

Vail Town Council Meeting Minutes  
Tuesday, March 2, 2021  
6:00 P.M.  
Vail Town Council Chambers

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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 Kim Langmaid, Mayor Pro Tem Jenn Bruno Travis Coggin Kevin Foley Jen Mason Brian Stockmar
Staff members present:	Scott Robson, Town Manager Patty McKenny, Assistant Town Manager Matt Mire, Town Attorney Tammy Nagel, Town Clerk

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## 1. Citizen Participation

Zach Varon, Eagle County resident, announced a "15 days later" protest, scheduled for March 14 in Vail Village to call attention to national complex issues such as police misconduct; rent relief; minimum wage increase.

Scott Hintz, Vail resident, expressed concern about the bighorn sheep herd in East Vail and their survival. He asked the community to remember the environment when making decisions in the town.

Pam Stenmark, Vail resident, asked for clarification concerning the land lease for Lot 3, Middle Creek development agreement that was discussed during the afternoon meeting.

Ingrid Seade, Vail resident, expressed frustration over Vail Resorts and the Booth Heights development approval.

Council members, Jen Mason and Jenn Bruno, announced this years Trailblazer recipients, Bill and Sally Hanlon.

## 2. Any action as a result of executive session

There was none.

## 3. Proclamations

### 3.1. Proclamation No. 1 Series of 2021, One Book, One Valley 2021 Community Read Sponsored by the Towns of Avon, Eagle Gypsum, Minturn, Red Cliff and Vail

Presenter(s): Dave Chapin, Mayor

Background: This year marks the 10th Anniversary of the One Book, One Valley event. One Book, One Valley is a valley-wide community read that is sponsored by the Towns of Avon, Eagle, Gypsum, Minturn, Red Cliff, Vail and the County of Eagle. This year's featured book is the National Best Seller "Lab Girl"

Chapin read Proclamation No. 1, Series of 2021 into the record.

#### **4. Consent Agenda**

##### **4.1. Resolution No. 9, Series of 2021, A Resolution of the Vail Town Council Repealing Resolution No. 39, Series of 2020 and Resolution No. 44, Series of 2020, to Revoke the Extensions of the Approved Development, Conditional Use Permit and Final Design for the Booth Heights Project, and Providing a New Extension of such Approvals Through November 20, 2023**

Action Requested of Council: Approve, approve with amendments or deny Resolution No. 9, Series of 2021

Background: Appealing Resolution 39 and 44, to Revoke the Extensions of the Approved Development Plan, Conditional Use Permit and Final Design for the Booth Heights Project, and Providing a New Extension of Such Approvals Through November 20, 2023

Staff Recommendation: Approve Resolution No. 9, Series of 2021

Bruno made a motion to approve Resolution No. 9, Series of 2021; Foley seconded the motion passed (7-0).

##### **4.2. Resolution No. 11 Series 2021, A Resolution Approving an Intergovernmental Agreement Between the Town of Vail and the Eagle River Water and Sanitation District Regarding the Construction of a Water Main within the South Frontage Road and the South Frontage Road Widening and the Roundabout Project**

Action Requested of Council: Approve, approve with amendment or deny Resolution No. 11 Series 2021

Background: Resolution No. 11 Series 2021 authorizes the Town to enter into an Intergovernmental Agreement with ERW SD to cost share improvements in the South Frontage Road Roundabout Project to relocate ERW SD's water main.

Staff Recommendation: Approve Resolution No. 11 Series 2021

Coggin made a motion to approve Resolution No. 11, Series of 2021; Foley seconded the motion passed (7-0).

##### **4.3. Resolution No. 12, Series of 2021, A Resolution Approving a Lease Agreement with the Vail Park and Recreation District for the Vail Gymnastics Center**

**Action Requested of Council: Approve, approve with amendments or deny Resolution No. 12, Series of 2021**

Background: The Town is the owner of certain real property and the improvements thereon located at 545 North Frontage Road, Vail, Colorado and commonly known as the Town of Vail Gymnastics Center. The Vail Recreation District uses the gymnastic center under existing lease and use agreements which are expiring. The Town and the VRD wish to enter into new lease and use agreements.

Staff Recommendation: Approve Resolution No. 12, Series of 2021

Foley made a motion to approve Resolution No. 9, Series of 2021; Coggin seconded the motion passed (7-0).

