

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

In re:

Post Office at )  
Sundance Plaza Station )  
(Don Ciavarra, Petitioner) )

Docket No. A2010-2

Persons who are to receive service:

Daniel D. Foote  
Staff Attorney, City of Steamboat Spgs.  
P.O. Box 775088, 137 10<sup>th</sup> St.  
Steamboat Springs, CO 80477  
Phone Number: (970) 879-2060  
FAX Number: (970) 879-8851  
dfoote@steamboatsprings.net

**BRIEF IN SUPPORT OF PETITION BY THE CITY OF STEAMBOAT SPRINGS**

The City has intervened to request that the Commission set aside the determination of the United States Postal Service to close its Sundance Plaza postal facility, to suspend the effectiveness of the Postal Service's closure determination pending the resolution of this appeal, and to order that the matter be returned for further consideration by the Postal Service.

The Postal Service contests the Commission's jurisdiction over the subject matter of this appeal, citing a reply brief in Docket No. N2009-1. The City has reviewed those authorities cited in the reply brief that are reported in the Federal Supplement. They do not support the Postal Services claim. The cases all focused on whether Postal Service actions constituted a "consolidation" for purposes of 39 U.S.C. 404(d)(3).

Here, the Postal Service proposes to eliminate the provision of retail services and consolidate those services in the main Steamboat Springs office. The City does not object to this action.

However, the Postal Service also proposes to terminate postal box services consisting of approximately 2500 postal boxes at the Sundance Plaza location effective March 15, 2010 and move these services to the Steamboat Springs Post Office. Such an action would result in the elimination of all services at the Sundance Plaza facility. The elimination of all services constitutes a closure. See, e.g., Knapp v. U.S. Postal Service, 449 F.Supp. 158 (E.D. Mich. 1978).

Postal Service closure of the Sundance Plaza facility must conform to the following statutory requirements:

1. The Postal Service shall make a "determination" with respect to the need for "post offices, postal and training facilities and equipment. 39 U.S.C. 404(a)(3).
2. Prior to making such a determination, the Postal Service must provide at least sixty (60) days' notice of its intentions. 39 U.S.C. 404(d)(1).
3. In making such a determination, the Postal Service shall consider a number of factors, including the effect of such closing on the community served. 39 U.S.C. 404(d)(2)(A)(i).
4. Finally, any determination to close must be in writing and must include the findings of the Postal Service. 39 U.S.C. 404(d)(3).

The Postal Service admits in its February 1, 2010 Notice that it has made no "final decision" and generated no final administrative record supporting the discontinuance of the Sundance Plaza facility. The Postal Service has, in effect, chosen to ignore the statutory closure processes, including the public notice and comment requirements. In doing so, the Postal Service has failed to comply with the requirements described above in paragraphs 1, 2, and 4. Therefore, 39 U.S.C. 404(d)(5)(B) authorizes the Commission to set aside any findings and

return the matter to the Postal Service for further consideration on the grounds that the Postal Service has failed to observe procedures required by law.

The City has made repeated efforts to engage Postal Service officials on their plans for Postal Service operations in Steamboat Springs. The Postal Service has not engaged in good faith efforts to resolve the impacts of the proposed closure on the community. Nor have the City or its citizens been given any reasonable opportunity to present its views as to Postal Service plans for the Sundance Plaza facility and their impact to the community, which is described in a letter attachment to this brief.

The Postal Service's conduct violates the procedural requirements of 39 U.S.C. 404. The violation is particularly egregious as the addition of 2500 new boxes to the Steamboat Springs Post Office presents serious safety concerns. The Steamboat Springs Post Office is served by the heavily congested intersection of Third Street and Lincoln Ave. The intersection is currently functioning at an unacceptable level of service. Existing parking deficiencies at the Steamboat Springs Post Office result in frequent midblock pedestrian crossings of Third Street from offsite public and private parking facilities. These pedestrian crossings of a congested street are not only dangerous, but contribute to the poor intersection function.

