

APPROVED AS CORRECTED ON JUNE 5, 2007

Legend: ■ Inserted Language
— Deleted Language

MINUTES OF PROCEEDINGS

LITTLETON CITY COUNCIL

May 15, 2007

The Littleton City Council met in regular session on Tuesday, May 15, 2007, 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
TOM MULVEY
Council Member
JOHN OSTERMILLER
Council Member
BRUCE STAHLMAN
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 MAY 1, 2007**

ACTION: APPROVED

4. **(b) MINUTES - MINUTES OF SPECIAL MEETING MAY 1, 2007**

ACTION: APPROVED

4. **(c) MINUTES - MINUTES OF SPECIAL MEETING MAY 8, 2007**

ACTION: APPROVED

5. **INTRODUCE NEW CITY EMPLOYEES –**

Mr. Woods introduced the following new employees:

Jason Gallardo, Police Officer
Felipe Vigil, Museum Assistant

6. **(a) CITIZEN APPEARANCES – GUEST CITIZENS – None**

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

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

BOB SWEENEY
PUBLISHER
THE VILLAGER NEWSPAPER

Mr. Sweeney distributed a pamphlet entitled “Public Notice – An American Tradition” to Council. He said *The Villager* would be happy to handle the city’s legal notices.

JOSEPH TRUJILLO
5574 S. HURON

Mr. Trujillo had read in the newspaper that the finance director position had been narrowed down to five finalists. The article indicated the audit outlined issues such as credit card accounts, transactions not posted in a timely manner, sales tax not collected and lack of internal controls. He heard from Council that the city needed more money but after reading the article, he wondered if Council knew how much money there was in the bank.

7. **(a) CONSENT AGENDA - (ordinances and resolutions read by title) –**

ACTION: APPROVED - ITEMS 7(B) - 7(D)

- (a) Resolution authorizing an Intergovernmental Agreement between the City of Littleton and the Urban Drainage and Flood Control District regarding Little's Creek Storm Drainage Improvements (**pulled by Council Member Stahlman**)
- (b) Request to approve updated intergovernmental agreement (IGA) for hazard material related response in the City of Lakewood
- (c) Motion to approve allocation of 2007 Conservation Trust Funds
- (d) Ordinance on first reading authorizing alcoholic tastings (**public hearing June 5, 2007**)

It was moved by COUNCIL MEMBER CLARK and seconded by COUNCIL MEMBER CONKLIN TO APPROVE CONSENT AGENDA ITEMS 7(B) - 7(D).

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

Nays: None.

MOTION CARRIED: 7 to 0

7, **(a) CONSENT AGENDA - RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LITTLETON AND THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT REGARDING LITTLE'S CREEK STORM DRAINAGE IMPROVEMENTS**

ACTION: RESOLUTION NO. 11, SERIES OF 2007

Mr. Blosten presented photographs of the drainage improvements over the past forty years. He said there were approximately 35 homes in the floodplain that could be flooded. The existing master plan for Little's Creek was prepared almost 30 years ago and by doing a new engineering study in more detail, the city would have better information on how many homes could be removed from the floodplain. The Urban Drainage & Flood Control District (UD&FCD) would pay half the cost of the study.

Council Member Stahlman asked how much money there was in the storm drainage account?

Mr. Blosten said there was \$500,000 and approximately \$200,000 would be used for construction.

Council Member Clark asked if UD&FCD's share was capped at \$100,000 or was it half of the actual cost?

Mr. Blosten said the agreement would split the costs 50-50.

Council Member Conklin requested that the study include consideration of habitat and aesthetics as well as flood control.

Mr. Blosten said UD&FCD had agreed to that.

Council Member Conklin asked if the concrete riprap would be removed?

Mr. Blosten said the study would be looking at that.

It was moved by COUNCIL MEMBER OSTERMILLER and seconded by COUNCIL MEMBER STAHLMAN THAT THE RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LITTLETON AND THE URBAN DRAINAGE & FLOOD CONTROL DISTRICT BE APPROVED AND THE COUNCIL PRESIDENT BE AUTHORIZED TO AFFIX HIS SIGNATURE THERETO.

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

Nays: None.

