



## Town Council Meeting Minutes - Final

Mayor Jason Gray  
Mayor Pro Tem Jason Bower  
Councilmember Jess Loban  
Councilmember James Townsend  
Councilmember Kevin Bracken  
Councilmember Caryn Johnson  
Councilmember George Teal

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Tuesday, July 16, 2019

6:00 PM

Council Chambers  
100 N. Wilcox Street  
Castle Rock, CO 80104

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This meeting is open to the public. All times indicated on the agenda are approximate.

### COUNCIL DINNER & INFORMAL DISCUSSION

#### EXECUTIVE SESSION

Mayor Gray called the meeting to order at 5:15 pm. *Note: Councilmembers Loban and Johnson were not present but arrived prior to and participated in the Executive Session.*

**Moved by Mayor Gray, seconded by Mayor Pro Tem Bower, to Adjourn to Executive Session. The motion passed by the following vote:**

**Yes:** 5 - Townsend, Bower, Teal, Gray, Bracken

**Not Present:** 2 - Loban, Johnson

[EXEC](#)  
[2019-010](#)

**Executive Session: Villages at Castle Rock Zoning Ordinance**

#### INVOCATION - Pastor Ernest Smith, Front Range Church

#### CALL TO ORDER / ROLL CALL

Mayor Gray called the meeting to order at 6 pm.

**Present:** 7 - Council Member Loban, Council Member Townsend, Mayor Pro Tem Bower, Council Member Teal, Mayor Gray, Council Member Bracken, Council Member Johnson

#### PLEDGE OF ALLEGIANCE

Boy Scout Troop 637 led the Pledge of Allegiance.

#### COUNCIL COMMENTS

Councilmember Johnson thanked Castle Rock Water for the recent tour.

[EXEC](#)  
[2019-011](#)

**Executive Session Report: Villages at Castle Rock Zoning Ordinance**

Mayor Gray read the Executive Session report. All members of Council were present at the Executive Session along with David Corliss, Bob Slentz, Elizabeth Allen and Kevin Wrede.

[APPT](#)  
[2019-006](#)

### **Appointment to Public Art Commission**

Moved by Council Member Johnson, seconded by Council Member Townsend, to Appoint Trina Homstad to the Public Art Commission for a partial term ending May 31, 2021. The motion passed by the following vote:

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

[DIR 2019-016](#)

### **Discussion/Direction: Call a Special Town Council Meeting on July 29, 2019 at 6:00 p.m. for the Purpose of Meeting with the Board of County Commissioners on Items of Mutual Interest**

Moved by Council Member Townsend, seconded by Council Member Johnson, to Call a Special Meeting on July 29, 2019 at 6 pm for the purpose of meeting with County Commissioners on items of mutual interest. The motion passed by the following vote:

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

## **UNSCHEDULED PUBLIC APPEARANCES**

Citizens that addressed Council:

Justin Matthew, resident from Plum Creek, asked Council to make a declaration to be a 2nd Amendment Sanctuary Town.

Matthew Smith, resident, asked Council to protect the Town of Castle Rock by becoming a 2nd Amendment Sanctuary Town, and to disassociate from the Douglas County Sheriff's Office and support the US Constitution.

## **TOWN MANAGER'S REPORT**

David Corliss, Town Manager, called Council's attention to the items under the Town Manager's Report for their review.

[DIR 2019-020](#)

### **Discussion/Direction: Council Meetings in August and November 2019**

Moved by Council Member Townsend, seconded by Council Member Loban, to call a Study Session on August 20, 2019 from 5-7 pm prior to the Council Meeting to discuss the 2020 Budget and Chapter 17 Zoning Code Amendments. The motion passed by the following vote:

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

Moved by Mayor Pro Tem Bower, seconded by Council Member Loban, to cancel the November 19, 2019 Council Meeting due to absences of Councilmembers attending the National League of Cities Conference that week, and to decide if a special meeting is needed at a later date. The motion passed by the following vote:

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

[ID 2019-073](#)

