TOWN OF MILLIKEN
BOARD OF TRUSTEES
MILLIKEN MEETING HOUSE, 1201 BROAD STREET

MEETING MINUTES

Wednesday, March 11, 2015 – 7:00 P.M.

Call to Order

The Town of Milliken Board of Trustees convened a regular session on Wednesday, March 11, 2015 at 7:00 p.m. Those present: Mayor Milt Tokunaga, Mayor Pro Tem Linda Measner; Trustees: Linda Beck, LeRon Ehrlich, Jordan Jemiola, Ken Kidd and Lois Ann Onorato. Also present: Town Administrator Kent Brown, Town Clerk Cheryl Powell, Treasurer & Accounting/Finance Director Patrick Murphy, Community Development Director Martha Perkins and Town Attorney Bruce Fickel. Absent: Community Engagement Specialist/Planner Seth Hyberger

Pledge of Allegiance

Mayor Tokunaga called the meeting to order.

Roll Call

Trustee's: Ehrlich, Onorato, Jemiola, Mayor Pro Tem Measner, Mayor Tokunaga, Trustee Beck and Trustee Kidd.

Agenda Approval

Town Administrator Brown indicated that staff did not have any additions to the agenda.

Citizen Comments

Shellie Satterfield, who resides at 201 Oakwood Court, Milliken, addressed the Town Board regarding transparency. Ms. Satterfield explained to the Town Board that she was present at their Board Retreat that was held on or about April 16, 2014. She explained that Trustee Kidd, who was a newly appointed Town Board member, made a statement during this retreat that the Town Board needed to be transparent. Ms. Satterfield believed that this is what the Town Board had committed to until two (2) weeks ago at the prior Town Board meeting when the Board had an opportunity to be transparent and were not by not choosing to allow a Public Hearing on allegations of misconduct by a Trustee. The Board chose to be judge and jury as well as self-appointed censors for the

residents. Ms. Satterfield spoke regarding the conflict of interest allegations, it appears that Trustee Kidd had enough of a relationship with Jonathan Gesick who is the owner of ProCode and Milliken's current contracted Building Inspection Company that he should have known that it needed to be disclosed. The brief explanation from Trustee Kidd was that he didn't believe it would be considered or viewed as a conflict of interest. Ms. Satterfield indicated that she was concerned since Trustee Kidd had participated in a three (3) person committee to rewrite the Town's Financial Policy as it pertains to conflict of interest. He should have known after sitting on this committee that he should have informed the Town Board that he had discussed becoming partners with Jonathan Gesick in a business. Ms. Satterfield asked the Town Board to view this issue from the resident's perspective. The residents are not privy to Town Board discussions during Executive Sessions. All that the residents knew, is what was discussed during the meeting (February 25, 2015). Ms. Satterfield asked the Town Board to review their response at the February 25th meeting and asked if they were one of the residents, wouldn't they have wanted to have a Public Hearing to hear the allegations and the response. Ms. Satterfield indicated that when she left the meeting on February 25, 2015 she was disappointed. She did not feel like she was at a Town Board meeting. She felt like she was at a good all boys meeting, where the Town Board closed ranks to protect one of their own. She indicated that the Town Board is there because of the residents and because of the Town, and the residents deserve to know what is going on. Ms. Satterfield indicated that whether or not the allegations are true, is not the issue. The issue is that the Town Board decided that the residents didn't deserve to know or hear what had occurred. The Board was elected for the whole Town, not for each other and not for friendships.

Mayor Pro Tem Measner responded saying that she believes all the information that the Town Board received and was handed out during the Executive Session on February 11, 2015, was given to the audience and all the discussion that was said during the Executive Session was almost word-for-word. All the residents in the audience at the February 25, 2015 meeting knew exactly as much as the Town Board knew. Ms. Satterfield responded saying that the residents received the memo (see attached) from Attorney Fickel at the February 25, 2015 meeting. The Town Board received the memo at the Executive Session on February 11, 2015 and had time to mull it over. Ms. Satterfield indicated that the residents were not able to see the appearance of a conflict of interest or the appearance of transparency because the Town Board decided it was not necessary to hold a Public Hearing. Mayor Pro Tem Measner responded that the only reason to hold a Public Hearing would have basically been to ask Trustee Kidd to step down. She indicated that in the section where it speaks about Public Hearings, this is about the only reason the Town Board would have held a Public Hearing. Ms. Satterfield indicated that the lengthy memo from Attorney Fickel was only handed out to the residents at the February 25th meeting and the residents were trying to listen to what was being said by the Town Board and read the memo at the same time. Ms. Satterfield indicated that she was not there to condemn the Town

Board, but it does not appear the residents received all the information regarding this issue.

