

PROCLAMATION – Genocide in Darfur..... 2
CITIZEN PARTICIPATION..... 2
COUNCILMEMBER COMMENTS..... 5
CONSENT CALENDAR 5
RESOLUTION #92, SERIES OF 2009 – Contract Aspen Ice Garden Improvements 5
RESOLUTION #93 AND 93-A, SERIES OF 2009 – REMP Expenditures 6
ORDINANCE #23, SERIES OF 2009 – General Obligation Housing Refunding Bonds . 7
ORDINANCE #24, SERIES OF 2009 – Sales Tax Revenue Refunding Bonds..... 7
ORDINANCE #25, SERIES OF 2009 – Supplemental Appropriation..... 7
RESOLUTION #94. SERIES OF 2009 – Adoption of 2010 Budget..... 8
RESOLUTION #95, SERIES OF 2009 – Mill Levy 2010..... 8
ORDINANCE #31, SERIES OF 2009 – Red Butte Cemetery PUD..... 9
RESOLUTION #52, SERIES OF 2009 – Lift One Lodge Conceptual PUD..... 13
RESOLUTION #96, SERIES OF 2009 – Extension of Vested Rights South Aspen Street
..... 18
RESOLUTION #52, SERIES OF 2009 – Lift One Lodge Conceptual PUD..... 18

Mayor Ireland called the meeting to order at 5:00 p.m. with Councilmembers Johnson, Romero, Skadron and Torre present.

PROCLAMATION – Genocide in Darfur

Colorado Mountain College students presented a resolution establishing the city as an advocate for peace in Darfur. Christian told Council CMC assigned The Translator as required reading. This book brought up issues of the on-going genocide in Darfur. Justin requested Council adopt Resolution #97 to try and create a domino effect to have other municipalities in Colorado and then other states adopt resolutions and raise awareness to try and get genocide stopped or slowed down. Councilman Romero suggested advocacy through CMC and other state universities.

Councilman Torre moved to adopt Resolution #97, Series of 2009; seconded by Councilman Romero. All in favor, motion carried.

CITIZEN PARTICIPATION

1. Marilyn Marks brought up the loss of decorum at Council two weeks ago and anti-democratic messages from Council. Ms. Marks said she has made responsible attempts at election research and reform that has been met with bad messages. Ms. Marks said it is apparent that Aspen needs a review of its election processes. Half of the people voting last week indicated they do not like IRV. Ms. Marks noted private citizens have had to resort to the courts to force the city to protect election records. Ms. Marks said at the last Council meeting, Jack Johnson made unfounded accusations against the election commission and Council did not stop the accusations. Ms. Marks asked if the city has the confidence that the election processes can stand up to any audit. Ms. Marks told Council she received correspondence requesting she not communicate with anyone connected with the city on any matter related to the May election as an attempt to silence a dissenting voice. Ms. Marks noted although half the voters said they were dissatisfied with IRV Council has not supported a review of IRV's characteristics. Ms. Marks stated she is going to continue her citizen advocacy for election integrity in Aspen and asked that Council work with her for the benefit of the community. Ms. Marks said if Council knows someone's speech is libelous and slanderous in the Council chambers, they should stop it.

Mayor Ireland said he is not going to, unless Council directs otherwise, interrupt people because they may be lying or libelous. Councilman Romero noted this is a time for citizens to comment; it is not cross examination, nor testimonials, nor a court of law. Councilman Romero stated he disagreed with the characterizations of Council's behaviors as undemocratic process or treatment of citizens. Councilman Romero stated community concern deserves recognition. Councilman Romero said there is a level of balance and an idea of achievement, compromise and consensus on issues as opposed to continued discourse. Councilman Romero noted the city was abiding by state law in planning to destroy election records.

Councilman Johnson said the city has been working on the election process, including adding an advisory question on IRV, and is making progress. Councilman Torre said he has not heard anything about the city asking Ms. Marks to cease and desist. Councilman Torre he does not agree with many things Ms. Marks said; however, comments and challenges make government work best.

Jim True, special counsel, told Council the catalyst for the gag order came from an incident in city hall where Ms. Marks overheard comments and was asking staff out for drinks. Ms. Marks is in litigation with the city and staff felt the communications should be between attorneys. Ms. Marks' attorney reacted that the city was trying to put a gag order. True said he clarified the position within an hour or hour and a half to the city was not trying to tell Ms. Marks she could not communicate with the city. True said the attorney's staff was trying to recognize the city and Ms. Marks are in litigation and communications with staff regarding litigation should be limited. Mayor Ireland said neither he nor Council have asked the city attorney's to issue a gag order.

2. Phyllis Bronson said she is tired of listening to Marilyn Marks and Elizabeth Miliars act like innocent victims. Ms. Bronson told Council when she and her husband spoke out against development on the west side of Aspen mountain, the Red Ant wrote an expose of a family real estate matter that her family had been forced into and which turned out to be a complicated situation.

3. Jack Johnson stated his issue is with the election commission and their behavior and the election commission working against the interest of the community, about private meetings excluding the chair of the commission, Kathryn Koch, and the city attorney, about flaunting of the open meetings laws and the city's code of ethics. Johnson said this is about the misuse of funds. The election commission's role should be to oversee a fair election for this community. The election commission has been acting to overturn an election. Johnson said laws have been broken over a period of time. Johnson said citizens have not been allowed to be represented on the election commission while they met to determine what procedure was going to be. Johnson said the community is entitled not just to the results of a decision but to the process of how those results were arrived at. Johnson said he would like the public to understand what has gone on and the election commission to be held accountable and to follow the law. Johnson said his Colorado Open Records request has not been fulfilled. Johnson told Council his claims have been made from the examination of the public records that he has received. Johnson said he will share with Council the records he used to make these claims.

