

SILVERTHORNE TOWN COUNCIL
Meeting Minutes
Wednesday, October 14, 2009

CALL TO ORDER/ROLL CALL/APPROVAL OF AGENDA:

Those members present and answering Roll Call were Mayor Dave Koop, Council Members Peggy Long, Kevin McDonald, Vince Lanuza, Rosanne Shaw, Bruce Butler and Ann-Marie Sandquist. Staff members present were Town Manager Kevin Batchelder, Attorney Jerry Dahl, Chief Mark Hanschmidt, Administrative Services Director Donna Braun, Recreation Director Joanne Breigenzer, Public Works Director Bill Linfield, Community Development Director Mark Leidal, Planning Manager Michael Johnson, Assistant to Town Manager Ryan Hyland and Town Clerk Michele Karlin.

STAFF COMMENTS:

Breigenzer updated Council on the dedication of the Blue River Segment Four Bridge in honor of Tammy Jamieson on October 22.

The Pavilion is partnering with the Summit Daily News to celebrate 20 years of Summit County by displaying news articles and photographs at the Pavilion.

COUNCIL COMMENTS:

None

CONSENT CALENDAR:

MCDONALD MOVED TO APPROVE THE CONSENT CALENDAR INCLUDING THE MINUTES FROM MEETING SEPTEMBER 23, 2009, SPORT COMMITTEE APPOINTMENT, AND EDAC APPOINTMENT MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL PRESENT.

CITIZEN COMMENTS:

None

PUBLIC PRESENTATIONS:

None

LIQUOR BOARD:

A. Chyang Sherpa dba Asian Oven – Renewal of H & R License

LANUZA MOVED TO APPROVE CHYANG SHERPA DBA ASIAN OVEN, RENEWAL OF HOTEL & RESTAURANT LIQUOR LICENSE. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

B. Summit Cancer Support Group/Outlets at Silverthorne – Special Events Permit 11-21-2009

BUTLER MOVED TO APPROVE THE SPECIAL EVENT PERMIT FOR SUMMIT CANCER SUPPORT GROUP NOVEMBER 21, 2009. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

C. Local's Liquors LLC dba Locals Liquors – Change of Location to 358 Blue River Parkway

Public hearing opened, no comment, public hearing closed.

SANDQUIST MOVED TO APPROVE THE CHANGE OF LOCATION FOR LOCAL'S LIQUORS TO 358 BLUE RIVER PARKWAY. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

PUBLIC HEARINGS:

A. Conditional Use Permit Modification – Kaupas Water Labs, 120 W. 9th St., Lot 4R, Silverthorn No. 2 Subdivision

Public hearing opened.

Michael Johnson, Planning Manager, presented the project. Ed Kaupas, Applicant/Owner, is requesting approval of a proposed modification to the Conditional Use Permit for Kaupas Water Labs.

Council questions

Shaw asked about site plan deadlines.

Johnson stated under the Town Code they are good for six months.

Shaw asked if the applicant contacted staff expressing concern about meeting the deadline.

Johnson stated no, staff sent a letter when it was close to the deadline and the applicant came in at that point.

Butler asked what happens if the CUP is not approved.

Johnson stated the applicant would be in violation Town Code and could be issued a summons to Municipal Court.

Sandquist asked what has been completed on site.

Johnson reviewed the progress on the site.

Lanuzza asked the applicant when he can complete the project.

Ed Kaupas, Owner/Applicant, Kaupas Water Labs, - requested more time for completion. He passed out a timeline of the project with items in progress or completed. He has been using personal funds to pay for work being done currently, due to the fact that bank financing was difficult to obtain. He requested an extension until November 30, 2009.

McDonald asked if the fencing is completed.

Kaupas stated it is complete.

Lanuzza asked what is left to do.

Kaupas stated they will be pouring the concrete tomorrow. The site work is complete.

Public hearing closed.

Council comments

Lanuzza had concerns at the January Town Council meeting whether the applicant could meet the deadline. It is important when dates are set to meet the deadlines. If they are not met there needs to be a good reason. He understands the financing issues and will approve the request.

Long has no problem with the extended date, she just wants to see the project completed.

Shaw suggested to the applicant that it might be better to ask permission not forgiveness. We are here to help you, but you need to work with Council.

Lanuzza stated the Town works with a lot of deadlines. If deadlines are not met, there is an action taken. There must be consistency or people ask why there was an exception.

Butler stated there is a good lesson in this issue. Let people know what is going on if there are issues with meeting deadlines. The Town wants to see the business do well, but there needs

to be a two way commitment. He requested completion of the project; he does not want to revisit this item again.

McDonald stated the issue tonight is only about extending the deadline; he is fine with the request.

Koop stated communication is important. He does not want to have this come down to the last minute for completion. Forty-five more days should be enough time completion.

