

*** * * F O L L O W – U P * * ***

CITY OF STEAMBOAT SPRINGS

AGENDA

REGULAR MEETING NO. 2010-01

TUESDAY, JANUARY 5, 2010

5:00 P.M.

Hermacinski called the meeting to order at 5:01pm.

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; Bob Litzau, Assistant Director of Financial Services; Debra Hinsvark, Interim Director of Financial Services; Philo Shelton, Director of Public Works; Ben Beall, City Engineer; Mike Schmidt, Computer Services; Vince O'Connor, Computer Services; Laureen Shaffer, Historic Preservation; Dan Foote, Staff Attorney; Joel Rae, Police Captain; John Snyder, City Engineer; Ron Lindroth, Fire Chief; Chris Wilson, Director of Parks, Recreation and Open Space; Tom Leeson, Director of Planning Services; Jason Peasley, City Planner; 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. Pio Utu presentation to community members in appreciation of fundraiser for Samoa.**

Pio Utu thanked the City for the opportunity to give this presentation about the local fundraiser for tsunami relief for Samoa. \$30,000 was raised and delivered to Western and American Samoa. He thanked Mike Sherrill, Kevin Kaminski and Kurt Weiss (not present) who traveled with him to deliver the money and work on the recovery effort. Kaminski read a letter of thanks on behalf of the people of Samoa. He presented a gift from Samoa to the people who assisted in the fundraising.

Utu concluded with a slideshow presentation of the trip.

2. Yampatika semi-annual update.

Sonja Macys provided an update on what Yampatika has been doing at the Environmental Learning Center at the Legacy Ranch. The vision of the project is education and the site serves as a demonstration project site where they offer skill based youth camps, service learning days for middle and high school students, and adult education programs. They also involve the Boys and Girls Club and have a Blues Break camp. She spoke to community cultivation; the water harvesting demonstration project; and the future historic interpretation of the site. She thanked Craig Robinson and Laureen Shaffer for their assistance.

She also provided a slideshow presentation of various activities at the Ranch and thanked the City for the opportunity to operate on this City property.

Discussion commenced on their plans to market their programs to out of town people.

Council stated that they are very happy with Yampatika's use on this site.

3. Livability Index.

Grant Fenton and Roger Good were present. Fenton stated that this document is a 2 year index that compares Routt County with 10 other Counties in the areas of civic, social, economic and environment.

Discussion commenced on: the weighting for each category that will stay the same for 5 years; and comparing the data with other sources like Yampa Valley Partners.

Hermacinski questioned the public safety rating. Good stated that this is based on reported crime and they used the standards that are in place for reporting crimes.

Reisman questioned if the education weighting adequately covers what and who we are producing.

Quinn voiced concern with the cost of printing the report and whether so many needed to be printed. He questioned whether people really absorb all that information.

Bentley stated that after people get to know the tool better, the awareness will spread to others and it will become more useful and more understandable.

Fenton asked that the City use this document because it is relevant to decisions that Council makes.

4. HPC Update.

Cami Bunn provided the highlights of their annual report noting the following: there were 30 projects or nominations in 2009, and 12 listings on the historic register (10 of these were City owned property); and in collaboration with Mainstreet had two architects speak to downtown property owners about creating a historic district. The homeowners say that incentives are what will get a district going.

Bunn concluded that the HPC's single goal is to meet with Council as soon as possible to discuss incentives.

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

5. MOTION: Motion to accept Funding Allocation Committee's recommendation.

Hermacinski read the motion into the record.

Bentley questioned where Yampa Valley Partners and Search and Rescue belong and wants to ensure that the \$5,000 that was pulled goes to Yampa Valley Partners.

Litzau stated that the \$5,000 for Yampa Valley Partners will show as a separate line item and Search and Rescue is a separate line item as well.

Magill asked why The Boys and Girls Club got no funding.