Trustee Kidd addressed Mayor Tokunaga stating the he would like to add an Action Agenda item to the next meeting on March 25, 2015 to possibly set a Public Hearing for the following meeting, which would be the first meeting in April.

Mr. Larry Cozad, who resides at 1817 Saddleback Drive, Milliken, would like to read his letter into the Public Record. (See the attached letter).

Colleen Flack, who resides at 5225 65th Avenue, Milliken addressed and read a letter into the Public Record. (See the attached letter).

Leslie Schleiger, who resides at 310 S. Harriet Avenue, Milliken thanked the Town Board for allowing residents to speak and thanked the residents in attendance for taking a personal interest in their Town and for sticking together and for addressing those items that don't feel right for their Town. Ms. Schleiger asked for the Town Board to hear from the residents and to take it to heart. She indicated that she has heard nothing but personal agendas from the Town Board and lack of respect for their positions. She finds this disturbing as a constituent and as a person who wants to rally behind Milliken. Ms. Schleiger referred to the Town of Milliken Board of Trustees, Commissions & Committees Policies and Procedures Manual, Section 3.3(a) which states "All members of Board of Trustees inspire public confidence in Milliken's Town Government." She asked the Board to evaluate that statement and to ask themselves if they have met that criteria. She indicated that Trustee Beck stood up courageously to the entire Town Board and followed procedure and protocol and no one on the Board supported her. Ms. Schleiger stated that there are good employees who work for the Town and asked for the staff to not be injured or made to feel uncomfortable. Ms. Schleiger asked the Town Board to think about what would be the best thing for the Board to do in order to bring back their trust to the people of the Town.

Reid Hobler, who resides at 800 Mill Iron Road, Milliken addressed the Town Board stating that he doesn't know what happened, but it appears a potential conflict of interest occurred and the public has been left in the dark. Mr. Hobler referred to Section 4.4 (Disclosure) of the Town of Milliken Board of Trustees, Commissions & Committees Policies and Procedures Manual. It states that "Public officials shall declare on a timely basis to the appropriate authority, including the Town Attorney, the nature and extent of any financial or personal interest in a Town contract or other legislation." Section 6.3(2) Rules of conduct for public officials - "a public official shall not perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he or she either has a substantial financial interest or is engaged as counsel, consultant, representative or agent." Section13.6 - Conflicts of interest – When a Trustee believes that he or she has a personal or private interest,

potential conflict, or appearance of conflict, in a matter proposed or pending before the Board, the member shall request to speak when the agenda item with which the member has a conflict is called, and either; i: Disclose that there may be a personal or private interest, potential conflict, or appearance of conflict, in the matter and will not participate in the discussion or decision; and step down from the Board platform and leave the Chambers during the Board's discussion and action; or ii: request legal advice from the Town Attorney. Mr. Hobler indicated that Attorney Fickel stated in his memo that the Town has been accused in the past of sweeping things under the rug. Mr. Hobler said that in the memo, Attorney Fickel felt that this should be addressed quickly and if necessary in a Public Hearing, the Board choose that it did not need to be addressed in a Public Hearing. Mr. Hobler explained why he thought it should have been addressed in a Public Hearing by saying that it was possible that Trustee Kidd had participated or helped Mr. Gesick set up his company ProCode, either by setting up his website or having his business registered with the state, the public does not know. The memo that was handed out from Attorney Fickel does not indicate this, but it leads you to believe that this may have occurred. Did Mr. Gesick help Trustee Kidd with his (business) website three (3) years ago and did Mr. Gesick build his own website off of that website. Mr. Hobler said that during the meeting of February 25, 2015, Trustee Jemiola had even commented whether the Town Board even believed the materials that were handed out by Attorney Fickel. Mr. Hobler stated that the Public only has these materials to base their knowledge on. When Mr. Gesick interviewed for the position and when the contract was awarded his name was listed as the Vice President of Trustee Kidd's company. Mr. Hobler asked if that is a conflict. From a public standpoint that is all that you know.

