
The regular meeting of the Vail Town Council was called to order at approximately 6:00 P.M. by Mayor Chapin.

Members present: Dave Chapin, Mayor
 Jenn Bruno, Mayor Pro Tem
 Travis Coggin
 Kevin Foley
 Kim Langmaid
 Jen Mason
 Greg Moffet

Staff members present: Greg Clifton, Town Manager
 Patty McKenny, Assistant Town Manager
 Matt Mire, Town Attorney
 Tammy Nagel, Town Clerk

1. Citizen Participation

There was no public comment

2. Proclamations

2.1. Art in Public Places Board Appointments

Presenter(s): Dave Chapin, Mayor

Action Requested of Council: Motion to appoint two people to the AIPP Board for a two year term ending March 31, 2021.

Bruno made a motion to appoint Susan Bristol and Margaret Rogers to the AIPP Board for a two-year term each; Foley seconded the motion passed (7-0).

2.2. Design and Review Board Appointments

Presenter(s): Dave Chapin, Mayor

Action Requested of Council: Motion to appoint two members to serve on DRB for two-year terms.

Bruno made a motion to appoint Doug Cahill and Peter Cope to the DRB Board for a two-year term each; Moffet second the motion passed (7-0).

2.3. Motion to appoint three members to the Planning and Environmental Commission (PEC)

Presenter(s): Dave Chapin, Mayor

Action Requested of Council: Appoint three members to serve on PEC for two-year terms.

Bruno made a motion/to appoint Brian Gillette, Karen Perez and John-Ryan Lockman to the PEC Board for a two-year term each; Moffet seconded the motion passed (7-0).

3. Consent Agenda

3.1. Colorado Outdoor Recreation District Letter of Support

Moffet stated he was uncomfortable supporting the letter as he hasn't read the federal legislation. In lieu of taking action tonight, Chapin suggested letters be sent by individual council members who wish to follow up personally.

There was no motion.

4. Town Manager Report

4.1. Town Manager Report

Greg Clifton, Town Manager, provided an update on planning meetings currently taking place to help improve the trailhead situation at Booth Falls this summer. Clifton stated there would be more information to come.

5. Action Items

5.1. Holy Cross Franchise Agreement Discussion

Presenter(s): Greg Hall, Public Works Director

Background: The Town's franchise agreement with Holy Cross Energy will be expiring in May 2019. It is a 20 year agreement. Staff has been meeting with representatives with Holy Cross to negotiate possible terms for the new franchise agreement, which should be coming to Town Council by ordinance in April. One salient term concerns the underground of existing overhead lines. It is largely a safety issue and an aesthetic one as well. To fund this in past years, the existing franchise agreement provides for an enhancement fund to help capitalize these underground projects. The fund has been insufficient as the projects are very costly. Staff is proposing an increased revenue source, derived from the franchise fee. The enclosed memo provides details.

Greg Hall, Public Works Director, reviewed the history of the Holy Cross Energy franchise agreement and the proposal of raising the franchise fee from 3% to 4%. The franchise agreement between the Town of Vail and Holy Cross Energy is nearing its renewal period. It was a 20-year agreement that was executed in 1999. Hall stated the franchise agreements regarding electric utilities typically deal with terms, franchise fees, relocations, undergrounding, audits, and related. The current undergrounding project the Town had undertaken was budgeted at \$2,138,066 for 7,500 feet of undergrounding or \$285/lineal feet. There were approximately 38,000 lineal feet of overhead lines remaining in Vail. At those current costs, it could take close to 52 years to underground the remaining lines based solely upon use of the Community Enhancement Funds. Hall stated the funds from increasing the franchise fee from

3%- 4% would be used to underground the remaining utility lines.

Public comment was taken.

Mark Gordon, Vail Resident, suggested using the proposed increased funding to bond against it to accelerate the undergrounding work.

Penny Wilson, Vail Resident, agreed on getting the lines buried sooner for safety reasons.

Council members noted the increase would have a bigger impact on residents with electric heat.

Moffet made a motion to direct staff to negotiate a new 20 year franchise agreement to include an increase in franchise fee from 3 to 4% to be adopted in April by ordinance; Foley seconded the motion passed (7-0).

5.2. East Vail Parcel – Public Discussion of a Draft Term Sheet for Review and Consideration. Following review and discussion of the term sheet, the Vail Town Council is being asked to provide direction on this action item to the Town Attorney/Town Manager.

Presenter(s): George Ruther, Housing Director

Action Requested of Council: The Vail Town Council is asked to answer the following question and provide direction to the Town Attorney/Town Manager on this action item:

Background: The purpose of this action item is to present the terms under consideration by the Vail Town Council to acquire at least 40 residents- occupied, deed-restrictions in a potential East Vail Parcel development expected to be proposed by Triumph Development. The outcome of the Town's potential participation would result in a 100% deed-restricted development of approximately 130 to 140, one and two bedroom, for-rent homes for Vail residents.