### **Update: Monthly Department Reports**

[ID 2019-074](#)      **Update: Second Quarter Major Projects**

[ID 2019-075](#)      **Update: Quasi-Judicial Projects**

[ID 2019-076](#)      **Development Services Project Updates**

[DIR 2019-019](#)      **Discussion/Direction on Title 15, 16, 17 and 18 Code Amendments**

## **TOWN ATTORNEY'S REPORT**

[ID 2019-077](#)      **Town Attorney's Report: HB19-1177**

Elizabeth Allen, Assistant Town Attorney, gave a preliminary overview of House Bill 19-1177 concerning the "Red Flag" law and Emergency Risk Protection Orders.

Allen reviewed the steps beginning with a Petitioner (law enforcement, family or household member) filing an affidavit requesting a Temporary Emergency Risk Protection Order (TERPO) which is valid for 14 days. The Petitioner then speaks with the Judge who determines with a "preponderance of the evidence" which is the 3rd highest burden of proof, that day or the next day. If the Judge then determines there is a valid threat, a TERPO is ordered, and law enforcement must serve the Respondent with an order to appear at a hearing date that must have been set within 14 days. The Respondent's firearms must be relinquished and if applicable, their Concealed Carry Permit (CCW) is revoked.

The Judge then holds the hearing and determines if an Emergency Risk Protection Order (ERPO) is warranted using the second highest burden of proof which is "clear and convincing evidence". The Respondent and Petitioner are both present at the ERPO hearing and may present evidence. A court appointed attorney is automatically provided to the Respondent who may also retain their own attorney. If denied, the CCW permit is reissued and firearms are returned. If granted, the ERPO is in effect for 364 days.

Councilmember Teal clarified that the burden of proof used to determine TERPO and ERPO are lower than the burden of proof of "beyond a reasonable doubt" required for criminal cases. Allen confirmed that the highest burden of proof is reserved for criminal cases. This is considered a civil case.

Councilmember Loban has a concern that the accused isn't involved at all in the TERPO hearing and is guilty until proven innocent.

Councilmember Teal asked if there is a burden of proof. Allen stated that law enforcement has to sign an order stating they believe there is a significant risk.

Councilmember Townsend asked if the ERPO can be continued and if it mirrors a civil restraining order. Allen stated the TERPO expires in 14 days, but it is not clear if there is a method to extend the TERPO. Townsend asked if the impact of the burden on the Judge was looked at. Allen stated she was unaware if that was studied. Townsend went on to say that in family law cases they use the standard of "clear and convincing evidence" and unsure why that wouldn't be used for a

TERPO as it impedes on a fundamental right.

Mayor Gray stated the law doesn't go into effect until January 1 and that the Judge overseeing the proposed law has the discretion to throw out any part.

Allen went on to say that the Respondent has one opportunity within the 364 days to petition to terminate the ERPO. The Judge determines using "clear and convincing evidence" and the burden shifts to the Respondent who must demonstrate they are no longer a threat.

Police Chief Cauley went over requirements they identified for Castle Rock Police (CRPD). They must adopt TERPO and ERPO policies and procedures by January 1, 2020 and training on issuance of TERPO's and ERPO's. There are requirements to report back to the court regarding service to the Respondent and notification to family, household members or any known third party who may be at risk. They would also be required to do criminal background checks before returning any firearms.

Councilmember Johnson stated the recent STEM school shooting was done by minors that couldn't legally obtain firearms and obtained them from others.

Cauley stated there is not an age stated in the bill. The search warrant is only used to do a search if law enforcement was the petitioner or if there is probable cause requiring a judge to order a search warrant.

Councilmember Johnson asked how this would have helped in the STEM school shooting situation. Cauley stated he had no way of knowing. Johnson asked about firearms in the home that are not the Respondents. Allen stated the legislation does not address firearms owned by other household members but will endeavor to find out.

Councilmember Johnson feels individuals most likely use guns they own in suicide situations, but in shootings when individuals do not own their own guns, it is unclear how this law would help.

