

## Minutes

Board of Trustees – Firestone Town Hall  
151 Grant Avenue, Firestone, CO 80520  
7:00 p.m.

**May 8, 2008**

**Regular Board Meeting**

The Town Board of Trustees of the Town of Firestone met in regular session at Town Hall, 151 Grant Avenue, Firestone, Colorado. Mayor Chad Auer called the meeting to order at 7:00 p.m. Roll call was taken with the following persons present:

<b>Mayor:</b>	<b>Chad Auer</b>
<b>Mayor Pro-tem:</b>	<b>Charlie Thomas</b>
<b>Trustees:</b>	<b>Butch Walb</b>
	<b>Matt Holcomb</b>
	<b>Greg Foster</b>
	<b>Paul Sorensen</b>
	<b>Kelly Morgan</b>

<b>Also present were:</b>	<b>Cheri Andersen, Town Manager</b>
	<b>Wes LaVanchy, Town Administrator</b>
	<b>Judy Hegwood, Town Clerk, CMC</b>
	<b>Sam Light, Town Attorney</b>
	<b>Carl Nelson, Finance Director</b>
	<b>Bruce Nickerson, Town Planner</b>
	<b>Dave Lindsay, Town Engineer</b>
	<b>Pete Ditmon, Public Communications Coordinator</b>
	<b>Theo Abkes, Public Works Director</b>

### **PLEDGE OF ALLEGIANCE**

All rose for Pledge of Allegiance to the flag.

### **APPROVAL OF AGENDA**

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Mayor Auer called for additions, deletions or changes to the agenda. There were no changes to the agenda.

### **APPROVAL OF CONSENT AGENDA**

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- a. Approval of May 2008 Accounts Payable**
  - b. Approval of Minutes – 4/24/08 Regular Meeting**

Trustee Holcomb moved and Trustee Foster seconded, to approve the consent agenda, as submitted. Roll call vote was taken. Motion carried.

### **PRESENTATIONS**

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#### **Scholarship Presentations**

Mayor Auer presented a \$1,000 scholarship to students Alan Lytton for overall performance, Richard Glosse from Safebuilt Colorado, and Sheridan Stevens for career advancement. Mayor Auer presented Mr. Mike McCurdie, President of Safebuilt Colorado, with a plaque for his participation and donation of the \$1,000 scholarship. Mr. Barry Kramer, Mr. Matt Royer, and Mr. Ken Driscoll were acknowledged as Safebuilt employees. Mayor Auer thanked Public Communications Coordinator Pete Ditmon and Town Administrator Wes LaVanchy for their help with the scholarship program.

### **Relay for Life**

Janet Perlick, Events Chair for the Relay for Life program, addressed the Board of Trustees asking them to put a team together for the relay that will be held on June 21st and 22<sup>nd</sup>, 2008, at Hart Park. The event will run for 24 hours and begin at 4:00 p.m. on June 21, 2008 and the goal is to raise \$40,000 for the Cancer Society. Ms. Punlik stated that several companies have already come forward to sponsor a team, which consists of 15 team members, and each member is asked to raise \$100 for the cancer society. Trustee Sorensen asked if a person could be on more than one team and was told that this is permissible. Ms. Perlick asked Mayor Auer to open the Relay for Life event. Mayor Auer accepted by saying he would love to open the event and remarked that this is an excellent event and appreciates all of the work they do. Trustee Foster agreed.

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### **FIRST PARTICIPATION FROM UNSCHEDULED CITIZENS NOT LISTED ON THE AGENDA**

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There was audience participation from the following citizens:

1. Coryl Zukauskas – Water issue/letter
2. Bill Norris – Water issue/letter
3. Jim Johnson – Water issue/letter

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### **EXECUTIVE SESSION**

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Mayor Auer called for a motion to enter into executive session.

Trustee Thomas moved and Trustee Morgan seconded, to enter into executive session for a conference with the town attorney for the purpose of receiving legal advice on specific legal questions related to annexation under C.R.S. Section 24-6-402(4)(b), and for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e). Roll call vote was taken. Motion carried with a vote of 6-Yea; 0-Nay. [7:31 p.m.]

Attorney Sam Light said the purpose of the executive session is to give legal advice for items included on the agenda, the summons that was received from the City of Longmont, the proposed Union annexation, and the PIRA. Sam noted the attendees included in the executive session. Trustee Sorensen recused himself from the executive session and item 8 on the agenda.

The board re-convened from executive session at 9:02 p.m.

