

APPROVED AS CORRECTED ON FEBRUARY 7, 2006

Legend:       ■ Inserted Language  
              — Deleted Language

MINUTES OF PROCEEDINGS

LITTLETON CITY COUNCIL

January 17, 2006

The Littleton City Council met in regular session on Tuesday, January 17, 2006, in the Council Chambers of the Littleton Center, 2255 West Berry Avenue. The regular meeting convened at 7:00 p.m.

**THOSE PRESENT:**           JAMES A. TAYLOR  
  Mayor  
                                  REBECCA KAST  
  Mayor Pro Tem  
                                  DOUG CLARK  
  Council Member  
                                  AMY S. CONKLIN  
  Council Member  
                                  PAT CRONENBERGER  
  Council Member  
                                  TOM MULVEY  
  Council Member  
                                  JOHN OSTERMILLER  
  Council Member

**THOSE ABSENT:**           None

**ALSO PRESENT:**           Jim Woods  
  City Manager  
                                  Larry Berkowitz  
  City Attorney  
                                  Julie K. Bower  
  City Clerk

1.    **ROLL CALL**

Upon a call of the roll, seven members were present. The following business was transacted.

2. **PLEDGE OF ALLEGIANCE**

3. **AGENDA**

**ACTION: APPROVED**

4. **(a) MINUTES - MINUTES OF REGULAR MEETING JANUARY 3, 2006**

**ACTION: APPROVED**

Council Member Mulvey made the following corrections to page 5:

“Mr. Berkowitz said that was not a matter that would go to City Council. It would go to the Board of Adjustment ~~this month~~ **January 19<sup>th</sup>**.”

“As he understood the issue, under Community Development’s interpretation, because the church was in a PUD **(Planned Unit Development)** as requested by the church, the only use listed was “church”.”

4. **(b) MINUTES - MINUTES OF SPECIAL MEETING JANUARY 10, 2006**

**ACTION: APPROVED**

5. **INTRODUCE NEW CITY EMPLOYEES** – None

6. **(a) CITIZEN APPEARANCES** – GUEST CITIZENS – HERITAGE EAGLES MARCHING BAND

Mayor Taylor said Council was pleased to welcome the Heritage Eagles Marching Band as guest citizens for their significant accomplishments during the 2005 competitive season.

The band took fifth place and returned to the finals of the Colorado Bandmasters Association 5A State Marching Band Championships at Invesco Field. Heritage was the host band at the 2005 State Fair Parade in Pueblo and was a finalist at both the Douglas County Marching Band Invitational and the Pomona Marching Festival. At the Colorado West Marching Invitational in Grand Junction, the band took many honors, including: Parade – 1<sup>st</sup> Place 5A; Field Show – 1<sup>st</sup> Place 5A; Best Inspection; Outstanding Percussion; Outstanding Color Guard; and Sweepstakes Award Winner.

The band was under the direction of Kevin Keena and featured 126 students in woodwind, brass, percussion and color guard sections. Assistant instructors were Steve Vaughn, Matt Taylor, Katie Allison, Shawn Smith, Abe Eng and Rosie Dugan.

Council was pleased to recognize all of these individuals for their hard work on behalf of the Heritage High School music program and congratulated them on all of their accomplishments in 2005 and wished them much success in 2006.

6. **(b) CITIZEN APPEARANCES - SCHEDULED PUBLIC APPEARANCES – None**

6. **(c) CITIZEN APPEARANCES – UNSCHEDULED PUBLIC APPEARANCES –**

MARTY BRZECZEK  
2000 W. ARAPAHOE RD.

Mr. Brzeczek attended the January 5<sup>th</sup> meeting at which Red Oak Consultants explained the 2006 Sewer Financial Plan Update. He had asked a question and did not receive a satisfactory answer. Mr. Brzeczek had noticed the application of the collection and treatment factors were applied as independent variables in the 2006 plan but not in the 2005 plan and he asked why not?

During the 2005 Council campaign, he had stated that citizens of Littleton were overcharged and Council Member Ostermiller had denied that. Mr. Brzeczek asked Red Oak if the treatment costs were to increase by 12% and the collection costs were to increase by 7%. Instead, both were increased by 19%. The response was that the treatment costs were to stay the same for both the outside users and the inside users at 12%, in spite of what the report stated in 2005. Mr. Giardina, of Red Oak Consultants, was now claiming that the treatment costs were the same for inside and outside users. The error still existed and the collection costs increased last year 52%. Mr. Giardina agreed with that calculation.