Johnson said the election commission exists to insure fair, reliable and accurate elections for all citizens and candidates. Johnson told Council the commission has acted contrary to its role and acted outside the public process, cast doubt on the integrity of the election. Johnson said exclusion of the chair from election commission meetings went on for months. Johnson stated these charges are supported by public records. Johnson said the election commission has been attempting to void an election long after the context period has passed. Johnson said there are gaps in the public record and he has compiled a list of missing documents.

Councilman Torre recommended Council compile a list of records to see what record actually exists. Councilman Torre noted Council has decided on election review committee. Councilman Torre said he would like to get the record, have a meeting and discuss the resolve for this. John Worcester, city attorney, told Council Jack Johnson is entitled to invoke the open records act for public records. Elizabeth Milias has responded she has produced all the records that are in existence.

Councilman Torre brought up the Charter provision regarding the election commission and noted the election commission is supposed to be appointed in July following a regular election. This did not happen in July 2009 and he would like the city clerk's office to advertise for openings on the election commission.

Mayor Ireland said he would like Council to direct the city attorney's office to investigate the allegations, get information from both sides, try to tell Council what happened and in what order, whether staff feels there are e-mails missing from the record. Mayor Ireland said there should be some objective look at the record and analysis to tell Council whether there were meetings or not. Council can review this and consider alternatives. Mayor Ireland said Council has been elected by the community and deserve some respect.

Councilman Torre stated he agrees with the request and would like the advertisement for the election commission to go forward as a separate issue. Mayor Ireland said the powers and duties of the election commission has been an issue and perhaps Council should define these before anyone is appointed to the election commission. Jim True, special counsel, said he feels this can be done within 30 days. Councilman Johnson said the city should learn from the past and the mistakes that may have been made. Councilman Johnson said Council has discussed a task force about elections.

Councilman Skadron said he would like the issues sorted out in a clear, understandable way. Councilman Skadron said his responsibility is to vet these details and would like staff to review the details and direct Council. Mayor Ireland agreed staff should analyze the issues, allegations, give the fact about dates so Council can have an analytic look at the material. Council agreed. Mayor Ireland said he feels it is premature to advertise for an election commission until their roles have been defined.

Councilman Skadron noted at a meeting in September, he listed how he saw the role of the election commission and that he saw them similarly to other city commissions, like HPC or PUZ. Councilman Skadron asked what is the progress from that meeting. Worcester said a majority of Council decided to submit a question to the Colorado Bar Association ethics committee whether or not the city attorney's office had an inherent conflict of interest in representing the city and in giving advice to the election commission. The Bar Association has that question and will give an opinion by January. Councilman Skadron asked if the city's election commission is different from every other municipality. Worcester said election commissions have different roles in communities; Aspen's Charter language is similar to about 20 other municipalities in Colorado. Councilman Skadron asked if the relationship of the city attorney and the election

commission is different in Aspen than other municipalities. Worcester said it is not. Worcester reminded Council at the September meeting, he indicated to Council he did not feel he had an inherent conflict but was prepared to ask that question of the bar association. Worcester reiterated Council would like memorandums from the city attorney's office to analyze what happened, take an objective look at the record and another memorandum on the powers and duties of an election commission appointed pursuant to the charter. Councilman Romero said he would like this information presented at a work session and learn from it and move on; incorporate improvements where appropriate.

COUNCILMEMBER COMMENTS

1. Mayor Ireland said the Aspen High School football team is in the play offs, good luck and congratulations.
2. Councilman Torre said it is great to be back.
3. Randy Ready, assistant city manager, requested Resolution #95, Series of 2009, adopting the 2010 mill levy needs to be continued to November 23rd.
4. Councilman Skadron said he cannot attend the NWCCOG in Frisco on Thursday, at 8 a.m. Mayor Ireland said he would attend.
5. Mayor Ireland noted the governor is cutting another \$250 million from the state budget, affecting education and transportation. Mayor Ireland said there will be no more money for CDOT.

CONSENT CALENDAR

Councilman Johnson pulled Resolution #92, contract for Aspen Ice Garden Improvements.

Councilman Romero pulled Resolution #93 and 93a REMP Expenditures.

Councilman Torre moved to approve the minutes of October 26; seconded by Councilman Skadron. All in favor, motion carried.

RESOLUTION #92, SERIES OF 2009 – Contract Aspen Ice Garden Improvements

Councilman Johnson stated the Aspen Ice Garden could stand to be enhanced; however, spending money on the locker room during the busiest time may not be the smartest move. Tim Anderson, recreation department, agreed the city does not want to lose any revenues. The 2 weeks during the Christmas holidays are slow and this work can be done then. Anderson told Council this project is appropriated in the 2009 AMP budget. Councilman Johnson said from the plans it appears that this work may make the locker room less efficient. Councilman Johnson stated he is not comfortable approving this contract at this meeting. Anderson told Council he has worked with hockey players and

other user groups to get feedback on this project. Anderson said he will work with Councilman Johnson and bring this contract back at the next meeting. Councilman Skadron said he finds the new televisions at the ARC inappropriate; they are too big and users are subject to 2 week old football scores and he feels like people are being inundated with advertising at a public facility. Anderson said he worked with the ARC advisory committee and this is a way to get scheduling and city information to the users and have revenue from the advertisers. Councilman Skadron asked that the advertisements be reduced to as little as possible and most of the space dedicated to ARC information.

Mayor Ireland moved to continue Resolution #92, Series of 2009, to November 23; seconded by Councilman Romero. All in favor, motion carried.

RESOLUTION #93 AND 93-A, SERIES OF 2009 – REMP Expenditures

Councilman Romero said Resolution #93 is covering 2009 rebates due to the success of the program, the rebates surpassed the amount budgeted. Councilman Romero questioned the REMP expenditures in 93-a for 2010 covering city overhead and city programs. Councilman Romero asked if this resolution is out of order with the city's budget. Kim Peterson, canary initiative, told Council this is for operational expenses until another grant cycle can be reviewed. Nathan Rutledge, CORE, told Council the down turn in the economy has affected REMP's income. Rutledge said this request is for both the city and county. Councilman Romero asked if there is an operating policy that the CORE Board tries to adhere to relating to money going back into the community and overhead. Rutledge said the REMP revenues have funded administration since its inception in 2000 and it also funds canary initiative staff to make sure they can address energy efficiency.