Councilmember Teal clarified that when the TERPO is served and they are in possession of a firearm at that time, officers could take possession at that time. Cauley stated the TERPO mandates that the Respondent must immediately give up their weapons and would only search if there was probable cause. Teal would like to hear briefings and have oversight over the policies and procedures Police develops.

Councilmember Loban inquired about the Town's ability to circumvent this law. Loban is concerned with officer safety and that this law indicates that Respondents are guilty until proven innocent.

Bob Slentz, Town Attorney, stated the procedures and training are being developed and recommends it be revisited later in the year. All state statutes are presumed Constitutional until proven otherwise. There are 14 states with a Red Flag bill that have not been challenged, however, we do not know if the laws are similar. Police have sworn to uphold the US Constitution. If Council were to go

that direction, it would be best to join with other like-minded municipalities to strengthen their position.

Councilmember Teal is interested in pursuing that and stated that this is being discussed at the DRCOG meetings. Teal would like to get feedback on the route they could take and that we have our Officers that have sworn to uphold the Constitution and feels it is a pressing concern. Teal feels Council should have knowledge and possibly oversight over the policies and procedures the police department creates.

Chief Cauley stated they will comply with best practices, follow the law, and ensure it is consistent with how they interact with the community and ensure safety. He added that individuals are treated with dignity and respect. They have reached out to communities in other states that have this law but there is not alot of data because they have not been in effect for long. Cauley stated he met with the Sheriff and that if an order is issued for a family or household member, they would be served by the Sheriff. Our Police department would only serve TERPOs when our Police department is the Petitioner. Teal wants to clarify what burden of proof the Police department would have if they were the Petitioner.

Councilmember Johnson feels the bill is lacking in addressing the mental health issue and would like to know what will be contained in our policies and procedures. Allen stated the Judge is empowered to order a mental health evaluation. Allen is part of a national committee for the International Association of Chiefs of Police and is working on a model policy regarding pre-arrest diversion which addresses individuals that potentially have mental health issues. Cauley added that their co-responder team consisting of a police officer and a clinician respond to individuals that are in a mental health crisis.

Councilmember Johnson asked if there would be any financial burdens for the Town whether we become a sanctuary town or not. Allen stated the only other Town that is a 2nd Amendment Sanctuary City is Commerce City. The Commerce City Mayor Pro Tem later stated that this was a statement to lawmakers and they plan to comply. There are 35 counties that have passed similar resolutions. They are continuing to monitor if there are any Constitutional challenges from any municipalities. What is distinguishable with this bill is that a family or household member can petition for a TERPO.

Mayor Pro Tem Bower asked if the Petitioner is age defined. Allen stated not that she has found, and that a household member could also be a roommate.

Mayor Gray asked for any changes or updates be brought to Council.

## **ACCEPTANCE OF AGENDA**

**Moved by Mayor Pro Tem Bower, seconded by Council Member Johnson, to Accept the Agenda as presented. The motion passed by the following vote:**

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

## **CONSENT CALENDAR**

- [RES 2019-078](#) **Resolution Designating the Public Place for Posting Notices Pursuant to C.R.S. Section 24-6-402(2)(c)**
- [ORD 2019-020](#) **Ordinance Amending Chapter 5.04 of the Castle Rock Municipal Code Concerning the Administration of Regulations for Solicitors (Second Reading - Approved on First Reading on July 2, 2019 by a vote of 7-0)**
- [ORD 2019-019](#) **Ordinance Approving the Second Amendment to the 2019 Budget by Making Supplemental Appropriations for 2019 and Authorizing Changes for Year 2019 (Second Reading - Approved on First Reading on July 2, 2019 by a vote of 7-0)**

*Note: Councilmember Townsend briefly left the meeting prior to the vote and returned prior to the next item.*

**Moved by Johnson, seconded by Mayor Pro Tem Bower to approve the Consent Calendar as read. The motion passed by a vote of:**

