



# Town Board of Trustees

Minutes

Tuesday, June 28, 2022 at 7:00 pm

**PLEASE SILENCE ALL CELL PHONE AND ELECTRONIC DEVICES.  
THANK YOU.**

## 1. Meeting Information

207 Muegge Way, Bennett, CO 80102

## 2. Call to Order

Royce D. Pindell, Mayor

### a. Roll Call

#### **Minutes:**

#### **Present:**

Royce D. Pindell, Mayor  
Darvin Harrell, Mayor Pro Tem  
Kevin Barden, Trustee  
Steve Dambroski, Trustee - *excused*  
Whitney Oakley, Trustee  
Denice Smith, Trustee  
Donna Sus, Trustee

#### **Staff Present:**

Rachel Summers, Deputy Town Administrator  
Steve Hebert, Planning and Economic Development Manager  
Adam Meis, IT and Communications Manager  
Sara Aragon, Community Development Manager  
Dan Giroux, Town Engineer  
Melinda Culley, Town Attorney  
Christina Hart, Town Clerk

#### **Public Present:**

Kathy Smiley  
Curtis Rowe  
Dan Williams  
Blane Francis  
Russell MacLennan

Larry Evans  
Jeff Vogel  
Jamie Capps  
Shawn Capps  
Robert Koch  
Daniel Koch  
Alberta Trujillo  
Ed Trujillo

### 3. Pledge of Allegiance

Royce D. Pindell, Mayor

**Minutes:**

The Pledge of Allegiance was led by Royce D. Pindell, Mayor.

### 4. Approval of Agenda

Royce D. Pindell, Mayor

**Minutes:**

**MAYOR PRO TEM HARRELL MOVED, TRUSTEE BARDEN SECONDED** to approve the agenda as presented:

Ayes: Harrell, Oakley, Pindell, Smith, Sus, Barden

Nays: None

Excused: Dambroski

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

### 5. Consent Agenda

Royce D. Pindell, Mayor

**Minutes:**

**TRUSTEE OAKLEY MOVED, MAYOR PRO TEM HARRELL SECONDED** to approve the consent agenda as presented. The voting was as follows:

Ayes: Oakley, Pindell, Smith, Sus, Barden, Harrell

Nays: None

Excused: Dambroski

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote. **1. Action:** Approval of June 14, 2022 Regular Meeting Minutes

#### a. June 14, 2022 - Regular Meeting Minutes

### Public Comments on Items Not Scheduled for Public Hearing

The Board of Trustees welcomes you. Thank you for joining us for our Town of Bennett Board of Trustees Meeting. If you are not speaking, we ask that you please mute your microphone. For public comment please sign up on the provided sheet or in the chat box. If you are on the phone, once we get through the sign-up sheet and chat box we will call for any other comments for items not on the agenda.

Your comments will be limited to three (3) minutes. The Board may not respond to your

comments this evening, rather they may take your comments and suggestions under advisement and provide direction to the appropriate member of Town staff for follow-up. Thank you.

## Regular Business

### 6. Public Hearing

Steve Hebert, Planning and Economic Development Manager

#### a. Case No. 22.15 - Kiowa Creek Annexation No. 1, 2 and 3

Steve Hebert, Planning and Economic Development Manager

##### **Minutes:**

Royce D. Pindell, Mayor, called the matter of Case No. 22.15 - Kiowa Creek Annexation No. 1, 2 and 3 to order. Royce D. Pindell, Mayor, recommended approximately one hour of testimony be heard and then continue this hearing until the July 12th board meeting due to the volume of information needed to cover and the fact one of the Trustees is attending virtual and one of the Trustees is absent.

The public hearing was opened at 7:05 p.m.

Christina Hart, Town Clerk, stated that in accordance with Colorado State Statute, notice of the public hearing was properly posted and published in the Eastern Colorado News on May 20, May 27, June 3, June 10 and June 17 2022. Legal #2648.

Steve Hebert, Planning and Economic Development Manager, reported to the Trustees the applicants have petitioned to the Town of Bennett to annex approximately 317.29 acres into the Town of Bennett. The properties are located northeast of Old Victory Road and Kiowa-Bennett Road, south of the East 38th alignment and west of Provost Road. The annexation petitions include three separate parcels, intended to be annexed in sequence, to achieve the 1/6th contiguity requirement of the state statute. The properties are currently zoned A-3 in unincorporated Adams County. The property owners are Kiowa Creek Preserve Holdings, LLC and Herdsman Capital, LLC. The applicant proposes Planned Development zoning for the property allowing for a mix of residential and commercial uses.