Mr. Hobler indicated that during the meeting on February 25, 2015, one or more of the Town Board referenced what was said during the Executive Session. Mayor Pro Tem Measner indicated that the memo from Attorney Fickel was all that was done. Mr. Hobler as a former Trustee who had attended Executive Sessions knows that there is a lot said during the Executive Sessions. The question Mr. Hobler had was if the Executive Session was regarding a conflict of interest since Mayor Pro Tem Measner asked to go into an Executive Session according to C.R.S. 24-6-402(b) to confer with an attorney for the Town for the purposes of receiving legal advice on specific legal questions. Mr. Hobler stated that this does not indicate what the Town Board was talking about. Mr. Hobler said that according to Colorado Statute, when calling for an Executive Session it requires announcement of the topics for citation. A citation authorizing the law in a two-thirds vote of all the members according to the states Sunshine Laws. According to House Bill (HB) 9133, in an open meeting prior to the Executive Session the topic of an Executive Session must be announced but should be general enough so as not to nullify the confidential purpose of the Executive Session. He spoke about a ruling back in 2009 by Judge Naves. It was a ruling between The Colorado Independent vs the IEC (Independent Ethics Commission), who fall under the same statutory rules as the Town of Milliken. It

was ruled that the Commission did not follow the rules when declaring what the Executive Session was about because they did not go into more detail regarding why they were going into Executive Session. The Judge ruled in favor of the Colorado Independent (a newspaper) and forced the IEC to release all the Executive Sessions for the past five (5) years in cases where the Executive Session was not appropriately announced. Mr. Hobler asked the Town Board to review what was said during this Executive Session and potentially share it with the public. This way the public will have the same information as the Town Board and be able to decide whether there was a potential conflict of interest. Mr. Hobler indicated to the Town Board that currently there are still websites showing Mr. Gesick as the Vice President of Trustee Kidd's company.

Trustee Jemiola indicated that he had a couple of questions and comments for Mr. Hobler. He explained that the Town Board does not vote during an Executive Session. Trustee Jemiola explained that he was not privy to what the Executive Session was regarding prior to the Executive Session, since the Executive Session was requested by Town Attorney Fickel. Trustee Jemiola also has had some concerns regarding transparency, not only with the Town Board but with Town Staff. Trustee Jemiola asked Mr. Hobler if while he was on the Town Board did he purchase a water certificate at a discounted rate and vote to increase the water cash-in-lieu price on the same day. Mr. Hobler indicated that he did. Trustee Jemiola asked Mr. Hobler if he disclosed that information or recused himself from the vote. Mr. Hobler responded that he had spoken to both the Mayor and the Town Attorney prior to the meeting and indicated that through those discussions it was not deemed a conflict of interest. Trustee Jemiola indicated that this information had not been disclosed to him or the public and thanked Mr. Hobler for his commitment to transparency in Milliken.

Shellie Satterfield commented on the exchange between Trustee Jemiola and Mr. Hobler. Trustee Jemiola explained this was the reason he formed the Legislative Committee that would work on revising the Town's Financial Policies. Ms. Satterfield responded that what she meant was the way Trustee Jemiola responded to Mr. Hobler. Ms. Satterfield was asked to address the Board from the podium. Ms. Satterfield complied with the request and explained that the type of exchange that occurred between the Trustee and the resident is what bothers her since she viewed it as a Trustee talking over someone else and being rude. Trustee Jemiola explained that he was trying to state a fact. Mayor Tokunaga asked the Board and public to refrain from personal issues.

Duane Flack, who resides at 5225 65th Avenue, Milliken, addressed the Town Board stating that he believes the discussion that is taking place is completely out of order and isn't this area of the Agenda a time tor the citizens to make a comment and it is not a debate. Mayor Tokunaga responded that he is correct, it is the Citizens Comment section of the Agenda.

Ben Schleiger, who resides at 310 S. Harriet Avenue, Milliken addressed the

Town Board as an involved citizen of the community. He wanted to remind the Town Board that they are the leaders of the community. The citizens, residents, children included, look to them for leadership. He asked the Town Board that anything they do within their service to the community, that they need to ask themselves if this is right for the Town, is it best for all the citizens.

Mayor Tokunaga stated that there has been a request to place the item of discussion on the Agenda at the next meeting to be voted on as to whether it goes to a Public Hearing.

Trustee Ehrlich thanked the Public for speaking tonight and will take into consideration everything that was said, in help him make better choices in the future.

Minutes of Previous Meeting

- February 25, 2015 – Approved as distributed.

