

**BOARD OF TRUSTEES  
CITY OF CREEDE, COLORADO – A TOWN  
February 12, 2008**

REGULAR MEETING

The Board of Trustees of the City of Creede – a Town, County of Mineral, State of Colorado, met in regular session in the Creede Town Hall at the hour of 5:35 PM. There being present at the call of the roll the following persons:

PRESENT: Kim Nagy, Evelyn Gant, Debbie Wylesky, Eldon Seime,  
Rex Shepperd, Dana Brink  
ABSENT: Joe Keller

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

Pamela Wilson, City Clerk/Treasurer  
Clyde Dooley, City Manager  
Benjamin Gibbons, City Attorney  
Charles C. Powers, Special Counsel

REVIEW AGENDA

Item (d) New Business will be added to authorize the Mayor to sign the Wall, Smith, Bateman & Associates, Inc. (WSB) letter for audit services. An Executive session will follow the approval of the agenda before considering an agreement for approval that was drafted and signed as a result of the court ordered mediation on February 8, 2008. Trustee Wylesky moved and Trustee Gant seconded to approve the agenda as amended. The vote was unanimous. Mayor Seime declared the motion carried.

EXECUTIVE SESSION

Trustee Wylesky moved and Trustee Shepperd seconded to come out of regular meeting and to go into executive session at 5:37 PM for attorney conferences pursuant to § 24-6-402(4)(b), C. R. S. The vote was unanimous. Mayor Seime declared the motion carried. The following people were allowed in executive session with the Board of Trustees and the City attorney: Special Counsel Powers and City Manager Dooley.

Trustee Shepperd moved and Trustee Wylesky seconded to come out of executive session and return to regular session at 6:10 PM. The vote was unanimous. Mayor Seime declared the motion carried.

ACTION TAKEN FOLLOWING EXECUTIVE SESSION

Trustee Shepperd moved and Trustee Gant seconded to approve the agreement by and between the City of Creede and Mammoth Mountain Properties, LLC (MMP) that was drafted and signed on Friday February 8, 2008, at a court-ordered mediation. By roll call vote, the vote was unanimous. Mayor Seime declared the motion carried.

During a discussion of the agreement prior to the vote, Trustee Shepperd noted that Mr. Siddel, in conversations with our attorney, has graciously said the city can use his survey work to rezone this property and that will save the city some money.

Trustee Shepperd moved and Trustee Nagy seconded to amend the building permits to include a recommendation from an independent contractor, Gary Pringey of Colorado Code Consulting, LLC that states, "The building permits for the four buildings at the referenced project site should be amended to specify the application of the IRC. Those permits should identify three two-family dwellings and one detached single-family dwelling." By roll call vote, the vote was unanimous. Mayor Seime declared the motion carried.

APPROVAL OF MINUTES FOR JANUARY 8, 14, AND 22, 2008

Trustee Shepperd moved and Trustee Nagy seconded to approve the minutes of January 8, 2008, as presented. The vote was unanimous. Mayor Seime declared the motion carried.

Trustee Shepperd moved and Trustee Brink seconded to approve the minutes of January 14, 2008, as presented. The vote was unanimous. Mayor Seime declared the motion carried.

Trustee Brink moved and Trustee Shepperd seconded to approve the minutes of January 22, 2008, as presented. The vote was unanimous. Mayor Seime declared the motion carried.

### MONTHLY DISBURSEMENTS

Questions were asked and answered. Trustee Nagy moved and Trustee Wylesky seconded to approve the monthly disbursements as presented on the January 2008 check detail report. The vote was unanimous. Mayor Seime declared the motion carried.

### REPORTS AND PRESENTATIONS

#### ACCESS TO HEIKE WILSON'S PROPERTY

Anne Pizel of Broken Arrow Land Company provided a copy of a map of Wilson's property. City Manager Dooley explained that a map of and for the City created by a previous employee of Davis Engineering in Alamosa is missing and Dave Maley of Davis Engineering is trying to locate that map for the City. Dooley said the City's map does need to be updated. Questions were asked and answered. The Board told Pizel that Wilson has to go to the Planning and Zoning Commission for them to make a recommendation to the Trustees about the access and the Board will determine if they wish to grant that as public access. As to the issue of not being able to build on the property because of a grade restriction, Wilson or a buyer would have to address the Planning and Zoning Commission with pre-approved drawings by an engineer for consideration and a recommendation for approval.

