

**BASALT TOWN COUNCIL
REGULAR MEETING
MARCH 22, 2011**

MINUTES

The regular meeting of the Basalt Town Council was called to order at 6:40 p.m. on Tuesday, March 22, 2011, by Mayor Leroy Duroux.

Roll Call: Present for this meeting were Mayor Leroy Duroux along with Council members Glenn Rappaport, Peter McBride, Anne Freedman and Katie Schwoerer. Council members Jacque Whitsitt and Karin Teague were absent. Also present were Town Manager Bill Kane, Planning Director Susan Philp, Assistant Planning Director James Lindt, Senior Planner Brian McNellis, Finance Director Judi Tippetts, Public Works Director Bentley Henderson, Police Chief Roderick O'Connor, and Town Clerk Pamela Schilling. Citizens signing in for this meeting were: Matt Yamashita, Rick Lofaro, Michael Kinsley, Jerry Evert, Gabriel Bonilla, Ligia Bonilla, Gus Anderson, Logan Eaton, Andrew Liggett, Mike O'Connor, Ladibel Bonilla, Omar Merlso, Elmer Bonilla, Con Schuster, Larry Yaw, K. Dane Brooksher and Diane Schwener.

Consent Agenda

1. Accounts Payable
2. Next Agendas
3. Approve Town Manager's Contract
4. Appoint recommended BEMC members

M/S COUNCILORS MCBRIDE AND SCHWOERER TO APPROVE THE ACCOUNTS PAYABLE FOR MARCH 22, 2011 AS PRESENTED. A ROLL CALL VOTE WAS HELD. THE MOTION CARRIED 4-0 (Councilor Rappaport was out of the room at the time of the vote.)

M/S COUNCILORS FREEDMAN AND MCBRIDE TO APPROVE THE REMAINDER OF THE CONSENT AGENDA AS PRESENTED. THE MOTION CARRIED 4-0. (Councilor Rappaport was out of the room at the time of the vote.)

5. Community Service Acknowledgements: Students of the Month for March: Citizenship

This month's Pillar of Character is Citizenship: Do your share to make your school and community better; Cooperate; Stay informed: vote; Be a good neighbor; Obey laws and follow rules; Respect authority; and Protect the environment.

March's Student Citizens are:

From Basalt Elementary School: Sarah Miller and Natasha Kotz
From Basalt Middle School: Jenny Govea and Jose Ramos
From Basalt High School: Elizabeth Gonzalez and Kerry Reynolds

Citizen Comments for Items Not on the Agenda

There were no citizen comments this evening.

Councilor Comments

Anne Freedman suggested the Town look at having a student sit on the Town Board. The student would have a voice and be able to speak to issues, but would not have a vote.

Glenn Rappaport asked to get a feel for the schedule of planning items. Susan Philp said she would try to put together a schedule.

Leroy Duroux said he had been contacted by a number of people who want to remember Merino Fiou. Ideas include naming the recycle center after him, another was a bench with a plaque to be placed somewhere in town. Bill Kane said staff would follow up on that. Peter McBride added that there was an oil painting of Merino in Heirlooms if anyone wanted to see him.

Town Manager Report

Bill Kane offered additional detail toward anything noted in his report.

Peter McBride asked when construction might begin on the shooting range noise mitigation. Bill Kane said staff would like to take the grant and issue an RFP for a design-build project. He hoped to look at 3 firms and have the noise mitigation constructed this summer.

Bill Kane said he, on behalf of Council, submitted comments for the record for reapportionment for redistricting in the State. The comments suggest it would be helpful for the Town of Basalt to be in a single congressional district. They are trying to incorporate communities by 'communities of interest'; it would be of more interest to us to be in the Roaring Fork Valley, rather than the Vail Valley. Anne Freedman said she had sent in comments as well. Leroy Duroux thought it would seem an easy thing to outline the Roaring Fork Watershed and call it a district.

Roll Call and Joint meeting with Planning and Zoning Commission to review Revised Plans for the Roaring Fork Conservancy's River Center.

Chairman Bill Maron opened the joint meeting of the Basalt Town Council with the P&Z at 7:10 p.m.

Roll Call: Planning and Zoning Commission members present for the joint meeting this evening were Chairman Bill Maron, Members Bernie Grauer, Chris Touchette and Patrick McAllister.