Mayor Auer stated that the persons in attendance were Attorney Light, Town Manager Cheri Andersen, Planner Bruce Nickerson, Trustees Walb, Holcomb, Foster, Thomas, Morgan and himself.

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### **PUBLIC HEARINGS**

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#### **UNION ANNEXATION NOS. ONE and TWO – Annexation, Zoning and Outline Development Plan**

Mayor Auer opened the public hearing at 9:03 p.m.

Attorney Sam Light stated that the Union annexation has three items; annexation, zoning and the outline development plan. He suggested that the Board of Trustees open the public hearing and all discussions be on all of these items at one time.

Town Planner Bruce Nickerson showed a Power Point presentation of the project which was entered into the record. Mr. Nickerson went over the outlines and review of the application, and addressed the questions from the Planning Commission meeting that was held on May 7, 2008. This is a serial annexation made up of two annexations located off of SH119 and CR26. The property is flat and developable with an existing railroad running through it and CR3 which is partially paved.

He stated that the Planning Commission has reviewed the zoning and outline development plan, all public noticing was complied with by law and the next step in the process will be the preliminary plat, the final plat, the final development plan and then onto receive a building permit. The property overlaps a small portion of the Town of Mead's planning area with no other entities being affected. The applicant has proposed mixed use development, transportation, drainage, fire protection, police protection, and other special districts.

Town Engineer Dave Lindsay stated that the project has a three phase infrastructure component of water, storm drainage and transportation. He said that CDOT will always maintain SH119; and CR26 and CR 3½ will be realigned to tie into CR5. The drainage has the river and there are several options for the water service, such as connecting north to Longs Peak Water Conservancy District, or south to Left Hand Water Conservancy District. The Master Plan evaluations were completed in the first quarter of 2008 and more detail will be added to the water portion of the plan. Mr. Lindsay stated that the Town of Firestone has the ability to provide water service to this area.

Planner Bruce Nickerson entered a letter dated May 7, 2008 into the record, stating that the letter shows support of the annexation. Planner Nickerson showed the basic road alignment of CR 3 ½ to CR5, the internal trail systems, and the internal collector road. The outline development plan proposes 100 acres for single family dwellings , 85 acres for civic/religious, 51 acres of mixed use residential, 33 acres for single family attached, and 45 acres of attached residential. There will be staggered height use that may extend to 55' internally, and the planning area is strictly the right-of-way. Planner Nickerson showed the Master Plan of the development that was submitted by the applicant stating that this is the Master Plan that has been approved in Weld County and Longmont.

#### Applicant

Ms. Barb Brunk was sworn in by Mayor Auer. Ms. Brunk showed a Power Point of the project which showed the context of the location at SH119 for the Union Annexation. Ms. Brunk stated that this project has been in the process for five years and has been approved for mixed use zoning two times in Weld County and the City of Longmont has also reviewed and approved the project. She said a citizen group circulated a petition and this project was placed on the Longmont Election Ballot and was not approved by voters. The processing of this development has begun in Firestone; now there is a new Council in the City of Longmont that would like this in their town. Ms. Brunk stated that the development is in process with Town of Firestone and they want to be in the Town of Firestone. Ms. Brunk showed how the Firestone urban growth boundary fits in and gave the perimeters of the No. 1 and No. 2 annexations and showed different pieces of the Union annexations, as a mix of land uses to facilitate the project for people to live, work and play, by having both big and small lots. Ms. Brunk showed the multimodal transportation plan and the different corridors; a building diagram of each neighborhood was shown, showing the building detail and the ability to add more stories later on; she went through the Illustrative Master Plan of the different zones and stated that the architecture is from a national chain.

Mr. Dave Williams was sworn in by Mayor Auer. Mr. Williams stated that he was committed to the vision of this project saying that this is a walkable mixed use center with a church, mixed housing senior care, potential uses in the civic/religious area, a mixed use village center as a place that is compact and walkable, a recreation center, office uses, mixed residential district with medical offices, support services, single family and an attached district with a green buffer adjacent to the area. The houses in this area will be the same size as the existing homes surrounding the area, there will be cottages and duplexes having an antiquated mix, a single family district and a mix of lot sizes in the outline development plan.

#### Public Comment

There was public comment from the following citizens:

George Heath was sworn in by Mayor Auer. Mr. Heath asked how much the infrastructure will cost, how long the development will take, how much is taxable and has a return to Firestone; will all of the infrastructure go in first, how long before the revenue for the church property is exempt. Mr. Heath commented that these are questions he has and he is not opposed to the annexation.

