



Town Council Meeting Minutes - Final

Mayor Jason Gray
Mayor Pro Tem Kevin Bracken
Councilmember Ryan Hollingshead
Councilmember Laura Cavey
Councilmember Desiree LaFleur
Councilmember Caryn Johnson
Councilmember Tim Dietz

Tuesday, February 16, 2021

6:00 PM

**Town Hall Council Chambers
100 North Wilcox Street
Castle Rock, CO 80104
Phone in: (720) 650-7664
Meeting code: 146 558 0117
www.CRgov.com/CouncilMeeting**

This meeting is open to the public and will be held in a virtual format in accordance with Town Council Meeting Special Procedures During Declared Disasters. Public may choose to attend in person at Town Hall, or electronically or by phone if preferred - remote participation is encouraged. This meeting will be hosted online and can be accessed at www.CRgov.com/CouncilMeeting, or phone in by calling (720) 650-7664, meeting code 146 558 0117 (if prompted for a password enter "Feb16Council"). All Town Council Meetings are also streamed online in real time at www.CRgov.com/WatchCouncil, and are broadcast for Comcast Cable subscribers on Channel 22 (please note there is a delay to the broadcast).

All times indicated on the agenda are approximate. Remote participants please visit www.CRgov.com/CouncilComments to sign up to speak to an item, and for related instructions. Public Comments may also be submitted in writing online by 1:00 p.m. February 16, 2021, to be included in the public record.

COUNCIL DINNER & INFORMAL DISCUSSION

INVOCATION - The Reverend Theron Walker, Emmaus Anglican Church

CALL TO ORDER / ROLL CALL

Council Johnson attended remotely.

Present: 7 - Mayor Gray, Mayor Pro Tem Bracken, Councilmember Hollingshead, Councilmember Cavey, Councilmember LaFleur, Councilmember Johnson, Councilmember Dietz

PLEDGE OF ALLEGIANCE

COUNCIL COMMENTS

Councilmember Cavey reported that she has been in on the Tri County Health calls and the last two weeks they have asked what the criteria is to fully re-open, and that no one has that answer. She stated it was disappointing that we are still in this position after almost a year into these lockdowns that started with two weeks to flatten the curve. She feels we need to move away from Tri County.

Councilmember Johnson stated a constituent brought up rank choice voting for the 2022 Mayoral race to previous Council. Council decided not to pursue it at that time. Johnson asked to place it on a future agenda for public presentation and discussion for March 2. Councilmember Cavey asked for an explanation.

David Corliss, Town Manager, stated that rank choice voting allows voters to rank their choices - 1,2,3, etc.. The winner of the seat would be the one with the highest ranking. It would require a vote of the people to change our Charter to allow that provision. A few municipalities in Colorado have it. Councilmember Johnson stated she was informed that Boulder used it in their last election, and there is a group that would be willing to give a presentation on it. Mayor Gray stated he has only had one inquiry. Councilmember Hollingshead said we are just getting used to the Mayor-at-large position and recommends holding off. Mayor Pro Tem Bracken feels it may be confusing to voters and not sure if there is a need for it.

No consensus from Council to move forward.

Councilmember Dietz stated that Council is responsible to take action in response to residents and business owners who shared their concerns at the November 24 meeting. He does not want them to be unheard regarding restrictions imposed by Tri County. Businesses are the Town's lifeline and are responsible for sales tax that support our Town. The current structure with Tri County does not allow us a say. We are left without power. Dietz proposes to start a County Health department. He believes Commissioners have the ability to create a plan and move forward before we have to commit to another payment to them, and asked if it will take another crisis before we work for change. He added that we have had significant growth since we joined Tri County. Their sole purpose is to serve our County.

Mayor Pro Tem Bracken commended the media department on the video that came out regarding the year end summary. Corliss stated the Community Relations department created that video.

Mayor Gray welcomed back Trish Muller, Director of Finance, following her surgery.