Nancy Kramer stated that this is a brand new organization and the Committee wants to ensure that all organizations head in the right direction with a sound foundation and new organizations sometimes are not sustainable.

PUBLIC COMMENT: No one appeared for public comment.

MOTION: To accept the Funding Allocation Committee's recommendation; Bentley/Quinn; **APPROVED**; Vote 6/1. Magill opposed.

6. **RESOLUTION: A resolution approving an Intergovernmental Agreement by and between the City of Steamboat Springs, Routt County, and the Routt County Clerk and Recorder concerning the procedures for conducting the Municipal Referendum Election scheduled for March 9, 2010.**

Hermacinski read the resolution title into the record.

7. **MOTION: Motion to approve the Mail Ballot Election Plan for the March 9, 2010 Special Municipal Election.**

Hermacinski read the motion into the record.

MOTION: To approve items 6 and 7 of the Consent Calendar; Quinn/Bentley; **APPROVED**; Vote 7/0.

D. PUBLIC HEARING: ORDINANCE SECOND READINGS

8. **SECOND READING OF ORDINANCE: An ordinance amending the Community Development Code by adding a Definition and Use Criteria for Medical Marijuana Dispensary uses; amending the use table to permit Medical Marijuana uses as a Conditional Use or Use with Criteria in Commercial and Industrial Zone Districts; amending Chapter 12 of the Revised Municipal Code by imposing licensing and operational requirements on Medical Marijuana Dispensaries; providing for severability; providing an effective date; and repealing all conflicting ordinances.**

This item was postponed from the December 15, 2009 Council meeting.

Hermacinski read the ordinance title into the record.

Quinn questioned the surveillance system and requiring cameras in parking lots and the interior and exterior of buildings. Hays stated that the current operators are not opposed to the cameras, and it benefits the operator if there is an issue.

Hermacinski suggested requiring cameras only in the parking area immediately adjacent to the operator's space.

Roberts suggested adding the words "and were practical".

Quinn believes that this ordinance is a good first step and would like to get something on the books and move forward.

Reisman stated that he is "hung up" on the number of permits allowed and would like to revisit raising the fee structure to ensure that the costs of enforcement are covered.

Bentley would like to try the suggested fee structure to see if it covers the costs.

Hermacinski stated that there are so many components of this ordinance that could be debated, however the City needs to get something on the books.

PUBLIC COMMENT:

Kevin Fisher, Rocky Mountain Remedies, noted that the State is considering "four figure" fees and stated that there is not the money out there at this point that people believe.

Charlie Magnusen supports the ordinance but noted that they are not making any money at this point.

Jennifer Robbins, representing perspective dispensary applicants and medical marijuana patients, believes that restricting the number of dispensaries restricts the patient's options and drives up costs which could lead to people using a dispensary outside of the City.

Daniel Osmond also disagrees with restricting the number of dispensaries and voiced concern with creating a monopoly. He supports having security cameras for the entryway and exit, but not the parking lot.

Richard Friedman noted that the City is looking for commerce in town and this is not the time to be short sighted. He does not support limiting the number of dispensaries.

Darrell Levin D and C, LLC, stated that there is no monopoly. It is their goal to help patients, and he believes that they do a fine job with the two dispensaries that exist.

Bentley would like to go ahead with the ordinance as written, with a one year sunset in order to review it.

Engelken stated that there was no “tried and true” method for coming up with the number and there will always be pressure to increase it. He supports moving forward with the ordinance as written, noting that it can be amended in the future.

Reisman suggested either limiting it to two, or open it up and increase the fees.

MOTION: To approve the second reading of an ordinance amending the Community Development Code by adding a Definition and Use Criteria for Medical Marijuana Dispensary uses; amending the use table to permit Medical Marijuana uses as a Conditional Use or Use with Criteria in Commercial and Industrial Zone Districts; amending Chapter 12 of the Revised Municipal Code by imposing licensing and operational requirements on Medical Marijuana Dispensaries; providing for severability; providing an effective date; and repealing all conflicting ordinances; revisiting the ordinance January of 2011; Quinn/Engelken; **APPROVED;** Vote 6/1. Reisman opposed.