**Yes:** 6 - Loban, Bower, Teal, Gray, Bracken, Johnson

**Not Present:** 1 - Townsend

## **QUASI JUDICIAL HEARINGS**

- [ORD 2019-014](#) **Ordinance Annexing to the Town of Castle Rock, Colorado a 70.010 Acre Property Located in the Northwest Quarter of Section 36, Township 8 South, Range 67 East of the 6th Principal Meridian, Douglas County, Colorado (Ridge Estates Annexation) (Second Reading - Approved on First Reading on June 4, 2019 by a vote of 6-0) [located south of Crystal Valley Ranch, east of Bell Mountain Ranch and north of Sellers Creek Ranch]**

Mayor Gray read the quasi-judicial script for all three items for the Ridge Estates Annexation. No conflict of interest was noted.

Donna Ferguson, Senior Planner, presented this item.

Councilmember Johnson asked why the IGA with the County was referenced as it is no longer in effect. Ferguson stated they were illustrating that the annexation proposal was in process for a long time when the IGA was in effect.

The applicant, Jim Mill, is present substituting for Greg Brown who could not attend if Council had any questions.

*No public comment.*

**Moved by Council Member Teal, seconded by Council Member Loban, that Quasi-Judicial Ordinance No. 2019-014 be Approved as presented. The motion passed by the following vote:**

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

**ORD 2019-015 Ordinance Approving the Ridge Estates Planned Development Plan and Zoning Regulations (Second Reading - Approved on First Reading on June 4, 2019 by a vote of 6-0) [located south of Crystal Valley Ranch, east of Bell Mountain Ranch and north of Sellers Creek Ranch]**

*No public comment.*

**Moved by Council Member Teal, seconded by Mayor Pro Tem Bower, that Quasi-Judicial Ordinance No. 2019-015 be Approved as presented. The motion passed by the following vote:**

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

**RES 2019-079 Resolution Approving the Ridge Estates Annexation and Development Agreement [located south of Crystal Valley Ranch, east of Bell Mountain Ranch and north of Sellers Creek Ranch]**

Councilmember Johnson asked for more information on the water in regards to Bell Mountain Ranch. Mark Marlowe, Director of Castle Rock Water stated that Bell Mountain Ranch is in unincorporated Douglas County and relies on non-renewable ground water and there has been discussion for them to connect to Town water. Ridge Estates could help with infrastructure and easements in the development agreement to make that easier if that proceeds. Johnson asked who would be responsible for cost. Marlowe stated Bell Mountain has expressed interest to connect to Castle Rock in the future and it would be their responsibility to design the system and details determined would come to Council for consideration. Slentz stated the development agreement states the Town has until March 31, 2020 if the development would put in infrastructure in place that could be used in the future to connect to Bell Mountain. If they decide to go that direction it would be brought to Council.

*No public comment.*

**Moved by Council Member Teal, seconded by Mayor Pro Tem Bower, that Quasi-Judicial Resolution No. 2019-079 be Approved as presented. The motion passed by the following vote:**

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

**RES 2019-080 Resolution Approving a Use by Special Review for Lot 1 Block 1 Craig and Gould's Addition to Castle Rock for an Accessory Dwelling Unit [418 North Lewis Street]**

Brad Boland presented this item. Hunter House was built in 1917, is a landmarked property, and is zoned R-2. The Accessory Dwelling Unit (ADU) ordinance requires Council approval for a detached unit. Planning Commission and staff recommend approval.

Bower stated the ADUs in Craig and Gould have been very successful and would support staff approving them with appeals coming to Council.

*No public comment.*

**Moved by Mayor Pro Tem Bower, seconded by Teal that Quasi-Judicial Resolution No. 2019-080 be Approved as presented. The motion passed by the following vote:**

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

## **ADVERTISED PUBLIC HEARINGS & DISCUSSION ACTION ITEMS**

### **[RES 2019-073](#) Resolution Approving the Town of Castle Rock Downtown Mobility Master Plan**

Dan Sailer, Acting Director of Public Works, stated downtown is unique, draws people downtown and there is a desire for multiple modes of transportation. This Master Plan is a guiding document for future decisions in downtown.

