
**CITY OF BIG BEAR LAKE CITY COUNCIL
MINUTES FOR REGULAR MEETING
OCTOBER 25, 2004**

A Regular Meeting of the City Council of the City of Big Bear Lake was called to order by Mayor Harris at 6:34 p.m., Monday, October 25, 2004, at the Civic Center, 39707 Big Bear Boulevard, Big Bear Lake, California.

Invocation: Moment of Silence

Flag Salute: Led by Mr. Bud Barnes

Councilmembers Present: Mayor Liz Harris
Mayor Pro Tem Darrell Mulvihill
Councilmember S. O. Conklin
Councilmember Ken Dally
Councilmember Neal Hertzmann

Councilmembers Excused: None

Others Present: Michael Perry, City Manager
Marco Martinez, Best Best & Krieger, LLP City Attorney
Katherine E. Jefferies, City Clerk
Kathleen Smith, Finance Manager
Dave Vasquez, Deputy City Manager Administration

RESULTS OF CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION pursuant to Government Code Section 54956.9(a)

Name of Parties: Citizens against Neighborhood Transient Occupant Rentals v City of Big Bear Lake

Case Number: BBC 00733 – San Bernardino County Superior Court

Because of a potential conflict of interest, Mayor Harris did not attend the Closed Session meeting.

No reportable action.

AGENDA APPROVAL

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Conklin to approve the Agenda as presented. Motion carried 5-0.

ANNOUNCEMENTS

Upcoming events scheduled for the Performing Arts Center – For ticket information please contact the box office at 866-4970.

- C.A.T.S. presents “A Funny Thing Happened on the Way to the Forum” – November 12 – 14, 17, 19 – 21, 23, 26 & 27.

PRESENTATIONS

DWP General Manager Jerry Gruber gave a status report on the DWP 2004 summer water usage.

City Manager Perry introduced new employee Dave Martinez, Deputy City Manager of Development Services.

City Manager Perry presented a status report on the 24/7 Private Home Rental Program.

COMMITTEE REPORTS

None.

PUBLIC FORUM (City Council, Fire Protection District and Improvement Agency)

Sarah Adams, Big Bear City: spoke in opposition to the proposal of Cloud Seeding because of the danger it will have on our environment.

Gloria Meade, Big Bear City: discussed the Performing Arts Center Rental Guide that the City is in the process of considering, and stated that before it is adopted, staff needs to make sure that it is equitable for all of the user groups, and that it clearly defines all of the rules and regulations.

PUBLIC FORUM RESPONSE

None.

1. CONSENT CALENDAR

Motion by Councilmember Conklin, seconded by Councilmember Hertzmann to approve the Consent Calendar as follows:

1.1 Approval of Demands – Check Issue Date 10/7/04 through 10/20/04 – Check Nos. 24667 through 24894, in the amount of \$778,496.96

Approved.

1.2 Continuance of the Declaration of Local State of Emergency

Continued the Declaration of the Local State of Emergency due to the drought and Bark Beetle infestation.

1.3 Fox Farm Road Rehabilitation Project

Council consideration of accepting as complete the Fox Farm Road Rehabilitation Project; determine the final contract cost to be \$598,249.13; and direct staff to file the Notice of Completion and release 5% (29,912.45) of the retention. The remaining retention amount of \$29,912.45 is to be released thirty-five (35) days after the Notice of Completion has been recorded, provided that no stop payment notices are filed with the City.

Approved.

1.4 Approval of the Minutes from the Regular Meeting of September 27, 2004

Approved as presented.

1.5 Monthly Financial Report

Received and filed.

1.6 Snow Removal Contracts

Council consideration of approving the Snow Removal Agreements with Allison Asphalt General Engineering, Bear Valley Paving, Burton's Ready-Mix, Inc., Al Randazzo Construction, and Romans Construction, effective November 1, 2004.

This item was removed from the Consent Calendar for separate discussion.

The Consent Calendar was approved by the following vote:

AYES: Conklin, Dally, Harris, Hertzmann, Mulvihill
NOES: None
ABSENT: None
ABSTAIN: None

2. ITEMS REMOVED FROM THE CONSENT CALENDAR

1.6 Snow Removal Contracts

Council consideration of approving the Snow Removal Agreements with Allison Asphalt General Engineering, Bear Valley Paving, Burton's Ready-Mix, Inc., Al Randazzo Construction, and Romans Construction, effective November 1, 2004.

Council amended the Snow Removal Agreement as follows:

The parties mutually agree as follows:

- A. All equipment shall be operated and maintained by Contractor/Vendor, ~~who must, at all time, own such equipment.~~

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Conklin to approve the Snow Removal Agreements with Allison Asphalt General Engineering, Bear Valley Paving, Burton's Ready-Mix, Inc., Al Randazzo Construction, and Romans Construction, effective November 1, 2004, as amended.

Said Motion was approved by the following vote:

AYES: Conklin, Dally, Harris, Hertzmann, Mulvihill
NOES: None
ABSENT: None
ABSTAIN: None

At the hour of 7:20 p.m., Council adjourned to the Fire Protection District.

FIRE PROTECTION DISTRICT

Fire Protection District proceedings are contained in separate minutes.

At the hour of 7:22 p.m., the Fire Protection District adjourned to City Council Session.