Mr. Brzeczek said it was obvious that the city charged more in 2005 than intended and the Littleton citizens were subsidizing the plant expansion. He requested that the city explain the calculation of the increase of the 2005 collection costs and refund the overcharge to the citizens of Littleton. If the error was not corrected, it would be compounded.

Council Member Clark said the city did not know what the collection costs were at this point. If it was true that the collection costs were less than the \$37.01 charged, then the city had charged more than an appropriate amount. A meeting was scheduled for Wednesday, January 25<sup>th</sup>, to determine exactly what the collection costs were for 2005 and 2006.

GLENN SHULZE  
5965 W. MORRAINE AVE.

Mr. Shulze reported the U.S. Supreme Court let stand a lower court ruling dismissing the suit which claimed Motorola had provided faulty radios to firefighters, filed on behalf of 12 families of firefighters killed on September 11, 2001. He said the Supreme Court did not do first responders a service by allowing Motorola to dodge an \$800 million bullet.

TIM MCCARTHY  
5535 S. SYCAMORE

TERRY CARLSON  
5514 S. PRINCE ST.

Mr. McCarthy reported a fire had occurred at 5525 South Sycamore along with several explosions. He would like to get a better idea of the responses regarding complaints that were voiced regarding the property.

Ms. Carlson said there had been numerous contacts with Code Enforcement regarding the house at 5525 South Sycamore. She felt threatened and intimidated by the owner of that property because of a tendency for retaliation. The property owner allowed a homeless person to live behind the home in abandoned vehicles. There were several derelict vehicles on the property. One of the vehicles, a van, had caught fire, which in turn set fire to the Bridge House property across the alley. She had heard the explosions and saw the fire and called the fire department. Ms. Carlson and the neighborhood were very concerned about the situation.

Council Member Cronenberger said it was the first Council had heard of the situation and would need to be updated and the appropriate staff involved.

7. **CONSENT AGENDA - (ordinances and resolutions read by title) –  
ACTION: APPROVED - ITEM 7(A)**

- (a) Motion to approve a lease agreement between Western Welcome Week, Inc. a Non-Profit Organization and the City of Littleton for the Bemis House located at 5890 South Bemis Street (**Pulled by Mayor Pro Tem Kast**)

Mayor Pro Tem Kast was president of Historic Littleton, Inc. and at the agenda review session, Council Member Clark had said she should not vote on the matter because it might appear as a conflict of interest. She had spoken with the city attorney and studied the City Charter and believed there was absolutely no conflict. The Charter stated “Every member, when present, must vote on ordinances, resolutions and motions, except he shall not vote on matters involving the consideration of his own official conduct or when his personal or financial interest is involved.” Mayor Pro Tem Kast said Western Welcome Week would be taking over the Bemis House. Historic Littleton, Inc. had been advocating that

something needed to be done with the historic house. She said Western Welcome Week would occupy the house but would allow Historic Littleton, Inc. to use it as a mailing address and for records storage. Mayor Pro Tem Kast would receive absolutely no financial or personal gain and the Charter required her to vote on the matter.

It was moved by MAYOR PRO TEM KAST and seconded by COUNCIL MEMBER OSTERMILLER THAT THE LEASE AGREEMENT BETWEEN WESTERN WELCOME WEEK INC., A NONPROFIT ORGANIZATION, AND THE CITY OF LITTLETON FOR THE BEMIS HOUSE, LOCATED AT 5890 SOUTH BEMIS STREET BE APPROVED AND THE COUNCIL PRESIDENT BE AUTHORIZED TO AFFIX HIS SIGNATURE THERETO.

Mayor Pro Tem Kast said Edwin Bemis was the publisher of the Littleton Independent; established the first Planning Commission; organized the Littleton Rotary Club; was town treasurer; and Mr. Bemis photographed all of Littleton through the years and donated the photos to the museum. He died in 1978, and stipulated that the house be given to Sterne Park. The interim use, which stretched out for almost 30 years, was as the park's caretaker residence. Unfortunately, the house and yard had been neglected. The city put out a request for proposals for the house. Western Welcome Week would lease the house for \$120 per year and would restore the inside and outside of the house.