MCDONALD MOVED TO APPROVE THE MODIFICATION TO THE CONDITIONAL USE PERMIT FOR KAUPAS WATER LABS, INC, TO EXTEND THE COMPLETION DATE OF ALL SITE IMPROVEMENTS RELATED TO DRAINAGE, PARKING, LANDSCAPING, LIGHTING, AND SURFACING TO NOVEMBER 30, 2009. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

BOARD OF ADJUSTMENT:

None

ACTION ITEMS:

A. Ordinance 2009 - 19, An Ordinance Amending Silverthorne Town Code Chapter 4, Article IV, Zoning Districts and Standards, by adding a New Section 4-4-35, concerning Medical Marijuana Dispensaries, First Reading

Community Development Director, Mark Leidal, presented Ordinance 2009-19 for Council's consideration. He reviewed his staff report dated 10-8-09, changes made from the work session discussion and he requested approval.

Council questions

Long asked about Section 1, (d) (8): the requirement of adequate security on the premises. We don't require any other type of business to have security so she requested it be removed from the ordinance.

Leidal stated this is Council's ordinance to change as they wish. Staff is trying to keep the ordinances consistent from town to town. Frisco and Breckenridge have the security requirement in their ordinances.

Long stated she is treating this like a pharmacy and we don't require a security system on their premises. She requested the addition of no home delivery be added to the ordinance.

Leidal stated after the work session discussion last night, he understands the ordinance can be interpreted differently by others. The Town would like to know when businesses from outside our town limits deliver into Silverthorne town limits, so sales tax can be collected.

Koop asked how are we going to know who is delivering.

Leidal stated staff will contact those who have medical marijuana licenses in other jurisdictions so they are aware of the requirements.

Butler understands (C)(7) to say that if you have a medical marijuana dispensary in the Town of Silverthorne you must have a physical location. Home deliveries are allowed from other dispensaries from other location.

Shaw asked what a business license costs in Silverthorne.

Staff stated \$75.00.

Long asked about food products being allowed in the stores.

Shaw asked if on site consumption of bakery products or tastings would be allowed.

Leidal stated the ordinance is mute on these issues, so it is allowed.

Lanuza asked if we require any other business to have security on the premise.

Leidal stated no other business has this requirement.

Public Comment

Amy Noraka, Town of Silverthorne Police Sergeant, cautioned Council from taking out the security requirement. She feels this will be a highly targeted area for theft. Lighting alone will help prevent thefts for these businesses. If there are cameras on premise it also makes it easier to identify the thieves. All pharmacy's have security systems and great lighting. If a security system is not required she believes there will be more thefts.

Mark Lincenberg, 365 Warren Ave., owns property at the Silverthorne Business Center. The distance from residential and C-2 zoning identified in the ordinance would prevent him from opening this type of business at his current location. A person would have to have a prescription to enter the business and he thinks the 500 feet from residential is too restrictive. This type of business is not open to the general public. He asked why C-1 would be ok and not C-2. People want a discreet location. He feels that liquor stores are not as restricted as this ordinance proposes for medical marijuana dispensaries. He does not feel there would be issues being located within 500 feet of residential units.

Adam Savage, Frisco, he asked about the amount of plants the dispensaries are allowed to grow. The State has remained silent on the number of plants allowed. He asked for clarifications on 4-4-35 (a) (2). He asked why the ordinance requires 1000 feet from another medical marijuana dispensary, when Frisco is only 500 feet. He asked about consumption on premise and compared it to a wine tasting. He suggested allowing a brownie testing utilizing new products. He asked for clarification regarding Section (d)(2). He likes the idea of security system, but it would create stricter requirements for a medical marijuana dispensary than a pharmacy. He asked about the signage requirements and utilizing other words than "medical".

Koop stated Council is trying to iron out all the problems with this issue. This is new territory. You would like to compare yourself to a pharmacy or a liquor store but you are not even close. Some municipalities have opted not to even deal with the issue. Silverthorne is trying to work this out. This Council represents all the citizens of Silverthorne.

Lanuzza asked Savage if he attended other Town Council meetings in Frisco and Breckenridge.

Savage stated no, he is getting on board late. This is a feasibility study for him at this point.

Lanuzza asked for Savage's comments and concerns to be in a written format since there are so many.

Max Miller, Breckenridge, feels that it is unfair to require a security system if it is not required of other businesses. It would be a good business decision but should not be required.

Julio Machado, Silverthorne, suggested that the marijuana be stored in a secure safe when the business is not open.

Council stated that is already a part of the ordinance (d)(7).

Lincenberg feels the 1000 foot restriction from another dispensary is unfair, due to the small area allowed by zoning. He asked what type of criminal offenses would prohibit you obtaining a dispensary license in Silverthorne.

Sandquist stated one problem with all of this is a pharmacy has a pharmacist that is licensed to dispense prescriptions. The State has not given any direction on this issue for medical marijuana dispensaries. There is not a licensed person to dispense medical marijuana. We don't want a person with a drug related offence to be able to hold this type of license.

Lincenburg stated to have a dispensary license there is a state licensed person.

McDonald stated the difference would be a pharmacist would throw away a quarter of a million dollar education if they made a mistake and there is not that type of a burden of education with this type of license.

Koop stated a background check is needed to let us know who we are dealing with.

Lincenberg feels there should be a limitation on the number of years you can go back on a criminal history before denying an application.