7. Council – First Reading of Ordinance No. 07, Series of 2011: An Ordinance of the Town Council of the Town of Basalt, Colorado, Approving Revised Plans for the Roaring Fork Conservancy's Proposed River Center on Lot 1 of Basalt Riverfront Park Subdivision located at 22800 Two Rivers Road.

Senior Planner Brian McNellis offered a brief introduction noting this was the First Reading of the River Center revised plans. The Basalt Council approved Ordinance No. 8, series of 2010 on June 22, which was the approval for the Roaring Fork Conservancy's River Center facility. This building is proposed to be built off of Two Rivers Road adjacent to the Taqueria El Nopal. Brian addressed condition 2 of the approval which specified the revised plans needed to be submitted to the Planning and Zoning Commission and the Council for review prior to going forward with the detailed plans – architectural, lighting, etc. Condition 12 of Ordinance 8, 2010, required improvements to architecture – improvement to the public access of the pond, there be improvement to the fenestration and soften the effects of the architecture as seen from Two Rivers Road, and improve the visual access to the pond from Two Rivers Road. Brian noted the building had also gone under some slight changes to the position on the property and in the square footage requested.

Brian McNellis said staff was very much in support of the architectural changes.

Tim O’Keefe outlined the changes made to improve access to the pond and park, and for improved visual access of the pond from Two Rivers Road. Tim added information about the changes made to the architecture, including a decrease to the square footage of the building, and an improved fenestration – including an amended roof structure. A translucent layer has been added to the building to mimic the flow of the river and create the ability for light to come in and out. The entrance was made to be more apparent. Tim O’Keefe said the building was more indicative of what it is as a river center. Tim said they felt Phase 1 of the construction would stand alone better now than originally planned. The building has also been made 100% accessible with a lift, though not a whole elevator.

Brian McNellis followed up with a couple of technical issues:

Building size: With the build out of Phase 3, the total square footage of the building will be 377 sf smaller than originally planned; Phase 1 will increase by 136 sf. Staff does not feel this is a significant issue, though one Council and P&Z may want to consider.

Setbacks and trail: There have been 2 feet added to the setback from the pedestrian way which will allow for a little breathing room for vegetation and snow removal.

Architectural fenestration: Staff expressed a little concern with any air conditioning equipment or mechanical equipment placed on the roof diminishing the architectural style of the building. The applicant has assured staff that any such equipment can be contained in the attic of the building.

Brian McNellis discussed the Levinson property and the 10 space parking credit in exchange for pedestrian access from downtown to the River Center. The Rocky Mountain Institute is in negotiation to purchase the Levinson property. If that were to go forward, and RMI would develop the property prior to the River Center, the Town wants to be sure the pedestrian improvements would still be completed; this resulted in Condition 8 of the Ordinance which would allow the Town to create parking or pedestrian improvements.

Condition 7 speaks to the requirement for an ADA compliant office being placed on the first floor of the River Center, which is no longer required as the entire building is now planned to be ADA compliant.

Glenn Rappaport asked if the applicant was okay with the conditions presented. Tim O’Keefe replied ‘yes’.

Leroy Duroux opened the floor to public comments at 7:27 p.m. There were no comments and the public comment portion was closed.

Bill Maron suggested each P&Z Commissioner make their comments.

Chris Touchette: Said at the first meeting, there was a lot of uncertainty about the architecture and what the building would look like. He felt this was really exciting and it was really clear now. Chris said he didn’t really have anything to say, but ‘good job’.

Patrick McAllister: Said at the site visit, the issue about the bridges was raised and who was going to pay for the bridges. Susan Philp said the bridges were not included as part of this

application. The funding would come later as we move forward. Bill Kane said the trail and bridges were on Town land, so the assumption is they would be a municipal responsibility.

Patrick McAllister said the building seemed big to him; it was huge at 8,000 square feet.

Bernie Grauer: Said he was one of the original reviewers. He was pleased to see the new design address all the concerns successfully. The building has strong simple lines and an interesting variety of textures and materials that relate to its natural and man-made environment. Although the size is significant, he didn't think it was outsized. Bernie thought this would be a significant architectural addition to our town and would complement the library across the river. He was pleased to support the revised design.