Council Member Cronenberger said it was an historic occasion that an organization such as Western Welcome Week, which was so important to the quality of the community, was now going to be in a building that had fallen on hard times and would now be an asset to Sterne Park and the neighborhood.

Council Member Ostermiller said it was a "win-win" situation for the whole community. Western Welcome Week needed more space and would be great caretakers of the house.

The vote on the motion was:

Ayes: Council Members Mulvey, Conklin, Kast, Taylor Cronenberger, Ostermiller and Clark.

Nays: None.

MOTION CARRIED: 7 to 0

8. **(a) SECOND AND FINAL READING ON ORDINANCES AND PUBLIC HEARINGS – None**

9. **(a) GENERAL BUSINESS – COUNCIL DISCUSSION INCLUDING PUBLIC COMMENTS CONCERNING SUNDOWN RIDGE PEDESTRIAN EASEMENTS**

Charlie Blosten, Public Services Director, said Sundown Ridge was located at the southeast corner of Ridge Road and Elati Street. The issue in question was the future of two public walkways within designated pedestrian easements. The Sundown Ridge Development Plan stated: “The plan recognizes and preserves the patterns that school children and other pedestrians have used for years in shortcutting the property. In addition, the plan increases the opportunities for pedestrian access to the future park which will be developed along the Highline Canal.”

The southeast easement would soon be open and available for use. The adjacent residents had removed some obstructing landscaping and there was space for pedestrians to access the area. Staff would make modifications to the perimeter fence so that Grandpa’s Acres Park would be accessible to/from the neighborhood via the easement.

The southwest easement was currently blocked for use due to fencing and obstructing landscaping.

Council Member Cronenberger said the easements were outlined in the PD Plan. If Council wanted to do something else, it would require a PD Plan amendment or a rezone.

Mr. Blosten said that was correct, a PD Plan amendment and change in subdivision plat would be required.

Council Member Cronenberger said the purpose tonight was to hear what people thought but not make any decision. It would require an application for a PD Plan amendment to make any changes.

Council Member Clark asked if the \$1,000 to \$3,000 costs included a fence?

Mr. Blosten said no, it did not. It would be approximately \$3,000 to \$5,000 to replace fencing.

Council Member Clark asked how many people were injured or killed on similar trails in the past twenty years?

Mr. Blosten had no recollection of people being killed on trails but there may have been injuries or accidents.

Council Member Clark said the liability insurance issue was up in the air and who would assume liability for the trails.

Mr. Berkowitz said the city was not assuming anything but the city did have insurance that would cover the city against any claims made against the city.

Mayor Pro Tem Kast asked if the easement was on public or private property?

Mr. Blosten said it was a public easement on private property.

Council Member Cronenberger said the issue was addressed in the PD Plan regarding responsibilities. Was it understood at that time that the homeowners' association (HOA) would be responsible for the paths?

Mr. Blosten said the intent was to have the HOA maintain the common areas and walkways. There was a change made to the PD Plan in the late 1980s to have the swimming pool and concrete for the walkways removed from the plan. There were other walkways in the development that were maintained by the HOA.

Council Member Clark asked how much maintenance would be required after the crusher fine was applied?

Mr. Blosten said very little maintenance would be required, maybe once a year.

Mr. Berkowitz said there was a distinction because the easements were dedicated to the public. The swimming pool area was conveyed to the HOA.

Mayor Pro Tem Kast asked if fences would have been allowed in an easement?

Mr. Blosten said typically fences would not be allowed in an easement.

Council Member Conklin asked if there were any other easements on private property that were for the public use?

Mr. Blosten could not think of one.

Mr. Berkowitz said the Colorado constitution prohibited the city from indemnifying anyone.

Council Member Clark said potentially the owner could convey it to the city and then the owner would no longer have liability if anyone was injured on the trail.

Mr. Berkowitz said theoretically, yes that could happen.

GREG WILCOX  
7261 S. SUNDOWN

Mr. Wilcox asked the following questions: What legal instrument created the easements? What were the actual boundaries of the easement? What were the boundaries in relationship to other easements? When the easements were created was the conflict with other easements addressed? How were conflicting easements dealt with? Would the future safety concerns be addressed? Had the easements been modified?