Councilman Romero asked if the revenues to REMP from people who exceed energy allotments is a sinking fund. Rutledge said they have just done a study on monies coming in and the original revenue estimates were a couple hundred thousand/year and the revenues have exceeded those estimates. It was great for the community to receive grants from this revenue. Councilman Romero said the city and county cannot rely on this income stream in the future because people are becoming more energy aware and more energy efficient. Councilman Romero agreed the program needs administrative oversight; however, in the future this may be incorporated in the city or county administration and not have to charge overhead to this program. It is a policy decision for the Council and BOCC to contemplate. Mayor Ireland asked if the city and county have a net energy budget indicating that when someone pays \$100,000 in order to build a heated driveway, that the REMP money conserves more energy than putting it into the driveway.

Rutledge said this is difficult to break down; a number of CORE's grants are not tangible but there are successful program that outweigh the cost; in general this program is saving more energy. Rutledge noted they have computed this for rebates and for the front side. Mayor Ireland said he would like to see this quantified as much as possible. Phil

Overeynder told Council the CORE board wrestles with targeting how much carbon saved versus how much is spent and how these balance and that is being worked on by staff.

Councilman Romero moved to approve Resolution #93 and 93-a, Series of 2009; seconded by Councilman Skadron. All in favor, motion carried.

ORDINANCE #23, SERIES OF 2009 – General Obligation Housing Refunding Bonds

ORDINANCE #24, SERIES OF 2009 – Sales Tax Revenue Refunding Bonds

ORDINANCE #25, SERIES OF 2009 – Supplemental Appropriation

Councilman Torre moved to read Ordinances #23, 24, and 25, Series of 2009; seconded by Councilman Romero. All in favor, motion carried.

ORDINANCE NO. 23

(SERIES OF 2009)

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF ASPEN, COLORADO OF ITS GENERAL OBLIGATION HOUSING REFUNDING BONDS, SERIES 2009, IN THE AGGREGATE PRINCIPAL AMOUNT OF UP TO \$6,500,000, FOR THE PURPOSE OF REFUNDING CERTAIN GENERAL OBLIGATION BONDS OF THE CITY; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM REVENUES FOR THE OPERATION OF TRUSCOTT PLACE AND MONEYS IN THE CITY'S AFFORDABLE HOUSING/DAYCARE FUND THAT ARE AVAILABLE FOR SUCH PURPOSES AND THE PROCEEDS OF AD VALOREM PROPERTY TAXES; PROVIDING THE LEVY OF AD VALOREM PROPERTY TAXES FOR THE PAYMENT OF SUCH BONDS; PROVIDING THE FORM OF SUCH BONDS AND OTHER DETAILS WITH RESPECT TO SUCH BONDS AND THE PAYMENT THEREOF; APPROVING OTHER DOCUMENTS RELATING TO SUCH BONDS; AND DECLARING AN EMERGENCY

ORDINANCE NO. 24 (SERIES OF 2009)

AN ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF ASPEN, COLORADO, OF ITS SALES TAX REVENUE REFUNDING BONDS, SERIES 2009, IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$7,500,000, FOR THE PURPOSE OF ADVANCE REFUNDING THE CITY'S SALES TAX REVENUE BONDS, SERIES 2001; PRESCRIBING THE FORM OF THE SERIES 2009 BONDS; PROVIDING FOR THE PAYMENT OF THE SERIES 2009 BONDS FROM THE SAME REVENUES PLEDGED TO THE PAYMENT OF

THE SERIES 2001 BONDS TO BE REFUNDED (CONSISTING OF THE CITY'S ORIGINAL 1.0% OPEN SPACE SALES TAX AND ITS ADDITIONAL 0.5% OPEN SPACE SALES TAX); PROVIDING OTHER DETAILS AND APPROVING OTHER DOCUMENTS IN CONNECTION WITH THE SERIES 2009 BONDS; DELEGATING THE AUTHORITY TO MAKE A FINAL DETERMINATION OF CERTAIN TERMS OF THE SERIES 2009 BONDS; DIRECTING OFFICERS OF THE CITY TO EXECUTE CERTAIN DOCUMENTS IN CONNECTION WITH SUCH REFUNDING BONDS; AND DECLARING AN EMERGENCY

ORDINANCE NO. 25
(Series of 2009)

AN ORDINANCE APPROPRIATING A REDUCTION IN THE ASSET MANAGEMENT PLAN FUND EXPENDITURES OF \$8,790, AN INCREASE IN THE GENERAL FUND OF \$139,260, AN INCREASE IN THE PARKS AND OPEN SPACE FUND OF \$200,000, AN INCREASE IN THE HOUSING DEVELOPMENT FUND OF \$790,970, AN INCREASE IN THE EARLY CHILDHOOD EDUCATION FUND OF \$50,960, AN INCREASE IN THE PARKS AND OPEN SPACE CAPITAL FUND OF \$90,470, AN INCREASE IN THE WATER FUND OF \$136,000, A REDUCTION IN THE PARKING FUND OF \$2,007,740, AN INCREASE IN THE GOLF COURSE FUND OF \$150,000, AN INCREASE IN THE EMPLOYEE HEALTH INSURANCE FUND OF \$1,602,450, AN INCREASE IN THE EMPLOYEE HOUSING FUND OF \$318,240, AND AN INCREASE IN THE SMUGGLER FUND OF \$12,000.

Councilman Romero moved to adopt Ordinance #23, Series of 2009, on first reading; seconded by Councilman Johnson. Roll call vote; Councilmembers Torre, yes; Johnson, yes; Skadron, yes; Romero, yes. Mayor Ireland, yes. Motion carried.

