

SILVERTHORNE TOWN COUNCIL
Meeting Minutes
Wednesday, October 12, 2011

CALL TO ORDER/ROLL CALL/APPROVAL OF AGENDA:

Those members present and answering Roll Call were Mayor Dave Koop, Council Members David Anderson, David Preaus, Bruce Butler, Stuart Richardson and Ann-Marie Sandquist. Vince Lanuza was absent. Staff members present were Town Manager Kevin Batchelder, Attorney Jerry Dahl, Sgt. Tim Osborn, Administrative Services Director Donna Braun, Recreation Director Joanne Breigenzer, Public Works Director Bill Linfield, Community Development Director Mark Leidal, Planner II Lina Lesmes, Assistant to the Town Manager Ryan Hyland and Town Clerk Michele Miller.

Koop requested VII. Board of Adjustment Sign Variance – Sav-O-Mat, 299 Blue River Parkway, Lots 4 – 7, Block A, Silverthorne Colorado Subdivision, be moved for consideration after Action Items A. & B.

Council agreed with the request; Board of Adjustment was moved for consideration after Action Items A. & B.

STAFF COMMENTS:

Breigenzer updated Council on events at the Recreation Center and the Make a Difference Day projects in Silverthorne.

COUNCIL COMMENTS:

Richardson asked for a copy of the NWCCOG housing study that talks about full time residents and part time residents in Summit County.

Preaus reported on the Colorado Housing NOW Conference Design Charrette going on in Vail. He attended with Mark Leidal and Michael Johnson. Staff has been working on the next phase of development for the Smith Ranch.

CONSENT CALENDAR:

BUTLER MOVED TO APPROVE THE CONSENT CALENDAR INCLUDING THE MINUTES FROM MEETING OF SEPTEMBER 28, 2011, AND REPLAT – ANGLER MOUNTAIN RANCH LAKESIDE TOWNHOMES FILING NO. 2, THIRD AMENDMENT, A REPLAT OF TRACT A, ANGLER MOUNTAIN RANCH LAKESIDE TOWNHOMES FILING NO. 2, SECOND AMENDMENT. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL PRESENT. (LANUZA ABSENT)

CITIZEN COMMENTS:

Doug Adams, 250 Ski Hill Road, National Director of the National Repertory Orchestra, thanked Council for their continued support for their organization.

PUBLIC PRESENTATIONS:

None

BOARD OF ADJUSTMENT:

Sign Variance – Sav-O-Mat, 299 Blue River Parkway, Lots 4 – 7, Block A, Silverthorne Colorado Subdivision

Item moved after Action Items A. & B.

LIQUOR BOARD:

None

PUBLIC HEARINGS:

None

ACTION ITEMS:

A. Site Plan Modification - Sav-O-Mat, 299 Blue River Parkway, Lots 4 – 7, Block A, Silverthorne Colorado Subdivision

Lina Lesmes, Planner II, presented the applicant's request for a Site Plan Modification for site improvements and building upgrades. She reviewed her staff memo and requested approval with the Planning Commission recommended conditions.

Paul Battista, Architect for the Project, stated they have worked on this project for years. Improving the building resulted in improving the site too. They have met with Town staff to work on the site. He summarized their efforts to bring the project up to Town standards. They agree with the conditions of approval. He reviewed the water drainage and detention for the site. In the past there has not been any detention on the site. In the monitoring wells on site there never have been any detectible amounts of contaminants. They are planning for future events because there have been no past events.

Anderson asked about the monitoring wells and no indication of toxins. Then why do we have a new remediation system on the site.

Batista stated no contaminants have left the site.

Sandquist asked about the separation system and the manufacturer's guidelines for maintenance. What is the plan to maintain the separation system?

Batista stated the manufacturer recommends a quarterly inspection based on site conditions. There will be procedures for the Sav-O-Mat staff; testing of the separation system is similar to testing the gas tanks.

Butler asked Battista how many of these systems he has installed.

Batista stated this is the first one but City of Denver has used them effectively as well as other water departments.