MOTION CARRIED: 7 to 0

8. **(a) SECOND AND FINAL READING ON ORDINANCES AND PUBLIC HEARINGS – ORDINANCE ON SECOND READING REGARDING OFFICIAL PUBLICATIONS**

ACTION: ORDINANCE NO. 11, SERIES OF 2007

Mr. Berkowitz read the ordinance by title. He said the *Littleton Independent* had changed the procedures for the publishing of ordinance and it could cause significant delays to the effective date of adopted ordinance and would delay public hearings on such matters as rezonings, historic designations and special improvement districts. Publishing the legal notices in the *Villager*, the *Denver Post* or *Rocky Mountain News* would not solve the problem as the press schedules of all of the newspapers were similar. As a home rule municipality, the city may define by ordinance alternative methods of publication for its legal notices that would eliminate the issue.

Section 40 of the City Charter set forth the procedures for adoption of ordinances by Council, with a requirement that a proposed ordinance be “published in full” before adoption and be “published” by title only or in full after adoption. Ordinances were not effective until seven days after “publication” following final adoption. The Charter did not define what was meant by the terms “publish,” “publication” or “published” except that publication of salary and city expenditures were required to be in a “legal newspaper” or “a newspaper of general circulation.”

“Publication” is generally “the act of declaring or announcing to the public.” While such an announcement may be accomplished by the printing of a proposed ordinance in a newspaper which was offered for sale and generally circulated within the city, there was no limitation in the

Charter that prohibited using some other method to declare or announce to the public the contents of a proposed ordinance.

The proposed ordinance would amend the City Code by defining the words “publish,” “publication” or “published” in Title 1, Chapter 3, Section 2 to include any two of: posting on the city’s website; physical posting at the City Center, Bemis Public Library and the Littleton Municipal Courthouse; or publication in a newspaper of general circulation in the city except as otherwise specifically required by the Charter, Code or Statute. Certain notices and announcements would still be published in a newspaper such as request for bids or public projects.

Mr. Berkowitz said a few typographical errors were discovered in the ordinance on first reading. Also, Section 13 of the ordinance included an amount of \$500, which although consistent with the purchasing code when the section was adopted, had been substantially increased. Council had established by ordinance the amount of \$10,000 as the minimum amount needed to be submitted to competitive bidding in Littleton City Code Section 1-15-1. In Section 16, the area code of 303 was omitted. And in Section 17 and 20, there were two references to the 20th century and those have been changed to indicate the 21st century.

Mayor Pro Tem Kast asked who would decide which two methods would be used?

Mr. Berkowitz said the ordinance on first reading would indicate what options would be used and it was ultimately Council’s decision which two methods would be used.

Council Member Conklin asked if the *Littleton Independent* was notified of the proposed ordinance?

Mr. Woods said the publisher of the *Independent* had been informed of the ordinance.

Council Member Conklin asked how the notices were archived?

Ms. Bower said the proof of publication was not a permanent record and was only kept for six years.

Mr. Berkowitz said the ordinance was a permanent record. Proof of publication could be accomplished by an affidavit by the city clerk for the record that the ordinance was posted on the website.

Council Member Clark said the real issue was the potential time delay between the first and second reading of an ordinance. The ordinance had to be published in full ten days prior to the public hearing. Changes made on Tuesday nights could not be accommodated in that next Thursday’s publication.

Council Member Mulvey believed publication meant printing in a newspaper. How would it be posted at the library?

Mr. Woods said the ordinances would be posted on a bulletin board in the entryway of the library.

Council Member Mulvey would vote against the ordinance.

Mayor Taylor opened the public hearing.

BOB SWEENEY
PUBLISHER
THE VILLAGER NEWSPAPER

Mr. Sweeney said public notice was very important and was not to be treated lightly. He said having the city clerk sign an affidavit was allowing her to police herself. Suburban newspapers were booming and the *Villager* had increased subscriptions by 1,000 last year and had approximately 500 subscribers in Littleton. It was a bad ordinance and should be voted down.

Council Member Clark asked if *The Villager* could accommodate the city's Tuesday night deadline?

Mr. Sweeney said the paper went to press on Tuesday so the deadline was midnight on Monday.

JIM DUBOSE
6877 S. PRINCE CIR.

Mr. DuBose said if Council could table this, both papers could make a proposal and the citizens could get what they needed. The city was not going to get many citizens by posting it at the court and library and city hall.

Mayor Taylor said passing the ordinance did not preclude the newspapers from making a proposal.

PEGGY COLE
2008 W. CALEY PL.

Ms. Cole said the ordinances really should be published in a newspaper. If that was not possible, she asked if the number of days between publication and a public hearing could be shortened. Was it possible to publish a notice that the Council was intending to hold a public hearing?