The proposed annexation is a reasonable and logical extension of the Town and compatible with the goals and policies of the Comprehensive Plan and Three-Mile Plan. .

##### **APPLICANTS PRESENTATION**

Russell MacLennan, 450 C.R. 133, Bennett, Colorado, applicant, thanked the Trustees for their time and consideration and stated he was available to answer

any questions.

Jeff Vogel, Vogel and Associates, applicants representative, reported to the Trustees of the applicants intent to create a mixed-use community and a balance of uses including commercial, residential, educational components, surrounded by a contiguous vast amount of open space.

**PUBLIC COMMENTS**

Larry Evans, 3420 Hwy 79, Bennett, Colorado, asked if there was open space easement on the proposed annexation and asked about the water rights on the property. Mr. Evans also asked for clarification on the planning chart.

Alberta Trujillo, 3770 Provost Road, Bennett, Colorado, appreciates the open space and agricultural education piece of the proposed annexation, but is against the proposed retail and commercial zoning. Ms. Trujillo is also concerned about the density of homes proposed.

Melinda Culley, Town Attorney, stated for the record comments from, Blane and Angie Francis, 3900 Hwy 79, Bennett Colorado, does not have a problem with the annexation, but rather concerned that the creek adjoins with their property at the creek bed. Mr. Francis has an income stream of pheasant hunting and is asking what is the setback at the creek? He has invested thousands of dollars breeding pheasants. If the business is taken away it will adversely effect his livelihood.

The public hearing was closed at 8:35 p.m.

**TRUSTEE BARDEN MOVED, TRUSTEE OAKLEY SECONDED** to continue the public hearing on the proposed Annexation and Initial Zoning for Kiowa Creek Annexations Nos. 1, 2 and 3 until July 12, 2022 at 7:00 p.m. at Bennett Town Hall. The voting was as follows:

Ayes: Pindell, Smith, Sus, Barden, Harrell, Oakley

Nays: None

Excused: Dambroski

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

**b. Case No. 22.16 - Kiowa Creek Planned Development - PD Zoning**

Steve Hebert, Planning and Economic Development Manager

**c. Case No. 22.17 - Bennett Farms Annexation No. 1 and 2**

Steve Hebert, Planning and Economic Development Manager

**Minutes:**

Royce D. Pindell called for a recess at 8:40 p.m.

The meeting resumed at 8:50 p.m.

Royce D. Pindell, Mayor, called the matter of Bennett Farms Annexation No. 1 and 2 and initial zoning to order. Royce D. Pindell, Mayor, recommended

approximately one hour of testimony be heard and then continue this hearing until the July 12th board meeting due to the volume of information needed to cover and the fact one of the Trustees is attending virtual and one of the Trustees is absent.

The public hearing was opened at 8:51 p.m.

Christina Hart, Town Clerk, stated that in accordance with Colorado State Statute, notice of the public hearing was properly posted and published in the Eastern Colorado News on May 20, May 27, June 3, June 10 and June 17 2022. Legal #2647.

Steve Hebert, Planning and Economic Development Manager, reported to the Trustees the applicants have petitioned to the Town of Bennett to annex approximately 405 acres into the Town of Bennett. The properties are located near the northwest corner of East Colfax Avenue and Harback Road. The property is bounded on the north by East 38th Avenue, on the east by Harback Road, on the south by Union Pacific Railroad right-of-way on on the west by an industrial zoned property in the City of Aurora.

The proposed annexation petitions include two separate parcels, intended to be annexed in sequence, to achieve the 1/6th contiguity requirement of the state statute. The properties are currently zoned A-3 in unincorporated Adams County. The property owners are Kiowa Creek Preserve Holdings, LLC and Herdsman Capital, LLC. The applicant proposes Planned Development zoning for the property allowing for a mix of residential, commercial, light industrial, open space and recreational uses.

The proposed annexation is a reasonable and logical extension of the Town and compatible with the goals and policies of the Comprehensive Plan and the Three-Mile Plan.

#### **APPLICANTS PRESENTATION**

Jeff Vogel, Vogel and Associates, applicants representative, reported to the Trustees the integrated planning principles include protecting environmental systems, identify and sustain green infrastructure, provide community connectivity, establish a diversity of housing types, and mixed use centers and neighborhood focal points.

#### **PUBLIC COMMENTS**

Robert Koch, 4770 Harback Road, Bennett, Colorado, made a point of order stating the public hearing posting did not have a date, time or address for the public hearing, but rather just a zoning hearing. Mr. Koch is not opposed to the annexation, but rather the density of the proposed annexation and zoning. Lowell Piland, 43651 E. 38th Ave., Bennett, Colorado, expressed concern about

the density, amount of traffic volume near his home and requested the applicant reconsider the flow of traffic on E. 38th Ave. Mr. Piland commented the roads should accommodate large farm equipment as well as future local traffic.