Butler asked if they had considered using a third party to inspect and maintain the system.

Buzz Calkins, Owner, stated his thought was to have monthly maintenance staff inspections and to have a reliable schedule.

Butler asked if a maintenance log would be kept on the inspections.

Calkins stated yes.

Anderson watched the manufacturer video and it states that it is 80% effective. What happens to the other 20%?

Batista stated it probably has to do with particle size. There hasn't been an issue on the site. This type of maintenance is more effective than most.

Koop feels an accelerated monthly testing is needed at first and then when information is gathered you can go quarterly.

Calkins stated they would do weekly if necessary.

Anderson asked the applicant if they are comfortable with monitoring the system as a condition of approval.

Calkins stated yes.

Bulter asked who on site would be responsible for the maintenance.

Calkins stated there wouldn't be anyone on site; staff would come out of the central maintenance office in Denver.

Butler asked how often they come out.

Calkins stated as often as necessary.

Koop asked Council what maintenance schedule they would be comfortable with.

Council agreed that monthly inspections would work.

Anderson asked what type of reporting would be needed.

Dahl stated based on Council's comments he made some notes on another possible condition of approval. He suggested wording; "Owner agrees to inspect monthly, and to guarantee maintenance of, the Baysaver separation system in accordance with the manufacturer's recommendation, and to provide documentation of the same to the Town on an annual basis. This condition shall be memorialized in a covenant burdening the property, in form approved by the Owner and the Town Attorney and recorded within 30 days from the date of decision of the Site Plan Modification by the Town Council." This additional condition should be recorded as a covenant.

Council Comments.

Sandquist stated she is glad we are to this point and getting things resolved.

Anderson thanked the applicant for agreeing to the additional condition.

Butler stated the drainage on the site, containment of additional pollution, and avoidance of additional contamination is paramount, much more so than the color of the stucco. With the discussion and the additional condition, he is willing to support the preliminary approval.

Koop stated the Town is just trying to protect the water source. He appreciates all the information on the system.

SANDQUIST MOVED TO APPROVE THE SAVE-O-MAT, INC., SITE PLAN MODIFICATION, WITH THE 10 CONDITIONS OF APPROVAL;

- 1. THAT AN ACCESS EASEMENT AGREEMENT, GRANTING ACCESS TO LOTS 5-7, BLOCK A, SILVERTHORNE COLORADO SUBDIVISION THROUGH LOTS 3-4 OF THE SAME BLOCK AND SUBDIVISION, BE RECORDED NO LATER THAN 30 DAYS FROM THE DATE OF DECISION OF THE SITE PLAN MODIFICATION BY TOWN COUNCIL.**
- 2. THAT A MOUNTABLE CURB BE PROVIDED IN FRONT OF THE PARKING SPACES LOCATED NORTH OF THE CONVENIENCE STORE BUILDING TO FACILITATE ACCESS TO THE SNOW STORAGE AREA, AND MAINTAIN THE DEFINITION OF THE PARKING SPACES.**
- 3. THAT THE APPLICANT OBTAIN A LICENSE AGREEMENT FROM TOWN COUNCIL FOR THE USE OF THE ADJACENT TOWN-OWNED PROPERTY FOR CIRCULATION.**
- 4. THAT ALL AREAS OF LANDSCAPING PROPOSED ON THE ADJACENT TOWN PARCEL BE REMOVED FROM THE LANDSCAPING PLAN.**
- 5. THAT ALL LIGHTING AND LIGHT FIXTURES ON THE CONVENIENCE STORE MEET THE REQUIREMENTS OF TOWN CODE SECTION 4-6-13.**
- 6. THAT ALL ROOF METAL ELEMENTS, INCLUDING FLUES AND FLASHINGS, BE PAINTED A FLAT DARK COLOR THAT COMPLEMENTS OR MATCHES THE COLOR OF THE ROOF.**
- 7. THAT THE COLOR OF THE STUCCO BASE, NOTED ON THE COLOR BOARD AS 'VAN-DYKE', BE CHANGED TO A DARKER SHADE TO PROVIDE MORE DIFFERENTIATION FROM THE STUCCO PROPOSED FOR THE WALLS, NOTED ON THE COLOR BOARD AS 'PEARL'.**
- 8. THAT ANY CHANGES IN THE COLOR OF ANY EXTERIOR BUILDING OR ROOFING MATERIAL BE APPROVED BY STAFF.**
- 9. THAT ALL THE COMMENTS OF THE TOWN ENGINEER, NOTED IN EXHIBIT E, BE ADDRESSED TO HIS SATISFACTION.**