Tom Reiff, lead project manager, presented the item. The Plan assists in ensuring downtown is an economically viable area. They had a number of public outreach efforts and identified numerous priorities and shared recommended improvements for circulation. They are discussing options with CDOT for a Bustang Station either downtown, northern downtown, the Walker property or Millers Landing area. They recommend several pedestrian improvements with curbs, lighting, crossings, and walkways. Recommended bicycle improvements with shared use streets, trail access points, proposed trails, bike parking and shared alleys. Additionally, they are looking toward the future for mobility trends.

Councilmember Loban asked if there is a study on how many people use bicycles downtown and if there is a demand. Reiff stated they have received some inquiries, but the study is to increase bikes downtown.

Mayor Pro Tem Bower asked if one handicap spot per block is a regulation. Reiff stated they have been working with Legal and that it is a topic being discussed at the Department of Justice and is a current guideline.

Councilmember Johnson stated she would like to ride downtown and asked about the possibility of e-bike stations at the neighborhood parks that could be used to ride downtown and back.

Reiff added that there is a lot of development downtown and we want them to be able to walk or bike to a location downtown.

Mayor Pro Tem Bower voiced his support and feels it is important that more people walk or bike vs. drive. He feels it is a good investment and will result in less spending on infrastructure. Bower stated there are bikes locked up on trees and rails so more areas for bikes is needed. Bower added that the Downtown Development Authority (DDA) and downtown businesses support this.



Councilmember Loban asked if the DDA was going to help invest in this. Reiff stated that it was to be determined.

Councilmember Teal stated they are talking about putting forward a project to DRCOG for funding.

Councilmember Bracken said the DDA just approved alley beautification for some of the downtown buildings and feels this will fit in nicely.

Mayor Gray stated he has a business downtown and gets bicyclists who complain about their ability to bike downtown.

Councilmember Johnson thanked staff for getting back to her with her comments.

*No public comment.*

**Moved by Mayor Pro Tem Bower, seconded by Council Member Bracken, that Resolution No. 2019-073 be Approved as presented. The motion passed by the following vote:**

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

**ID 2019-078 -  
Encore Update**

**Encore Project Update**

Mayor Gray stated there is no vote on this item, it is only an update.

David Corliss, Town Manager, stated it is a complicated project, and that this project would triple Town parking. Corliss stated that this project could generate enough revenue to pay for these parking spaces. On August 20, staff will be asking Council to consider several items for this project. If those are successful, they will go to second reading with construction starting in October.

Kevin Tilson, Director of Castle Rock Downtown Alliance, represents the downtown businesses. Tilson conveyed that for a vibrant and active downtown you need daytime population and evening and weekend population of residents, dining options and unique retail, and parking. Tilson went over all of the strategic steps that have been taken over the last 10 years. This project brings 300 parking spaces, a quiet zone, a public plaza, a public dog park, new dining options, and residential space.

Dan Guimond, Economic & Planning Systems (EPS), presented the Encore Financial Review they completed.

Councilmember Teal asked where they got their benchmark amounts for the pricing. Guimond replied that they are based on a market analysis that was previously done for this project.

Councilmember Johnson referred to page 11 of the report regarding the estimated sales of units. Corliss pointed out that the GID property tax revenue would not depend on the unit to be occupied. Guimond also stated that the units will be pre-sold during the construction phase.

Councilmember Teal noted that the COPs are projected to be paid off by 2048 and asked if they can be extended if that debt is not paid off. Corliss stated that this project is different as we are sharing revenue and risk.

Councilmember Bracken confirmed that it is a fixed amortization schedule.