[APPT](#)
[2021-001](#)

Appointment: Historic Preservation Board

Moved by Councilmember LaFleur, seconded by Councilmember Johnson, that Appointment be Approved as presented. The motion passed by the following vote:

Yes: 7 - Gray, Bracken, Hollingshead, Cavey, LaFleur, Johnson, Dietz

UNSCHEDULED PUBLIC APPEARANCES

Mayor Gray read the criteria for public comment and that emails received by Town Council were inserted into the packet.

Public that addressed Council:

Ann Marie Englehard - resident, spoke regarding the discussion on the Design Review Board and appreciated the discussion.

Craig Miller - resident, spoke regarding the rezoning of the commercial site to a residential site in the Promenade area. He was pleased with the master plan and is concerned with eliminating the potential commercial site and the impact on the

tax base as well as concern with water. He requests Council deny the item.

TOWN MANAGER'S REPORT

David Corliss, Town Manager, reminded Council of the study session on February 23 regarding Finance, the Capital Improvement Plan for transportation projects, and long-term funding needs for Police and Fire.

[ID 2021-013](#)

Water Issues Update including Update on Renewal of a Professional Services Agreement with CDM Smith, Inc. for On-Call Water Quality Consulting Services

Mark Marlowe, Director of Castle Rock Water, updated Council on their philosophy on water quality. They do a lot of testing and provide that information in their annual water quality report that is available on the website. He noted that they have won a number of awards. They brought in an international expert to help ensure we meet water quality standards.

Marlowe stated we are moving away from non-renewal ground water, but we will be relying on it for a while. They will file a motion to the hearing officer to ask them to open the hearing up to other parties/water providers. Marlowe announced that they started using reuse water last week.

Councilmember Cavey added that this is a big deal and we are one of three in the country that is this sophisticated.

David Corliss, Town Manager, stated we are fortunate to have this level of water treatment and to have Mark and his team's leadership to get us there.

[ID 2021-014](#)

Update on Pavement Maintenance Program

Dan Sailer, Director of Public Works, provided an overview of the Pavement Maintenance Program. The Transportation Capital fund predominately is funded from impact fees to add new infrastructure and cannot be used for operations and maintenance. The Transportation Fund is predominately from sales tax for operations and maintenance. They can transfer revenue from the Transportation Fund into the Transportation Capital Fund. Their funding challenge is for new infrastructure vs. maintenance of existing and new infrastructure. They currently have 710 lane miles that equates to about \$16,200 per lane mile. Their Pavement Maintenance Program approach depends on the lifespan of the roads.

Councilmember Cavey confirmed they are not talking about using lower quality material. Sailer agreed and that they are just addressing maintenance at the right time before costs are increased.

Councilmember Johnson asked if there is a lifespan difference between a sloped surface vs. a flat surface. Sailer clarified if it is based on the grade. There is a not a huge difference related to the lifespan of the pavement, and that the amount of heavy truck traffic and proper drainage are more of an impact on the lifespan. Johnson referenced construction trucks weigh considerably more and impact the lifespan of our roads. Sailer stated when they design the thickness of pavement, they take that into consideration.

Councilmember Deitz noted some of the roads have noticeable indentations and assume they will address as needed.

Mayor Pro Tem Bracken referenced an issue they had west of Butterfield last summer. Sailer stated each service contract has warranty work included.

Corliss noted that the service contracts are on the Consent Calendar at the next meeting unless Council wants them to be individual under Public Hearing. Council may choose to pull any of them off of Consent for further discussion.

Consensus of Council to keep the service contracts on the Consent Calendar.

[ID 2021-015](#) **Update: Monthly Department Reports**

[ID 2021-016](#) **2020 Service Contract Year-end Reports**

[ID 2021-017](#) **Development Services Project Updates**

Tara Vargish, Director of Development Services, provided an update on pending development. She showed a map of parcels that are not yet developed.

Mayor Gray extended his appreciation for this information.

[ID 2021-018](#) **Pending Development Property Update**

[ID 2021-019](#) **Update: Quasi-Judicial Projects**

TOWN ATTORNEY'S REPORT

No report.