Mayor Ireland moved to adopt Ordinance #24, Series of 2009, on first reading; seconded by Councilman Johnson. Roll call vote; Councilmembers Skadron, yes; Johnson, yes; Torre, yes; Romero, yes; Mayor Ireland, yes. Motion carried.

Councilman Romero moved to adopt Ordinance #25, Series of 2009, on first reading; seconded by Councilman Johnson. Roll call vote; Councilmembers Johnson, yes; Romero, yes; Torre, yes; Skadron, yes; Mayor Ireland, yes. Motion carried.

Staff requested Council schedule a special meeting Monday, October 16 at 5 p.m. for adoption of Ordinances #23 and 24. Council agreed,

RESOLUTION #94. SERIES OF 2009 – Adoption of 2010 Budget

RESOLUTION #95, SERIES OF 2009 – Mill Levy 2010

Mayor Ireland opened the public hearing on Resolutions #94 and 95, Series of 2009. Toni Kronberg asked if the funding for the outside swimming pool has gone away. Mayor Ireland said the question is when this comes back is dependent on the economy.

Mayor Ireland moved to continue Resolution #94 and 95, Series of 2010, to November 23, 2009; seconded by Councilman Torre. All in favor, motion carried.

Councilman Torre moved to go into executive session pursuant to C.R.S. 24-6-402(4) (b) Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions at 7 p.m.; seconded by Mayor Ireland. All in favor, motion carried. All Council were present; also present were John Worcester, city attorney; Jim True, special counsel, Kathryn Koch, city clerk; Phil Overeynder, water department and Cindy Covell, city's water counsel.

Councilman Torre moved to come out of executive session at 7:30 p.m.; seconded by Councilman Johnson. All in favor, motion carried.

ORDINANCE #31, SERIES OF 2009 – Red Butte Cemetery PUD

Mayor Ireland opened the public hearing.

Drew Alexander, community development department, told Council this is a request for PUD approval, amendment to the zone district map and growth management approval for an essential public facility. This is a site specific plan to construct a 1280 square foot maintenance facility. Alexander pointed out the application has received conceptual use approval from P&Z for a maintenance facility in the P, park zone. The project also received conceptual approval from HPC. Alexander said this 17 acre parcel was founded by local organizations at the turn of the 20th century and the Red Butte Cemetery Association was formed and still exists to maintain the cemetery.

Alexander noted things that set this apart are the grid-like layout and tall cottonwood lining the walks. Alexander said this maintenance facility will replace the temporary cloth structure and will have a small heated office and equipment bay. The association also plans to restore the 216 square foot Victorian cabin and the outhouse to improve the functionality and to operate as a meeting place for users of the cemetery and the property manager. Alexander noted there has been concern from neighbors about this development on the wildlife. Staff has been in touch with the department of wildlife and received a message stating as long as development is kept out of the riparian area, there is no impact on the wildlife. The DOW is not aware of any protected or endangered wildlife on the property.

Alexander stated staff finds the review criteria have been met and recommends approval of the application. Staff recommends approval of growth management for an essential public facility as the cemetery provides a service necessary to the community. There is only one full time volunteer and it seems reasonable to waive the employee housing requirements. There is a condition for an employee audit to be performed no later than 2

years after certificate of occupancy. Alexander recommended the ordinance adopt elevations drawings from the architect to confirm the dimensions and elevations.

Alan Richman, representing the Red Butte Cemetery Association, reiterated this is a 17 acre parcel which has been owned by the cemetery association for more than 100 years. Volunteers maintain the property. Richman said the association has been dealing with deferred upkeep on the property and has acquired additional equipment and has new systems to maintain. Richman noted presently the equipment is stored and maintained in a fabric shed on property. This structure has no heat, water or electricity and is inadequate for repairing and storing equipment. The association needs a facility if they are going to maintain the grounds. Richman told Council there is considerable capacity in the cemetery and the association will need to have equipment and storage to maintain the facility. The association is proposing a modest one-story facility with 1280 square feet.

Graeme Means, architect for the Association, showed the location of the cemetery, pointed out it is surrounded by subdivisions on the west, north and south sides and on the east by a steep bank towards Castle Creek. Means showed the dividing line between the south and north portion of the cemetery and the system of linear burial plots. Means noted in selecting a site for the maintenance facility, they wanted to avoid the southern portion of the cemetery where it would be closer to residences; the southeast portion the facility would be 10' from a neighbor.

Means presented a drawing of the building envelope and explained the location proposed for the maintenance facility slopes 4' toward the river. The proposal is to depress the site 4' so that it is sunken into the ground. Means showed a photo of the proposed maintenance facility. Means told Council the Association has worked with the neighbors on a conceptual landscaping plan and will use some of the spoils to build up the berm around the site. Means showed how the service yard will be interior to the design so that it is surrounded by landscaping for less impact.

Richman told Council the applicant is comfortable with the conditions outlined in the ordinance. This will have to go back to HPC for final approval. The Association will have to raise money to build this facility and they cannot predict how long that will take. Richman requested a 5 year vesting period rather than a 3 year vesting period. Richman said as the various city fees are calculated, like storm drainage and water tap fees, he would like the city to entertain waiving these fees as a city contribution toward the project. Richman said the Red Butte Cemetery Association is a non-profit organization. Richman told Council the applicants have been working with the neighbors and have integrated many of their ideas into this application. Richman stated the association will agree to limit the use of the building to cemetery operations. Richman said this is a small facility of 1280 square feet, is in scale with the neighborhood, and is on a 17 acre parcel.

Mayor Ireland asked if it makes sense for all the equipment to drive through the cemetery to the proposed location rather than just go in the gate to the south portion. Means noted the southern portion of the cemetery is almost full with graves and that site would be

within 10' of a residence. Mayor Ireland asked about the assertion of fire danger on the meadow to the north. Means said he was not aware of any fire danger. Mayor Ireland asked about digging down 4'. Means said they need to make a level site and lower it to minimize the impacts. Mayor Ireland asked about the dirt piles and the storage of those. Richman said one of the conditions from HPC was not to create anomalies, no built up berms. Richman said they would like to use some of the excess dirt to create berms between the neighbors on the west side. Mayor Ireland stated because this is a PUD, further development will not be allowed without another public process.

