

MINUTES
CITY AND COUNTY OF BROOMFIELD COUNCIL MEETING

JULY 26, 2005

ROLL CALL

The Regular Meeting of the Broomfield City Council was called to order by Mayor Karen Stuart at 6:20 p.m., Tuesday, July 26, 2005, in the Council Chambers of the Municipal Building.

Those present were: Councilmembers Randy Ahrens
Vincent Buzek
Lori Cox
Clark Griep
Ralph Johnson
Steve Kaverman
Walt Spader

Those absent were: Councilmembers Gary Brosz
Bette Erickson
Linda Reynolds

Also present were: City and County Manager George Di Ciero
Deputy City and County Manager Charles Ozaki
City and County Attorney William Tuthill
City Clerk Administrative Technician II Judy Keiser
Various Department Staff Members

PETITIONS AND COMMUNICATIONS

(a) Presentation Regarding FISH Activities

Shirley McGuinness, President of FISH, and representatives from other non-profit organizations sharing office space with FISH, presented information on Broomfield's local emergency services and food bank organization and responded to Council questions.

On behalf of the City Council and the entire Broomfield community, Mayor Stuart thanked FISH and the other organizations represented at the meeting for all they do for Broomfield citizens who happen to find themselves in a time of need. Circumstances can change for anyone at anytime, and it's good to know that these services are available in times of crisis.

(b) Update by Xcel Energy Regarding Power Outages

Steve Smith, Community Service Manager with Xcel Energy, was present to update the Council on Xcel's repairs in the Broomfield area due to several recent power outages. He thanked the City for the cooperation of Staff in helping to replace the failed power line, and responded to Council comments.

CITIZENS' COMMENTS

RTD FasTracks Project – Lee Kemp

Lee Kemp (12745 Winona Circle), RTD Board representative for District I, distributed a newsletter to Council regarding progress on FasTracks and requested input from the community regarding this project. He responded to Council comments regarding the equal importance of other services provided by RTD.

Brunner Farmhouse – Status Report – Dianna Wilson

Dianna Wilson (12750 Yates Street) provided an update on progress at the Brunner Farmhouse, noting that the volunteer group has raised \$15,550 to date. Ms. Wilson distributed the new brochures for the Farmhouse to Council.

Senior Housing Project – Anne Crouse

Anne Crouse (53 Carla Way) urged Council to continue efforts to find an alternative site for much-needed senior housing in Broomfield.

CONVENE BOARD OF SOCIAL SERVICES

The meeting of the Board of Social Services was convened by Chairperson Stuart at 7:25 p.m.

Those present were: Members Randy Ahrens
Vincent Buzek
Lori Cox
Clark Griep
Ralph Johnson
Steve Kaverman
Walt Spader

Those absent were: Members Gary Brosz
Bette Erickson
Linda Reynolds

Also present were: City and County Manager George Di Ciero
Deputy City and County Manager Charles Ozaki
City and County Attorney William Tuthill
City Clerk Administrative Technician II Judy Keiser
Various Department Staff Members

(a) Resolution No. 2005-101-BSS Acknowledging Review of Expenditures and Electronic Benefit Transfers for May, 2005

Chairperson Stuart introduced proposed Resolution No. 2005-101-BSS, acknowledging review of expenditures and electronic benefit transfers for the month of May, 2005.

Ellie Gaccetta, Health and Human Services Policy Analyst, confirmed that the higher numbers shown for May are correct, adding that it is difficult to extrapolate a per-person cost due to overlapping services. She advised that Staff is keeping separate records to ensure accurate figures until the ongoing problems with the Colorado Benefits Management System (CBMS) can be resolved.

Resolution No. 2005-101-BSS was read by title.

MEMBER GRIEP MOVED AND MEMBER COX SECONDED, THAT RESOLUTION NO. 2005-101-BSS BE ADOPTED. THE MOTION CARRIED UNANIMOUSLY WITH MEMBERS AHRENS, BUZEK, COX, GRIEP, JOHNSON, KAVERMAN, AND SPADER VOTING AYE.

CONVENE AS BOARD OF HEALTH

There was no business for the Board of Health.

CONVENE AS BROOMFIELD HOUSING AUTHORITY

There was no business for the Broomfield Housing Authority.

COUNCILMEMBER REPORTS

(a) June 2005 Status Report on Rocky Flats Activities

Mayor Stuart advised that Councilmember Brosz had verbally presented the June 2005 status report on Rocky Flats activities at the July 12th meeting. There were no additional questions or comments.