JOEL BAERTLEIN  
7259 S. SUNDOWN

Mr. Baertlein's was the homeowner adjacent to the southwest easement. His main concern was the safety of children. It was not his responsibility to build or maintain the walkway. The PD Plan was amended to require grass trails but the city could not find the document. The city should not impose solutions that were not supported by documentation. The HOA said it was an issue between the property owners and the city. His insurance carrier had told him that liability went with whoever had primary care, custody and control and he wanted others to provide care, custody and control of the trail. He agreed on the conceptual plan for the trail and was willing to provide the access but was not willing to build or maintain the trail.

LAUREN WILSON  
7247 S. SUNDOWN CIR.

Ms. Wilson walked to Heritage High School everyday with a backpack that weighed 30 pounds. She used to walk to Heritage on the easement and it took ten minutes. Now that the easement was closed, she had to walk up around the street and the walk was now 15 minutes. The added time did not make the walk any more enjoyable. It was dark in the morning and some of the drivers caused her concern.

Mayor Pro Tem Kast clarified that Ms. Wilson used the easement in the past?

Ms. Wilson said the previous owner allowed pedestrians to access the private gate and use the trail.

SPENCER WILSON  
7247 SUNDOWN CIR.

Mr. Wilson also previously used the easement to walk to Runyon Elementary School and it cut the distance in half. He had felt safer when using the easement. He would like to be able to use the southwest easement when he attended Heritage High School in the future.

MARY WILSON  
7247 SUNDOWN CIR.

Ms. Wilson wanted to be able to use the southwest pedestrian easement and preserve an historical path. The PD Plan recognized and preserved the patterns school children had used. The easement was regularly used for school access until the Baertlein family bought the property. She asked that the gate be returned and that the path be left as a grass path. The issues were fare use of common space and safe pedestrian access to schools.

DOUG GREENHOLZ  
7243 S. SUNDOWN CIR.

Mr. Greenholz said paths were amenities and the title report included the subdivision plat that established the easement. There were no subsequent reports that addressed that easement. The easement was dedicated to the public but over time the easement had become obstructed. He urged Council to look at the initial intent. The developer honored its commitment to the city and the city should honor its commitment to the public by requiring that the easement be opened. Whether the path was improved or remained as grass was not an issue because the path would not be used that heavily.

MARK MONTOYA  
7278 S. SUNDOWN CIR.

Mr. Montoya supported keeping the easements opened for the use of children and the community. He purchased his home in 2000 and looked forward to his children using the easement when they attended school. The character of either easement did not have to be enhanced. Residents should not have to lose the use of the easement for the perceived benefit of a few homeowners. It was a safer path for children to school because of the very limited visibility on Elati.

EILEEN WITT  
7250 S. SUNDOWN CIR.

Ms. Witt's property was one with a multiple driveway on the southeast easement. There were three properties that backed up to the easement and the cars backed out onto the easement. It was a dangerous situation.

ERIC ELLINGBOE  
10 MEADOWBROOK RD.

Mr. Ellingboe would like the easement to be open to allow him to travel to his friend's house. It would cut the distance in half.

LAUREN GREENHOLZ  
7243 S. SUNDOWN CIR.

Ms. Greenholz would like the easements open to allow for easy access to schools and parks. She bought the house understanding the easements were there. People would be cautious around the driveways.

Mayor Taylor said although it was not a formal public hearing, Council did want to hear comments from the public.

Council Member Mulvey had received an email supporting the opening of the easement.

Council Member Conklin lived on Elati Street and understood the concerns.

Council Member Clark said the Baertleins were concerned about their children getting out of the backyard onto Elati Street. He proposed that the city put in a trail and assume maintenance of the trail and that the city put in both of the fences. The trail was intended for public access and use and it was logical that the city maintain it and assume liability.

Mayor Taylor said a number of issues were raised by people on either side of the easement. He asked that action not be taken tonight before the questions were answered. The fencing raised concerns because of snow and ice in the winter. Council needed to take a look at some of those things before making a decision.

Council Member Cronenberger said the city was obligated to fulfill the intent of the PD Plan and would like clarification regarding was the intent that the HOA assume responsibility for the cost.