Councilman Torre noted the neighbors brought up the appearance of the site, concern about debris and trash and have these issues been discussed with the neighbors or taken care of. Richman said the debris is a result of the dilapidated maintenance building and from the spoils piles which were being built up to block the view. Richman said the applicants agree this is an eyesore and want to clean up the property. Richman told Council some of the disturbance on site was the result of a utility line construction project from last summer.

Mayor Ireland asked when the site will be restored and when will this project be built. John Thorpe, cemetery association, told Council some restoration has begun with the neighbors on a neighbor work day. Mayor Ireland said he would like some assurance this project will be complete within a year of beginning. Thorpe said they do not intend to start until they have all the funds. Councilman Romero asked if the city has ever provided financial resources to any cemetery in the city. Stone Davis, cemetery association, told Council the city has given both the Aspen Grove and Ute Cemetery grants for restoration. Councilman Torre asked if this building will be lit at night. Means said this building will be used rarely at night and it will not be lit when not used.

Joe Porter, 1270 Snowbunny, told Council the neighbors have worked with the cemetery association and the issues have been resolved. Porter said the neighbors appreciate the applicants listening to them. Porter said the neighbors are pleased with the meadow and to be involved in a work day; the association works on a very small budget. Porter told Council on a separate issue, he feels that in a PUD process, there is not enough process provided to deal with the landscaping and he will write Council a letter after this application is complete.

Steve Spiritas, 80 Overlook Drive, told Council the overriding factor for them is that the cemetery has functioned well for over 100 years and they can continue to service their needs with what they have. Spiritas said if the existing structure was taken care of and maintained, it would not be in a state of disrepair. Spiritas said his house is the most affected by this project and have objected to an 18' ceiling. Spiritas told Council they lowered their house to lessen the impact on the neighbors. Spiritas pointed out where there is room to locate this elsewhere on the property.

June Kirk said she looks down on this meadow and sees wildlife in the meadow. Ms. Kirk said it seems as if they are plunking a facility in the middle of a meadow. Ms. Kirk suggested the structure be at the southeast corner of the property against larger structures.

Richman pointed out this is a private piece of land and the plots in the middle of the property are committed to the Jewish congregation. Thorpe said there are plots committed to the Elks and to the Eagle and to the Jewish committee. The cemetery association cannot use those plots and honor their commitments.

Councilman Torre said there are photos in the packet of debris, irrigation pipe, dirt and trash and the neighbors have stated concerns about the state of the property. Thorpe reiterated that disturbance was from a utility construction on the site that was done for the neighbors, not the cemetery association. There has been a neighbor clean up day and this is being worked on. Councilman Torre asked staff if the size and height of this building is appropriate for the request. Bendon told Council staff has worked with the applicant through HPC and P&Z and is happy with the application both in the site and how they have treated the building and the size of the building. Councilman Torre said the proposed location of the building is reasonable; however, it would be more accommodating to the neighbors to locate the building on the middle access road and be more centrally located.

Mayor Ireland closed the public hearing.

Councilman Skadron said this proposal is a necessity in preserving the historic resource and the park. Councilman Skadron stated the proposed dimensional requirements are not inappropriate. Councilman Skadron said he feels this satisfies the requirements for a consolidated PUD and he can support amending the zone district maps and approving growth management for an essential public facility. Councilman Skadron said he feels this is consistent with the goals of the AACP.

Councilman Romero asked, other than cemeteries, if there are other privately owned lands that are designated P, park. Bendon said he could not think of any. Councilman Romero said using parks and open space funds may be available to help fund some of this work. Councilman Romero agreed the application conforms to the elements of PUD and values of the AACP are met by this application. Councilman Romero stated he particularly appreciates the public outreach and the changes to the project like the reduced square footage, the buffer distances for adjacent homeowners, the landscape screening, the low height profile, the period finishes, and the contours in the meadows and to limiting to uses solely connected with cemetery operations. Councilman Romero said rather than extending the vesting to 5 years, he would like to address ways to make sure the project is completed. Councilman Romero said he would be willing to consider an extension at a later date. Councilman Romero said he would also consider waiving fees to aid in finishing the project. Councilman Romero said he appreciates the positive input and discourse from the neighbors.

Councilman Johnson said this is meant to be a serene special place where people can remember loved ones, which is very important. Councilman Johnson said the proposed placement of the building is appropriate to try and further define the cemetery. Councilman Johnson said the applicants have worked with the neighbors and have worked through the problems. Councilman Johnson said he feels the building is of

appropriate size. Councilman Johnson said this cemetery is a legacy of community and has been there for 100 years. Councilman Johnson noted limiting it to use of cemetery uses is appropriate. Councilman Johnson stated he would favor extending the vesting rights for 5 years. Mayor Ireland stated he would be interested in a proposal to tie extended vesting to a guarantee that the project would be complete within one year of commencement.

Mayor Ireland moved to adopt Ordinance #21, Series of 2009, on second reading with the condition that 5 years vesting be allowed provided the applicant agrees that construction shall be complete within one years of issuance of a building permit and that this be limited to cemetery use; seconded by Councilman Skadron. Roll call vote; Councilmembers Skadron, yes; Torre, yes; Johnson, yes Romero, yes; Mayor Ireland, yes. Motion carried.

RESOLUTION #52, SERIES OF 2009 – Lift One Lodge Conceptual PUD

Councilman Johnson left due to a conflict of interest.