4th of July Raft Race - Kaverman

Councilmember Kaverman presented the second place trophy won by Broomfield at the Northglenn Mayor's Cup raft race on July 4th.

Flatiron Improvement District (FID) – Report – Kaverman

Councilmember Kaverman presented an update on the status of the new ZIP shuttle vehicles, which are expected to begin arriving on September 5, 2005, and the new, more functional routes they will travel. He added that negotiations are underway for a new maintenance and operations facility on Dillon Road, which would allow the ZIP vehicles to be parked indoors. The FID is also considering changes to management staff under the current maintenance contract. Councilmember Kaverman noted that the FID is doing well financially due to an increase of about \$15,000 in year-to-date sales tax collections.

Broomfield Trails Adventure – Report – Ahrens and Buzek

Councilmember Ahrens presented slides and information on the July 23rd Broomfield Trails Adventure. Councilmembers Ahrens and Buzek thanked the sponsors for their generous support and everybody who organized and helped make the event a success.

Assisted Living Residences – Cox and Buzek

Councilmember Cox recommended that the exploration of establishing assisted living residences in the community be re-evaluated because the amount of Staff time being required is a greater involvement than expected. She noted that establishing assisted living residences is not a Council-identified priority for 2005, and since there has been only one request for these services in the community, Councilmember Cox would understand if Council decided this was an unwise use of Staff resources.

Councilmember Buzek advised that he does not think work should proceed on the issue of assisted living residences. He further advised that the City has received a petition with 160 signatures opposing assisted living residences in the Broomfield community.

Metropolitan Area County Commissioners Meeting – Report – Griep

Councilmember Griep reported that the Metropolitan Area County Commissioners will be meeting in Broomfield on July 29th and will focus on the CBMS, water supplies, and conservation issues.

Rocky Flats Clean-Up – Buzek

Councilmember Buzek noted that the Rocky Flats video is now being aired on Channel 8, and complimented Staff Kim Greason, Video Production Specialist, and Councilmembers Cox and Brosz for their efforts.

COUNCIL BUSINESS

(a) Public Hearing - Resolution No. 2005-100 Authorizing the Recommendation of the Broomfield Cultural Council for the Allocation of Scientific and Cultural Facilities District Funds

Mayor Stuart opened for public comment the proposed allocation of Broomfield's Scientific and Cultural Facilities District (SCFD) – Tier III Funds. Broomfield has received a direct allocation of SCFD funds since becoming a county in 2001. Voters approved the reauthorization of SCFD funding last November and, with this recent reauthorization, funding will continue until July, 2018. The SCFD has designated to Broomfield a total of \$142,566 in Tier III funds for 2005, and the Broomfield Cultural Council has submitted its recommendations for Council's consideration regarding distribution of the funds.

Several members of the Cultural Council presented the Committee's 2005 recommendations for the SCFD funds allocation.

Speaking in support of the proposal were: Gene Kucinkas (12179 Applewood Court), SCFD Board member; Dianna Wilson (12750 Yates Street), President of the Art Guild and Co-President of the Broomfield Council on the Arts and Humanities; and Amanda Stewart (Westminster) of Ballet Nouveau.

Resolution No. 2005-100 was read by title.

COUNCILMEMBER BUZEK MOVED AND COUNCILMEMBER AHRENS SECONDED, THAT RESOLUTION NO. 2005-100 BE ADOPTED. THE MOTION CARRIED UNANIMOUSLY WITH COUNCILMEMBERS AHRENS, BUZEK, COX, GRIEP, JOHNSON, KAVERMAN, AND SPADER VOTING AYE.

(b) Resolution No. 2005-104 Approving an Agreement with Clifton Gunderson LLP to Audit the City and County of Broomfield Financial Statements for Fiscal Year 2005

Mayor Stuart introduced a resolution approving the engagement of Clifton Gunderson, LLP as the independent auditor for the City and County of Broomfield for 2005. Last year, the City Council selected Clifton Gunderson as the independent auditor for Broomfield for a term of one year, plus four one-year options. Clifton Gunderson performed the 2004 audit for a cost of \$59,000, and has submitted a proposal to perform the 2005 audit as required by State Statute, and outlined in Chapter 12 of the Broomfield Charter. Resolution No. 2005-104 would authorize an agreement for the engagement of Clifton Gunderson as auditor for 2005 for a total cost of \$60,770, a 3% increase over last year.