Bill Maron: Thanked the applicant for indulging us in the process, acknowledging that speed was a real issue for the applicant. Bill felt the time was well spent with the end result much more fitting with the product meeting the Town of Basalt's civic goals better than it had in the past. Bill thought it fit the site plan much better, the entry was a significant improvement, the building mass and form were much cleaner and simpler. Bill did not see height as an issue. Bill thought the architecture and fenestration responded to the request for change and appreciated the thoughtful reduction in size; that it would be more beneficial in the long run.

Anne Freedman: Said she agreed with everything Bernie said; it was a huge improvement and she really liked it.

Katie Schwoerer: Said Anne and Bernie had reflected her feelings; she was so much happier and the Council's concerns had been adequately addressed.

Glenn Rappaport: Said he agreed with what had been said. The applicant responded to the requests made and dramatically reduced the impacts from the west. He felt we should be looking at an increase in the general scale of the civic structures being built now, over the next few years. The scale was going to increase and it was our job to insure the buildings were sensitive to their surroundings. Glenn felt the applicants had done a nice job to make the building fit in and be more sensitive.

Peter McBride: Thanked the applicants for doing this and for listening to us. He felt they had addressed the issues very well. Pete felt the size issue would be mitigated somewhat by the phasing of the project.

Leroy Duroux: Said it was kind of a hard way to get to it, but everyone could see it's a much superior product to what was there before. He felt it would be a positive addition to the Town and to educate people about the watershed and rivers – and that was of utmost importance.

M/S BERNIE GRAUER AND CHRIS TOUCHETTE THAT THE BASALT PLANNING AND ZONING COMMISSION, ON MARCH 22, 2011, RECOMMENDED APPROVAL TO THE TOWN COUNCIL OF THE DRAFT ORDINANCE SUBJECT TO THE MEMO DATED MARCH 22, 2011 BY THE TOWN STAFF, INCLUDING THE CONDITIONS INCLUDED IN THE DRAFT ORDINANCE. THE MOTION CARRIED 4-0.

M/S COUNCILORS MCBRIDE AND FREEDMAN TO APPROVE ORDINANCE NO. 07, SERIES OF 2011, ON FIRST READING: AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO, APPROVING REVISED PLANS FOR THE ROARING FORK CONSERVANCY'S PROPOSED RIVER CENTER ON LOT 1 OF BASALT

RIVERFRONT PARK SUBDIVISION LOCATED AT 22800 TWO RIVERS ROAD. THE MOTION CARRIED 5-0.

M/S CHRIS TOUCHETTE AND BERNIE GRAUER TO ADJOURN THE PLANNING AND ZONING COMMISSION AT 7:45 P.M. THE MOTION CARRIED 4-0.

8A. Public Hearing and Second Reading of Ordinance No. 05, Series of 2011: An Ordinance of the Town Council of the Town of Basalt, Colorado, Granting Final Plan Approval for Subdivision and Planned Unit Development and Other Associated Land Use Actions, for the Property Known As the Flying Fish Property and Granting Final Plan Approval for a Subdivision, Zoning, and Planned Unit Development, Including Annexation, and Other Associated Land Use Actions, for the Property Known As the Pokorny Property, Basalt, Colorado

8B. Public Hearing and Second Reading of Ordinance No. 06, Series 2011: An Ordinance of the Town Council of the Town of Basalt, Colorado, Granting Annexation For a Metes and Bounds Parcel of Land to be Incorporated into the Summerset Lane Right-of-Way, Basalt, Colorado

Assistant Planning director James Lindt outlined the project for Council:

- The Flying Fish and Pokorny projects are linked through a 1 acre piece of river front park of the Flying Fish property is to be dedicated to the Town to fulfill parkland requirements for both the Flying Fish and Pokorny projects.
- The Flying Fish and Pokorny projects are linked through the housing units with housing units in the Pokorny project to be sued to satisfy the replacement housing requirements for the Flying Fish project.

James Lindt reviewed the amendments provided by Council direction at their last meeting:

Flying Fish amendments:

- Council required two of the 9 residential units to be RO without appreciation caps.
- Council also indicated they didn't desire a set-back of the upper floor of Building A any further.
- Rental assistance plan for the Flying Fish tenants was amended to require that the residents of the Flying Fish not be required to provide written intent to purchase a Pokorny unit to qualify for rental assistance; however, if the tenants owed more than 3-months back rent, they would not qualify for rental assistance from the applicant.
- Concurrency: Council felt that the concurrency provisions to build Pokorny housing units prior to or concurrently with Flying Fish, are not required.
- Commercial spaces have been amended to allow for a contractor's office for the first 5 years of existence after issuance of a C.O. The applicant can come back to request an extension after that time.
- Financial security to restore the site in the event the project is started and not completed, was required.
- Vested rights are permitted at 5 years as recommended by the P&Z.