In these circumstances, the City objects to the Postal Service's conclusion that it is appropriate to relocate Sundance Plaza box facilities to the Steamboat Springs Post Office for an indefinite period of time pending identification and completion of a new facility. Access and circulation at the main Steamboat Springs Post Office site already operate at unsatisfactory levels. The Postal Service should be focusing on resolving the existing issues. Instead, the Postal Service is choosing to exacerbate these problems by adding Sundance Plaza traffic. This is not an acceptable solution.

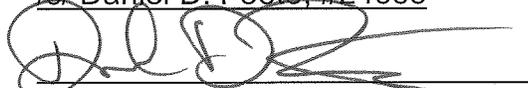
The City requests that the Commission return the matter for consideration by the Postal Service of the serious safety impacts, and the effect on parking, circulation, and access that the proposed closure will have at the Steamboat Springs Post Office location.

**WHEREFORE**, the City of Steamboat Springs, CO hereby requests that the Commission suspend the effectiveness of the Postal Service's determination to close the Sundance Plaza facility and return the matter to the Postal Service for further consideration in accordance with the procedures set forth in 39 U.S.C. 404.

I, Daniel D. Foote, staff attorney for the City of Steamboat Springs, hereby certify that I have read this document, know its contents, and have executed it as counsel for the City of Steamboat Springs with full authority to do so, and that to the best of my knowledge, information and belief, every statement contained herein is true and not misleading, and that this document has not been filed for the purpose of delay.

**RESPECTFULLY SUBMITTED** this 11<sup>th</sup> day of February, 2010

The duly signed original is held in the file located at the City of Steamboat Springs Legal Department  
/s/ Daniel D. Foote, #24553



Daniel D. Foote, #24553  
Staff Attorney  
City of Steamboat Springs

# City of Steamboat Springs

Feb. 11, 2010

Postal Regulatory Commission  
901 New York Ave, NW, Suite 200  
Washington DC 20268-0001  
Submitted via email

RE: Steamboat Springs Post Office Consolidation- Docket No. A2010-2-  
Steamboat Springs Post Office

Dear Postal Regulatory Commission:

The City of Steamboat Springs continues to be extremely concerned with the Postal Service plans for consolidation of the Post Offices in our community. We have also been somewhat frustrated with the communications and process associated with this issue. It has been difficult to get reliable information and notice to the City and public regarding the intentions and status of the Sundance Plaza Post Office and specific plans for the future operations in Steamboat Springs. We support and appreciate the need for the Postal Service to reduce its expenses; however, not at the expense of public safety and not until a long-term consolidation plan is completed in conjunction with the City of Steamboat Springs.

For the record, the first time the City was officially contacted about this consolidation was June 3, 2009 by a phone call. We outlined our concerns verbally with Mr. Leigh Hettick, Colorado/Wyoming District Safety Manager, and asked for an official written response in our letter dated June 9 (attached). We received a response from Gabriel Benvenuto on June 23 saying the Post Office intends to consolidate the two Post Offices in Steamboat Springs. We believe such a proposal should require some type of public process.

We request that the Postal Service work with the community on a long-term solution to this problem. This long-term plan should address the needs of the Postal Service and community requirements for adequate and safe public access, parking, traffic control, etc. Various postal service representatives have verbally indicated a willingness to work with the City to address traffic congestion and public safety issues; however, communications and public notice have been sorely lacking. We officially request that the Postal Service work with the City of Steamboat Springs to review any proposals for consolidation and address the impacts.

We believe mail delivery is sub-standard to residences and businesses in Steamboat Springs. The majority of our citizens as well as hundreds of citizens in Rural Routt County rely on post office boxes in the Steamboat Springs Post Office facilities for mail delivery. The consolidation plans in Steamboat Springs should be a public process and be coordinated with the City government.