The purpose of this action item is not to discuss the merits of a potential development review application for development on the East Vail Parcel. The review of a development application, if or when submitted, will occur during the course of the development review process with the Town of Vail Planning & Environmental Commission.

Staff Recommendation: The Town of Vail staff recommends the Vail Town Council engage in a public discussion specific only to the proposed terms of a potential development agreement with Triumph Development to acquire at least 40 resident-occupied, deed-restrictions on the East Vail Parcel, if a development plan is approved by the Town of Vail Planning & Environmental Commission. It is to be further noted, that nothing herein constitutes an approval of any development review application by the Town of Vail's relevant reviewing agencies and the Town of Vail cannot guarantee an approval of a development review application submitted by any owner of real property.

Town Attorney Matt Mire was asked to clarify for the council and public the following:

- The title for the property was clear;
- Any comments regarding a future development application should be made at the Planning & Environmental Commission and not the Town Council;
- A public vote was not possible on this matter; and
- No council member had a conflict of interest concerning this matter.

George Ruther, Housing Director, addressed council concerning a possible development on a parcel owned by Vail Resorts located in East Vail. Ruther stated that Triumph Development was currently working with Vail Resorts in purchasing the parcel for a deed restricted housing and open space. The current zoning required at least 70% of the development to be resident occupied, deed restricted homes for Vail residents. The Town had an opportunity to purchase the remaining 30% to create 100% affordable housing. The terms to acquire the remaining 30% were:

- ✓ Town of Vail purchases the entire +/- 23 acre East Vail Parcel from Triumph Development for \$4M.
- ✓ Triumph Development signs a 10-Year Ground Lease with an obligation to purchase the +/- 5.4 acre Housing Parcel from the Town of Vail for \$2.5M.
- ✓ On or before the end of Year 10, the Town of Vail recovers \$2.5M.
- ✓ Town of Vail acquires up to 45 resident-occupied deed restrictions on 30% of the total GRFA of the development.
- ✓ The Town of Vail retains ownership of the +/- 17.9 acre NAP Parcel.
- ✓ Total net investment of \$1.5M yielding at least 40 deed restricted homes (30%)

Ruther noted that any action tonight did not guarantee approval of a development application for the property by the PEC.

Public comment was called.

Charlyn Canada, Vail Resident did not support the term sheet and would rather see a sign on the East Vail parcel stating the Town and Vail Resorts dedicated this land to the sheep.

Bobby Lipnick, who co-chairs the Eagle County Housing Task Force, said housing was needed where people live, work and recreate. He supported a 100% deed restricted development.

Rick Smith, an executive with Vail Health, explained the difficulties in retaining employees at the hospital due to lack of affordable housing.

An East Vail resident who managed employee housing for Vail Mountain provided examples about the struggles with housing frontline employees.

Ben Gilbert, Moe's BBQ, stated it was very difficult to attract and retain employees due to the lack of affordable housing opportunities.

Trent Olson reminded council the #1 issue was housing and the front line employees could not afford to live here. Need the housing!

Jonathan Stauffer, Vail resident, did not agree with the housing being proposed on this parcel. Stauffer felt the wildlife needed protection.

Elise Howard, Vail resident, was in 100% support of 100% deed restriction housing. Howard reiterated the need to home critical employees such as teachers and nurses.

Matt Morgan, owner of Sweet Basil, was 100% in favor of the Town acquiring 100% deed restriction housing on the East Vail parcel. Morgan stated there had been a drop in service levels due to lack of affordable housing.

Larry Stewart, Vail resident, stated the action be discussed tonight was "surreal." He questioned the sequencing of decisions and didn't like the developer profiting from the deal. Said it's the cart before the horse. He suggested tabling this decision until the application was submitted.

Steve Lindstrom, VLHA, was 100% in support of the terms to acquire 100% deed restriction.

Pam Stenmark, a resident of East Vail, questioned if the facts being presented were accurate. Stenmark stated "market rate" was not affordable housing. She was concerned about the town subsidizing housing for a profitable company.

Susan Byrd, was a 100% for deed restriction, but would like to see this topic tabled until there was more information.

Tom Vucich is asking for more clarification from the Town Attorney regarding questions as to conflict of interest on the Town Council.

Anne Esson urged caution in moving forward with this project. Esson stated the impacts would be irreversible.

Betsy Kiehl, East Vail resident, thanked some Council members for answering her emails. Feel did not agree with the parcel being used for deed restriction housing and questioned if Council member Coggin had a conflict with this project. She reminded Council to be thoughtful and not hastily.

