacinski read the license application into the record.

Foote asked that Council approve the license and adopt the 9 findings of fact in the City Council communication form.

PUBLIC COMMENT: No one appeared for public hearing.

MOTION: To approve the medical marijuana dispensary license application for D and C, LLC with Findings 1-9; Bentley/Quinn; **APPROVED;** Vote 7/0.

10. MEDICAL MARIJANUA DISPENSARY LICENSE: Rocky Mountain Remedies, LLC.

Hermacinski read the license application into the record.

PUBLIC COMMENT: No one appeared for public hearing.

MOTION: To approve the medical marijuana dispensary license application for Rocky Mountain Remedies, LLC with Findings 1-9; Reisman/Magill; **APPROVED;** Vote 7/0.

11. MEDICAL MARIJANUA DISPENSARY LICENSE: Natural Choice Co-op.

Hermacinski read the license application into the record.

PUBLIC COMMENT: No one appeared for public hearing.

MOTION: To approve the medical marijuana dispensary license application for Natural Choice Co-op with Findings 1-9; Engelken/Quinn; **APPROVED;** Vote 7/0.

GENERAL PUBLIC COMMENT

Robin Craigen, Moving Mountain Chalets, stated that he is still waiting for the review of the Vacation Home Rental (VHR) ordinance regarding his three areas of concern: the shared access driveways, parking restrictions, and the cost and administration. He asked that Council review these sections of the code.

Susie Spiro, Steamboat Lodging Properties, voiced concern that there are still VHR's operating without permits. Additionally, there have been homeowners that have had to sell their homes because they can't get a VHR permit due to the shared driveway access requirement.

Quinn asked Craigen and Spiro to bring their specific written requests written to Council and Planning and staff will review it and give feedback. Engelken supports this if all information goes through staff.

Hermacinski stated that there was Council consensus that there were parts of the ordinance that needed to be addressed. She supports the group working with staff. Leeson noted that both sides need to be represented. **UNANIMOUS CONSENT.**

MISCELLANEOUS BUSINESS:

Hermacinski stepped down.

Roberts noted a letter from Whiteman Primary School requesting a waiver of \$4,046 in development fees for their expansion project. Roberts stated that the City has historically waived fees for non profits; however the City actually pays the fees. He clarified that these are development fees paid to the Planning Department and are not paid out of the General Fund.

Engelken voiced concern that these funds would not go to the Planning Dept. Roberts stated that the City does not tie revenue streams to the department and Planning's budget would not be impacted by waiver.

Nancy Spillane, Whiteman Primary School, stated that they are building a multi-purpose building which will serve as a meeting room for many non profit community groups at no charge. She stated that this building will be good for the community and the downtown area. This project will also employ workers in the construction phase and they will be purchasing their materials locally.

Lesson clarified that the City does waive fees on occasion, for example for Lift Up.

MOTION: To approve waiving the development fees for Whiteman Primary School; Bentley/Reisman; **APPROVED;** Vote 6/0. Hermacinski stepped down.

Hermacinski returned.

PLANNING
PROJECTS

E. PLANNING COMMISSION REPORT

This item was heard earlier in the meeting.

F. CONSENT CALENDAR - PLANNING COMMISSION REFERRALS

There were no items scheduled for this portion of the agenda.

G. PUBLIC HEARING – PLANNING COMMISSION REFERRALS

12. PROJECT: Ski Time Square

PETITION: Development Plan for a mixed use project totaling 680,742 gross square feet in five buildings with associated site improvements.

This item was postponed from the October 20, 2009 and January 19, 2010 City Council meetings.

Hermacinski read the project into the record.

Conflict of interest discussion:

Quinn stated that he will step down because he does work for Atira; however prior to that Council will have a general discussion on the boundaries and when it is appropriate to step down. He stated that he is stepping down due to monetary gain, but Reisman’s situation of owning a rental property within 300 feet of the project is “a little gray”.

Lettunich spoke to the history of the “300 feet rule”, which comes from the fact that anyone within 300 feet receives an adjacent property owner notice from the Planning Department. This distance requirement has been used as a litmus test for conflict of interest. This has evolved over time to include the public perception of conflict. The “300 feet rule” is not codified.