Jesse Adams was sworn in by Mayor Auer. Mr. Adams stated that he is strongly in favor of this annexation; for the potential growth and commented that Lifebridge Church has brought a lot of good to the City of Longmont through their volunteerism, and the quality of life will be a big asset for Firestone.

Kay Fissinger was sworn in by Mayor Auer. Ms. Fissinger stated that there will be no taxes for Firestone from the religious portion and if Lifebridge cannot provide Firestone with all of the church paperwork the Board needs to deny the annexation and said that if annexed L.U.P.A. will be in use. Ms. Fissinger said she is only opposed to this annexation due to the disturbance of the Bald Eagles that are located on this property.

Steve Scherneck was sworn in by Mayor Auer. Mr. Scherneck concurred with the approval of this annexation, stating that timing is everything and he feels this annexation is in line with the Firestone Master Plan. Mr. Scherneck commented "why have a Master Plan if you are not going to use it".

Duane Leise was sworn in by Mayor Auer. Mr. Leise stated that two water districts cannot brokerage a town and this is not a typical annexation. He told the Trustees that they are responsible to the citizens and asked if they have looked at this annexation enough to make a fiscal decision. Mr. Leise thanked the Board of Trustees for their time.

Clay Douglas addressed the Board of Trustees. Mr. Clay Douglas, the attorney for the City of Longmont, gave copies of the May 8, 2008 letter to Attorney Sam Light and the Summons that was filed from Longmont to Firestone on May 7, 2008. Attorney Douglas asked that the letters be entered into the record. He referenced CRS 31-12-114, stating that if a city overlaps another entities boundary, under the statutes; the proceedings need to be held in abeyance. Attorney Douglas asked the Board not to adopt the ordinance or resolution until an election occurs and until the property owners decide where they want this project to be located.

Mary Ryan was sworn in by Mayor Auer. Ms. Ryan stated that traffic issues should be considered as it impacts the residents that are already in the Town of Firestone and asked the Board of Trustees to look at how the water and services will be kept up in the older parts of Firestone.

Mayor Auer closed and reopened the public hearing at 10:25 p.m.

Ms. Brunk introduced Attorney Munsey Ayres to the Board of Trustees as the attorney working on this project. Attorney Ayres addressed the Board of Trustees stating that he has not seen the letters from Longmont and that Longmont should not interfere with this annexation since they have de-annexed hundreds of acres of open space so they could re-annex this property and they should not interfere with Firestone's Master Plan. Mr. Ayres said he has submitted a letter to Attorney Sam Light and went over the points of the letter. One, Longmont submitted to themselves the construction and gave three conditions that needed to be met. The Petition, the Municipal Land and Public Streets. Longmont has no Petition and in Longmont's code they do not meet the conditions mentioned, they are not compliant with their own town codes, and have not complied with Section 114 at all.

#### Applicant Rebuttal

Ms. Barb Brunk said regarding the Bald Eagles at Union Reservoir, an assessment was completed that showed that this project would have no impact on the wildlife located there; the road would be moved away from the reservoir and, if anything, would help any negative impact on wildlife. Ms. Brunk stated that regarding tax exemption, everything is in their best interest and could be taxable; the church needs a larger area and that is the reason it is on such a large acreage. She commented that no-one gets a free way in Firestone, we pay our own way in Firestone, and we bring our own water and resources to the table and do not have any negative impacts on the Town of Firestone. Ms. Brunk stated that the phasing will be completed over a number of years.

Mr. Ayres explained L.U.P.A. stating that this is a religious land use act, saying a Statute was passed by congress, and it is the reflection and codification with respect to land use and churches. It is a Law.

Attorney Sam Light stated that the documents on record are the May 8, 2008 letter from Douglas, the May 8, 2008 letter through Attorney Sam Light's office for the Longmont Petition, the May 1, 2008 Staff letter from Weld County, the Weld County letter to Longmont Mayor Roger Lange regarding CR26 and CR5, the communication between Mayer Chad Auer and Mayor Roger Lange in a letter dated April 28, 2008, and a May 7, 2008 letter from Mayor Chad Auer to Mayor Roger Lange.

In a closing statement, Planner Bruce Nickerson stated that this is a step process by definition and the outline development plan does not obligate annexation. The Staff's recommendation through the Planning Commission is for approval of the annexation. Ms. Barb Brunk has stated that development is paying their own way and the infrastructure for the development is funded by the developer. Planner Nickerson stated that the medical care facility was not included in the analysis, although this could create sales tax, he did not use this in his calculations. Planner Nickerson said that due to timing and phasing, if annexed, and the property sits and there is no development and nothing happens, the town would still generate Highway Use Tax (H.U.T.)