Chris Bendon, community development department, reminded Council this project has 27 units of 1/8 interest ownership. These units can lock off rooms to a total of 107 keys. There are 24 housing units on site; public restaurant, ski lockers, underground parking, new lift 1A, poma lift through the property; ticketing for the Ski Company, ski patrol facility. Bendon stated this project started in 2006 and was put on hold for the Lift One Neighborhood COWOP, a joint planning process with the city and Lodge at Aspen Mountain and which took a year of planning. Bendon said the big idea out of the COWOP was a ski lift through the project and a ski back corridor. This required moving buildings into city right-of-way on Aspen street.

Bendon noted the COWOP plan came to Council and was not approved in January 2009 and the Lift One Lodge was restarted from where it was put on hold. Bendon noted when this came back to Council, the question was whether or not to pursue the plan on hold or make it look more like the COWOP plan. Council directed the applicant to pursue the COWOP version including the ski lift corridor. The applicant has made a number of presentations to Council covering ski corridor, mass and scale, architecture, and public uses.

Bendon told Council staff feels a range of room sizes is important over an average room size and that adaptability and flexibility are important for future users. Bendon said staff supports the current configuration. Bendon said the city measures height halfway between the ridge and the eave on pitched roofs. This is a complex measurement to describe and helps encourage sloped roofs. Bendon said for this project, it is described in absolute heights. Bendon said if one imagined the whole site at 42' flat roofs, 65% of the proposed building would be below that height. Bendon said sloped roofs with a 38' pitched roof, the ridge would be 48' height; using that 48', 90% of this building is at or below that height. Bendon noted translating the project into code measurement, the

project meets the code at the top and bottom buildings. The massing of taller heights are toward the center of the site.

Bendon said this project meets the standards of review including the 2000 AACP which plan calls for lodging at the base of Aspen mountain, specifically on this property. The plan is consistent with the neighborhood and with the historic use of this area. The area is currently less active than in the past. Bendon said getting a ski lift lower on the mountain was important to COWOP members who wanted better access to skiing, keeping in mind private property rights. The proposed poma facility is sized appropriately for the use and will function as a morning uplift. Bendon stated the project proposes 100% affordable housing for the additional employees generated. The applicants propose to meet a LEED gold certification. The re-use of the historically designated Skier's Chalet will be accessible to the public. Mayor Ireland asked if this is a flat roof project, 48' is different than 48' pitched roof. Bendon said it is and he tried to chart this as simply as possible. Mayor Ireland asked if this project is being designed for an era that just ended with large rooms and people wanting more and bigger. Mayor Ireland said the users may be looking for smaller, more economical accommodations. Bendon said one size room repeated over and over would cut down on adaptability of this project.

Bob Daniel, representing Lift One Lodge, noted issues have come up regarding the compatibility of this project with the Aspen Area Community Plan. Daniel said they have reviewed this project against several sections of the AACP, managing growth, affordable housing, managing transportation, promoting economic sustainability, managing parks open space and the environment, maintaining community character, and design, all of which help provide guidance for the project.

Daniel said the first issue from AACP is management of growth in the community and there is a pattern of lodging across the base of Aspen mountain existing currently. The lodges of scale and mass are at the base of the mountain, which provides a backdrop and a context for mass and scale. Daniel said the Lift One Lodge fits into the pattern of growth with proximity to the core of Aspen and to transportation at Rubey park. Lift One Lodge is set into the mountain as it relates to mass and scale.

Daniel noted affordable housing is a principle component of the AACP and Lift One Lodge has committed to 100% affordable housing mitigation for employees associated with the project and the applicants have committed to 40% of the units being on site. Daniel told Council the applicants plan to meet the demand of entry level units, category 2 studio and one-bedroom units.

Another component of the AACP is transportation. This lift served skiing is within walking distance of transportation and the skiing will be brought down to Dean street shortening the distance to Rubey park. The AACP talks about focusing on the enhancement of existing transportation facilities and to make it safer for pedestrians. There are improvements proposed along south Aspen street to make it safer for

pedestrians; linkage through Gilbert street is proposed. There is improved handicap access to the lift through an elevator.

Daniel said an important issue is economic sustainability. Daniel said if the shift in Aspen is back to tourism, this project provides hot beds at the base of Aspen mountain with accessibility to skiing. Daniel noted between 1992 and 2005, Aspen lost 3700 pillows and 107 keys equal to 214 pillows is a positive addition to a growing bed base. Daniel pointed out lift one gets about 3% of the initial ski access, which is not a sustainable pattern of utilization of community assets. To achieve economic sustainability, all the assets in the community need to be used. This would provide a place for the community, residents and tourists to gather at the base of the mountain. There is a lack of investment in this area which has lead to deterioration of the physical assets.

Daniel said this project is in alignment with the parks and open space component of the AACP by including a year round corridor connecting town and mountain. Daniel said ever since Lift One was moved up the hill, there has been a push to get a lift served ski connection down to Dean street. Daniel said the plan restores Willoughby park to a park and repurposes the historic buildings. The applicants have committed to achieve the gold LEED standard.

Daniel said the AACP covers character and design. Daniel said he feels there is nothing more community than citizen based planning. Daniel reminded Council the original Lift One proposal was code compliant and the project was improved through citizen planners by the creation of the corridor and the lift to Dean street. Daniel pointed out the higher roofs are a result of citizen based planning because the buildings had to be moved around to create the ski corridors. There is character created through the repurposed historic buildings on site and recycling the history. Daniel told Council they are not trying to recreate what was there. Daniel said the proposed plan creates gathering places at the base of the mountain.

Daniel pointed out the AACP encourages lively design, and encourages fresh and innovative approaches that are contextually appropriate. Daniel said the applicants heard and were challenged to change their design to create an alive design that creates a comfortable environment and pedestrian scale. Daniel said the bottom line is, is this project creating a place where people want to be; currently there is no "there" there. The addition of lifts, lodging, the museum, après ski and the connection to town will give places for community to gather and connects the mountain to the town.

Daniel said the Aspen Historical Society will create a downtown presence to help relay to visitors and the community the importance of history in this community. Daniel said the intent is for the historical society to focus on the history of Aspen and to create places for people to be involved.