CONSENT AGENDA

There were not any items.

ACTION AGENDA

1. **Consideration and Approval to Execute a Lease with Colorado Door Restore for a Portion of the Milliken Grain Elevator**

   Finance Director Patrick Murphy asked the Town Board for consideration and approval to authorize the Town Administrator to sign a Lease with Nick Baudhuin, of Colorado Door Restore, LLC, to rent a portion of the Milliken Grain Elevator for use as a workshop for wood refinishing. Director Murphy explained to the Board that the Town has had the Grain Elevator out for lease for a number of years. He indicated that there has been sporadic interest in the property, but none of the prospective tenants that have toured the facility have demonstrated a viable use or the financial commitment to warrant any investments by the Town to improve the property.

   Mr. Baudhuin, approached the Town several months ago with a proposal to rent a portion of the building to use as a workshop to accommodate his locally based door restoration business. The business has grown beyond the capacity of his current location. Staff contacted a local building contractor to provide a design/build estimate for making the types of improvements to accommodate the needs of Mr. Baudhuin. The lease will be for one year at $300.00 per month, plus utilities.

Director Murphy explained that the Board was presented with a proposal to construct the necessary improvements totaling $30,550. Mr. Baudhuin also was available to speak to the Town Board at the Work Session on February 25th.

Mayor Tokunaga believes having a tenant in this facility is positive for the Town and that the next agenda item is instrumental in order to lease the facility.

Trustee Onorato motioned to authorize the Town Administrator to execute a Lease with Nick Baudhuin, of Colorado Door Restore, LLC for the rental of a portion of the Grain Elevator as workshop space. Trustee Beck seconded.

Discussion: None.

Vote: All in favor, none opposed. Motion Carried.

Mayor Pro Tem Measner indicated that the Town currently is paying the base water fee for the unused water tap for the Grain Elevator at $ 20.62 per month and is currently not receiving any revenue from the Grain Elevator. This Lease Agreement will net the Town approximately $250.00 per month in additional revenue after the cost of the portable toilet.

2. **Consideration and Approval of Resolution 15-07, to Appropriate Funds from the Capital Improvement Fund to Pay for Improvements to the Grain Elevator**

Finance Director Murphy asked the Town Board to review and consider for approval Resolution 15-07, appropriating funds from the Capital Improvement Fund to pay for improvements to the Grain Elevator. Director Murphy explained that this Resolution coincides with the Lease for Colorado Door Restore, LLC to make specific improvements to the property to meet the tenant's needs. This will bring the building up to minimum code. There will be a portable toilet which is part of the minimum requirement and a couple of portable heaters that the Town will provide. The contractor who has provided services to the Town in past went through the facility and provided staff with the minimum requirements that need to be accomplished prior to having a tenant in the facility.

Trustee Beck moved to adopt Resolution 15-07, appropriating $30,550 of Capital Improvement Funds to pay for the design/build proposal for improvements to the Grain Elevator presented by John Norlin, and authorize the Town Administrator to accept the proposal and authorize the improvements specified. Mayor Pro Tem Measner seconded.

Discussion: Mayor Tokunaga indicated that the Town had appropriated approximately $535,000.00 in the budget for streetscape improvements for the Town and this will be a portion of the budgeted amount. Director Murphy indicated that this was correct, it is not an additional appropriation of funds.

Vote: All in favor, none opposed. Motion Carried.

3. **Consideration and Approval of Resolution 15-08, Initiating Disconnection Proceeding and Setting a Hearing Date**

Community Development Director Martha Perkins asked the Town Board to review and consider for approval Resolution 15-08, initiating disconnection proceedings and setting a hearing date for a parcel in the east on half northwest one quarter of section 34, Township 5 north, range 63 west of the 6th principal meridian that is owned by Robert and Doris Fields. Director Perkins explained that Mr. Fields came to a Board meeting earlier in the year and spoke during citizen comment in regard to this issue.

Trustee Ehrlich moved to accept the disconnection petition and initiate the disconnection proceedings by passing Resolution 15-08 and setting the date for a public hearing before the Planning and Zoning Commission on April 15, 2015 and the Board of Trustees on April 22, 2015 at 7:00 P.M. in the Meeting House located at 1201 Broad Street. Trustee Onorato seconded.

Discussion: Mayor asked

Vote: All in favor, none opposed. Motion passed.