#### BUILDING INSPECTOR'S REPORT

Mike Kolisch was available to answer questions about his report. Kolisch, with the support of some local contractors, explained his dissatisfaction with the Trustees for approving the agreement with MMP. Trustees Wylesky and Nagy explained to Kolisch why the agreement had to be approved and was approved and they expressed that the Board understood his concerns.

#### CHAMBER REPORT

Chamber Director, Chuck Kurtz was available to answer questions about his report.

#### WRITTEN REPORT

This includes the Recreation report to be read at the Board's leisure.

#### ELECTION UPDATE

City Clerk and Election Official Wilson addressed the Board of Trustees to update them about the upcoming municipal election. The election is Tuesday, April 1, 2008. The polling place is the Town Hall meeting room and is open from seven o'clock AM to seven o'clock PM. The positions up for election are the Mayor's seat and four Trustees. The mayor serves a four-year term and there are three four-year and one two-year terms available for the trustees. The voters determine who will fill what term by the number of votes the candidates receive. The one receiving the least of the top four will fill the two-year term. Wilson told the Board that nomination petition packets became available to be circulated yesterday, February 11, 2008, and must be returned to her no later than five o'clock PM on Friday, February 29, 2008. In response to a question, Wilson announced the following terms were up and these are the seats being filled: Mayor Eldon Seime; Trustee Kim Nagy; Trustee Evelyn Gant (appointed); Trustee Debbie Wylesky and Trustee Joe Keller (appointed). Trustees Shepperd and Brink have two years left in their terms of office. Wilson explained that the two-year term at this election comes from when Trustee Barnes resigned his position his term was not up until 2010. Wilson will provide another update at the March meeting.

### PUBLIC HEARINGS

#### ORDINANCE NO. 344, SIGN REGULATIONS WITHIN THE CITY OF CREEDE TO BE INCORPORATED INTO THE LAND USE CODE

Trustee Nagy moved and Trustee Wylesky seconded to open the public hearing. The vote was unanimous. Mayor Seime declared the motion carried. The Trustees were asked to explain why the city felt it necessary to draft a sign ordinance. Trustee Shepperd explained that people call with sign complaints and an ordinance had been drafted in the 1980s, but was never adopted. Trustee Wylesky added that when people call in to ask for regulations,

the administrative staff uses the 1980's draft as a guideline, but not a requirement. Wylesky said that some do not even call in for regulations because there is nothing officially in place.

The people that signed up to speak and their comments are as follows:

Anne Pizel, owner, Broken Arrow Land Company located at 103 N. Main Street in Creede said she understands what went into drafting this document. She questioned the section 1 requiring a permit, yet there is verbiage contradicting this section. Trustee Shepperd spoke up and agreed with Pizel that only signs that will not be in compliance with the ordinance would require a permit. Pizel, a realtor, also spoke to the real estate sign issue expressing that she feels it to be an attack on realtors. People want to sell their property and this should be their decision to leave the signs or have them removed after a sale is complete. Pizel doesn't feel there is a problem with real estate signs and asked if this is a personal issue. She believes real estate signs could be better addressed under c. of section 2 "No sign advertising any business may be located off of the premises of that business *with the exception of real estate or for sale by owner signs advertising the property for sale.*" Pizel feels it inappropriate to have an entire section for real estate signs.

John R. Mills, Creede resident said he is upset about people that park their vehicles a half a block or a block away, not for a place to park, but to hang signs on to advertise their business. This takes up good parking that others could use. He would like to see the sign ordinance address this issue.

Peter Calandrucchio, Creede resident said that moving here from a larger city, he does not see such a significant sign issue to warrant trying to create rules and regulations that invariably will have loop holes, that will cause conflicts, there will be interpretations issues. Calandrucchio said that part of the character that attracted him to Creede was the individual expression. "The signs don't seem unusually large here." He personally doesn't particularly care for banners like the one that says "Genuine authentic Indian Americana," not really knowing what that means Calandrucchio would prefer to allow that person, like in free speech, the right to make that selective decision. He is concerned about the "No signs on the sidewalk." Calandrucchio thinks the sandwich, tee-pee signs are an interesting part of the streetscape, he believes they are valuable to the businesses and that begins to really limit what he perceives as a right of advertising. Calandrucchio felt that some of the rules regarding the real estate folks are a little targeted. They seem to really isolate realtors. He feels these rules will be difficult to enforce and he is a big fan of the "funky stuff here in town." He feels that churches, schools, government buildings and libraries not really having much limitation on their size and feels that seems little discriminative or highly selective to him. He questioned the sign sizes and where that came from. Calandrucchio just doesn't see a sign crisis and feels the City Council has other priorities to address. His opinion was for the Board to "shelve" this for the time being.