#### **4.4. United Companies Contract Award for the South Frontage Road Roundabout Project Construction**

Action Requested of Council: Award Contract to United Companies

Background: The South Frontage Road Roundabout Project will widen the South Frontage Road to four lanes with sidewalks, medians, and a roundabout from Vail Health to the Lionshead Parking Structure. The Town advertised the project for construction bids and received three qualified bids.

Staff Recommendation: Award Contract to United Companies

Coggin made a motion to authorize the Town Manager to enter into an agreement with United Companies in an amount not to exceed \$5,125,000.; Mason seconded the motion passed (7-0).

#### **4.5. SGM Construction Management Contract Award for South Frontage Road Roundabout Project**

Action Requested of Council: Approve Contract with SGM for construction management services

Background: As a part of the South Frontage Road Roundabout Project, the Town of Vail is required by CDOT to hire a third-party consultant engineer to represent CDOT and confirm that the project is built per CDOT approved plans and specifications.

Staff Recommendation: Town Staff recommends that the Town Council authorize the Town Manager to enter into a contract with SGM in an amount not to exceed \$67,000 for Construction Management Services, in a contract form approved by the Town Attorney.

Foley made a motion to authorize the Town Manager to enter into an agreement with SGM in an amount not to exceed \$67,000; Coggin seconded the motion passed (7-0).

#### **4.6. 2021 Event Funding Agreements over \$50,000.**

Action Requested of Council: Authorize the Town Manager to enter into agreements with the following event producers, on a form approved by the Town Attorney, to produce following events; Vail Farmers Market and Art Show produced by the Meadow Drive Partnership for \$53,160, Vail America Days produced by Highline Sports and Entertainment for \$53,160, Vail

Oktoberfest produced by Highline Sports and Entertainment for \$53,160, GRFA Live Music and Entertainment produced by the Vail Valley Foundation for \$52,500, Vail Jazz Festival produced by the Vail Jazz Foundation for \$75,000, The Summer Mountain Games produced by the Vail Valley Foundation for \$98,000 and Bravo! Vail Music Festival produced by Bravo! Vail for \$207,855.

Background: Provide information on the 2021 CSE events that have been awarded more than \$50,000 and to request that Council authorize the Town Manager to enter into funding agreements for those events.

Staff Recommendation: Authorize the Town Manager to enter into the event agreements with the event producers, on a form approved by the Town Attorney, and not to exceed the contract amounts outlined in staff's memorandum.

Coggin made a motion to authorize the Town Manager to enter into agreements with the following event producers, on a form approved by the Town Attorney, to produce following events; Vail Farmers Market and Art Show produced by the Meadow Drive Partnership for \$53,160, Vail America Days produced by Highline Sports and Entertainment for \$53,160, Vail Oktoberfest produced by Highline Sports and Entertainment for \$53,160, GRFA Live Music and Entertainment produced by the Vail Valley Foundation for \$52,500, Vail Jazz Festival produced by the Vail Jazz Foundation for \$75,000, The Summer Mountain Games produced by the Vail Valley Foundation for \$98,000 and Bravo! Vail Music Festival produced by Bravo! Vail for \$207,855; Foley seconded the motion passed (7-0).

## **5. Town Manager Report**

Robson provided an update on the COVID-19 vaccine distribution phases stating 19,000 shots have been distributed throughout Eagle County and 84% of the 70+ residents are vaccinated. The Five Star program has been kicked off and the town had received the first application. The Five Star program would allow establishments to operate in "blue" of the COVID19 State Dial. This would allow establishments to increase their dining capacity. Robson announced a prescribed burn would occur in the Booth Heights area later this spring. Big horn sheep were currently being collared by Colorado Division of Wildlife. Additionally, Robson reported there would be an update from Vail Recreation District on financial analysis related to possible use of Aria Spa space at a future council meeting.

## **6. Action Items**

### **6.1. Resolution No. 10, Series of 2021, a Resolution Approving a Development Agreement with Triumph Development West. LLC. for the Development of the Middle Creek Project.**

Presenter(s): George Ruther, Housing Director

Action Requested of Council: Approve, approve with modifications, or deny Resolution No. 10, Series of 2021 as presented.

Background: The purpose of this memorandum is to present Resolution No. 10, Series of 2021. The Development Agreement is a continuation of, and in addition to, the Pre-Development Agreement executed on February 10, 2021. The Development Agreement sets forth the terms and conditions under which the Middle Creek Project will proceed.