PLANNING
PROJECTS

E. PLANNING COMMISSION REPORT

Sara Fox, Planning Commission representative, was present and reported that they are working on the sign code update and the real estate community has been very involved. The update allows temporary open house signs, centralized multi-family project signs, and construction signage with one renewal. There are changes to the illumination; they are recommending restrictions to pole signs throughout the City; and vehicle signage will be prohibited.

Myller questioned how to enforce vehicle sign restrictions. Fox noted that if the vehicle moves around signage is okay, however not if the vehicle is stationary.

GENERAL PUBLIC COMMENT

Tom Williams, representing 82 Angry West Acres Residents, asked about the status of compensation for loss of their green belts. Lettunich stated that at the direction of Council, the City has decided to move ahead with litigation and there will be no offer at this time.

Williams asked how this happened. Hermacinski stated that there was an early offer that was not responded to, and the direction was to proceed with the litigation and see how the Courts rule. Williams stated that the initial offer of \$40,000 was insulting. Williams stated that they got the wrong impression that Council was empathetic to their situation. Hermacinski stated that the developer is another party in this situation and the City does not have the legal right to stop the construction of the road.

Quinn stated that it is the Council's responsibility to be accountable to all taxpayers and landlords and property owners.

John DeWardt voiced concern with the traffic impacts of consolidating the Post Office locations due to the fact that there would be another 2,600 people that will need services at the 3rd Street location. Hermacinski stated that the City shares these concerns; however the Federal government preempts the local and state government.

Roberts stated that the latest information is that the Post Office will remain open at Sundance, but there will be no retail component.

F. CONSENT CALENDAR - PLANNING COMMISSION REFERRALS

9. RESOLUTION: A resolution amending the Community Area Plan Future Land Use Plan to change the land use designation from Resort Commercial to Resort Residential. SCE Subdivision, 2135 Burgess Creek Road.

This item has been postponed from the November 17, and the December 1, 2009 City Council meetings.

Hermacinski read the resolution title into the record. She noted that item 9 will be heard in conjunction with agenda item 15.

10. FIRST READING OF ORDINANCE: An ordinance amending Chapter 26 of the Steamboat Springs Revised Municipal Code by amending the term and effect of approval of final development plans by allowing administrative extensions in limited circumstances; providing for severability; providing an effective date; repealing all conflicting ordinances; and setting a hearing date.

Hermacinski read the ordinance title into the record.

11. **FIRST READING OF ORDINANCE:** An ordinance of the City of Steamboat Springs, Colorado, extending the vesting period for a site specific development plan originally approved as “Montenero at Steamboat Springs” for an additional time period of three years, repealing all conflicting ordinances; providing for severability; and providing an effective date.

Hermacinski read the ordinance title into the record.

Quinn stepped down.

MOTION: To approve the first reading of an ordinance of the City of Steamboat Springs, Colorado, extending the vesting period for a site specific development plan originally approved as “Montenero at Steamboat Springs” for an additional time period of three years, repealing all conflicting ordinances; providing for severability; and providing an effective date; Myller/Magill; **APPROVED;** Vote 6/0. Quinn stepped down.

Quinn returned to the meeting.

12. **FIRST READING OF ORDINANCE:** An ordinance of the City of Steamboat Springs, Colorado, extending the vesting period for a site specific development plan originally approved as “Rocky Peak Village” for an additional time period of three years, repealing all conflicting ordinances; providing for severability; and providing an effective date.

Hermacinski read the ordinance title into the record.

13. **FIRST READING OF ORDINANCE:** An ordinance of the City of Steamboat Springs, Colorado, extending the vesting period for a site specific development plan originally approved as “Fulton Ridge” for an additional time period of three years, repealing all conflicting ordinances; providing for severability; and providing an effective date.