10. OWNER AGREES TO INSPECT MONTHLY, AND TO GUARANTEE MAINTENANCE OF, THE BAYSAVER SEPARATION SYSTEM IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATION, AND TO PROVIDE DOCUMENTATION OF THE SAME TO THE TOWN ON AN ANNUAL BASIS. THIS CONDITION SHALL BE MEMORIALIZED IN A COVENANT BURDENING THE PROPERTY, IN FORM APPROVED BY THE OWNER AND THE TOWN ATTORNEY AND RECORDED WITHIN 30 DAYS FROM THE DATE OF DECISION OF THE SITE PLAN MODIFICATION BY THE TOWN COUNCIL. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL PRESENT. (LANUZA ABSENT)

B. Revocable License Agreement – Sav-O-Mat, 299 Blue River Parkway, Lots 4 – 7, Block A, Silverthorne Colorado Subdivision

Lina Lesmes, Planner II presented the applicant's request for a Revocable License Agreement. She reviewed her staff memo and requested approval.

Richardson asked for clarification; the license agreement only covers the area with the improvements.

Leidal stated it only addresses the new improvements. The applicant requested the agreement only address the improvements.

SANDQUIST MOVED TO APPROVE THE REVOCABLE LICENSE AGREEMENT WITH SAV-O-MAT, INC. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL PRESENT. (LANUZA ABSENT)

BOARD OF ADJUSTMENT:

Sign Variance – Sav-O-Mat, 299 Blue River Parkway, Lots 4 – 7, Block A, Silverthorne Colorado Subdivision

Lina Lesmes, Planner II, presented the applicant's request for a variance to install a free-standing sign with an area greater than 75% square feet, and a height greater than 25 feet. She reviewed her staff report and requested denial based on criteria established in the Town Code.

Batista takes exception with some of the criteria. He disagrees the sign was built intentionally to straddle both properties. The sign was built legal at the time; the alignment of the highway was moved over time. The right of way was taken, and then the sign became non-conforming. He requested the existing sign being moved onto the owner's property to alleviate one of the issues. Price is their only competitive edge and the sign needs to be seen because of the store's location. The sign would need a little cosmetic work. He requested the applicant be allowed to move the existing sign onto his property.

Butler asked Batista if he knows any other Town in Colorado that hasn't changed their sign code over time.

Batista stated that wasn't his point, staff stated this situation was created by the owner and it was not. They just want to keep the same sign and move it onto their property.

Butler said he is not aware of any takings on the property over time.

Batista said it doesn't make any sense for the owner to build the sign on property other than their own.

Preaus asked about branding and name on the sign.

Calkins stated that has not been determined but they will probably go with Bradley Sinclair.

Preaus stated this is a good job in improving the site. He feels the site can still work without the sign variance.

Calkins stated because they don't tie to a brand the competitors allow for a .02 difference in price.

Sandquist asked about the structure of the sign. Are you still using the yellow facing?

Calkins stated the sign would look brand new.

Anderson asked if the sign would have a digital display or more modern look.

Battista stated the look of the signs would be submitted and approved by staff at a later date.

Richardson would like to see a new sign on site that meets the Town Code.

Citizen Comments.

Kathy 1770 Red Hawk Road, feels the Town Code is in place to improve the look of the town. She requested Council stand by the Code and don't give a variance.

Butler stated we have come a long way tonight. He wants to see some over delivering and under promising. He can't see rewarding past non compliance on the site. Hopefully over the last forty years they have established clientele with the current sign. He can't agree to this request.

