

**BOARD OF TRUSTEES
CITY OF CREEDE, COLORADO – A TOWN
November 22, 2011**

SPECIAL MEETING

The Board of Trustees of the City of Creede – a Town, County of Mineral, State of Colorado, met in a special session at the Creede Town Hall at the hour of 5:30 p.m. There being present at the call of the roll the following persons:

BOARD MEMBERS PRESENT: Elizabeth Zurn, Debbie Wylesky, Edward Skroch, Debby Roughton-Miles, Denis Powell, Eric Grossman, Evelyn Gant (by telephone)

Mayor Roughton-Miles, presiding, declared a quorum present:
Those members of staff also present were as follows:

Randi DePriest, Clerk/Treasurer

REVIEW AGENDA

Mayor Roughton-Miles added “Appoint a Board of Appeals to New Business, item b.) as requested by Town Attorney Heil.

NEW BUSINESS

KIPS GRILL BUILDING PERMIT

Mayor Roughton-Miles announced that the reason for tonight’s Special Meeting is to describe to the Board of Trustees and the public what lead up to the Stop Work Order and Notice of Violation #11-23. She read the Stop Work Order out loud. She then described the process by which herself, Trustee Skroch, and Building Inspector Lamb had decided to issue a Stop Work Order. She gave the Board an approximate timeline of the building that raised their concerns, their visit to the site, and the issuance of the Stop Work Order. She repeated the opinions received by her, Trustee Skroch, and Lamb had from Rio Grande County Building Inspector Randy Kearn and a Class A Licensed General Contractor. She also described the research done by her, Trustee Skroch, and Lamb into State and Local ordinances to determine that Kip’s Grill did not meet the minimum requirements, and that the Board had decided at that time to issue the Stop Work Order. Trustee Grossman clarified that the Board had not taken any actions and asked that it be clear for the record that “we” referred to a select group of people, not the entire board. Mayor Roughton-Miles agreed and thanked him for reminding her. Trustee Gant asked why the meeting had been called. Mayor Roughton-Miles replied that she wanted to explain their actions to the board. She stated that their information was complied with much thought and read the following:

1. Trustee Skroch, Building Inspector Lamb and Mayor Roughton-Miles noticed the work being done now is beyond the scope of the information that was provided in the amended building permit to the contractor, who pulled the permit.
2. Trustee Skroch, Building Inspector Lamb and Mayor Roughton-Miles were refused access to the new kitchen structure being built at Kips. Mayor Roughton and Trustee Skroch may not have to be allowed into the kitchen, but Building Inspector Lamb should be allowed to enter
3. There was no proof the contractor has secured the proper permits needed.
4. There was no proof the structure meets State snow loads, foundation integrity to sustain the additional weight of the new structure or the proper installation of the unapproved timber columns, wind brace requirements, fire suppression.
5. The consensus of the professionals who work with the IBC and State laws have told the Mayor just to look at the new structure, commercial buildings need a structural engineer stamp.
6. Danger of snow sliding off the roof. The original proposal may not be enough space for snow to slide off of the roof safely.

Trustee Grossman stated that he did not agree with what had taken place. He expressed his concern that the action was not supportive of Creede business. He also raised concerns that due process had not been followed and asked if the contractor had been given a written notice to abate prior to the stop work order. Mayor Roughton-Miles replied that he had been given a verbal warning about a week-and-a-half prior. Lamb confirmed this. He also voiced concerns that the Town Manager had not been contacted regarding the situation.

PUBLIC COMMENT PERIOD (BY SIGN IN SHEET)

Scott Lamb asked the Board of Trustees to clarify how and when a Certificate of Occupancy is issued following a building permit. Diana Leggitt expressed her concerns about the safety of the construction site and suggested a construction fence for public safety. Steve Atencio introduced himself as Mr. Nagy's attorney. He announced that they were there under protest. He protested that: having a meeting was highly inappropriate, that Mr. Nagy should have been contacted, that the meeting is an inappropriate forum for negotiation, that it is highly unusual that individual members of the board to direct the staff and perform activity unauthorized by the Board of Trustees and that Town Attorney Heil had not been informed of many facts in the case. He described the events leading up to the Stop Work Order and described how the contractor and the owner cooperated with the requests, including providing and opinion from an IBC certified building inspector. He asked what had changed between Thursday, November 17, 2011 when the building permit was signed and fees paid to Sunday, November 20, 2011 when the Stop Work Order was issued. He announced that there would be a lawsuit unless the Stop Work Order was rescinded and the Town used their Intergovernmental Agreement with Rio Grande County to have a qualified building inspector perform an inspection.

Mayor Roughton-Miles asked Inspector Lamb whether she had contacted the Rio Grande County Building Inspector. She replied that she had and that he confirmed that a structural engineer was needed. Mayor Roughton-Miles asked why a permit and an amended permit existed. Lamb replied that the original permit was for a roof using residential rates and that she re-issued the permit adjusted for the commercial rate. She asked questions about the new structure at that time and was told a permit was not needed for that area until it was going to be used. Mayor Roughton-Miles asked whether she had received enough information to reflect what they are doing. Lamb replied that she did not. Trustee Zurn commented that she was uncomfortable considering requests, negotiating or taking action without Attorney Heil present and that she wasn't sure if the meeting should have been held without consulting him. Mayor Roughton-Miles replied that he had been consulted. Trustee Zurn replied that the Board needed to consult with the Attorney as a whole and be on the same page. Trustee Powell stated that he didn't know that a certified inspector had looked at the property and because he had, the Board should let the gentleman go ahead and keep his business open, and keep working on the building until we can send someone down there to check it out. Questions were asked about whether the Board had the authority to issue a Stop Work Order or remove it. Trustee Grossman voiced that he agreed with Denis, and until the problem could be solved, that the Board should meet halfway. Trustee Grossman moved and Trustee Powell seconded to instruct the building inspector, since Clyde is not present, to allow them to re-open the business and leave the Stop Order in terms of the construction in place. Mayor Roughton-Miles asked if there was any more discussion and that she would rather speak to the lawyer about legal ramifications and the responsibility of the board when it comes to state law and city ordinances before a decision was made. The possibility of contacting Mr. Atencio with a decision Wednesday, November 23 was discussed. Mayor-Roughton Miles asked Mr. Atencio if he would be willing to release the City from any responsibility and public liability. Mayor-Roughton Miles asked if there was any more discussion, repeated the motion, and asked for a roll-call vote. There were three yes votes (Skroch, Powell, and Grossman), one no vote (Wylesky), and two abstentions (Zurn and Gant). Mayor-Roughton-Miles declared the motion carried. Mr. Atencio asked for clarification as to what the Building Inspector's actions were going to be based on the direction given. Lamb replied that she could not give him an answer until she spoke with the Town Attorney.

APPOINT A BOARD OF APPEALS

This agenda item was discussed and tabled until the Board could get more information.

Board of Trustees
City of Creede
November 22, 2011
Page 3

ADJOURN

There being no further business to come before the Board of Trustees at this time, Trustee Grossman moved and Trustee Zurn seconded to adjourn the meeting at 6:35 p.m. The vote was unanimous. Mayor Roughton-Miles declared the motion carried.

Respectfully submitted:

Randi DePriest, Clerk/Treasurer