Patty Marsh, Vail resident, stated the need for affordable housing was a must but there were other options than this parcel. Marsh stated she supported housing but felt this was the wrong location.

Gram Glass, Vail resident, asked Council to not vote yes.

Public comment was closed.

Langmaid made a motion to delay the decision of the term sheet until after the Planning & Environmental Commission had reviewed the application, mitigation plan and an environmental impact report had been reviewed; Foley seconded the motion passed (4-3 Bruno, Moffet and Coggin opposed).

Mason did not feel this was the correct sequence and wanted to wait until an application had been presented.

Some council members questioned if acquiring the 100% deed restriction prior to the application being submitted for PEC's review would affect the board's decisions.

Moffet and Bruno did not agree with the motion and believed the PEC would base their decisions on facts and law.

Coggin did not agree the motion because once the developer submitted their application the Town may not have an opportunity to have 100% deed restriction.

6. Public Hearings

6.1. An appeal, pursuant to Section 12-3-3, Appeals, Vail Town Code, of the final decision of the Town of Vail Design Review Board on January 16, 2019 approving a request for a minor building addition, exterior alteration and new outdoor dining patio, located at 100 East Meadow Drive Unit 15/Lot O, Block 5D, Vail Village Filing 1, and setting forth details in regards thereto. (TC19-0001)

Presenter(s): Jonathan Spence, Community Development Planner

Action Requested of Council: The question to be answered by the Vail Town Council regarding this appeal is: Were the requirements of the Vail Town Code, specifically Title 14, Chapter 10, Design Review Standards and Guidelines properly applied in the decision approving a request for a minor building addition, exterior alteration and new outdoor dining patio, located at 100 East Meadow Drive Unit 15/Lot O, Block 5D, Vail Village Filing 1? Pursuant to Section 12-3-3, Appeals, Vail Town Code, the Vail Town Council shall uphold, uphold with modifications, or overturn the Design Review Board's January 16, 2019, decision.

Background: The applicant originally proposed a more aggressive project that included the construction of an elevated patio, larger proposed commercial additions and an overall reduction in the quantity of landscaping. This proposal under went a preliminary review where a number of concerns have been expressed by various Town departments and an outside urban design consultant engaged to review the proposal with respect to adopted plans, including the Vail Village Master Plan and the associated Vail Village Urban Design Guide Plan and Design Considerations. These concerns were largely focused on pedestrian safety resulting from the removal of any refuge for pedestrians resulting from the proximity of the improvements to bus travel way. The loss of valuable, mature landscaping was also identified as a concern.

Staff Recommendation: Should the Vail Town Council choose to uphold the determination of the Town of Vail Design Review Board, the following statement is recommended: "The Vail Town Council finds as follows: The Vail Town Code was properly applied in regard to the January 19, 2019 Design Review Board approval of DRB17-0390. Furthermore, the project consisting of a minor building addition, exterior alteration and new outdoor dining patio, located at 100 East Meadow Drive Unit 15/Lot O, Block 5D, Vail Village Filing 1, is consistent with Title 14, Development Standards, of the Vail Town Code."

Jonathan Spence, Planner, reviewed the appeal with council. The applicant originally proposed a more aggressive project that included the construction of an elevated patio, larger proposed commercial additions and an overall reduction in the quantity of landscaping. The proposal under went a preliminary review where a number of concerns had been expressed by various Town departments. Spence stated those concerns were largely focused on pedestrian safety resulting from the removal of any refuge for pedestrians resulting from the proximity of the improvements to bus travel way. The loss of valuable, mature landscaping was also identified as a concern. The appellants, adjacent Village Inn Plaza Phase V property owners, expressed the following concerns in their appeal:

- ✓ The failure of the DRB members to review comments prior to vote
- ✓ The pedestrian access being more narrowed on E. Meadow Dr.,
- ✓ The fundamentally flawed process
- ✓ The scope and scale of the patio area
- ✓ The quality of guest experience

Council asked how the safety concerns addressed. Spence explained the patio was pulled back and Public Works engineer Tom Kassmel signed off on the new plans.

Richard Liebhaber, appellant, expressed his concerns on pedestrian safety and the negative impacts would have on property owners. Liebhaber stated the approval process did not include the impact the development would have on property owners such as the odors and noise from the restaurant.

There were no further comments.

Foley made a motion to uphold the Design Review Board approval of DRB17-0390; Moffet seconded the motion passed (7-0).

10. Adjournment

There being no further business to come before the council, Moffet moved to adjourn the meeting; Foley seconded the motion which passed (7-0) and the meeting adjourned at 8:28 p.m.

Respectfully Submitted,

Attest:

Dave Chapin, Mayor

Tammy Nagel, Town Clerk