

*RECORD OF PROCEEDINGS*

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**TOWN OF DILLON  
TOWN COUNCIL  
REGULAR MEETING**

Tuesday, September 5, 2023  
7:00 p.m.

**CALL TO ORDER & ROLL CALL**

A regular meeting of the Town Council of the Town of Dillon, Colorado, was held on Tuesday, September 5, 2023, at Dillon Town Hall, 275 Lake Dillon Drive, Dillon, CO. Mayor Carolyn Skowyra called the meeting to order at 7:03 p.m. and the following Council Members answered roll call: Brad Bailey, Dana Christiansen, Kyle Hendricks, Renee Imamura, Tony Scalise, and John Woods. Nathan Johnson, Town Manager; Matt Farley, Finance Manager; Cale Osborn, Police Chief; Scott O'Brien, Public Works Director; Ned West, Sr. Town Planner; Jonathon Blank, Planner I; Jessie Klehfoth, Events & Recreation Director; Craig Simson, Marina Director; and Adrienne Stuckey, Town Clerk were in attendance.

**APPROVAL OF AGENDA**

There were no changes to the agenda.

**APPROVAL OF CONSENT AGENDA**

Council Member Woods moved to approve the following consent agenda:

- a) Minutes of Regular Meeting of August 15, 2023
- b) Bill List dated August 31, 2023 in the amount of \$1,007,205.06 and Payroll Ledger dated August 25, 2023 in the amount of \$211,909.34.
- c) Consideration of Ordinance No. 07-23, Series of 2023  
First Reading to Set the Public Hearing  
**AN ORDINANCE ADOPTING BY REFERENCE THE 2023 NATIONAL ELECTRICAL CODE**

Council Member Scalise seconded the motion which passed unanimously.

**CITIZEN COMMENTS**

- Nancy Campbell, Dillon resident, thanked Council for their service, asked Council to make sure citizens' concerns are included in their decision making and has spoken to many citizens and all are against the proposed town construction proposed by JPJG LLC.
- Matthew Follett, Boulder resident, stated he invested in an Uptown 240 LLC condo and asked Council to consider extending the development permit because it's the only opportunity the investors may get their money back.
- Mike Smith, Dillon resident, said the Town has been very gracious with Uptown 240 LLC and they have helped all they can.
- Alexander Hoy, Dillon resident, loves Dillon and would like to preserve it and is against the

potential development.

- Angie Ward, Denver resident and Chair of the Unsecured Creditors, which represents forty-one unsecured creditors, stated without the extension of the development permit, there is potential to lose \$10,000,000 and urges Council to reinstate the development permit.

### **CONSIDERATION OF ORDINANCE NO. 06-23, SERIES OF 2023**

Second Reading and Public Hearing

### **AN ORDINANCE AMENDING ARTICLE XII OF CHAPTER 6 OF THE DILLON MUNICIPAL CODE REGARDING NICOTINE AND TOBACCO**

This public hearing was published in accordance with public posting requirements as set forth by the Dillon Municipal Code. Mayor Skowrya opened the public hearing at 7:24 p.m.

Nathan Johnson, Town Manager, explained this ordinance amends Chapter 6-12-20 and 6-12-30 and includes the following changes:

- Section 6-12-20, amends the definition of Tobacco products to include vaping
- Section 6-12-30 (b), amends the age to ID from 30 to 50 years as required by state law
- Section 6-12-30 (g), eliminates the use of vending machines as required by state law

There were no Council Member comments.

Mayor Skowrya closed the public hearing at 7:25 p.m.

Mayor Pro Tem Bailey moved to approve Ordinance No. 06-23, Series of 2023. Council Member Christiansen seconded the motion which passed unanimously upon roll call vote.

### **REQUEST FROM INTERESTED PARTIES FOR THE EXTENSION OF THE UPTOWN 240 DEVELOPMENT PERMIT UPON THE SALE OF THE PROPERTY THROUGH THE BANKRUPTCY PROCEEDING**

Nick Cotton-Baez, Town Attorney, explained there will be speakers tonight representing the unsecured creditors, Uptown 240 LLC and Hilco Redevelopment Partners.

Mike Smith, Dillon resident, asked Council if they were revisiting the same resolution, Resolution No. 36-23, 2023, from the August 15, 2023 Town Council meeting.