Paul Stone, Creede resident said that on behalf of the theatre, they put a sign out in the summer that advertises what is playing and is a very important piece of advertisement for them. Stone was told that coming to the Board for a permit would be the process for this issue.

The Board of Trustees thanked everyone for their input. Trustee Shepperd moved and Trustee Wylesky seconded to close the public hearing. The vote was unanimous. Mayor Seime declared the motion carried.

Trustee Shepperd moved and Trustee Brink seconded that the ordinance be tabled for their work session. The vote was unanimous. Mayor Seime declared the motion carried. At a work session, public input from this hearing will be considered and the draft can be reviewed and amended as agreed by the Board of Trustees and the draft ordinance can be reintroduced at a second public hearing, time and date to be determined.

## NEW BUSINESS

### REQUEST LETTER OF SUPPORT FROM MINERAL COUNTY

City Manager Dooley was directed to write a letter to the Mineral County Board of County Commissioners requesting of them a letter of support for the City's petition to the Surface Transportation Board (STB) for adverse abandonment.

ORDINANCE NO. 335 VERBIAGE CORRECTION

City attorney Gibbons advised to the correction in verbiage to section 4 (b) of ordinance no. 335. The corrected language should read: Every person *in* violation of any provision adopted in this ordinance shall be allowed five (5) business days to rectify the violation. If the violation is not rectified in five days, a Cease and Desist order will be issued and a fine not exceeding one hundred (\$100.00) for each day of violation from *the date of the Cease and Desist order* shall be imposed. Trustee Shepperd moved and Trustee Gant seconded to adopt amended ordinance no. 335. The vote was unanimous. Mayor Seime declared the motion carried.

City attorney Gibbons explained to the Board that this amended ordinance can be adopted without first holding a public hearing because the incorrect verbiage in the ordinance is considered to be a scripiter's error.

RESOLUTION 08-02, DELEGATING THE AUTHORITY AND RESPONSIBILTY TO THE CITY CLERK TO APPOINT ELECTION JUDGES

Trustee Shepperd moved and Trustee Brink seconded to pass, approve and adopt resolution 08-02. The vote was unanimous. Mayor Seime declared the motion carried.

WALL, SMITH, BATEMAN & ASSOCIATES, INC. (WSB) LETTER FOR AUDIT SERVICES

Trustee Shepperd moved and Trustee Nagy seconded to authorize Mayor Seime to sign the WSB letter for audit services on behalf of the city for the 2007 audit. The vote was unanimous. Mayor Seime declared the motion carried.

CITY MANAGER'S REPORT

The items discussed and the actions taken were as follows: Norman Higley, an environmental attorney from the Denver area, visited Creede in January and introduced himself to the Board of Trustees at a work session. Trustee Shepperd moved and Trustee Wylesky seconded for the City to hire Mr. Higley for the City's dealings with the Creede Resources property in and around Creede. The vote was unanimous. Mayor Seime declared the motion carried.

The City Manager requested direction from the Board of Trustees to allow Tom Malacek, the U. S. Forest Service District Ranger and Bureau of Land Management (BLM) Manager to demolish the building where the old Homestake "water house" is located. Mineral County has asked the U. S. Forest service if a new radio tower can be installed at that location. Dooley was asked by the Board of Trustees to check into ownership of the structure and if it is something the city can use. The Trustees agreed to readdress this issue at a work session.

City Manager Dooley requested direction to contact Marvin (Zeke) Ward, Chairman of Willow Creek Reclamation Committee (WCRC) to move forward with the request for appropriations for the flume project from Senators Wayne Allard, Ken Salazar and Congressman John Salazar. These requests are due by March 5, 2008. The Board directed Dooley to contact Ward to move forward.

Regarding the FYI to the Board about the flume repair, the Board will discuss this further at a work session. The Trustees agreed to have their regular work session on Tuesday, February 26, 2008 at 5:30 PM. This report had other informational only items in it as well.

ADJOURN

There being no further business to come before the Board of Trustees at this time, Trustee Wylesky moved and Trustee Brink seconded that the meeting be adjourned at 7:42 PM. The vote was unanimous. Mayor Seime declared the motion carried.

Respectfully submitted:

Approved by Board of Trustees:

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Pamela J. Wilson, City Clerk/Treasurer

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Eldon M. Seime, Mayor