Reisman asked if Council wants to explicitly honor this historical practice or discuss it each case individually. He noted the need to act as elected

representatives and the applicant's due process includes representation. He is also concerned with lack of quorum on final decisions.

Hermacinski supports discussing conflict on a case by case basis and if the Council member does not believe that he/she has conflict then they should be allowed to make the decision. The community is better served by all seven members hearing issues/projects and the "300 feet rule" should be a trigger for discussion and not a reason to immediately step down.

Council agreed to discuss each conflict on a case by case basis. **UNANIMOUS CONSENT.**

Quinn stepped down.

Reisman stated that he owns a rental property "within spitting distance" of the applicant's property. He believes that he can act fair and impartially; however he does attend homeowner's association (HOA) meetings and has attended meetings specifically regarding this project. Bentley believes that because Reisman has given input at HOA meetings that there is a conflict of interest. Engelken stated that this is a development that could block Reisman's views, produce shading and parking garage issues and that therefore there is conflict. Myller agrees. Hermacinski stated that because this is quasi judicial Reisman should step down.

Reisman stepped down.

Spence provided a 3D fly through presentation of the project.

Becky Stone, Oz Architecture, was also present.

Mark Matthews, applicant, provided a PowerPoint presentation highlighting the following: Project team; project summary; site plan; highlights; birds eye view of the project; pedestrian/vehicular connectivity; temporary use and landscape plan; illustrative vignettes; Ski Time Drive elevation; and phasing.

Discussion took place relative, but not limited to: number of units; retail; community amenity requirements; cost per square foot for public restrooms; 30% contingency; Ski Time Square parking garage; and the vesting plan.

PUBLIC COMMENT:

Bill Jameson stated that if there is public perception of conflict then a Council member should step down. He believes the shading on Burgess Creek Road is an adverse impact and opposes the 10 year vesting.

Vail Kozatch, owner of Ambiente, also speaking on behalf of other merchants in the area, stated that the merchants in the area refer to it as “no mans land”. She stated that they desperately need traffic up there and lack thereof reflects badly on the mountain neighborhood. She would like the developer to provide a firm and binding commitment that will rejuvenate the area.

Al Choy noted the importance of the Ski Time Square area to the community and that there is a defined economic detriment until the appropriate businesses are in place, which could be 12-18 years from now. He suggested having a performance bond so that if things are not replaced, the bond would replace money until the businesses and buildings are in place.

Engelken asked about the shadowing. Spence stated that Public Works staff has stated that Burgess Creek Road does suffer deficiencies that need to be addressed, however these deficiencies are not the entire responsibility of one developer to fix.

Engelken asked if the developer is providing a product that will pay a lodging tax. Matthews stated that they are proposing fractional units as a possible use, as well as whole ownership condos. Fractional units do not pay lodging tax, however the number anticipated is not significant.

Shelton spoke to snow removal efforts and control on Burgess Creek Road. He stated that the road does get frequent attention and the shadowed areas will need to be controlled with more scoria.

Magill would like to see more mixed use in the commercial core, like a music venue.

MOTION: To approve the development plan for Ski Time Square with conditions 1-35 with a 6 year vesting period; Myller/Magill; **APPROVED;** Vote 5/0. Quinn and Reisman stepped down.

Discussion during the motion:

Engelken thinks this a great site plan and he likes open space; activity in this area makes retail, transit and the ski area work. However he thinks that 200 units are inadequate and that there needs to be give and take between short term use and the needs of the community. His biggest concern is that the public amenities section is inadequate.

Myller agrees with some of Engelken’s concerns; however according to a recent retail study, it can’t be proven that more retail space generates anything.

Bentley believes that the retail square footage is sufficient. She believes that due to the current economy, that the boutique style of retail shop may be thing of the past. As long as there are restaurants and nightlife in the area she is comfortable with the project.

Magill agrees.