3. PUBLIC HEARINGS

3.1 Regulation of Large Retail Commercial Uses

Council consideration of introduction and first reading of an ordinance amending Title 17 (Development Code) of the Big Bear Lake Municipal Code, which was adopted by Ordinance No. 2003-333, by amending Sections 17.35.030.A (Principal Uses Permitted in Commercial and Public Zones), 17.35.050.A (General Development Standards), adding new Section 17.35.220 relating to Development Standards for Large Retail Uses, and new Section 17.03.330 relating to Transitional Uses and Structures. This project is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 150619b)(3).

City Attorney Marco Martinez reported that there could be a conflict of interest that would preclude Mayor Harris, Councilmember Conklin, and Councilmember Dally from participating in the discussion and action of this item, because they each own a retail business that could be impacted financially by future big box retail businesses. He explained that under the Fair Political Practices Commission's public generally exception, if the proposed ordinance affects 25 percent or more of the existing businesses within the City in the same way it might affect the businesses owned by the three Councilmembers, then by law there would be no conflict. However, it has been found that only 24 percent would be affected, therefore, the potential conflict still exists. He stated that the City could take one of two options. 1) Request a written analysis from the FPPC, which would take several weeks; or, 2) Re-qualify one member of the Council to constitute a quorum by conducting a straw vote.

Upon further discussion, the Council decided to draw straws to re-qualify one member of the Council.

Mayor Harris, Councilmember Conklin, and Councilmember Dally, disqualified based on ownership of retail property in the City, drew straws and Mayor Harris was re-qualified by selecting the shortest straw.

At the hour of 7:30 p.m., Councilmember Conklin and Councilmember Dally were excused from the meeting.

At the hour of 7:45 p.m., Mayor Harris opened the public hearing.

Michael Karp, Big Bear Lake: spoke in support of the ordinance, stating that the City should help all businesses succeed.

Fran Fish, Big Bear Lake: spoke in support of the ordinance but felt that the proposed 40,000 square feet is too limited, and the Council should consider allowing larger retail stores to open in the City.

Paula Lowery, Big Bear Lake: felt that the ordinance is limited in scope and does not represent the needs of the citizens, the community and the taxpayers. She stated that the Planning Commission gave poor direction to staff without first considering the affect that the ordinance would have on local businesses.

Bill Jahn, Planning Commission Chairman: stated that the Planning Commission discussed this matter at great length during the course of several meetings, and listened to many suggestions and comments that were raised by members of the public.

Danita Craft, Big Bear Lake: spoke in opposition to allowing large retail businesses into the City, because it would significantly change the atmosphere of the community.

At the hour of 8:01 p.m., Mayor Harris closed the public hearing.

Mayor Harris asked if this ordinance would include specific hotels, and asked staff to provide information at the next Council meeting regarding the size of "boutique hotels."

City Attorney Martinez stated that the proposed ordinance does not include lodging, however, if the Council wanted to add the category of hotels to the ordinance it can be amended at a future date.

Council amended the ordinance as follows:

Whereas, due to Big Bear Lake's status as a resort community that offers unique small-town, mountain resort shopping opportunities, the City desires to maintain the small-town mountain character, spirit, and quality of life of the City of Big Bear Lake through the adoption of an ordinance to regulate the establishment of large retail uses. Such an ordinance will promote General Plan Community Design Element Goal CD1, to maintain a well-designed built environment that ~~contributes to the community's economic vitality~~, enhances the quality of life and reflects and enhances the beauty of the City's natural mountain setting.

Motion by Mayor Pro Tem Mulvihill, seconded by Councilmember Hertzmann to introduce and waive first reading of an ordinance, entitled:

ORDINANCE NO. 2004-XXX

AN ORDINANCE OF THE CITY OF BIG BEAR LAKE, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AMENDING TITLE 17 (DEVELOPMENT CODE) OF THE CITY OF BIG BEAR LAKE MUNICIPAL CODE, WHICH WAS ADOPTED BY ORDINANCE 2003-333, BY AMENDING SECTIONS 17.35.030.A (PRINCIPAL USES PERMITTED IN COMMERCIAL AND PUBLIC ZONES), 17.35.050.A (GENERAL DEVELOPMENT STANDARDS), ADDING NEW SECTION 17.35.220 (DEVELOPMENT STANDARDS REGULATING LARGE RETAIL USES) RELATING TO DEVELOPMENT STANDARDS FOR LARGE RETAIL USES AND NEW SECTION 17.03.330 RELATING TO TRANSITIONAL USES AND STRUCTURES

Said Motion was approved by the following vote:

AYES: Harris, Hertzmann, Mulvihill
NOES: None
ABSENT: Conklin, Dally
ABSTAIN: None

At the hour of 8:32 p.m., Councilmember Conklin and Councilmember Dally returned to the meeting.

FUTURE AGENDA ITEMS

Mayor Pro Tem Mulvihill stated that he is aware that staff is looking at the possibility of placing a tax increase on the March 2005 ballot, and would like to discuss the matter at the next Council meeting.

Councilmember Hertzmann asked for a status report on the Performing Arts Center Rental Guide; the Wayfinding Signage Program, the replacement of the Village Overhead Sign; the Village Assessment District; Developer Fees; and, Restaurant Grading.

CITY MANAGER REPORTS

None.

CITY COUNCIL REPORTS

Mayor Pro Tem Mulvihill asked for a status report of the warning siren that has been proposed for the City. Fire Chief Hammond responded that the siren is in the engineering phase.

ADJOURNMENT:

There being no further business to come before the Council at this session, Mayor Harris adjourned the meeting at 8:43 p.m.

Katherine E. Jefferies
City Clerk

APPROVED AT THE MEETING OF: December 13, 2004