Until a long-term solution for an adequate and safe consolidated Post Office is found, we officially request that, at a minimum, the post office boxes at Sundance Plaza Post Office remain in operation. Under the current operations, the Steamboat Springs City Council has indicated that consolidation at the Main Post Office is unacceptable until mitigation of our public safety and traffic congestion concerns are addressed.

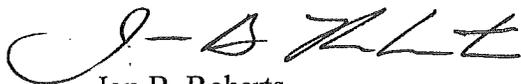
Below are some of our concerns:

1. Significant safety and traffic congestion issues at the Downtown Post Office facility located at 3<sup>rd</sup> and Lincoln (US Highway 40).
  - a. The Colorado Dept. of Transportation (CDOT) and the City are undertaking reconstruction projects on US Highway 40 during 2010 and beyond.
  - b. The Downtown Post Office parking lot exit configuration has all customers directed to the 3<sup>rd</sup> and Oak intersection. This is currently the City's worst performing intersection and poses a real traffic and safety concern.
  - c. Adding 2500+ post office boxes to the Downtown Post Office will significantly impact public safety at that location including major impacts to the Steamboat Springs High School, local business and residential properties and public access to the Old Town Hot Springs facility.
2. Adequate and safe public parking at the facility
3. Safe pedestrian access crossing US Highway 40 and 3<sup>rd</sup> Street
4. Traffic light at 3<sup>rd</sup> and Oak with appropriate sidewalks and pedestrian crossings
5. Loss of service to the community and rural Routt County, particularly businesses that depend heavily on post office box deliveries because there is limited mail delivery service.
6. Significant inconvenience, cost and disruption to businesses and residents currently using the Sundance Plaza Post Office.

We submit that the public impacts and costs to mitigate the above concerns outweigh the costs of keeping the Sundance Plaza Post Office operational until a long-term plan for a consolidated Post Office facility can be completed. We request the postal service work with the City of Steamboat Springs in a public process on a solution to this problem.

If you have questions or need further information regarding our intervention in this proceeding, please do not hesitate to contact me at 970-871-8228 or [jroberts@steamboatsprings.net](mailto:jroberts@steamboatsprings.net).

Sincerely,



Jon B. Roberts  
City Manager

Cc City Council  
Tom Leeson, City Planning Director  
Philo Shelton, Public Works Director  
Colorado Congressional Representatives



June 9, 2009

Mr. Gabriel Benvenuto  
Manager, Realty Asset Programs  
4301 Wilson Blvd., Suite 300  
Arlington, VA 22203-1861

RE: Steamboat Springs Post Office

Dear Mr. Benvenuto:

The Steamboat Springs City Council urges the Postal Service to move forward with the construction of a new Post Office in Steamboat Springs. As you know, the current main Post Office creates a major problem for the community with traffic congestion and public safety. Over the last year, we understood that the Postal Service was moving forward on a new post office with a local developer, Mr. Brian Olson.

Last week, we received a phone call from Mr. Lee Hettick indicating that the Postal Service is considering abandoning the relocation of the Post Office and consolidating all services at the main Post Office. This is unacceptable and would create an even greater public safety issue.

A letter from the Postal Service dated Feb. 12, 2008 indicated that the Post Office was inadequate and requested a public meeting with the City Council so the general public could express its opinions and comments. This meeting was well-attended and the community and City Council expressed support for relocation of the Post Office. We all agreed that the current location of the Post Office is no longer suitable and we continue to be concerned about traffic congestion and public safety, particularly pedestrian safety.

The Steamboat Springs City Council and staff have sent several letters and numerous emails and phone calls urging the relocation of the Post Office and supporting the efforts of Mr. Brian Olson of Steamboat Crossing. Attached are copies of some of these letters.

We look forward to the relocation project moving forward as planned and are available to meet with you or other postal service representatives at anytime. Please contact us soon with an update.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Antonucci".

Paul Antonucci  
City Council President