Council Member Mulvey did not think Council should vote on the ordinance until reading the pamphlet provided by Mr. Sweeney.

It was moved by COUNCIL MEMBER MULVEY and seconded by COUNCIL MEMBER CLARK TO TABLE THE MATTER FOR THREE WEEKS.

Ayes: Council Members Mulvey, Kast and Clark.

Nays: Council Members Conklin, Taylor, Stahlman and Ostermiller.

MOTION FAILED: 3 to 4

Council Member Conklin asked if the city could publish notice of intent to hold a public hearing?

Mr. Berkowitz was not sure what that gave people notice of and it would certainly not satisfy any legal requirements of public notice.

Council Member Clark said the Charter required Council to publish the ordinance in full on first reading. If the ordinance was passed, there was nothing to prevent Council from publishing it in the newspaper but he was concerned that it would be confusing to publish some ordinances in the newspaper but not others. He said it was a good idea to table the matter and allow the newspapers to make a proposal.

Mayor Pro Tem Kast said the ordinance gave Council some options and certainly either paper could come in and make a proposal.

It was moved by COUNCIL MEMBER OSTERMILLER and seconded by COUNCIL MEMBER CONKLIN THAT THE PUBLIC HEARING BE CLOSED; THAT THE ORDINANCE ADOPTED ON FIRST READING BE AMENDED AS FOLLOWED:

- (1) THAT THE AMOUNT OF \$500 IN SECTION 13 OF THE ORDINANCE BE CHANGED TO \$10,000;
- (2) THAT THE TELEPHONE NUMBER IN SECTION 16 BE AMENDED BY ADDING THE AREA CODE 303 BEFORE 795-3748;
- (3) THAT THE YEAR REFERENCES IN SECTION 17 BE CHANGED TO 20 INSTEAD OF 19; AND
- (4) THAT THE YEAR REFERENCES IN SECTION 20 BE CHANGED TO 20 FROM 19;

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

Nays: None.

MOTION CARRIED: 7 to 0

It was moved by COUNCIL MEMBER OSTERMILLER and seconded by COUNCIL MEMBER CONKLIN THAT THE AMENDED ORDINANCE PROVIDING FOR THE REVISED PUBLICATION PROCESS IN THE LITTLETON CITY CODE AND CONFORMING AMENDMENTS BE APPROVED ON SECOND AND FINAL READING; THAT THE ORDINANCE BE PUBLISHED IN FULL; AND THAT THE COUNCIL PRESIDENT BE AUTHORIZED TO AFFIX HIS SIGNATURE THERETO.

Council Member Stahlman said the objective was to get as much information to as many people

as possible.

Council Member Ostermiller said Council was trying to make legal notices available to the most people. He said every news broadcast and newspapers was directing people to their websites for more information. All the city had to do was notify citizens of where the notices were published. It made sense and he would strongly support the ordinance because it would make legal notices available to scores more people than what was currently being done.

Council Member Conklin said the younger generation received all of their news from the internet and the point was to get public notices out to more people than the 2,200 that subscribed to the *Independent* and the 500 at the *Villager*. She would vote in favor of the ordinance.

The vote on the motion was:

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

Nays: Council Member Mulvey.

MOTION CARRIED: 6 to 1

9. (a) GENERAL BUSINESS – MOTION APPROVING FINAL SUBDIVISION PLAT FOR WYNETKA PONDS PARK

Jan Dickinson, Senior Planner, said the applicant, South Suburban Parks and Recreation District (SSPRD) proposed to develop the property located at 5801 South Lowell Boulevard into a park for an off-leash dog area, trails, a playground and picnic shelter. Future plans included one ball field, three multi-purpose fields and parking. The property was owned by both SSPRD and the city. The 38-acre site was zoned OS Open Space District and was formerly known as Chambers Farm. Prior to development, a subdivision plat and site development plan must be approved and recorded.

Normally, a developer was required to install public sidewalks along all public streets adjacent to the property. In this case, the city's Development Review Committee (DRC) felt it was unnecessary for an attached sidewalk to be constructed along Bowles Avenue since SSPRD would be constructing pedestrian trails within the vicinity of Bowles which would provide pedestrian access links to the adjacent neighborhoods. DRC also recommended that a waiver from the requirement to widen Lowell Boulevard to the standard width of a minor arterial street be granted.

Mayor Pro Tem Kast asked what size was the dog park?

Ms. Dickinson said the dog park was 3 acres.