Daniel went over the lodge unit program, showing show one large unit can turn into 4 different styles and sizes to accommodate couples, families, extended families. This is extremely flexible and does not currently exist in Aspen.

Councilman Romero asked about managing transportation, parking and pedestrian friendly project. Councilman Romero said the parking plan has a large number of spaces for various uses. The project is close to town and the applicant could commit to a car share program and transit system and be able to lower the number of parking spaces. Daniel said there are some components of parking that generate revenue. Daniel pointed out the increase to 107 keys may require an increase in spaces. Daniel told Council the applicant will be part of a car share program.

Councilman Romero asked about affordable housing and the criteria for the percentage committed to on site. Daniel answered that the applicants have a limited amount of floor area to be compliant; their plan is 2.3:1 and the underneath zoning is 2.5:1. Daniel said when the applicants proposed 100% affordable housing; they needed to have less on site in order to balance the program between free market, lodging accommodation and affordable housing. Daniel said their commitment to the historic society was to relocate the Skier's Chalet and create a white box finish and excavate some space for storage for the historic society. Daniel said historically the applicants have created funding mechanism through a transfer assessment to support partners, like the Roaring Fork Conservancy to continue to have a partnership.

Councilman Romero said some assessment could help groups with ties to the area, like the Ski Cub, and help provide a greater level of permanency. Georgia Hanson, Aspen Historic society, told Council the COWOP design gave them 6,000 square feet, which is not sufficient for them to be self-supporting. This project has more square footage and will allow them to be more self-supporting. Councilman Romero said he is interested in the concept of continued partnering past first construction.

Councilman Skadron noted the applicants use the term "economic sustainability" and is that supported by analysis or is an assumption. Daniel answered the applicants do an economic analysis to see if the project makes sense and the applicants hope to make money. It is not good for the community when projects are not profitable. Daniel told Council what is important is whether this operating asset is sustainable over time and the applicants believe it will be sustainable.

Councilman Skadron said his issue is the economic impact on the community and Aspen's ability to sustain itself and does a project like this infuse money into the core. Daniel said Aspen has had a degrading bed base and there has not been an investment in the bed base. This project represents an opportunity to provide hot beds. Daniel told Council shared ownership projects have a higher occupancy in resorts and people will come and spend money when they are here, which leads to economic sustainability.

Councilman Skadron asked how the room sizes were determined, cost per square foot, or industry standards. Daniel noted that this is a tortured site and the applicants had to work

within that site and the buildings are not efficient in space use. Daniel noted that out of the 116,000 square feet total, the lodge rooms are 59,000 square feet. The other uses are 20,000 free market, 4,000 for affordable housing; 18,000 circulation and 7,000 mechanical, 2700 commercial and 4800 for uses like dining and restaurants. Councilman Skadron asked where the other 60% of affordable housing would be located. Daniel said that will be determined before final review. Councilman Skadron said he would like to find out the relationship between the applicant and the community of Basalt.

Councilman Skadron asked what variances have been asked for. Bendon told Council there will be a request to partially vacate South Aspen street so that the most west building could be accommodated. There are some places where there is a 0 foot setback, which are on the ski way, and that is to accommodate the property owners to the east where there is a larger setback. The desire for a ski corridor is what is pushing this development into South Aspen street. Bendon noted there are variances for height; however, about 90% of the building is within the code requirement.

Councilman Skadron asked why it seems that developer's visions differs from that of the community and that requires a citizen-based planning group. Daniel sated this plan is citizen based; there was a completely different plan presented to the COWOP. The reason developers are hesitant to bring innovative ideas forward is because they hear that the city wants a code compliant project. The first version of Lift One Lodge was a code compliant project and the applicants thought they were responding to city direction. Daniel said this project went through a COWOP being open to the possibilities; the lift up the middle came from the COWOP and they were committed to a plan. Developers are forced to be thinking inside the box because people are focused on details rather than the result. There are aspects of the city code that are focused on the wiring diagram.

Councilman Skadron said in the first iteration, the location of the museum here was not a compelling argument; however, having spent more time with this, the museum being located here would be a powerful expression of community values. Councilman Skadron stated he feels that lift 1A is more of a marketing tool for the lodge and secondly as a community asset.

Councilman Torre said affordable housing on site may not be the highest and best use of the property. Councilman Torre said he does not think the bottom of the hill is a good location for a restaurant. Councilman Torre said this ski lift serves a limited number of skiers. Councilman Torre said he would rather see a small triple or double chair. Councilman Torre noted that the room diagrams seen to indicate that half of the space is dedicated to dining and living room and this is not the way the community needs to be going. Councilman Torre questioned the size of this project and location where it will drastically change the west side of Aspen mountain. Councilman Torre said the only conceptual he can agree on is that this portion of the mountain is suitable for some type of lodging.

Mayor Ireland said the applicant referred to adding hot beds and that owners have 80% use. Mayor Ireland said he is not sure this pertains to Aspen and would like some

assurance on that. Mayor Ireland asked if the numbers of deterioration of the bed base includes conversion of condominiums to second homes. Mayor Ireland said Aspen has lost moderate income rental units but maybe not high end rental units. Mayor Ireland said he likes the multi-generational idea. People do like to vacation that way. Mayor Ireland said one of his biggest concerns is the specter of projects not working and then the applicants wanting to condominiumize the project and not meet the financial assurances to the city. Mayor Ireland said this may be designing units for an era that is gone. People are more frugal now and may be offended by large, high-end projects. Mayor Ireland said he would like to see the financial plan to make sure the improvements get paid.

Councilman Skadron moved to suspend the rules and extend the meeting to 12:00; seconded by Councilman Torre. All in favor with the exception of Mayor Ireland. Motion carried.

RESOLUTION #96, SERIES OF 2009 – Extension of Vested Rights South Aspen Street

Councilman Torre moved to continue Resolution #96, Series of 2009, to Tuesday November 17 at 4 p.m.; seconded by Councilman Romero. All in favor, motion carried.