4. **Consideration and Approval of Resolution 15-09, Initiating Annexation Proceedings for the Martinez-Hahn Annexation**

Director Perkins asked the Town Board to review and consider for approval Resolution 15-09 and Exhibit "A" which includes three (3) petitions for the annexation of three (3) parcels, Martinez-Hahn Annexation No. 1, No. 2 and No.3, with associated plats included as Exhibit 1, Exhibit 2A and 2 B and Exhibit 3 which total approximately 155 acres north of County Road 52 currently owned 100% by the Estate of Joe Adam Martinez. The Martinez family is deeding approximately 2.36 acres, as portrayed on a map of the property to the Town, which is currently being used as a residence by the Martinez Family. This property will be transferred to Milliken within two (2) weeks after the annexation ordinance is passed with the proposed zoning of R-! Single Family Residential. Once the family has vacated the residence, the Town may implement zoning for that parcel as it deems appropriate. The Town will also provide at least six (6) months prior notice of the date that the Town wants them to vacate the property. .

Mayor Tokunaga asked if this Resolution is strictly the annexation proceedings. Director Perkins explained the Resolution is only for setting the dates for the Annexation Proceedings.

Mayor Pro Tem Measner moved to accept the annexation petitions and initiate the annexation proceedings by passing Resolution 15-09 and setting the date for a public hearing before the Planning and Zoning Commission on April 15, 2015 and the Board of Trustees on April 22, 2015 at 7:00 P.M. in the Meeting House located at 1201 Broad Street. Trustee Beck seconded.

Discussion: None.

Vote: All in favor, none opposed. Motion passed.

DISCUSSION AGENDA

Mayor Tokunaga spoke to the Town Board regarding a Work Session with Philip Robertson who was with the Executive Search Firm that helped the Town Board hire Kent Brown the Town Administrator. Mr. Robertson would like to hold a session with the Town Board which will help set up the work plan regarding the parameters of a future performance evaluation for the Town Administrator. The Mayor indicated that this will help with the success of the Town Board, Town and Town Administrator Brown.

The Town Board agreed on a tentative date of Friday, May 1st from 4-6 and the Mayor will convey this information to Mr. Robertson.

INFORMATIONAL AGENDA

ASSIGNMENT AND PROJECT UPDATE(S)

Other Business

Summary of Meeting (Review of Action Items, Staff Assignments & Schedule)

Adjournment

Hearing no further business, the Mayor adjourned the meeting at 7:55 P.M.

Prepared by: Approved by:

Cheryl Powell, Town Clerk

Milt Tokunaga, Mayor

MEMORANDUM

DATE: FEBRUARY 11, 2015

TO: BOARD OF TRUSTEES AND ADMINISTRATOR BROWN

FROM: R. BRUCE FICKEL

RE: ALLEGATIONS OF CONFLICT OF INTEREST & ETHICS VIOLATIONS

THE ISSUE

It is extremely disconcerting for me to have to write this memo to address these issues as to whether a conflict of interest exists. However, the Town has been contacted by several contractors who have raised this issue and I have personally been contacted by the management of SAFEbuilt as well as its attorney, Sean Odendahl. The basic allegation is that Trustee Kidd was an active participant in the creation of both ProCode, Inc[1]. with the Colorado Secretary of State and also with the ProCode, Inc. website – www.procodeinc.net.[2] Mr. Jonathan Gesick, our new contract building inspector, is apparently the Vice President of Mr. Kidd's Colorado Inspection Connection Inc., as is specifically stated on the website of Colorado Inspection Connection Inc. – www.cicinspect.com[3]. Colorado Inspection Connection Inc. is the trade name for WEKANTU, INC. WEKANTU is a corporation formed on June 14, 1999 with its initial board of directors being Kenneth H. Kidd and Sherri K. Kidd.[4] Unfortunately, I believe it is incumbent upon the Board to evaluate this issue and we are initially addressing it in this Executive Session because there are several alternative routes along which the Board may elect to proceed.

INTERVIEW WITH JONATHAN GESICK

On February 10, 2015 Sunita Sharma and I interviewed Jonathan Gesick at his office in Milliken's Townhall with respect to the conflict of interest concerns addressed above.