Mayor Taylor asked if the information would be available for the next Council meeting on February 7<sup>th</sup> or would more time be needed?

Mr. Woods said it would be ready for the meeting on February 7<sup>th</sup>.

10. **(a) CONSIDERATION OF COMMITTEE, COMMISSIONS AND BOARD MATTERS** – None
11. **(a) ORDINANCES ON FIRST READING** – None
12. **(a) RESOLUTIONS** – None
13. **REPORTS** -
  - (a) **CITY MANAGER** – Mr. Woods had distributed a tentative workshop agenda. He would be using a consultant, Marsha Hughes of Collaborative Growth, to serve as a process facilitator.

Mr. Woods had received a letter from Darla Hoffmeyer of the Arapahoe County Community Corrections and it was time to make an appointment to the board. Joan Shroer, former Littleton detective, wished to be reappointed.

Mr. Woods had received a letter from Don Shroeder, owner of the Southbridge tennis courts, clubhouse and swimming pool property, inquiring about the city's interest in purchasing the property.

Council Member Clark had received calls regarding re-developing the property into residential.

Mr. Woods said that would require a rezone.

Mayor Pro Tem Kast said many residents were concerned about the deteriorating condition of the property. She requested clarification from South Suburban whether or not the district was interested in the property.

Mr. Woods reminded Council of its joint meeting with the Littleton Public Schools Board next Tuesday night at 7:00 p.m.

Kelli Narde, Assistant to the City Manager, provided an update on the request for proposals (RFP) for Channel 8. The deadline was 5:00 p.m. for anyone interested in doing the live telecast and recording of the Council meetings. As of 3:00 p.m., five or six proposals had been received which ranged from \$150 to \$2,000 per meeting. Ms. Narde wanted to provide copies to Council so that Council could give guidance on how to proceed. She wanted to resume broadcasts by the second meeting in February. The equipment would require upgrading.

Council Member Mulvey said the citizens wanted Channel 8 back entirely which would include Planning Commission meetings and study sessions.

- (b) **CITY ATTORNEY** – Mr. Berkowitz said Council needed to formalize its intention to have an executive session at the Council retreat to discuss various issues related to the water fund.

It was moved by COUNCIL MEMBER CONKLIN and seconded by MAYOR PRO TEM KAST TO HOLD AN EXECUTIVE SESSION ON JANUARY 20, 2006 AT 10:00 A.M. FOR PURPOSES OF RECEIVING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS RELATING TO THE WATER FUND AND THE USE OF THE WATER FUND PURSUANT TO C.R.S. 24-6-402(4)(B).

Ayes: Council Members Mulvey, Conklin, Kast, Taylor Cronenberger, Ostermiller and Clark.

Nays: None.

MOTION CARRIED: 7 to 0

(c) **COUNCIL MEMBERS** -

**COUNCIL MEMBER CRONENBERGER** – Council Member Cronenberger congratulated Mr. Berkowitz on the strategy used in the successful outcome regarding Christal's.

Council Member Cronenberger asked if there were any RSVPs for Council's legislative breakfast?

Mr. Woods would check on it and let Council know how many were planning on attending the breakfast.

Council Member Cronenberger had read in the Littleton Housing Authority about the commendable work the Binning Family Foundation was doing with computers skills classes at Bradley House in conjunction with the Eagle Scouts. It was a wonderful collaboration.

**COUNCIL MEMBER OSTERMILLER** – Council Member Ostermiller said copies of the FasTracks 1<sup>st</sup> Anniversary Report were available.

Council Member Ostermiller said the final revenue numbers for the past year were within \$200,000 of the \$22 million budget. It showed that everything had been fairly flat.

Council Member Ostermiller said no water taps were sold in 2005 and only seven were sold in 2004. There were 389 sewer taps sold in 2005 and 255 in 2004. All the growth was happening outside the city. It was startling to see only seven residential water taps sold in the last two years.

Council Member Ostermiller said the Richardsons presented plans for the old Marathon property to the South Metro Economic Development group last Friday and were moving ahead rapidly.

**COUNCIL MEMBER MULVEY** – Council Member Mulvey attended the Littleton AARP meeting at which officers were elected. He reported Jerry Hill was re-elected president.