Staff Recommendation: The town staff recommends the Vail Town Council approves Resolution No. 10, Series of 2021

Ruther reviewed Resolution No. 3, Series of 2021 and the supporting documentation that was provided to council in their agenda material. February 2, 2021, the Vail Town Council passed Resolution No. 3, Series of 2021, approving a Pre-Development Agreement for the Middle Creek Project (6-1 Stockmar opposed). At the direction of the Vail Town Council town staff has prepared a Development Agreement for the Council's consideration. Ruther provided council a summary of the Development Agreement between the town and Triumph Development:

- ✓ Town of Vail would record a deed restriction on the property limiting future development to 100% deed restricted homes for resident occupancy.
- ✓ The term of the agreement commences on the Effective Date, and terminates two years following issuance of the final certificate of occupancy for the Project; provided the Parties have not executed the Ground Lease on or before June 28, 2021, the agreement automatically terminates without further action of the Parties. This term ensures an adequate warranty period, etc.
- ✓ As a co-applicant, the Town was responsible for 100% of the cost of the entitlement process. As such, the Town would own 100% of the rights to all plans, documents and materials produced.
- ✓ Triumph shall construct all new improvements on the Property, including buildings, structures, signage, streets, sidewalks, utilities and other improvements necessary for the Project, including renewable energy options and multi-modal transportation options (collectively the "Improvements"). The Parties would cooperate to establish the number of units to be constructed and the appropriate unit types for the Project, provided that the Project shall include a minimum of 144 beds.
- ✓ Triumph Development was solely responsible for the financing and construction of the Project. The Town assumes no financing obligations, construction cost, or development risk.
- ✓ Provided the parties complete the entitlement process by June 28, 2021, Triumph was obligated to submit a complete application for a building permit for the Project on or before September 1, 2021; commence construction of the Improvements on or before September 30, 2021; and obtain a certificate of occupancy for the Improvements on or before November 30, 2022.
- ✓ If the parties fail to complete the entitlement process by June 28, 2021, Triumph was obligated to submit a complete building permit application for the Project on or before March 15, 2022; commence construction of the Improvements on or before April 15, 2022; and obtain a certificate of occupancy for the Improvements on or before August 31, 2023.
- ✓ If Triumph fails to complete the Improvements as required by the Agreement, the Town shall have the right, but not the obligation, to:
  - complete the improvements;
  - restore the Property to the condition it was prior to commencement of construction of the Improvements; or
  - restore the Property to a condition that the Town deems safe while awaiting completion of the Improvements by another party; and
  - to charge the costs thereof to Triumph.
- ✓ Triumph acknowledges that it would not be entitled to any Employee Housing Unit credit for the Project under Sections 12-23-7 and 12-24-7 of the Code, as the credit shall remain with the Town.

- ✓ On May 5, 2021, if the Parties have executed a development agreement for the Timber Ridge Project, then Triumph shall permanently and irrevocably waive and abandon any and all rights Triumph may have in the Booth Heights Project. Notwithstanding the foregoing, based on representations made to the Town, it is the Town's understanding that Triumph does not hold any development rights with respect to the Booth Heights Project, which development rights, if any, would benefit the property on which the Booth Heights Project is located and the owner thereof.
- ✓ Triumph shall require the general contractor responsible for constructing the Improvements to provide a performance bond to Triumph to guarantee the construction of the Improvements, and the Town shall be named as an obligee under such bond. The performance bond shall be equal to the full amount of the cost of construction of the Improvements. Triumph shall provide a copy of such performance bond to the Town prior to commencing construction.
- ✓ Triumph hereby represents and warrants to the Town that all of the following are true and correct as of the date of signature and the Effective Date: (in part) Triumph is the sole owner of the approved plans for the Booth Heights Project (but not the development rights for the Booth Heights Project)
- ✓ Triumph shall be in breach and default of the agreement if, prior to May 5, 2021, Triumph assigns, sells or otherwise transfers to any third party any right or interest it may have in the applications or approved plans for the Booth Heights Project.

Council asked questions concerning land lease v. the sale of the property. Ruther stated the presentation that was seen earlier in the afternoon was to demonstrate the options council had. Ruther noted no direction was provided to staff.

Public comment was called.

Larry Stewart, Vail resident, asked council to not use the timeline presented when making a decision on this contract. Stewart would like stronger language.

Jonathan Stauffer, Vail resident, asked council to slow down and get the agreement right.

Lynn Gottlieb, Vail resident, expressed concerns about the agreement as drafted and stated more time was needed for public review and changes.