ACCEPTANCE OF AGENDA

Discussion about removing Resolution 2021-011 from the agenda:

Councilmember Dietz stated some of the things that could be done are simply supporting our Commissioners. There is nothing to cause any stir, so asks why we wouldn't want to do that. It appears that this is all about the fear of the press. This resolution has already been discussed and was brought up January 19. He asked Mayor Pro Tem Bracken why he changed his position because in the past he was against Tri County. We have nothing in common with Adams and Arapahoe County. Dietz said the resolution is supporting our Commissioners and feels we should go forward.

Councilmember Cavey conveyed that she talked to Commissioner Teal and is not afraid of the press. This was out there in July/August last year. Tri County came out and addressed this, that we were moving with the Commissioners and doesn't understand why we wouldn't make a statement to support our Commissioners. She feels we owe it to our constituents to do what we said we were going to.

Councilmember Dietz stated it helps protect Douglas County control to have a board of elected officials and at a time of crisis, it is important to have a board that knows our county where we become stakeholders. We are accountable to our citizens and support our Commissioners. This is an issue that affects us as a voting republic. He disagrees with removing this resolution.

Mayor Pro Tem Bracken questions whether we table a resolution at this time or not. We should support our Commissioners at the right time. It is a question of timing. To approve a resolution now when Commissioners aren't prepared may have repercussions. We can't afford to do it on our own, but we should approve a resolution when it has the best impact when the Commissioners have a plan.

Councilmember LaFleur agrees with Dietz, but wants to be able to do it the right way.

Councilmember Cavey conveyed that Commissioners stated last year that this was the direction they were going. She is asking why they are not prepared and why hasn't there been some forward motion. Her concern is if we continue to wait, it will get pushed out and maybe not happen. We are doing this because we support moving away from Tri County.

Mayor Gray stated the Commissioners don't want the support right now and we should wait until they ask for the support.

Councilmember Dietz stated we support the Commissioners for a County Health department and we are only stating we support them and want to get it done.

Councilmember Johnson asked what we need to do at this point.

Moved by Councilmember LaFleur, seconded by Mayor Pro Tem Bracken, to Accept the Agenda with the exception of Removing Item 10, Resolution 2021-011. The motion passed by the following vote:

Yes: 4 - Gray, Bracken, Hollingshead, LaFleur

No: 3 - Cavey, Johnson, Dietz

CONSENT CALENDAR

[MIN 2021-004](#) **Minutes: February 2, 2021 Town Council Meeting**

Moved by LaFleur, seconded by Councilmember Johnson to approve the Consent Calendar as read. The motion passed by a vote of:

Yes: 7 - Gray, Bracken, Hollingshead, Cavey, LaFleur, Johnson, Dietz

ADVERTISED PUBLIC HEARINGS & DISCUSSION ACTION ITEMS

[RES 2021-011](#) **Resolution Supporting the Public Health Services Review by Douglas County and Continuing the Partnership with the Town of Castle Rock on Matters of Mutual Interest and Concern**

Removed from the agenda.

QUASI JUDICIAL HEARINGS

Mayor Gray read the quasi judicial script. No Councilmember voiced any conflict of interest. Lisa Anderson, Town Clerk, confirmed that the items were properly noticed.

[RES 2021-012](#)

Resolution Approving a Site Development Plan for Lot 1, Heckendorf Ranch, Filing No. 2, Amendment No. 3 (Canvas at Castle Rock Townhomes) [Northerly intersection of Crystal Valley Parkway and Plum Creek Blvd.]

Tara Vargish, Director of Development Services, presented the site development proposal. It was originally annexed and zoned in 1984 and rezoned in 2016. The SDP was approved in 2018 for 155 multifamily units. The proposed SDP is for 102 townhomes only. Single family units are not allowed in the zoning on this property. The building height is below the allowed height. There are parking spaces and garages, a clubhouse, pool amenities and retaining walls adjacent to the fire department. There will be a full movement access off of Plum Creek and a southern emergency access. The dissimilar buffering requirement of 50 feet is far exceeded, and they will additionally have landscape buffering that is not required. The residential/non-residential interface has also been exceeded as well as a retaining wall along with a park setting. Staff has determined that they have met the Town code, objectives of the vision and comprehensive master plan, the PD zoning, and the SDP criteria. The Planning Commission recommends approval.