City and County Manager Di Ciero and City and County Attorney Tuthill, in response to a request for procedural clarification, advised that the audit can be accepted by resolution if that is what Council chooses to do, but there is no legal requirement to do so.

Resolution No. 2005-104 was read by title.

COUNCILMEMBER SPADER MOVED AND COUNCILMEMBER GRIEP SECONDED, THAT RESOLUTION NO. 2005-104 BE ADOPTED. THE MOTION CARRIED UNANIMOUSLY WITH COUNCILMEMBERS AHRENS, BUZEK, COX, GRIEP, JOHNSON, KAVERMAN, AND SPADER VOTING AYE.

(c) Resolution No. 2005-107 Approving Broomfield's Participation in the Xcel Energy Quality of Service Plan PUC Proceeding

Mayor Stuart introduced consideration of a resolution concerning Broomfield's participation in a Quality of Service Plan hearing regarding Xcel Energy, scheduled before the Public Utilities Commission. The purpose of the hearing is for Xcel to provide information to the PUC about how it will address service issues in 2006. In addition, this hearing provides municipalities with a venue for voicing concerns regarding service issues. The PUC will either require Xcel to address and correct the service issues or find that these issues may be addressed in franchise agreements. Broomfield's current franchise agreement with Xcel Energy expires in 2007.

City and County Manager Di Ciero summarized the Staff report for this Agenda item, noting that area cities are joining efforts in a planned participation in the PUC proceeding and have been working with the law firm of Kissinger & Fellman, P.C. to represent them at the proceeding. There may not be another Quality of Service docket until 2008, so it is important to take advantage of this opportunity to address service issues and to give both Xcel and municipalities some direction.

City and County Attorney Tuthill advised that joint participation by municipalities allows strength in numbers as well as the most cost effective method of addressing service issues.

Council questions and comments included: 1) Is there a conflict of interest in that Mr. Fellman is a legal representative in the Kissinger & Fellman law firm and also the Mayor of Arvada? 2) How wide is the service area? 3) Many municipalities are not listed as participants – will they have individual legal representation at the hearing? 4) How much more would it cost to have individual legal representation to ensure that Broomfield's interests are well represented? 5) Concerns with a consortium – how can a single law firm sort out the differences between municipalities? 6) The law firm needs to file a waiver for conflict of interest; and 7) Nothing would exclude Broomfield from participating at a higher level if needed in the future.

Staff's responses to Council concerns included: 1) The PUC proceeding is not competitive and a conflict is not foreseen; 2) The PUC service area includes most of the Denver Metro area, excluding some rural areas that have their own local electrical utilities; 3) The list of participants is not complete, but Staff will try to find out why some municipalities are not participating; 4) Specialized expertise in PUC matters would be required by anybody providing individual legal representation to Broomfield and the cost would be considerably higher than the estimated cost of 10 cents per capita for joint representation; 5) A proposal must be made and presented to the PUC, which will cover broader service issues in which municipalities do have a common interest; and 6) Broomfield could obtain individual legal representation if necessary.

Resolution No. 2005-107 was read by title.

COUNCILMEMBER KAVERMAN MOVED AND COUNCILMEMBER SPADER SECONDED, THAT RESOLUTION NO. 2005-107 BE ADOPTED.

ROLL CALL ON MOTION:

THOSE VOTING AYE WERE: COUNCILMEMBERS COX, GRIEP, JOHNSON, KAVERMAN, AND SPADER

THOSE VOTING NO WERE: COUNCILMEMBERS AHRENS AND BUZEK

THE MOTION PASSED ON A VOTE OF 5 TO 2.

- (d) Ordinance No. 1814 Rezoning Certain Land Within the City and County of Broomfield from Boulder County Agricultural to City and County of Broomfield Estate-2 (E-2) Which Land is Approximately Located at the Northeast Corner of Aspen Street and West 136th Avenue - Markel Property - First Reading

Mayor Stuart introduced an application for rezoning of six acres of property owned by the Markel Family Partnership, located at the northeast corner of Aspen Street and West 136th Avenue. The property is currently zoned Boulder County Agricultural. This application is part of a possible overall plan for the Markel property that includes six new lots for single-family homes on the six acres proposed for rezoning, and the possible purchase of the remaining 32.45 acres for Broomfield open space. The Applicant proposes to rezone the subject portion of the property to the Broomfield Estate-2 Zone District, so that the property may be divided into six lots. A separate discussion will be scheduled for the Council to discuss the acquisition of the open space.