Hermacinski agrees that the 2,700 square feet of retail is sufficient and that it is good to draw the major shopping to the downtown area. She supports the 6 year vesting.

The above motion was upheld.

H. REPORTS

13. City Council

Magill:

1. Attended the CAST meeting in Crested Butte. Noted a conversation about the need to get people involved in winterization.
2. Noted this weekend's events: Olympic Send Off, Art Walk and Winter Carnival.

Reisman:

1. Attended a Water Congress meeting.
2. Attended some of the SIA events in Denver, including a forum regarding local Colorado businesses.
3. Stated that the next time we have Medical Marijuana Dispensary application hearings that we have the applicant come to the podium and speak.
4. Attended a meeting with City and Ski Corp. staff regarding the Olympic Send Off event. Noted that Jim Schneider was very appreciative of staff's help and cooperation.

Myller:

1. Attended the URAAC meeting.
2. Has attended several meetings about "free riding" and noted that there is significant local support for bringing this new activity to Steamboat Springs.
3. Attended Routt County Riders and Cycling/Tourism Task Force meetings.
4. Attended the Building Department Quarterly meeting.
5. Will attend the Colorado Preservation Institute.

Quinn:

1. Attended a Mainstreet meeting and discussed bringing the Hospitality Institute here to help with conflicts between local restaurants/bars and residential units, relative to late night activity. Mainstreet will be asking for money to help fund this dialog.
2. Noted that First Impressions would like to provide Council with its annual report in April.
3. Was going to attend an informational meeting with Ski Corp. Regarding Steamboat 700, but can't attend. Council to check their schedules.

14. Reports

a. Agenda Review:

- 1.) City Council agenda for February 16, 2010.**
- 2.) SSRA agenda for February 16, 2010.**
- 3.) City Council agenda for March 2, 2010.**

Council reviewed the above agendas.

15. Staff Reports

a. City Attorney's Update/ Report.

Lettunich had no report.

b. Manager's Report: Ongoing Projects.

Roberts reported on the following:

1. Spoke to appeal that has been filed in Sundance post office closure hearings. Due to this appeal, the City has the opportunity to become an "intervener". The City would not be in opposition, however it would be an opportunity to put on record the City's concerns about traffic and the safety impacts of consolidating to the downtown location. **MAJORITY CONSENT:** Staff to take part and to register the City's concerns.
2. Roberts spoke to the Lincoln Avenue construction and an early completion bonus provision if the project is finished by June 30. Mainstreet proposes a \$4,500 marketing campaign to mitigate the impacts of the construction. Roberts believes that the City will receive this investment back and he recommends that the City give \$5,000 for this program. **UNANIMOUS CONSENT.**
3. After discussions and analysis from engineering staff, the City believes it is possible to accelerate the June 30 bonus completion date and CDOT is willing to amend the contract to add this accelerated schedule. Staff recommends an additional \$110,000 for this early completion bonus accelerating the project by two weeks. He asked if Council would like staff to work the details out with CDOT and the contractor. **UNANIMOUS CONSENT.**

4. Noted a proposal from the Chamber and the Pilot to put on another Steamboat 700 public forum. The proposed forum structure was for the City to give a presentation and for a debate to take place; however that plan did not work. As of now, there are 2 forums scheduled and it was requested that the City not participate and there only be a debate. Roberts asked if Council would like the City to move forward with another City forum. **UNANIMOUS CONSENT:** No.
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These minutes were approved earlier in the meeting.

I. OLD BUSINESS

16. Minutes

a. Regular Meeting 2010-01, January 5, 2010.

MOTION: To approve the January 5, 2010 minutes; Engelken/Myller;
APPROVED; Vote 7/0.

b. Regular Meeting 2010-02, January 19, 2010.

Hermacinski stepped down.

MOTION: To approve the January 19, 2010 minutes; Bentley/Myller;
APPROVED; Vote 6/0. Hermacinski stepped down.

Hermacinski returned to the meeting.

J. ADJOURNMENT

MOTION: To adjourn Regular Meeting 2010-03 at approximately 9:31pm;
Myller/Quinn; **APPROVED;** Vote 7/0.