Council Member Stahlman asked if there was sufficient parking for the users of the park?

BRETT COLLINS
SENIOR PARK PLANNER
SOUTH SUBURBAN PARKS & RECREATION DISTRICT

Mr. Collins said the dog park at Dave Lorenz Regional Park was 1 acre in size and was heavily used. There were 28 parking spaces at that park and there had not been any complaints of no parking available. The proposal for Wynetka was for 45 parking spaces.

Council Member Stahlman asked what the timing was for the future development of the fields?

Mr. Collins said there was not a timeline at this point.

Council Member Conklin asked if the water quality pond would collect run-off from the dog park?

Mr. Collins said the pond would collect run-off and the water would be cleaned by settling out before the water was released.

It was moved by COUNCIL MEMBER CLARK and seconded by COUNCIL MEMBER CONKLIN THAT THE FINAL PLAT AND THE INTERGOVERNMENTAL AGREEMENT FOR WYNETKA PONDS BE APPROVED WITH THE WAIVERS TO THE CITY'S SUBDIVISION REGULATIONS AS DESCRIBED IN THE STAFF REPORT AND NOTED ON THE FINAL PLAT; AND THE COUNCIL PRESIDENT BE AUTHORIZED TO AFFIX HIS SIGNATURE THERETO.

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

Nays: None.

MOTION CARRIED: 7 to 0

10. **(a) CONSIDERATION OF COMMITTEE, COMMISSIONS AND BOARD MATTERS – MOTION APPROVING APPOINTMENTS TO BOARDS AND COMMISSIONS - None**
11. **(a) ORDINANCES ON FIRST READING – None**
12. **(a) RESOLUTIONS – None**
13. **REPORTS -**
 - (a) **CITY MANAGER** - Mr. Woods said Fire Chief Mullin would explain the memo regarding paramedic service at Station 16 and address the letter from South Metro Fire Rescue.

Chief Mullin said the plan for Medic 16 was to fully staff it using overtime funds for a one year trial period. It was currently being staffed 33% of the time. A one-year trial would cost between \$200,000 and \$400,000. The department was currently calling in overtime because of injured firefighters.

Council Member Stahlman asked if it made more sense to hire one person dedicated to coverage at Station 16?

Chief Mullin said to staff a medic unit with two people per 24 hours would require six additional people. If the department hired six people and the data did not support program, those personnel would have to be let go and he did not want to do that.

Council Member Ostermiller said the partnership was pleased on the efforts Chief Mullin had made to control overtime. The proposed staffing would be at the city's expense. He said Council did discuss doing the trial for six months to evaluate if there were improvements to response times and determine whether or not to go forward with it in 2008 and to see if there would be enough justification to go back to the partners.

Mayor Pro Tem Kast said the data could be looked at after six months but Council would need a year's data to know what impact it was having on response times.

Council Member Ostermiller said the city would know in seven months if the service had improved.

Mr. Woods said the plan for 2007 was a contingency transfer in the fall and then to plug in a number for the first six months of 2008.

Council Member Clark said there was a need to evaluate and six months was a good period of time. If it does not work, the city would probably go to something more expensive. He recommended the trial be for a year and set a time in December to look at the response times at Trailmark.

It was moved by COUNCIL MEMBER CLARK and seconded by MAYOR PRO TEM KAST TO BUDGET FUNDS FOR THE REMAINING PORTION OF 2007 AND ALL OF 2008 AND EVALUATE IT IN DECEMBER.

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

Nays: None.

MOTION CARRIED: 7 to 0

Chief Mullin said Council had received a letter from South Metro Fire Rescue. South Metro contemplated building its own regionalized call center and had approached the city

about a partnership. Negotiations went on for many months but it became apparent that it would not be in Littleton's best interest to join in the center. Regionalization made sense but not the way it was proposed.

Mr. Berkowitz said what was proposed at the time was not what was discussed in the letter. Staff had come away from the discussion believing it would cost the city more and that an authority was being proposed. Council had made it clear that it was not in favor of an authority.

Mr. Woods said Council had discussed the 2007 Arapahoe County Open Space Share Back funds and its impact on the city's TABOR limit. There might be a way under the agreement for the county to hold the money but the county would need a written request from Council to hold the share back funds. He said it appeared there would be a TABOR excess for 2006.

Council Member Ostermiller asked if the city could get a written opinion from the county attorneys. He wanted to make sure the city could do it.

Mr. Berkowitz did not believe the county attorney would issue a written opinion but the city could probably get some kind of assurance from the county.