The public hearing was closed at 9:50 p.m.

**TRUSTEE SUS MOVED, MAYOR PRO TEM HARRELL SECONDED** to continue the public hearing on the proposed Annexation and Initial Zoning for Bennett Farms Annexations No. 1 and 2 until July 12, 2022 at 7:00 p.m. at Bennett Town Hall. The voting was as follows:

Ayes: Smith, Sus, Barden, Harrell, Oakley, Pindell

Nays: None

Excused: Dambroski

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

**d. Case No. 22.18 - Bennett Farms Planned Development - PD Zoning**

Steve Hebert, Planning and Economic Development Manager

**e. Annexation, Development, and Vested Rights Agreement for Bennett Farms and Kiowa Creek**

**Minutes:**

Royce D. Pindell, Mayor, called the matter on a proposed Annexation, Development and Vested Rights Agreement for Bennett Farms and Kiowa Creek to order.

The public hearing was opened at 9:54 p.m.

Royce D. Pindell, Mayor, understands there has been a request to continue the hearing to July 21, 2022.

The public hearing was closed at 9:50 p.m.

**TRUSTEE OAKLEY MOVED, MAYOR PRO TEM HARRELL SECONDED** to continue the public hearing on the proposed Annexation, Development and Vested Rights Agreement for Bennett Farms and Kiowa Creek until July 12, 2022 at 7:00 p.m. at Bennett Town Hall. The voting was as follows:

Ayes: Sus, Barden, Harrell, Oakley, Pindell, Smith

Nays: None

Excused: Dambroski

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

**7. Trustee Comments and Committee Reports**

Mayor and Trustees

**Minutes:**

**Whitney Oakley, Trustee, reported on the following:**

- During the Bennett Days Community Partners meeting it was brought to the attention of Trustee Oakley and Town staff illegal activity has occurred in the VFW Post 8449 parking lot. The VFW has plans to install security cameras, but has requested the Bennett CSO's and Adams County Sheriff's Office to keep a watchful eye.

**Royce D. Pindell, Mayor, reported on the following:**

- Attended the Colorado Municipal League (CML) conference in Breckenridge.

**8. Executive Session**

**a. For the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators under C.R.S. 24-6-402(4)(e); Animal Shelter Partnership/Independent**

**Minutes:**

**TRUSTEE BARDEN MOVED, TRUSTEE SMITH SECONDED** to go into executive session for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators under C.R.S. 24-6-402(4)(e); Animal Shelter partnership/Independent. Voting was as follows:

Ayes: Barden, Harrell, Oakley, Pindell, Smith, Sus

Nays: None

Excused: Dambroski

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

The Board went into executive session at 10:05 p.m.

**b. Return to Open Meeting**

**Minutes:**

The Board came out of executive session at 10:30 p.m.

Royce D. Pindell, Mayor, announced that the Board has been in executive session and the following persons participated via hybrid in that session: Trustee Oakley, Melinda Culley, Trustee Smith, Trustee Barden, Trustee Sus, Mayor Pro Tem Harrell, Mayor Pindell, Rachel Summers and Christina Hart. Royce D. Pindell, Mayor, asked if there were any matters not included in the motion for an executive session or violations of the Open Meetings Law, and if so, that these concern be stated for the record.

No concerns were presented.

**c. Report from Executive Session**

**Minutes:**

The Board of Trustees provided Staff direction to continue negotiations.

## 9. Adjournment

### Minutes:

**TRUSTEE SMITH MOVED, MAYOR PRO TEM HARRELL SECONDED** to adjourn the meeting. The meeting was adjourned at 10:31 p.m. Voting was as follows:

Ayes: Harrell, Oakley, Pindell, Smith, Sus, Barden

Nays: None

Excused: Dambroski

Royce D. Pindell, Mayor, declared the motion carried by unanimous vote.

### Minutes Approved:

Royce D. Pindell, Mayor

DocuSigned by:



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Christina Hart, Town Clerk

DocuSigned by:



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Individuals with disabilities who need auxiliary aids in attending the meeting may request assistance by contacting the Town Hall at 207 Muegge Way, Bennett, CO 80102-7806, (303) 644-3249. Please give notice at least 48 hours in advance of the meeting to allow for enough time in making the necessary arrangements.

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Contact: Christina Hart (chart@bennett.co.us 1303-644-3249 X1001) | Minutes published on 07/06/2022, adopted on 07/12/2022