Hermacinski read the ordinance title into the record.

14. **FIRST READING OF ORDINANCE:** An ordinance of the City of Steamboat Springs, Colorado, extending the vesting period for a site specific development plan originally approved as “Riverfront Park” for an additional time period of three years, repealing all conflicting ordinances; providing for severability; and providing an effective date.

Hermacinski read the ordinance title into the record.

MOTION: To approve items 10, 12, 13 and 14 of the Planning Consent Calendar; Quinn/Bentley; **APPROVED;** Vote 7/0.

G. PUBLIC HEARING – PLANNING COMMISSION REFERRALS

15. **SECOND READING OF ORDINANCE:** An ordinance rezoning property located in SCE Subdivision, Lots 1 and 2; from RE-1 (Residential Estate One – Low Density) Zone District and G-1(Gondola One) Zone District to RR-2 (Resort Residential Two - High Density); repealing all conflicting ordinances; providing for severability; and providing an effective date.

Hermacinski read the ordinance title into the record.

Agenda items 9 and 15 were heard together, but voted on separately.

9. **RESOLUTION:** A resolution amending the Community Area Plan Future Land Use Plan to change the land use designation from Resort Commercial to Resort Residential. SCE Subdivision, 2135 Burgess Creek Road.

Reisman stepped down.

Quinn stated that he stepped down on the first reading of the rezone ordinance, however this was a mistake. It was suggested there was a conflict, but Council did not conclude the debate. He feels this is a terrible precedent to set and artificially “stacks the jury”; the mere suggestion of conflict does not make it so. He stated that his company provides some technical support for Vertical Arts, who is a consultant to the applicant. He very infrequently performs work for them, in fact last year he performed 1 hour of work for Vertical Arts. He believes that his voting record shows that he is not conflicted and believes that Council should be the final arbiter of this.

Engelken believes that the decision is Quinn's, not Council's, however he is concerned with setting a precedent having a Council member step down on first reading and not stepping down on second reading.

Quinn clarified that he did not step down because he felt like that he had a conflict.

Bentley stated that she didn't think Quinn had a conflict; however since he stepped down once he should do it again.

Hermacinski does not believe there is conflict. She stated that he stepped down once, but did not step down the four previous times this applicant was before the Council. She voiced concern that Quinn was "badgered" into stepping down when it should have been a Council decision.

Magill also does not believe that there is a conflict, however Council should continue with who voted the first time.

Lettunich noted that any motion regarding Quinn stepping down should state that Council believes that Quinn has a conflict of interest.

MOTION: To state that Quinn has no conflict of interest; Magill/Myller; **APPROVED;** Vote 5/0. Reisman stepped down. Quinn did not participate in this vote.

Magill stated that he has worked with the applicant as a sub-consultant, but does not believe he has a conflict.

Bavosi, representing the applicant, was present and stated that there is no presentation or changes since the last hearing.

Peasley stated that there was an error in the staff report and clarified that the first reading was approved 3-2.

PUBLIC COMMENT:

Ron Smith, representing The Bronze Tree and The Ranch, who both oppose the rezone. They believe that the applicant has not carried the burden of proof for all 5 conditions. The rezone request is not compatible with surrounding development, is not consistent with the neighborhood or the conservation easement and open space and there is no transition into the residential area. The disadvantages outweigh the advantages and the development would create too much traffic and a safety risk. They are opposed to the negative

environmental effects on Burgess Creek and the lot is four lots away from the slopes and not physically connected.

John DeWardt encouraged Council to make this decision carefully. If the lot is up-zoned it will create a high density block without any transition.

Bill Moser voiced concern with high density and traffic problems on a narrow, winding, steep road. He also noted that the intersection at Mt. Werner Road will deteriorate and there is only one access to the area.

Patty Rackstein opposes the upzoning and agrees with Mr. Smith. Burgess Creek Road is dangerous and adding more traffic to it is concerning.