RESOLUTION #52, SERIES OF 2009 – Lift One Lodge Conceptual PUD

Mayor Ireland opened the public hearing.

Dave Corbin, Aspen Skiing Company, told Council he supports this project. This is an area that is in need of refurbishment and is an underutilized area. Corbin said he feels the ski experience can be improved. Corbin said this plan incorporates the most popular elements of the first COWOP. Peter King, Aspen Mountain manager, stated he endorses the ski operation aspects of this project which will enhance the guest's experiences on Aspen mountain. King said he feels the poma will attract more people to the west part of the mountain. This will also provide egress off the mountain. King told Council on busy days, the gondola can be overcrowded. King reiterated this will improve the guest's experience.

Jeff Kai, Alpine director, Aspen Valley Ski Club, said it is important to keep ski race events come back to Aspen mountain. Kai told Council he is putting on a NorAm in February and it is important to keep the mountain viable for people participating in the race and for spectators. Skiing and tourism are big issues for Aspen. John Rigney, Aspen Ski Company, told Council that 100 million people watched the world Cup ski races on television. That is a great marketing tool. Rigney said in order to keep attracting races, the mountain has to keep up with the time. Rigney said the existing lift 1A is getting to be second class.

Mike Maple said the character of this area currently is dilapidated and there is need to make this part of town vital and useful. Maple noted only 3% of people access Aspen

mountain on lift 1A and what is the trouble with tripling that number to 9%. This side of the mountain needs facilities that will support a World Cup. Maple encouraged Council to allow this project to move forward. Maple said lift 1 brought Aspen up as a ski town. The community has the opportunity to get the re-use of two post WWII structures in this proposal. Cliff Weiss said business is off; however, this country has bounced back from recessions. The tourism industry will return along with it upscale guests. Weiss said there are two major industries in aspen – Development/real estate and tourism, The city P&Z feels that tourism is the only sustainable industry and the economy needs to be bolstered with more accommodations, especially upscale rooms.

Patrick Sagal said he feels this project has been moving in the right direction. Sagal stated the loss of beds has been in the moderate category. Sagal noted an important issue is how Aspen street will be dealt with. Sagal said he does not feel the poma lift will be used by locals; the poma lift should be taken out and the mass and scale of the buildings could be lowered. June Kirk noted this building has not changed at all in 8 weeks. The community has lost moderately priced lodging. Ms. Kirk said the city should not give up right-of-way in Aspen street because there is too much inequity and not parallel to what the community is gaining. Ms. Kirk said the project should be half its current size. The lift is going to be a problem because the mountain will have to be resculpted. The historic feel of this area should be kept.

Tim Clark, Aspen lodging association, said he favors this project and is glad City Council is contemplating the importance of lodging in Aspen. The lift one site has been in a continued state of decline since the 1970's. This project will provide an opportunity to change direction and to provide for the future. Clark said a shift in focus to tourism and updating the bed base is a great way to start. Clark noted the lock off rooms provide flexibility for owners and guests. New lodge rooms will help keep Aspen competitive. Toni Kronberg said the goals and elements of the AACP are based on standards like transportation, managing growth and design quality. Ms. Kronberg pointed out the trees and the views of the mountain will be eliminated and replaced with big buildings. Ms. Kronberg noted the quit claim deed of 1969 stated the easement is for a cable ski chair lift and a poma lift is not consistent with that. Ms. Kronberg said open space is to be incorporated into the design and the open space will be voided by new buildings.

Councilman Torre moved to suspend the rules and extend the meeting to 1:30 a.m.; seconded by Mayor Ireland. All in favor with the exception of Councilman Romero. Motion carried.

Councilman Torre stated he does not find this to be in compliance with the Aspen Area Community Plan or for the benefit of the community. Daniel noted he reviewed the provisions of the AACP and how this project matches those. Daniel said Councilman Torre listed several specifics where he objects to this project. Daniel said there is not time to address those comments this evening.

Councilman Skadron stated this project is a big deal and he has concerns about impacts on the west side of Aspen mountain, the room size, some AACP issues, demand for the

proposed product, mass and scale issues and site design issues. Councilman Skadron stated in order to fully vet the project, it should move beyond conceptual and he would approve it to go forward. Councilman Skadron emphasized that conceptual approval is not an endorsement of the final plan but an opportunity to get the project right. Bendon pointed out there is a section of the resolution that states that conceptual approval is conceptual and does not bind the Council.

Mayor Ireland said he, too, would be willing to approve conceptual; however, he would not approve this as a final project. Mayor Ireland agreed tourism is Aspen's only sustainable industry but the future is not luxury high end condominiums that depend on an artificial economy. Mayor Ireland noted people are exercising frugality and projects should be aware of that and design for that. Mayor Ireland said developers tell Council they cannot make their projects smaller. The community keeps indicating they want to keep their character and part of that character is that Aspen does not have giant mountainside buildings. Mayor Ireland said he would like to see lodging built here and in a way the public can support it. Mayor Ireland said he would like to see something of a lesser scale and would like financial assurance settled. Mayor Ireland said for final approval, this project will need to pass muster with the community, something the community embraces. Mayor Ireland said the applicant should have a chance to respond to these comments and for staff to draft a resolution that addresses these concerns and addresses the AACP and community character

Councilman Torre moved to continue Resolution #52, Series of 2009, to November 23; seconded by Councilman Romero.

Daniel said philosophically he does not believe it makes sense to get approval for a project that Council has indicated they do not want to see at final. Daniel said the applicants do not want to be addressing fundamental issues like site planning, mass and scale. The detail process should be for details. Mayor Ireland said for him the current mass and scale is too large. Daniel said he needs much more specific details about the objections to the project before he would go forward.

All in favor, motion carried.

Councilman Romero moved to adjourn at 12:25 a.m.; seconded by Councilman Skadron. All in favor, motion carried.

Kathryn S. Koch, City Clerk