**COUNCIL MEMBER CONKLIN** – Council Member Conklin was contacted by Teresa Reynolds of the Moody PTO regarding signs for the kindergarten registration. The signs violated the city’s Sign Code violation for kindergarten registration. She said the issue was likely to come before Council.

Council Member Conklin, along with Council Member Cronenberger, attended the Greater Littleton Youth Initiative meeting with Dale Elliott addressing underage alcohol and the strict policy on deferred judgments. A strict policy was counterproductive and it was much better to keep kids out of the system for as long as possible. It was a fascinating presentation.

Council Member Cronenberger said Dale Elliott had done groundbreaking research on youth programs and found that very few of them were very helpful. He had guided the implementation of the blueprint programs. It was very significant that he was very emphatic about the policy of deferred judgment being preferable as opposed to a strict policy. It was also interesting to hear Mary McGlone clarify the process the school district went through and the underage alcohol program that was developed. It allowed students who were caught with alcohol to work through the issue in a way that was helpful to the students.

Council Member Conklin said the magazine, Littleton Downtowner, contained a great article on Ruth Graham.

**MAYOR PRO TEM KAST** – Mayor Pro Tem Kast said a fundraising pin for Chris Grosz’ family was available. The funds raised would assist his wife and children.

Mayor Pro Tem Kast spoke yesterday at the 8<sup>th</sup> annual Martin Luther King Celebration. It was a great event. Dr. King came to Littleton in 1964 and a documentary entitled “When the King Came to Town” aired last night on Channel 6.

Mayor Pro Tem Kast reported the following from the Library Board meeting: \$35,000 was netted from the Friends of the Library/Museum year-round book sales; and there were complaints regarding internet access because the demands were very high.

Mayor Pro Tem Kast attended a CDOT meeting at Wolhurst regarding the C470/Santa Fe interchange mitigation. There would be a 20-foot flyover at the entrance of Wolhurst. CDOT was proceeding with the design but there was no funding for construction.

Mayor Taylor said DRCOG approved close to \$1 million for the design. The federal highway bill earmarked \$10 million. There had also been \$35 million earmarked in the failed Referendum D.

Mayor Pro Tem Kast said CDOT felt it would be a phased project and that it might go ahead with the flyover.

**COUNCIL MEMBER CLARK**– none

- (d) **MAYOR TAYLOR** – Mayor Taylor said the city had received notice from Norgren that 276 employees would be laid off and expected closure of the facility within the next 15 months.

Mayor Taylor asked that open space be added as a topic to the workshop agenda, time permitting.

Mayor Taylor attended the Metro Mayors Caucus on Saturday. Denver Mayor Hickenlooper spoke about establishing a world class website that would be shared with suburban communities and looking at establishing a metropolitan-wide 311 line. Mayor Hickenlooper was also interested in a metro-wide homelessness initiative, establishing a regional police training facility and the ongoing work program.

Mayor Taylor had received a follow up letter from Martin Marietta regarding a reduction in work force and five employees had been laid off.

Mayor Taylor reported the following Historic Downtown Littleton Merchants news: met the new owner of Winner's Circle; investigating forming a merchants' guild and a property owners' group; holding more events during the year; and a new brochure has been published.

Mayor Taylor reported the following Littleton Housing Authority: the monthly report was very informative; the house on Delaware Street was being listed with a Realtor; and there were 299 people on the Section 8 waiting list.

- (e) **DRCOG** – Council Member Cronenberger said it would be a very long agenda tomorrow night and action would be taken on a number of amendments. A lot of housekeeping items were needed for the Metro Vision Plan, such as changes to the UGB for Parker and Thornton, and the Metro Vision Clean Water Plan. There would be changes to the TIP policy. The process the MPO would follow for approving tolling facilities would be finalized. She thanked Mayor Taylor for attending the first Metro Vision issues committee meeting.

14. **ADJOURNMENT** - There being no further business, Mayor Taylor adjourned the meeting at 9:34 p.m. on Tuesday, January 17, 2006.

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Julie K. Bower  
City Clerk/Recording Secretary

IMMEDIATELY FOLLOWING THE REGULAR MEETING, COUNCIL  
CONDUCTED A STUDY SESSION TO DISCUSS COUNCIL NORMS.