Staff provided a 3D fly through presentation.

Magill asked for a definition of “principally” adjacent.

Kevin Kelly, representing the applicant, stated that they agree with staff’s interpretation of the code and that as a general rule, RR2 is to be located adjacent to the slopes. The word “principally” is used so that exceptions can be granted when appropriate. They believe that this is a case to make an exception.

Jeremy MacGray, applicant, stated that they do have ski-in access, which makes the lot more “slopeside” than other properties.

Bentley stated that a rezone should be compatible and shall enhance the existing neighborhoods and developments. She believes that the Future Land Use Map (FLUM) is in error in this case and that the lot is a part of the Burgess Creek neighborhood, rather than the base area. She does not support the rezone request.

Quinn stated that community planning emphasizes the importance of density at the base. He does not believe that the lot is appropriate for commercial and clarified that Council is looking at a rezone, not a building application. During the application process concerns regarding Burgess Creek Road will have to be addressed. He believes that this is a reasonable compromise.

Engelken believes that RR2 is too intense for this site and that this is not good planning. Additionally, the road is not safe and there are site constraints and there is no transition. This rezone is out of character with the surrounding area, therefore he opposes both the rezone and the FLUM amendment.

Myller believes that the FLUM is correct and still supports the rezone request.

Magill stated that he disagrees with the staff report and there is no access from the base area besides Burgess Creek Road. He does not support the rezone.

Hermacinski agrees with Myller and supports the request.

MOTION: To table indefinitely a resolution amending the Community Area Plan Future Land Use Plan to change the land use designation from Resort Commercial to Resort Residential. SCE Subdivision, 2135 Burgess Creek Road; Quinn/Myller; **APPROVED**; Vote 6/0. Reisman stepped down.

MOTION: To deny the second reading of an ordinance rezoning property located in SCE Subdivision, Lots 1 and 2; from RE-1 (Residential Estate One – Low Density) Zone District and G-1(Gondola One) Zone District to RR-2 (Resort Residential Two -High Density); repealing all conflicting ordinances; providing for severability; and providing an effective date; Bentley/Magill; **FAILED**; Vote 3/3. Reisman stepped down.

MOTION: To approve the second reading of an ordinance rezoning property located in SCE Subdivision, Lots 1 and 2; from RE-1 (Residential Estate One – Low Density) Zone District and G-1(Gondola One) Zone District to RR-2 (Resort Residential Two -High Density); repealing all conflicting ordinances; providing for severability; and providing an effective date; Quinn/Myller; **FAILED**; Vote 3/3. Reisman stepped down.

MOTION: To direct staff to allow the applicant to submit a new application sooner than a year; Engelken/Quinn; **APPROVED**; Vote 6/0. Reisman stepped down.

Direction to the applicant:

Engelken would like to see a residential project that has less impact on the road and the hillside and is more in keeping with the character of the neighborhood.

Quinn voiced concern that Council approved the FLUM which gave direction to a landowner, and now Council has changed that direction. He would like to see RR1 on both lots.

Magill supports RR1.

Bentley would like to see nothing done on Lot 2 and RR1 on Lot 1; however that is not what it is zoned. If both lots are developed she would like to see a less dense development. She supports RR1, but in two buildings so the mass is broken up.

MacGray stated that they were approved for G1 zoning and then their development wasn't approved. They were approved for RR2 twice and again denied. He asked how developers are supposed to know what to do.

Reisman returned to the meeting.

16. APPEAL: Captain Jack Subdivision, PP-09-05, appeal of administrative decision.

Mike Kortas voiced concern that City staff has misrepresented the facts in his appeal. He reviewed his perceived inaccuracies in the packet information.

He noted that he is appealing staff's requirement that he install a water main because it is unreasonable and illogical and would result in a development that would be less desirable to the City. He believes that the Community Development Code provisions were applied incorrectly.

Discussion commenced on whether to consider this as a large lot subdivision; and looping requirements.