City and County Manager Di Ciero summarized the Staff report for this Agenda item, advising that the Land Use Review Commission voted unanimously on July 25, 2005 to recommend approval of the proposed rezoning.

Council questions and comments included: 1) Plans for the rest of the property need to be clarified by the August 9th public hearing on rezoning; and 2) Neighborhood concerns regarding traffic issues, including a right-turn lane.

Staff responses to Council concerns included: 1) LURC has reviewed the proposed preliminary and final plat, which will be presented as resolutions for Council's approval on August 9th; and 2) The right-of-way is addressed in the Final Plat by rezoning this property to E-2.

Ordinance No. 1814 was read by title.

COUNCILMEMBER AHRENS MOVED AND COUNCILMEMBER GRIEP SECONDED, THAT ORDINANCE NO. 1814 BE ADOPTED ON FIRST READING AND ORDERED PUBLISHED IN FULL; THAT A PUBLIC HEARING ON SAID ORDINANCE BE SCHEDULED FOR 6:00 P.M., AUGUST 9, 2005, IN THE COUNCIL CHAMBERS AT THE MUNICIPAL BUILDING; AND THAT SECOND AND FINAL READING ON SAID ORDINANCE BE SCHEDULED FOR AUGUST 9, 2005, FOLLOWING THE PUBLIC HEARING. THE MOTION CARRIED UNANIMOUSLY WITH COUNCILMEMBERS AHRENS, BUZEK, COX, GRIEP, JOHNSON, KAVERMAN, AND SPADER VOTING AYE.

(e) Request for Executive Session Regarding the Potential Purchase of the 33 Acres at West 136th Avenue & Aspen Street for Public Open Space - Markel Property

Mayor Stuart presented a request for an Executive Session concerning the potential purchase of 33 acres of property, located at West 136th Avenue and Aspen Street, for public open space. Under the provisions of the Colorado Revised Statutes, an affirmative vote of two-thirds of a quorum is required to enter into an Executive Session.

COUNCILMEMBER AHRENS MOVED AND COUNCILMEMBER GRIEP SECONDED, THAT AN EXECUTIVE SESSION BE HELD FOLLOWING THE MEETING SCHEDULED FOR JULY 26, 2005 FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND INSTRUCTING NEGOTIATORS PURSUANT TO SECTION 24-6-402(4)(E) OF THE COLORADO REVISED STATUTES REGARDING NEGOTIATIONS CONCERNING THE POTENTIAL PURCHASE OF THE 33-ACRE PROPERTY AT WEST 136TH AVENUE AND ASPEN STREET, BROOMFIELD, COLORADO. THE MOTION CARRIED UNANIMOUSLY WITH COUNCILMEMBERS AHRENS, BUZEK, COX, GRIEP, JOHNSON, KAVERMAN, AND SPADER VOTING AYE.

(f) Public Hearing - Second Modification to the Service Plan for the Park 36 Metropolitan District (Arista) - Motion to Continue

Mayor Stuart opened the public hearing at 8:40 p.m. regarding a second modification to the Service Plan for the Park 36 Metropolitan District. Staff requested that the public hearing be continued to the August 9, 2005 meeting to allow additional time to work with District representatives.

COUNCILMEMBER SPADER MOVED AND COUNCILMEMBER BUZEK SECONDED, THAT THE PUBLIC HEARING BE CONTINUED UNTIL THE AUGUST 9, 2005 CITY COUNCIL MEETING. THE MOTION CARRIED UNANIMOUSLY WITH COUNCILMEMBERS AHRENS, BUZEK, COX, GRIEP, JOHNSON, KAVERMAN, AND SPADER VOTING AYE.

CONSENT AGENDA

The Consent Agenda items were read by title.

(a) Approval of Minutes - Regular Meeting of July 12, 2005

The recommendation was for approval of the Minutes of the Regular Meeting of July 12, 2005.

(b) Ordinance No. 1789 Vacating a Portion of the Preble Creek Filing No. 2 Right-of-Way - First Reading

The recommendation was that Ordinance No. 1789 be adopted on First Reading and ordered published in full; that a public hearing on said Ordinance be scheduled for 6:00 p.m., August 23, 2005, in the Council Chambers at the Municipal Building; and that Second and Final Reading on said Ordinance be scheduled for August 23, 2005, following the public hearing.

- (c) Resolution No. 2005-99 Approving an Agreement with Motorola, Inc. for Upgrading Communications System - Public Safety Communications

The recommendation was that Resolution No. 2005-99 be adopted.