Engineer Dave Lindsay estimated the H.U.T. would be approximately \$4,200 per mile in revenue to the town.

Board Comment [11:00 p.m.]

Trustee Holcomb disclosed that he had attended Lifebridge Church in the past, and has not attended in the last four years.

Trustee Holcomb asked Attorney Sam Light if it makes a difference, for annexation, if it is a church rather than a private owner, and asked about L.U.P.A. Attorney Light said that as a Statutory Town the annexation will mirror the State rules and L.U.P.A. is a rule that is applicable for a church or religious land use.

Trustee Thomas asked if approved, when the start date would be and Trustee Foster asked what is the actual civic/religious portion. Ms. Brunk answered that the civic is zoned R-3 and she does not know the start date. Trustee Thomas asked if other pieces of the development would be marketed to developers. Planner Nickerson said that they have presented a compliance plat to use as a joint venture for other purchases. Trustee Thomas asked if a coffee shop would come in, would Firestone give out a building permit. Planner Nickerson said "Yes, and a Business License". Ms. Brunk stated that if you do business, you pay taxes. Manager Cheri Andersen commented that the County Assessor has said that the taxes are based on the business you are doing, and that religious properties and churches have to go through certain processes for tax exemption.

Trustee Holcomb asked about phasing and Ms. Brunk stated that it depends on several things, what comes in first; or it could be two or three things happening at on time.

Attorney Clay Douglas requested to address the Board of Trustees. Mayor Auer asked the Board if they wished to hear from Attorney Clay Douglas and they all agreed.

Attorney Douglas stated that the City of Longmont has published for all three phases for the Union Annexation, and the Staff will recommend to the Longmont City Council, to stand down and hold off on the public hearings for the Union Annexation. Mayor Auer asked if the Union Annexation was on Longmont's Agenda and Attorney Douglas said "Yes, it is on Longmont's Draft Agenda for Tuesday, May 13, 2008".

Trustee Holcomb stated that he has noticed there is not a lot of detail about payment and asked how an applicant knows what to pay for. Engineer Dave Lindsay stated that at Final Plat the development plans have to state all services and state what the developer needs to bring to the town. He said the Town uses a Subdivision Agreement as a contract that very clearly explains what is provided to Firestone, and said that water is looked at before the process begins. Engineer Lindsay stated that the town uses impact fees for streets and roads and the developer pays for whatever portion they will be impacting; and the capital impact fee used for water is calculated through the water rates. Trustee Holcomb asked Ms. Brunk why they did not do a referendum to stay in Longmont. Ms. Brunk said there was a January Election and the Longmont City Council did not want this in Longmont. It was Longmont's attitude.

Trustee Morgan asked if the Lifebridge Church in Longmont had to be sold before the Lifebridge Church is built in Firestone, and commented that there is no room in the Union Master Plan for future development of schools. Ms. Brunk said the Lifebridge Church in Longmont does need to be sold before building in Firestone, although if more pieces of the development are sold, the church may go forward. Ms. Brunk stated that there is a school in Meadow Vale and said she does not see the need for a school in this project, because a school is within walking distance. Ms. Brunk said the St.Vrain Valley School District has said there is no need for a school on this site, although the developer has committed to working with the School District for volunteer contributions. Planner Nickerson stated that the town has a public land dedication ordinance and can also do cash-in-lieu.

Trustee Holcomb asked about building heights. Planner Nickerson said building heights are part of the development regulations and this is in the outline development plan. Trustee Holcomb asked if the town annexes Union tomorrow, what about the miles on the PD vehicles, how and when are those are replaced. Trustee Morgan inquired about the Public Works vehicles. Town Administrator Wes LaVanchy said that these are provided by property and sales tax and it appears that the Town has to front the dollars, and the Town looks at the long term.

Trustee Morgan asked why not look at the short term. Who will suffer from the short term, employee wages, etc? Town Administrator Wes LaVanchy said there would be physical impact sustainable in the short term. Planner Nickerson said the impact fees have been looked at for the long and short term, and eight million dollars in impact fees will be generated from this project.

Trustee Holcomb asked who will replace the roads. Engineer Lindsay said replacement of the roads was not included in the study.

Town Manager Cheri Andersen stated that the level of services will not be as high in undeveloped areas and the town will still receive property taxes. Trustee Holcomb commented that there are no taxes on a church. Ms. Brunk stated that only the portion used for the church will be exempt, the rest will pay property taxes.