Hermacinski asked whether the landowner should pay for the looping, or the rest of the community? Shelton stated that at some point, there will need to be a loop to serve the lots and customarily the applicant would pay for that. However Mr. Kortas believes that the City wants it looped in order to fix the situation at the Animal Shelter.

Quinn believes that it is Kortas' obligation to put in the loop and it is necessary to have orderly development.

Kortas stated that he needs a final plat in order to sell his property and asked if there is a way to have a dedicated easement providing the space of the loop as a compromise.

Snyder, City Engineer, stated that requiring many owners to build a single structure is a concern because working together with 30 different owners is a tough task.

Magill asked if it is possible to require a large plat note.

Roberts suggested requiring a surety.

PUBLIC COMMENT:

Scott Eggelsten, real estate broker, believes that when a subsequent owner makes application this can be addressed and believes that Council should let the market drive the end result and not force a capital improvement at this point.

MOTION: To deny the appeal; Quinn/Engelken; **APPROVED;** Vote 6/1. Magill opposed.

Discussion during the motion:

Myller supports the motion because the person who develops a subdivision should supply the water. However, he would like to work toward a different solution and suggested eliminating the lot lines in Block 10.

Magill believes that there should be a way for staff to suggest a plat note or surety. He does not support the motion.

H. REPORTS
17. City Council

Reisman:

1. Would like to attend the Water Congress meeting. **UNANIMOUS CONSENT:**Reisman to attend this meeting and Magill to attend CAST.
2. Noted that the Excellence Project will be having John Underwood speak in Steamboat Springs and are looking for additional funding.
3. Noted that he did not have a conflict of interest on the SCE agenda item. He stepped down due to the proximity of a condo that he owns. He would like to have a Council discussion on the concept of proximity to projects.
4. Noted that Andy Wirth will be giving Council passes to the Music Fest.

Magill:

1. Spoke to the progress of heavy equipment registration.

Bentley:

1. Asked for an update on the Torian Plum trash enclosure. Myller stated that it is as small as it can be for the equipment to be able to get in. **DIRECTION:** Kracum to provide further details.
2. Asked when the Steamboat 700 Attainability Plan will be heard. Leeson stated that the plan is required prior to Steamboat 700's first final plat, and that is when they plan to present it. It was noted that more discussion can take place when Council discusses the Community Housing Plan on January 19, 2010.

18. Reports

a. Agenda Review:

- 1.) LLA agenda for January 12, 2010.**
- 2.) City Council agenda for January 19, 2010.**
- 3.) LLA agenda for January 19, 2010.**

Council reviewed the above agendas.

19. Staff Reports

a. City Attorney's Update/ Report.

Lettunich had no report.

b. Manager's Report: Ongoing Projects.

Roberts reported on the following:

1. Stated that the City has heard from local business owners that there would be a benefit to the community if the City can accelerate the release of the monthly sales tax reporting. He introduced Debra Hinsvark the Interim Director of Financial Services. Hinsvark stated that the sales tax reports are extremely accurate because the City waits to release them, however there are lags. Staff assessed how many reports come in late and how much that would skew the report and concluded that a preliminary report should be approximately 97% accurate. A final report would follow. **UNANIMOUS CONSENT:** Staff to proceed with releasing preliminary reports.

I. OLD BUSINESS

20. Minutes

- a. Regular Meeting 2009-29, November 10, 2009.**
- b. Regular Meeting 2009-30, November 17, 2009.**
- c. Regular Meeting 2009-31, December 1, 2009.**
- d. Regular Meeting 2009-22, December 8, 2009.**
- e. Regular Meeting 2009-33, December 15, 2009.**

MOTION: To approve the above minutes; Quinn/Bentley; **APPROVED;** Vote 7/0.

J. ADJOURNMENT

MOTION: To adjourn Regular Meeting 2010-01 at approximately 10:25pm; Quinn/Reisman; **APPROVED;** Vote 7/0.