Councilmember Cavey confirmed that they must comply with providing a certain percentage of open space.

Councilmember Johnson referenced the 100 year flood plain and asked if staff could speak to that and who would be doing that work. Vargish stated the developer is responsible for bank stabilization and an access road for the Town to the channel. They will be installing riff raff in the two areas in addition to some existing riff raff work. Staff has reviewed and determined it does comply with bank stabilization in this area.

The applicant stated they wanted to create a thoughtful community sensitive to surrounding areas, and designed it to look like single family homes with garages in the back, no maintenance or lawn care, and professionally managed and maintained.

Councilmember Johnson asked about the for rent townhome philosophy. The applicant stated people choose the convenience of having all the benefits of single family townhomes without the upkeep, and it is a good alternative for people that are downsizing.

The applicant stated they are a renter by choice, with an average age of 34 years old. They want to enjoy the outside activity without the responsibility of ownership.

Councilmember Johnson was concerned that there is one entrance into the

development, but could live with it given that it is next to the fire department.

Mayor Pro Tem Bracken asked what the average size of a unit is and the price. The applicant stated they are 750-1800 square feet with studios up to three bedroom units. Prices range from \$1,800 to \$3,400 per month.

Councilmember Cavey confirmed that they are rentals not to be purchased.

Councilmember Dietz confirmed that the ownership is maintained by Watermark Properties.

No public comment.

Mayor Gray stated he liked it when developers exceed requirements.

Moved by Councilmember LaFleur, seconded by Councilmember Dietz, that Quasi-Judicial Resolution 2021-012 be Approved as presented. The motion passed by the following vote:

Yes: 6 - Gray, Bracken, Hollingshead, LaFleur, Johnson, Dietz

No: 1 - Cavey

[ORD 2021-004](#) Ordinance Amending The Town Of Castle Rock's Zone District Map by Approving The Promenade At Castle Rock Planned Development Plan Amendment No. 1; Approving The Amended Promenade At Castle Rock Planned Development Zoning Regulations; And Approving The Promenade At Castle Rock Block 3A Development Agreement (First Reading) *[Between Promenade Parkway and Castlegate Drive West]*

Tara Vargish, Director of Development Services, provided an overview and that it was originally annexed and zoned in 1987. It was rezoned in 2015 for 100% business commercial uses. They are seeking to rezone the property to permit up to 300 units of multi-family residential, open space, and the remaining area will be business/commercial use. There will be a 43 acre public land dedication. They plan to have a sit down restaurant or 10,000 square feet of commercial within four years. Staff has determined they meet all of the requirements and criteria. The Planning Commission recommends approval of the PDP amendment and staff recommends approval of the development agreement.

Councilmember Johnson noted that Article 3.01 of the development agreement notes they can propose to build additional residential units. Vargish stated planning area 3 would only allow up to 300 units unless they come to Council for an additional change. The other 360 units in the master plan area have already been constructed.

Mayor Gray confirmed that the Planning Commission vote was 7-0 and the 43 acres dedicated to the Town is contingent on approval of this item. Vargish confirmed that it would be an obligation of the development agreement.

Councilmember Cavey asked how many stories the buildings are. Vargish replied

that a 60 foot height is allowed in multi-family and that most will be under that. The lot slants to the south. The next step would be a Site Development Plan brought to Council. Cavey asked about the size of the park. Vargish replied that it is 1/2 acre and must be complete before a Certificate of Occupancy could be issued. Cavey confirmed the business uses would be on the south end.