Josef Stauffer, Vail resident, urged council not to approve the development agreement as drafted.

Blondie Vucich, Vail resident expressed concerns about the development agreement, including excessive executive sessions. She felt the development agreement was flawed as drafted and asked council not to ignore all the public comment they have received.

Tom Vucich, Vail resident, asked council to deny the development agreement as written. He stated the agreement leaves the door open for development of the Vail Resorts owned parcel known as Booth Heights.

Michael Browning, Eagle-Summit Wilderness Alliance, suggested using the Middle Creek development agreement to leverage action by Vail Resorts.

Public comment was closed.

Mason asked questions concerning section 4n. of the development agreement. Mire and Ruther explained state law requirements and the timeline.

Stockmar reminded his fellow council members that he voted against the predevelopment agreement because he thought it was confusing and was poorly written. He felt the development agreement presented tonight was rushed and requested more time to read the agreement.

Bruno reminded council members and citizens the town was not the owners of the Booth Heights parcel. This agreement was about 144 units on Lot 3 Middle Creek parcel.

Foley expressed concerns regarding sections 4l and 4n of the agreement and requested more time to review the agreement.

Langmaid stated she felt council did have adequate time to review the agreement and understand the legalities at hand. Langmaid noted there was no amount of word smithing that could be done to resolve the concerns people are asking to be resolved.

Mason stated she felt pressured to vote and although she didn't currently have questions, she felt with more time she could.

Stockmar made a motion to table Resolution No. 10, Series of 2021 to the March 16, 2021 meeting; Foley seconded the motion was denied (2-5\* Chapin, Langmaid, Bruno, Coggin and Mason opposed)

Bruno made a motion to approve Resolution No. 3, Series of 2021; Langmaid seconded the motion passed (5-2\* Foley and Stockmar opposed).

**6.2. Ordinance No. 4, Series of 2021, An Ordinance Amending Title 6 of the Vail Town Code by the Addition of a New Chapter 4B Regarding the Sale of Dogs and Cats Born or Raised in Inhumane Commercial Breeding Facilities**

Presenter(s): Matt Gennett, Director of Community Development

Action Requested of Council: Approve, approve with modifications, or deny Ordinance No. 4, Series of 2021, upon first reading.

Background: The Community Development Department is proposing to update the Vail Town Code to add a new Article B to Chapter 4 of Title 6 of the Vail Town Code to outlaw the sale of dogs and cats from puppy and kitten mills as it is an unwholesome business practice and not in the best interest of the public welfare of the Town.

Staff Recommendation: Approve, approve with amendments or deny Ordinance No. 4, Series of 2021 upon first reading.

Gennett reviewed Ordinance No. 4, Series of 2021 stating the ordinance would add a new Article B to Chapter 4 of Title 6 of the Vail Town Code to outlaw the sale of dogs and cats from puppy and kitten mills as it is an unwholesome business practice and not in the best interest of the public welfare of the Town.



There was no public comment.

Council had no questions.

Foley made a motion to approve Ordinance No. 4, Series of 2021 upon first reading; Mason seconded the motion passed (7-0).

## **7. Public Hearings**

### **7.1. Ordinance No. 3, Series of 2021, Second Reading, an Ordinance approving a certain parcel of land owned by the Town of Vail as Designated Open Space pursuant to Section 13.11 of the Vail Town Charter**

Presenter(s): Kristen Bertuglia, Environmental Sustainability Director

Action Requested of Council: Approve, approve with modifications, or deny Ordinance No. 3, Series of 2021.

Background: The Town of Vail Open Space Board of Trustees has forwarded a unanimous recommendation to the Vail Town Council for the designation of a 48.13 acre parcel located in East Vail on the south side of Bighorn Rd., off Willow Way, as Designated Open Space.

Staff Recommendation: Approve Ordinance No. 3., Series of 2021 upon second reading.

Bertuglia quickly reviewed Ordinance No. 3, Series of 2021 with council stating the ordinance is for the recommendation of the designation of parcel 2101-123-00-006 as Designated Open Space.

There was no public comment.

Langmaid stated how exciting it is to have a landowner donating 40 acres for open space and habitat protection. Very grateful to the family making that donation.

There being no further business to come before the council, Foley moved to adjourn the meeting; Coggin seconded the motion which passed (7-0) and the meeting adjourned at 7:46 p.m.

Respectfully Submitted,

Attest:

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Dave Chapin, Mayor

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Tammy Nagel, Town Clerk