Pokorny Amendments:

- Two RO units can be made free market for a total of 12 free market and 14 category units.
- There are no concurrency requirements to ensure that the Pokorny Community Housing Units are built prior to or concurrently with the Flying Fish;

- Financial security to restore the site in the event the project is started and not completed is required;
- The Declaration of Covenants must recognize the pre-existing industrial uses in the area, similar to the way the language of the Wilds was handled.
- Vested rights were allowed for a 5 year period.

Applicant John Olson said his comments were minor. John Olson asked that the security be submitted at the time they request for a building permit rather than at the recording of the documents. James Lindt explained the way the documents were written, security for the overall project, excluding reclamation, shall be required at the recording of the plat. This is typical subdivision language. James Lindt said for reclamation of a site, in the event the project starts and doesn't finish, is required at the time of building permit submittal.

James Lindt suggested that the amount of time for the applicants to record a plat on the Basalt Bluffs had been pushed out; they were not required to put up a security or record the plat until issuance of the building permit. That is the only instance where staff pushed that out; it is not consistent with anything the Town has done in the past 12 years. Susan Philp said they could extend the time to 180 days – file the public documents within the 180 days and give the applicants 3 years to file the plat, consistent with what was done with Basalt Bluffs. Susan said the PUD documents needed to be prepared, but didn't have to be recorded for 3 years. John Olson said yes, that was much better. James said the documents that needed to be filed within 180 days would include the annexation agreement, the PUD control documents for both projects, the deed restrictions on the projects, the annexation map. The only things that would get pushed out to the 3 years time limit would be subdivision improvements agreement, letter of credit and the subdivision plat. Susan said they would have to be prepared, but not filed until 3 years.

Glenn Rappaport wondered if there was a practical reason for the monies to be paid years in advance, if the project doesn't start. Susan Philp said typically, the property is being prepared to be sold to different parties so you want to insure the parties that are buying those properties know the improvements are going to be built.

Glenn Rappaport wondered if there was a legal way to make the fees for public improvements follow along with any potential sale of a parcel and its approvals. James Lindt said the fee requirements run with the land, so if they are not paid by the current owner prior to the sale of a property, they are still be obligated prior to building permit to pay those fees.

Bill Kane said that on occasion, Pitkin County had accepted a property interest over dollars; there are examples out there of providing guarantees in the form of property rather than cash. James Lindt said staff would probably prefer a cash security at some point.

Peter McBride said he had no problem with setting it up as Basalt Bluffs had been set up.

Leroy Duroux asked if the plat would have to be recorded in order for John Olson to sell it. Susan Philp said he could sell it just as he had bought it, but he couldn't sell pieces of it. Leroy clarified that the approvals would follow the property. Susan Philp said 'yes'.

Anne Freedman said she was okay with this amendment.

John Olson said that on page 10 of the Flying Fish approvals, item 'e' said the applicants shall list all the units within the development for sale with a local realtor. James Lindt explained that

was a standard condition for any annexation ordinance over the past 5 or 6 years. It came from P&Z's identification that the units should be marketed locally; an effort to attract local attention.

Peter McBride said it made sense, but there were a lot of realtors that market to other markets. Anne Freedman agreed that with the Internet, there was no way one could limit the marketing to the valley. Susan Philp suggested the last sentence of that paragraph be deleted.

John Olson (paragraph 'c' of the Fish documents) said the 2 RO units would be subject to deed restrictions as necessary - to implement the Town's Community Housing program. John said his concern was that if a person purchased an RO unit, they could be subject to any whim of the RO restrictions that may change from year to year. John Olson said he would want that defined if he were to purchase such a unit so that he could be assured the requirements and restrictions of these units wouldn't be arbitrarily changed.

James Lindt said this was intended to be flexible; to allow for changes to the RO and be able to take advantage to changes to the RO. Glenn Rappaport said he thought they were really trying to go with RO that: it was a primary residence, a citizen of the town, paying taxes here, registered to vote here, but there was less of an occupancy requirement, etc. Glenn said he was more in favor of a reality based resident occupied designation, not a more onerous one.