COUNCILMEMBER AHRENS MOVED AND COUNCILMEMBER BUZEK SECONDED, THAT AGENDA ITEMS 10(A) THROUGH 10(C) BE ADOPTED. THE MOTION CARRIED UNANIMOUSLY WITH COUNCILMEMBERS AHRENS, BUZEK, COX, GRIEP, JOHNSON, KAVERMAN, AND SPADER VOTING AYE.

ATTORNEY'S REPORT

No report was given.

MANAGER'S REPORT

- (a) Progress Report - Council's 2005 Priorities - June 28-July 26, 2005

Councilmember Buzek urged that the Housing Authority position be filled to improve progress on the Housing Authority priority item.

- (b) City & County Manager's Report - July 26, 2005

Council acknowledged Tom Thompson's pending retirement and his many contributions to the City.

City and County Manager Di Ciero requested direction to schedule an Executive Session prior to the regular Council meeting on August 9th. He noted that the annual National Night Out is scheduled on August 2nd, which would be the next regularly scheduled Study Session, but Council has previously requested that no meetings be held so they can attend the National Night Out activities. Council's consensus was to schedule the Executive Session for August 4, 2005.

SPECIAL REPORTS

- (a) Capital Improvement Program (CIP) Monthly Status Update
- (b) Citizen's Assistance Center - Second Quarter Report for 2005
- (c) 2005 Mid-Year Crime Report
- (d) 2006 Budget Calendar Reminder

CONVENE AS BROOMFIELD URBAN RENEWAL AUTHORITY

The meeting of the Broomfield Urban Renewal Authority was convened by Chairperson Stuart at 8:55 p.m.

Those present were: Members Randy Ahrens
Vincent Buzek
Lori Cox
Clark Griep
Ralph Johnson
Steve Kaverman
Walt Spader

Those absent were: Members Gary Brosz
Bette Erickson
Linda Reynolds

Also present were: City and County Manager George Di Ciero
Deputy City and County Manager Charles Ozaki
City and County Attorney William Tuthill
City Clerk Administrative Technician II Judy Keiser
Various Department Staff Members

- (a) Request for Executive Session Regarding Negotiations for Management, Construction and Redevelopment Agreements for the Proposed Events Center, Located in the Broomfield Urban Transit Village Area of Broomfield

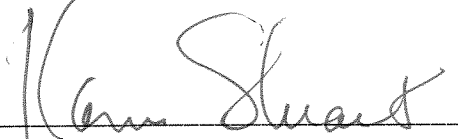
Mayor Stuart advised that Staff had requested an Executive Session to be held, at Council's pleasure, to discuss management, construction, and redevelopment agreements for the proposed Events Center, located in the Broomfield Urban Transit Village near Wadsworth Boulevard and U.S. Highway 36. Under the provisions of the Colorado Revised Statutes, an affirmative vote of two-thirds of a quorum is required to enter into an Executive Session.

MEMBER BUZEK MOVED AND MEMBER COX SECONDED, THAT AN EXECUTIVE SESSION BE HELD AT 6:00 P.M. ON AUGUST 4, 2005 FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS; DEVELOPING STRATEGY FOR NEGOTIATIONS; AND INSTRUCTING NEGOTIATORS PURSUANT TO SECTION 24-6-402(4)(E) OF THE COLORADO REVISED STATUTES REGARDING NEGOTIATIONS CONCERNING THE MANAGEMENT, CONSTRUCTION, AND REDEVELOPMENT AGREEMENTS FOR THE PROPOSED EVENTS CENTER LOCATED IN THE BROOMFIELD URBAN TRANSIT VILLAGE AREA OF BROOMFIELD NEAR WADSWORTH BOULEVARD AND U.S. HIGHWAY 36. THE MOTION CARRIED UNANIMOUSLY WITH MEMBERS AHRENS, BUZEK, COX, GRIEP, JOHNSON, KAVERMAN, AND SPADER VOTING AYE.

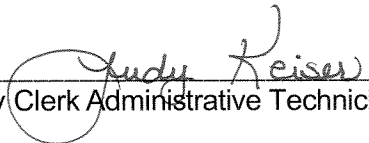
ADJOURNMENT

The City Council meeting was adjourned at 8:58 p.m. to an Executive Session to discuss negotiations concerning the potential purchase of the 33-acre property at West 136th Avenue and Aspen Street (Markel Property).

APPROVED:



Mayor



City Clerk Administrative Technician II