RICHARDSON MOVED TO DENY THE SAV-O-MAT SIGN VARIANCE BASED ON THE STAFF RECOMMENDED FINDINGS FROM THE STAFF REPORT OF 10-6-11. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL. (LANUZA ABSENT)

C. Ordinance 2011- 06, an Ordinance Approving an Amendment to the Silverthorne Town Center LLC Ground Lease

Batchelder presented Ordinance 2011-06 for Council's consideration. He reviewed his staff report and requested approval.

Richardson asked if the Town picks up the differential.

Batchelder stated this allows additional time for Cudlip to collect and pay the Town.

Anderson inquired if this ordinance will solve some of Cudlip's payment problems.

Batchelder stated that is the intent.

BUTLER MOVED TO APPROVE ORDINANCE NO. 2011-06, AN ORDINANCE APPROVING AN AMENDMENT TO THE SILVERTHORNE TOWN CENTER LLC GROUND LEASE, ON FIRST READING. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL. (LANUZA ABSENT)

D. Authorization for Public Works Director to Vote for Approval of Colorado River Cooperative Agreement for Clinton Ditch Company

Bill Linfield, Public Works Director, requested Council's authorization to vote for the Global Agreement between Denver Water and various west slope agencies. He reviewed his staff report and the background and requested approval. He has discussed this with the Town Water Attorney and will let his advice guide Linfield's vote.

Preaus asked for clarification on the motion.

Butler asked if Wagner represents any other entities.

Linfield stated no.

Anderson asked if Clinton Ditch and Summit County are signatory on the Global Water Agreement.

Linfield stated yes.

Richardson asked about the re-survey of the Clinton Ditch.

Linfield stated Denver water would have to agree to the enlargement.

ANDERSON MOVED TO AUTHORIZE THE TOWN OF SILVERTHORNE REPRESENTATIVE ON THE CLINTON DITCH AND RESERVOIR COMPANY TO VOTE IN FAVOR OF A RESOLUTION AUTHORIZING THE PRESIDENT OF THE COMPANY TO SIGN THE GLOBAL WATER AGREEMENT WITH DENVER, CONTINGENT ON A

RECOMMENDATION OF APPROVAL FROM THE TOWN WATER ATTORNEY. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL. (LANUZA ABSENT)

DISCUSSION ITEMS:

Anderson asked for an update on Old Dillon Reservoir construction

Linfield stated the contractor got behind and they are working at night with lights. He doesn't feel it will be completed this year.

Preaus asked about Pickle Ball at the Recreation Center.

SANDQUIST MOVED TO GO INTO EXECUTIVE SESSION AT 7:16 P.M. UNDER FOR A CONFERENCE WITH THE TOWN ATTORNEY AND APPROPRIATE STAFF UNDER CHARTER SECTION 4.13.C AND CRS 24-6-402(4)(b) FOR THE PURPOSE OF RECEIVING LEGAL ADVICE CONCERNING THE LOMAS V. SILVERTHORNE LITIGATION AND FURTHER ADJOURN THE MEETING AT THE CONCLUSION OF THE EXECUTIVE SESSION. MOTION SECONDED. MOTION PASSED UNINMOUSLY BY COUNCIL. (LANUZA ABSENT)

EXECUTIVE SESSION:

Executive Session under for a conference with the Town Attorney and appropriate staff under Charter Section 4.13.c and CRS 24-6-402(4)(b) for the purpose of receiving legal advice concerning the Lomas v. Silverthorne litigation.

INFORMATIONAL:

EXECUTIVE SESSION CONCLUDED AND MEETING AND ADJOURNED AT 8:10 P.M.

DAVE KOOP, MAYOR

ATTEST

MICHELE MILLER, TOWN CLERK

These minutes are only a summary of the proceedings of the meeting. They are not intended to be comprehensive or to include each statement, person speaking or to portray with complete accuracy. The most accurate record of the meeting is the videotape of the meeting, maintained in the office of the Town Clerk.