Attorney Light stated that the Longmont public hearings are not until next Tuesday, May 13, 2008 and tonight Attorney Clay Douglas talked about the public hearing, making it questionable if Longmont has complied with the constitutional requirement of Section 114 and said this does not to be held in abeyance.

Attorney Munsey Ayres stated that Attorney Douglas has stated that the City of Longmont will be advised to stand down, and stated to the Board of Trustees that they do not need to stand down and asked the Board to proceed.

Attorney Light gave direction on the action items.

**Resolution No. 08-40**

A RESOLUTION CONCERNING A PETITION FOR THE ANNEXATION OF PROPERTY TO THE TOWN OF FIRESTONE, COLORADO, KNOWN AS THE UNION ANNEXATION NO. 1 TO THE TOWN OF FIRESTONE, AND FINDING THE AREA PROPOSED TO BE ANNEXED ELIGIBLE FOR ANNEXATION

Trustee Morgan moved and Trustee Walb seconded, to adopt Resolution No. 08-40. Roll call vote was taken. Motion carried. 5-Yea; 0-Nay. Trustee Sorensen was not present, he had recused himself.

**Resolution No. 08-41**

A RESOLUTION CONCERNING A PETITION FOR THE ANNEXATION OF PROPERTY TO THE TOWN OF FIRESTONE, COLORADO, KNOWN AS THE UNION ANNEXATION NO. 2 TO THE TOWN OF FIRESTONE, AND FINDING THE AREA PROPOSED TO BE ANNEXED ELIGIBLE FOR ANNEXATION

Trustee Thomas moved and Trustee Walb seconded, to adopt Resolution No. 08-41. Roll call vote was taken. Motion carried. Trustee Sorensen was not present, he had recused himself.

**Union Annexation Agreement**

Trustee Thomas moved and Trustee Walb seconded, to approve the Union Annexation Agreement. Roll call vote was taken. Motion carried. Trustee Sorensen was not present, he had recused himself.

**Ordinance No. 678**

AN ORDINANCE APPROVING AN ANNEXATION KNOWN AS THE UNION ANNEXATION NO. 1 TO THE TOWN OF FIRESTONE, COLORADO

Trustee Thomas moved and Trustee Morgan seconded, to adopt Ordinance No. 678. Roll call vote was taken. Motion carried. Trustee Sorensen was not present, he had recused himself.

**Ordinance No. 679**

AN ORDINANCE APPROVING AN ANNEXATION KNOWN AS THE UNION ANNEXATION NO. 2 TO THE TOWN OF FIRESTONE, COLORADO

Trustee Thomas moved and Trustee Walb seconded, to adopt Ordinance No. 679. Roll call vote was taken. Motion carried. Trustee Sorensen was not present, he had recused himself.

**Ordinance No. 680**

AN ORDINANCE APPROVING AN INITIAL ZONING OF PROPERTY ANNEXED TO THE TOWN OF FIRESTONE AND KNOWN AS THE UNION ANNEXATION NOS. 1 AND 2 AND APPROVING AN OUTLINE DEVELOPMENT PLAN FOR SUCH PROPERTY

Trustee Thomas moved and Trustee Holcomb seconded, to adopt Ordinance No. 680. Roll call vote was taken. Motion carried. Trustee Sorensen was not present, he had recused himself.

**ACTION ITEMS**

Trustee Holcomb moved and Trustee Thomas seconded, to table the remaining agenda items. Roll call vote was taken. Motion carried. Mayor Auer stated that agenda items 9a, b, & c, 10 a, 11, 12a, and 13 have been tabled.

- 9a-Human Resource Proposal – HRMC,
- 9b-Raw Water Irrigation System – Master Plan Design Contract
- 9c-Discussion/Direction/Action on Committee Appointments
- 10a-Dicussion on Aisik’s Dog Park
- 11-Second Participation for Unscheduled Citizens for Items Not Listed on the Agenda
- 12a-Staff Reports – Community Resource Coordinator Updates on 4<sup>th</sup> of July/Sports Complex
- 13-Board Reports

**ADJOURNMENT**

Trustee Thomas moved and Trustee Morgan seconded, to adjourn the meeting. The meeting adjourned at 11:55 p.m.

TOWN OF FIRESTONE, COLORADO

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Chad Auer, Mayor

ATTEST:

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Judy L. Hegwood, Town Clerk, CMC

READ AND APPROVED THIS 22nd DAY OF May, 2008.