Long stated Council is considering this ordinance on first reading. They are exploring some new frontier with this ordinance. Some towns have said no to any dispensaries because it is a federally banned substance, some yes with local control. If you want to be treated like a liquor store, you would have to be under scrutiny like a liquor license applicant would. They have to submit petitions from the neighborhood, and present the signatures to the liquor board to determine if there is a need for that liquor establishment. She asked if the "need" for a dispensary should be left up to the citizens of Silverthorne. Anyone who has a drug conviction on their criminal record should not be in the business of dispensing a federally controlled substance. Leidal stated he has taken good notes on the comments made tonight and reviewed the proposed ordinance.

Council comments

McDonald stated Council has been working on this issue for some time. The state law is vague. Anything that Council passes people will disagree on, because you are either on one side or the other and Council wants to be in the middle. Citizen comments made tonight are valid and have been discussed by Council in work sessions. This has been a deliberate process with the Town of Silverthorne.

Butler struggles with the security surveillance requirement in the first reading of the ordinance. Council wants to see a legitimate business run by legitimate people filing a legitimate medical need.

McDonald stated he also has some concerns on requiring dispensaries to have a security system. The Town does have some leeway in what we should do.

Koop stated a legitimate business would already addressed security surveillance on the premise.

LONG MOVE TO APPROVE THE RED LINE VERSION OF ORDINANCE 2009-19: AS PRESENTED TO COUNCIL BY STAFF THIS EVENING: AN ORDINANCE AMENDING SILVERTHORNE TOWN CODE CHAPTER 4, ARTICLE IV, ZONING DISTRICTS AND STANDARDS, BY ADDING A NEW SECTION 4-4-35, CONCERNING MEDICAL MARIJUANA DISPENSARIES ON FIRST READING. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

B. Resolution 2009 – 25, A Resolution Supporting Ballot Measure 2A

Assistant to the Town Manager Ryan Hyland presented Resolution 2009-25 for Council's consideration. He reviewed his staff report and recommended approval.

SANDQUIST MOVED TO APPROVE RESOLUTION 2009-25 A RESOLUTION FORMALLY DECLARING THE TOWN COUNCIL'S SUPPORT FOR BALLOT MEASURE 2A. MOTION SECONDED. MOTION PASSED BY COUNCIL. (BUTLER NAY)

C. Ordinance 2009-18, An Ordinance Amending Silverthorne Town Code, Chapter 4, Article I, General Provisions, Article II, Definitions and Interpretation, Article IV, Zoning Districts and Standards, Article V, Procedures and Requirement for Subdivision, and Article VI, Site Plan concerning the Land Use Review Process, First Reading

Planning Manager, Michael Johnson, presented Ordinance 2009-18 for Council's consideration. He reviewed the history of the land use review process, staff report and requested approval.

Koop stated the Final Review is the only appearance of the applicant before Council. There will be no redesigning the project at Final.

Long stated the community meetings have taken away some of the heated discussions for some of the projects. It makes a smoother transition for the public.

McDonald this was the first goal of the EDAC committee or 2003.

MCDONALD MOVED TO APPROVE ORDINANCE 2009-18, AN ORDINANCE AMENDING SILVERTHORNE TOWN CODE CHAPTER 4, ARTICLE I, GENERAL PROVISIONS, ARTICLE II, DEFINITIONS AND INTERPRETATION, ARTICLE IV, ZONING DISTRICTS AND STANDARDS, ARTICLE V, PROCEDURES AND REQUIREMENTS FOR SUBDIVISIONS, AND ARTICLE VI, SITE PLAN CONCERNING THE LAND USE REVIEW PROCESS ON FIRST READING. MOTION SECONDED. MOTION PASSED UNANIMOUSLY BY COUNCIL.

DISCUSSION ITEMS:

None

SANDQUIST MOVED AT 7:35 PM TO GO INTO EXECUTIVE SESSION FOR A CONFERENCE WITH THE TOWN MANAGER AND APPROPRIATE STAFF, UNDER CHARTER SECTION 4.13(C) AND SECTION 24-6-402(4)(D) C.R.S., SPECIFICALLY TO CONSIDER SPECIALIZED DETAILS OF SECURITY ARRANGMENTS OR INVESTIGATIONS, INCLUDING DEFENSES AGAINST TERRORISM.

SHE FURTHER MOVED TO ADJOURN THE COUNCIL MEETING AT THE CONCLUSION OF THE EXECUTIVE SESSION. MOTION SECONDED. MOTION UNANIMOUSLY PASSED BY COUNCIL PRESENT.

EXECUTIVE SESSION:

Under the Home Rule Charter and Section 24-5-402(4)(d), CRS, specifically, to consider Specialized Details of Security Arrangements or Investigations, including Defenses Against Terrorism

INFORMATIONAL:

- A. Planning Commission Meeting Minutes – October 6, 2009**
- B. SPORT Committee Meeting Minutes – September 17, 2009**

EXECUTIVE SESSION AND MEETING ADJOURNED AT 8:48 P.M.

DAVE KOOP, MAYOR

ATTEST

MICHELE KARLIN, 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.