Mayor Taylor asked that the topic be discussed at next Tuesday's study session.

Council agreed.

(b) **CITY ATTORNEY** – None

(c) **COUNCIL MEMBERS** -

COUNCIL MEMBER MULVEY – Council Member Mulvey reminded everyone that there would be two Memorial Day Services on May 28th – at 8:00 a.m. at the Veterans' Circle at the Littleton Cemetery and at 10:00 a.m. at the Littleton World War II Memorial at Ketring Park.

Council Member Mulvey complimented the Election Commission on the redistricting breakdowns. He said ultimately no citizens lived on Lincoln Street, from Mineral to County Line and there was no population change to District III.

COUNCIL MEMBER CONKLIN – Council Member Conklin thanked Mr. Blosten for the directional signs to Heritage High School.

Council Member Conklin said the B/IA demo was wonderful and very informative.

Council Member Conklin congratulated Darrell Shulte for winning the South

Metro Denver Chamber of Commerce Community Leader of the Year Award.

Council Member Conklin said Stan Bush's memorial service was very nice. She asked if anyone would be taking his place with regard to the city's emergency preparedness?

Mr. Woods said no decision had been made yet.

MAYOR PRO TEM KAST – Mayor Pro Tem Kast did not like the way the Election Commission moved the district boundaries because she felt it divided a cohesive neighborhood.

Mayor Taylor said he appeared at the Election Commission hearing and did testify regarding his objections to the proposed changes.

Mayor Pro Tem Kast said the Business Basics packet from the library was excellent.

Mayor Pro Tem Kast attended the 40th annual commencement at Arapahoe Community College on Saturday and it was very nice.

Mayor Pro Tem Kast reminded everyone that on Sunday, Historic Littleton, Inc. was hosting a walking tour of the Main Street Historic District.

COUNCIL MEMBER STAHLMAN – Council Member Stahlman agreed that the B/IA demo was excellent. The B/IA team was important to the city and its economic health.

Council Member Stahlman attended the Greater Littleton Youth Initiative meeting. The group was scheduling a conference on November 9th.

Council Member Stahlman attended the Historical Preservation Board design workshop on Saturday.

COUNCIL MEMBER OSTERMILLER – Council Member Ostermiller said the memorial service for Stan Bush was very nice and was very well attended. Mr. Bush had contributed untold hours to the community to better the lives of everyone in the south end of the metro area.

Council Member Ostermiller participated in the interviews for the new finance director and the assessment process was a unique experience. Each applicant went through interviews in front of three separate groups.

COUNCIL MEMBER CLARK – Council Member Clark reported State Senator Steve Ward would be hosting a town hall meeting on May 23rd at 7:00 p.m. at the

museum.

Council Member Clark asked the status of Peggy Cole's requests regarding the city's website?

Ms. Narde said three of the four requests had been done and the fourth, the City Charter would be accomplished in a few weeks.

Council Member Clark asked if it was possible to put Council communications on the website?

Ms. Narde said she would look into it.

Council Member Clark reported from the E911 Authority that the revenues were going up and expenses were going down. The Authority was going to appoint an executive director to help with the day-to-day activities.

- (d) **MAYOR TAYLOR** – Mayor Taylor reported the following information from the Historic Downtown Littleton Merchants meeting: the downtown farmer's market was scheduled for every Saturday starting June 16th; and Golden had joined the Original Shopping Districts.

Mayor Taylor asked if Council wished to schedule 311 as a study session topic?

Council agreed to schedule the topic for a study session in early fall.

Mayor Taylor attended the Historical Preservation Board's window preservation workshop and it was quite good.

Mayor Taylor said Council was scheduled to have breakfast with the South Suburban Board next Thursday at 7:30 a.m.

Mayor Taylor reported the following Littleton Housing Authority information: LHA had won three National Association of Housing and Redevelopment Officials awards and 2 state awards; LHA had 99.5% reporting rate to HUD for Section 8 housing; the Libby Bortz Assisted Living Center would be recognized for a partnership with a long term care pilot program; and the budget cycle was ahead in income and below in expenses.

- (e) **DRCOG** – Mayor Taylor said there were meetings scheduled for tomorrow night, Thursday afternoon and Friday afternoon.

14. **ADJOURNMENT** - There being no further business, Mayor Taylor adjourned the meeting at 9:56 p.m. on Tuesday, May 15, 2007.

Julie K. Bower, City Clerk/Recording Secretary