Mr. Gesick stated that he had first worked with Mr. Kidd when Eaton had a significant hail storm about three years ago. He subsequently designed the website for the Kidds' business, Colorado Inspection Connection Inc. He also

[1] Documentation for the incorporation of ProCode attached as Exhibit 1.
[2] ProCode website information attached as Exhibit 2.
[3] Website information for Colorado Inspection Connection attached as Exhibit 3.
[4] Documentation for the Periodic Report, Statement of Trade Name of a Reporting Entity and Articles of Incorporation for WEKANTU, INC attached hereto as Exhibit 4.

designed his website around the time he filed his response to Milliken's RFP for Building Services. I asked Mr. Gesick why his website indicated that ProCode had been in business doing municipal inspections since 1979 when, in fact, ProCode had only been incorporated as of September 30, 2014 at 8:14 a.m. He responded that this was an oversight because he was cutting and pasting from Colorado Inspection connection Inc.'s website to his. An additional concern arose when reviewing ProCode's website in relationship to that of Colorado Inspection Connection Inc. Specifically, Colorado Inspection Connection's website states, in relevant part, "Colorado Inspection Connection Inc. has been in business since 1997. Serving northern Colorado municipalities with professional building department services." ProCode's website states, "Our company has contracted services with Northern Colorado municipalities since 1997." When I asked Mr. Gesick when he created his website, he indicated that it was around the time when he was submitting his response to the Town's RFP. This was on or about November 18, 2014. At that point in time the ProCode Corporation was approximately a month and a half old. At least superficially, it appears this was an attempt by Mr. Gesick to tie ProCode to Colorado Inspection Connection and thereby give it 19 years of building inspection experience and expertise which did not exist without ProCode's connection to Colorado Inspection Connection. Ms. Sharma asked Mr. Gesick about his position as Vice President of Colorado Inspection Connection and Mr. Gesick claimed he was not the Vice President of Colorado Inspection Connection and never had been. He also claimed that he built the webpage for Colorado Inspection Connection. During our conversation with Mr. Gesick he also offered to go into the Colorado Inspection Connection Inc.'s website and remove himself as Vice President of Colorado Inspection Connection and also remove his credentials from that site. Mr. Gesick also stated there was no monetary connection between ProCode and Colorado Inspection Connection or Mr. Kidd and that Mr. Kidd was not going to be Mr. Gesick's backup inspector.

THE LAW

Colorado Revised Statutes (C.R.S.)

The Colorado Revised Statutes address the issue of conflicts of interest in several relevant sections. C.R.S. 31-4-404(2)[5] states,

> "Any member of the governing body of any city or town who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body, shall not vote thereon, and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter."

[5] Attached Exhibit 5.

C.R.S. 31-25-819[6] states,

> "No board member nor any employee of the board shall vote or otherwise participate in any matter in which he has a specific financial interest, defined as a matter in which the member or employee would receive a benefit or incur a cost substantially greater than other property owners within the district. When such interest appears, it is the duty of the board member or employee to make such interest known and he shall thenceforth refrain from voting on or otherwise participating in the particular transaction involving such interest. Willful violation of the provisions of this section constitutes malfeasance on the part of a member of the board and is grounds for instant dismissal of any employee. The governing body may by ordinance provide for automatic forfeiture of office by a board member for violation of this section."

C.R.S. 18-8-308[7] states,

> "(1) A public servant commits failing to disclose a conflict of interest if he exercises any substantial discretionary function in connection with a government contract, purchase, payment, or other pecuniary transaction without having given seventy-two hours' actual advance written notice to the secretary of state and to the governing body of the government which employs the public servant of the existence of a known potential conflicting interest of the public servant in the transaction with reference to which he is about to act in his official capacity.
>
> (2) A "potential conflicting interest" exists when the public servant is a director, president, general manager, or similar executive officer or owns or controls directly or indirectly a substantial interest in any nongovernmental entity participating in the transaction.
>
> (3) Failing to disclose a conflict of interest is a class 2 misdemeanor."

With respect to the mandated disclosure to the secretary of state, required in 18-8-308(1), I have checked with the secretary of state's office and conducted a search on its website for any reports of conflict of interest and have found no report by Mr. Kidd with regard to this matter has been made.

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[6] Attached Exhibit 6.
[7] Attached Exhibit 7.

TOWN OF MILLIKEN BOARD OF TRUSTEES, COMMISSIONS & COMMITTEES POLICIES & PROCEDURES MANUAL

This Board of Trustees has recently revised this Manual and thereby confirmed its applicability to the conduct of all Trustees.

Although there are numerous references throughout the Manual, I will quote only those which are specifically applicable to the issues at hand.