Anne Freedman said the only thing that seems fair is to say "an RO unit as currently defined". Anne felt if the regulations became more restrictive later on, that would be unfair. John Olson said he was willing to accept that language.

Susan Philp said they could work on the language, but the intent is "as defined in the community housing guidelines" or 'as amended from time to time at the applicant's discretion'. Leroy Duroux asked whatever is in effect at that time, follows the property for eternity. Susan Philp replied 'yes'.

John Olson directed Council to Page 16 of the Fish approvals: Parking and Loading. John said the cash in lieu of \$6,000 per space, and would like that per the time of filing so they know the price won't rise if someone goes to purchase the property. James Lindt said the Code says it is to be paid at the time of building permit. It would be easier to calculate the fee at the time of building permit.

Leroy Duroux said there were too many undefined expenses and the Town may have to purchase property to build parking spots.

Anne Freedman wondered if a cap could be placed on the fee in lieu of parking; you didn't want it going up to \$20,000. Katie Schwoerer felt "if that's the cost, that's the cost".

Glenn Rappaport said he agreed. Although understanding John Olson's point, he didn't want to do something that could ultimately come back at the Town.

Leroy Duroux said the Town was trying to relieve the development from having to provide all the parking on-site. The Town is interested what each space costs, and having the developer pay that portion. It would be difficult to determine what that cost will be in 5 years.

Peter McBride said the Town was looking at the numbers, too, so the Town didn't get soaked. John Olson conceded it was fair enough; leave it as it is.

Susan Philp clarified that James had wanted to include language to put a covenant on Porkorny noticing that it was by an industrial area; Susan asked that the motion reflect that.

Leroy Duroux opened the public hearing at 8:30 p.m. There were no comments and the public hearing was closed.

Katie Schwoerer asked if the free market and employee housing units had to be built at the same time. James Lindt said condition 6 under the concurrency requirements says that the C.O. for the community housing units shall be issued concurrent with the C.O. for the free market units. They have to the employee and free market units concurrently, or do the affordable housing units first.

Katie Schwoerer asked about the vested rights as Pete had not been present for that discussion. James Lindt said the applicant has requested 5 years; staff has recommended 3 years with an extension; P&Z recommended 5 years on both projects. Council discussed whether the additional 2 years vesting would make a difference one way or the other; that the applicants should be given the opportunity to succeed without having to come back in and request an extension. Leroy Duroux noted that the majority of the Council had been okay with the 5 year vesting; Katie Schwoerer added that she had been opposed to it.

M/S COUNCILORS RAPPAPORT AND FREEDMAN TO APPROVE ORDINANCE NO. 05, SERIES OF 2011: AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO, GRANTING FINAL PLAN APPROVAL FOR SUBDIVISION AND PLANNED UNIT DEVELOPMENT AND OTHER ASSOCIATED LAND USE ACTIONS, FOR THE PROPERTY KNOWN AS THE FLYING FISH PROPERTY AND GRANTING FINAL PLAN APPROVAL FOR A SUBDIVISION, ZONING, AND PLANNED UNIT DEVELOPMENT, INCLUDING ANNEXATION, AND OTHER ASSOCIATED LAND USE ACTIONS, FOR THE PROPERTY KNOWN AS THE POKORNY PROPERTY, BASALT, COLORADO; REFLECTING THE DISCUSSION OF ITEMS THIS EVENING. THE MOTION CARRIED 4-1 WITH KATIE SCHWOERER OPPOSED.

M/S COUNCILORS RAPPAPORT AND FREEDMAN TO APPROVE ORDINANCE NO 06, SERIES OF 2011: AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BASALT, COLORADO, GRANTING ANNEXATION FOR A METES AND BOUNDS PARCEL OF LAND TO BE INCORPORATED INTO THE SUMMERSET LANE RIGHT-OF-WAY, BASALT, COLORADO; REFLECTING THE DISCUSSION OF ITEMS RELATED TO POKORNY THIS EVENING. THE MOTION CARRIED 5-0.

M/S COUNCILORS MCBRIDE AND RAPPAPORT TO ADJOURN THE MEETING. THE MOTION CARRIED 5-0.

The meeting adjourned at 8:43 p.m.

The minutes of the March 22, 2011 meeting were read and approved this 12th day of April, 2011 by a motion of to .

Basalt Town Council

Attest:

By: _____
Leroy Duroux, Mayor

Pamela Schilling, Town Clerk