Nick Cotton-Baez stated Resolution No. 36-23, Series of 2023, extended carte blanche to all developers, including Uptown 240 LLC, if they secured financing. This resolution, Resolution No. 38-23, Series of 2023, is different in that it would have the effect of extending the development permit upon sale through the bankruptcy proceeding, but not upon Uptown 240 LLC's refinance of its debt and closing on a construction loan.

Steve Madura, Senior Vice President of Hilco Real Estate, stated his company was engaged by Uptown 240 LLC, the debtor, to market and sell the Uptown 240 LLC property. As the September 12, 2023 sale date is approaching, they ran into a roadblock with the development permit not being extended. Mr. Madura said the interest in the sale was halted in its tracks and it gave the message that a buyer would have an unwilling partner in the Town of Dillon. If the development permit was extended, it would allow for new developers to enter the sale process who have experience, more financial capital and a higher caliber of people willing to complete the property.

Gabrielle G. Palmer, of Onsager | Fletcher | Johnson | Palmer LLC, stated her firm represents the Official Committee of Unsecured Creditors in the Uptown 240, LLC bankruptcy case. The Committee represents and advocates for the holders of the unsecured claims against Uptown, including counterparties to purchase agreements with Uptown 240 LLC for the purchase of completed units in the project as well as other general, unsecured creditors.

Ms. Palmer urged Council to adopt a resolution extending the development permit for the Uptown 240 planned unit development, conditioned upon Uptown 240 LLC selling the property through the bankruptcy case. The sale price may be impacted, with a higher sale price, by the development permit extension, giving the unsecured creditors the only option that may result in a return to the unsecured creditors.

Keri L. Riley, of Kutner Brinen Dickey Riley, P.C., stated she represents Uptown 240, LLC with respect to its Chapter 11, Bankruptcy Case, Case No.23-10617-TBM, that was filed in the United States Bankruptcy Court for the District of Colorado on February 24, 2023. She explained Uptown 240, LLC's prospective lender cannot close on its proposed loan to Uptown, and as a result, Uptown is now fully committed to selling the property, and doing everything it can to maximize the value of the property at sale. Because of this, they are asking the Town to approve a resolution that reinstates and continues the development permits upon closing of a sale to a new buyer/developer. This will provide the greatest opportunity to maximize the sale of the property and ensure the greatest return to creditors – both secured and unsecured.

Council had questions for each representative regarding the effect the resolution to extend the development permit would have on the sale price and bidding process with the Bid Deadline on September 12, 2023, Auction (if applicable) on September 15, 2023 and Closing Deadline on October 13, 2023.

Mike Smith, Dillon resident, appreciated what Uptown 240 LLC is now doing and asked if they have any more surprises.

Danilo Ottoborgo, President and CFO of Uptown 240 LLC, stated he is now supporting the sale of the project and the extension of the development permits so that the sale price may be increased.

The discussion concluded and the next item was to vote on Resolution No. 38-23, Series of 2023.

**CONSIDERATION OF RESOLUTION NO. 38-23, Series of 2023**  
**A RESOLUTION APPROVING AN EXTENSION OF THE DEVELOPMENT PERMIT FOR THE UPTOWN 240 PLANNED UNIT DEVELOPMENT CONDITIONED UPON SALE THROUGH THE BANKRUPTCY PROCEEDING INVOLVING UPTOWN 240 LLC.**

Mayor Pro Tem Bailey moved to approve Resolution No. 38-23, Series of 2023. Council Member Scalise seconded the motion which passed unanimously upon roll call vote.

**TOWN MANAGER'S UPDATE**

Mr. Johnson include a written report and reported on the following items:

- The Dillon Marina "A" dock extension and moving to the other side of the launch ramp will begin tomorrow, September 6, 2023.
- The Town has hired a new Finance Director who will begin on October 2, 2023.
- Xcel Energy and HC3 will present at the next Council meeting on Tuesday, September 19, 2023.

**MAYOR'S UPDATE**

Mayor Skowyra gave her update during the Work Session.

**COUNCIL MEMBER COMMENTS**

Brad Bailey thanked everyone for coming to the Council meeting tonight.

**ADJOURNMENT**

There being no further business, Mayor Skowyra declared the meeting adjourned at 8:27 p.m.

Respectfully submitted by:

*Adrienne Stuckey*

Adrienne Stuckey, Town Clerk