Tony DeSemone, Confluence Companies, presented an update on Riverwalk. He moved here in 2005 and wanted to help create a vibrant downtown and create an opportunity for people to live downtown and create walkability to live, work, and dine. They have signed 121 leases with the first move in's beginning April 1 and August 1 for the next move in's. They are bringing the Great Divide Brewery who will occupy 8,000 square feet and an outdoor patio and will be brewing a Castle Rock beer. Additionally, they signed up Tribe, a southwestern style seafood restaurant who will occupy 4,000 square feet. Both will offer brunch on weekends. Additionally, they have acquired 221 Wilcox which they will announce the plans for at a later date.

With the Encore project they saw an opportunity to create a better front door for the Town Hall with a gathering place and plaza as an extension of Festival Park. This project's retail space, office space, and condominiums are all for sale. They are proposing a 7th level in order to generate enough revenue to pay for the parking garage. There will be 354 new residential spaces and 80,000 square feet of retail.

Councilmember Johnson stated Riverwalk seems a little sterile and flattened. She feels we need something that softens the look and feel of downtown.

Councilmember Loban, Townsend, and Bracken all complemented the design.

Mayor Pro Tem Bower stated the difference is the pride in ownership. Loban agrees, along with the added benefit of the parking garage.

Councilmember Teal loves the project for all of the reasons of the parking garage, civic plaza, quiet zone, new dog park, but sees that it is a permanent change to our downtown and the height is a concern.

Councilmember Johnson is overwhelmed with the 7 stories and asked for the background on that process.

Julie Kirkpatrick, Long Range Project Manager, stated it is within the downtown overlay district that allows 6 story buildings with no height restrictions. The Design Review Board has discretion to approve two additional stories.

Mayor Pro Tem Bower added there is a good mix of members on the Design Review Board with representatives from the Downtown Development Authority, Planning Commission, Historic Preservation Board, and downtown property owners.

Councilmember Bracken stated the most calls he has received have been about the quiet zone, so he is looking forward to the project and likes the design.

Mayor Gray feels the design with all of the glass and brick is a good design. He also receives a lot of concerns over the quiet zone.

*Citizens that addressed Council:*

Greg Boman, property owner at 220 Perry Street, feels this is the project he has been hoping for mainly for the parking and the quiet zone. He feels Festival Park is framed by these two projects.

[DIR 2019-021](#)

**Discussion/Direction: Centennial Airport Community Noise Roundtable Appointment of Roundtable Regular Voting Members**

Sandy Vossler, Senior Planner, stated they are looking for a regular voting member and an alternate member for the Centennial Airport Community Noise Roundtable. The roundtable meets once a month and was previously represented by Councilmember Ford until December 2018.

Sandy will notify the roundtable with their contact information.

*No public comment.*

**Moved by Council Member Johnson, seconded by Council Member Teal, to Appoint Mayor Gray as the Regular Castle Rock representative and to Appoint Councilmember Townsend as the Alternate Castle Rock representative to the Centennial Airport Community Noise Roundtable. The motion passed by the following vote:**

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

[RES 2019-081](#)

**Resolution Supporting the Submission of a Grant Application for a Connect Initiative Grant from the State Board of the Great Outdoors Colorado Trust Fund for the Completion of the Colorado Front Range Trail Project in Castle Rock**

Jeff Brauer, Director of Parks and Recreation, presented the item. Staff is proposing to apply for a grant with GOCO for their Connect Initiative grant that would line up our trails with the Colorado Front Range Trail for a possible connection in the future. They are requesting \$2,000,000 from GOCO and the award will be announced on September 27.

Mayor Gray stated our citizens want more trails and appreciates staff working on this.

*No public comment.*

**Moved by Mayor Pro Tem Bower, seconded by Council Member Townsend, that Resolution No. 2019-081 be Approved as presented. The motion passed by the following vote:**

**Yes:** 7 - Loban, Townsend, Bower, Teal, Gray, Bracken, Johnson

**ADDITIONAL UNSCHEDULED PUBLIC APPEARANCES**

None.

**ADJOURN**

Mayor Gray adjourned the meeting at 9:20 pm.

Submitted by:

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Lisa Anderson, Town Clerk