Councilmember Johnson asked the difference in water usage of commercial buildings vs. residential uses. Mark Marlowe, Director of Castle Rock Water, stated multi-family will use more water, however we are getting additional water use for the property the will be dedicated on the other side of the highway and the Promenade has used a lot less water than was expected. Johnson asked what water rights are we getting. Marlowe replied that what is under the 43 acres is roughly an acre foot per acre.

Don Provost, applicant from Alberta Development Partners spoke. The 43 acres on the east side of I-25 will be dedicated to the Town for open space. Provost provided a presentation showing the view shed, perimeter landscape plans, and Commons Park.

Councilmember Johnson stated originally this was zoned for commercial, and the Town was counting on that for revenue and asked what are the uses for the remaining property. Provost stated requirements for everything on the south 5 acres stays the same. Vargish stated zoning for parking still must meet requirements. The SDP will be processed separately if this moves forward. Johnson inquired about La Loma's concerns over their view being blocked. Vargish stated La Loma is still not satisfied with this plan and they have passed that on to the applicant. The applicant has sent emails with possible options but they have not heard back. They showed a mock up of the view which still has visibility of the Rock and the western mountain range.

Public that addressed Council:

Les Lilly, resident north of Castle Rock and is with Happy Canyon HOA, stated they met last week and he attended the Planning Commission meeting. Their board has no position on this. Their concern is the 43 acres on the east side of I-25. They are interested in the egress from Happy Canyon and Silver Heights. They asked to grant the easement from Douglas County to this parcel and not allow for any commercial uses. They have been trying to get it put into open space and would like the easement taken care of.

Ann Marie, resident, appreciates the thought they put into this. Castle Rock is a bedroom community with 80% commuting to Denver to work. There is less opportunity to develop more jobs and businesses when we put in more residential. She doesn't want it to become a precedence.

Councilmember Cavey stated there will be 600-1,000 cars in that area and it will have an impact if there is only one way in and out across from Sam's and the In and Out on corner. The park dedicated for 1/2 acre is lean. If tax revenue is king, we are losing a lot of land to put commercial buildings on it and it causes issues with water.

Councilmember Dietz confirmed that the 43 acres will be given to the Town. Corliss stated it will be dedicated to the Town and they will annex the portion not currently in the Town and remove the building. Expenses will be shared with the developer and it will be rezoned to PL2, the most passive zoning. The County will have an emergency access lane. There will be trails on the property at some point if they connect. This will take that property out of the potential market for future use which would have impacted our worst intersection of Founders and Allen.

A motion was made and then there was further discussion.

Councilmember Johnson stated the building is on county property right now, and why aren't we getting them to help pay for removing it. Corliss stated the property has been in the County with a constant issue with graffiti. They received estimates for costs of removal at about \$200k. They will split the cost for removal with the applicant and will do it while it is still in the unincorporated area. This will benefit us by putting in a fire access road, as some property is in the Fire protection district. Johnson confirmed that Alberta is the current property owner.

Mayor Pro Tem Bracken stated the 10,000 sq ft restaurant is a smart way for that area to infill and support the residents in the area. He asked what happens to their deposit if they don't put a restaurant in there. Corliss stated that it would come back to the Town in the general fund. Corliss stated commercial property goes from \$50-\$100k per acre so there is value to that 43 acres they will dedicate to the Town.

Councilmember Hollingshead stated something will go in there, and it is important to get it developed, and that multi-family is needed.

Mayor Gray stated that whenever we can get land, we should get land. Everyone wants open space and trails, and 43 acres with an emergency vehicle access, water dedication and open space in general is a big deal. He believes the traffic engineers will do a good job. Retail is starting to dry up, and people that live there are going to shop there and maybe work there.

Councilmember LaFleur asked if we should be worried about sales tax revenue. Corliss stated Town-wide we are performing well. We exceeded the 4% projection in 2020 and continue to perform well. He noted that 60% of retail shoppers are outside of Castle Rock as we are a regional sales tax destination.

Councilmember Johnson stated this is a hard one because our community wants more open space. She does not like the traffic impact but does like adding open space.

Councilmember Cavey agrees with Johnson. Many constituents do not support the rezoning, but she is a huge proponent of open space.

Moved by Councilmember LaFleur, seconded by Councilmember Hollingshead, that Quasi-Judicial Ordinance 2021-004 be Approved on First Reading as presented. The motion passed by the following vote:

Yes: 7 - Gray, Bracken, Hollingshead, Cavey, LaFleur, Johnson, Dietz

ADVERTISED PUBLIC HEARINGS & DISCUSSION ACTION ITEMS - CONTINUED

Mayor Gray read the criteria for public hearings.

[ORD 2021-005](#) **Ordinance Approving the Second Amended and Restated Public Finance Agreement By and Among the Town of Castle Rock, Promenade Castle Rock, LLC, and The Promenade at Castle Rock Metropolitan Districts Nos. 1-3, Concerning the Development of Promenade at Castle Rock (First Reading)**

David Corliss, Town Manager, presented information on Ordinance 2021-005 and 2021-006 together and gave an overview of the current public finance agreement. As part of the amendments, we would be done sharing any fees (credit PIF) with the developer and it restates the entire public finance agreement. The next item lowers the amount we share with them.

The increase in sales tax has helped pay for the new fire station and public safety. Some also goes to the pavement maintenance fund and some to the recreation center fund.

Councilmember Cavey asked if we are talking about the entire Promenade or just this project. Corliss stated we currently have sales tax sharing on most of that area. Cavey asked if that would also fall into this public finance agreement. This amendment would share a reduced amount of sales tax with future development.

Mayor Pro Tem Bracken confirmed that this area is within the Promenade Metro District.

Moved by Councilmember Johnson, seconded by Councilmember Dietz, to Extend the meeting to 10pm. The motion passed by the following vote:

Yes: 7 - Gray, Bracken, Hollingshead, Cavey, LaFleur, Johnson, Dietz

Councilmember Johnson referenced Exhibit 1 and asked if staff could explain what that means.

Mike Hyman, Town Attorney, stated it is just a pace of development section.

Councilmember Johnson noted that the outlet retailer restriction ends in 2024. and that it will not be recorded with the Douglas County Recorder. Corliss stated the original agreement in 2014/2015 with the development, the Town was concerned this development would be an inducement incentive for other retailers to relocate to this location. There was a restriction that this development could not take existing retailers from the Outlet Mall for 10 years. That was part of the negotiation at that time. Our focus on reopening this agreement was the credit PIF and fee rebate. We didn't otherwise change the structure of the deal. He said Provost said there is another 400,000 square feet of potential development. Johnson also questioned why it won't be recorded. Hyman stated typically an agreement is not recorded. There are aspects of the deal that would be recorded and is provided in Section 3.4.

No public comment.

Moved by Mayor Pro Tem Bracken, seconded by Councilmember LaFleur, to Approve Ordinance 2021-005 as presented on First Reading. The motion passed by the following vote:

Yes: 7 - Gray, Bracken, Hollingshead, Cavey, LaFleur, Johnson, Dietz

[ORD 2021-006](#) **Ordinance of the Town of Castle Rock, Colorado, Amending Section 3.04.150 of the Castle Rock Municipal Code By Reducing The Sales Tax Credit Against Certain Public Improvement Fees Paid At The Promenade At Castle Rock (First Reading)**

Moved by Mayor Pro Tem Bracken, seconded by Councilmember LaFleur, that Ordinance 2021-006 be Approved on First Reading as presented. The motion passed by the following vote:

Yes: 7 - Gray, Bracken, Hollingshead, Cavey, LaFleur, Johnson, Dietz

ADDITIONAL UNSCHEDULED PUBLIC APPEARANCES

No public comment.

ADJOURN

Moved by Councilmember LaFleur, seconded by Councilmember Johnson, to Adjourn the meeting. The motion passed by the following vote:

Yes: 7 - Gray, Bracken, Hollingshead, Cavey, LaFleur, Johnson, Dietz

Meeting Adjourned at 9:37 pm.

Submitted by:

Lisa Anderson, Town Clerk