"3.3 All Members of Board of Trustees

a. Inspire public confidence in Milliken's Town government.

4.4 Disclosure

Public officials shall declare on a timely basis to the appropriate authority, including the Town Attorney, the nature and extent of any financial or personal interest in a Town contract or other legislation.

6.1 Definitions

c. ***Financial interest*** means a substantial interest held by an individual which is:

iii. An employment or a prospective employment for which negotiations have begun;

vi. A directorship or officership in a business.

6.3 Rules of conduct for public officials

c. A public officer shall not;

1. Engage in a substantial financial transaction for his or her private business purposes with a person whom he or she inspects or supervises in the course of his or her official duties; or

2. Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he or she either has a substantial financial interest or is engaged as counsel, consultant, representative or agent.

13.6 Conflicts of Interest

a. **When a Trustee/Commissioner/Committee believes that he has a personal or private interest, potential conflict, or appearance of conflict, in a matter** proposed or pending before the Board/Commission/Committee, the **member shall** request to speak when the agenda item with which the member has a conflict is called, and either;

i. disclose that there may be a personal or private interest, potential conflict, or appearance of conflict, in the matter

and will not participate in the discussion or decision; and step down from the Board/Commission/Committee platform and leave the Chambers during the Board/Commission/'Committee's discussion and action; or

ii: request legal advice from the Town Attorney."

If it is determined by the Board that an actual conflict of interest exists between Mr. Kidd and ProCode then, the fact that Mr. Kidd participated in the Board's actions and voted on the contract results in the nullification of the vote and the Town's execution of the contract.

PROVISIONS IN THE TOWN'S INDEPENDENT CONTRACTOR'S AGREEMENT[8]

Section 22.0 INTEREST OF MEMBERS OF A TOWN, as set forth in the Town's standard forms, states,

> "No member of the governing body of the Town and no other public official, officer, employee or agent of the Town who exercises any functions or responsibilities in connection with the planning and carrying out of the Agreement, shall have any personal financial interest, direct or indirect in this Contract; and the Contractor shall take appropriate steps to assure compliance."

Section 23.0 INTEREST OF CONTRACTOR AND EMPLOYEES, states,

> "The Contractor covenants that it presently has no interest and shall not acquire interest, direct or indirect, which would allow the Contractor to receive compensation in excess of that being paid pursuant to the Agreement, or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants, that in the performance of this Contract, no person having any such interest shall be employed."

SUMMARY OF APPLICABLE LEGAL STANDARDS

The primary focus of the Colorado statutes is with people who contract with the Town having a financial interest which flows over into their capacity as an active board or commission member. The Town's Manual has taken this a step further. Section 13.6 mandates that, when a Trustee has a potential conflict or appearance of conflict in a matter proposed or pending before the Board the member **shall** request to speak when the agenda item with which the member

[8] Attached Exhibit 8.

has a conflict is called, and either disclose the conflict or request legal advice. Unfortunately, this did not occur.

C.R.S. 31-4-307[9] provides that,

> "By a majority vote of all members of the board of trustees, the mayor, the clerk, the treasurer, any member of the board, or any other officer of the town may be removed from office. No such removal shall be made without a charge in writing and an opportunity of hearing being given unless the officer against whom the charge is made has moved out of the limits of the town. When any officer ceases to reside within the limits of the town, he may be removed from office pursuant to this section. A municipal judge may be removed during his term of office only for cause, as set forth in section 13-10-105 (2), C.R.S."

I believe that because the Town has been, in the past, accused of sweeping things under the rug, it is imperative that this issue be dealt with relatively quickly and, if necessary, in an open public meeting.

If the Board determines that a conflict of interest might exist, which violates the State's statutes and the Town of Milliken's Board of Trustees, Commissions & Committees Policies and Procedures Manual, this Board of Trustees could, upon further investigation:

1. Determine no conflict of interest occurred, based on the facts provided to it and present these facts to the public at an open meeting.

2. The Board could determine that a conflict of interest occurred and it is necessary to revisit the Board's vote on the ProCode contract because of Mr. Kidd's participation in the discussion and vote on the contract because that vote was nullified because of his participation.

3. The Board may determine that a conflict existed which was, based upon the Town's Municipal Code and applicable Colorado statutes sufficient to justify providing Mr. Kidd with written notice of the charges against him and setting this matter for a public hearing as to those charges.

4. The Board could decide it would accept Mr. Kidd's resignation as a Trustee and allow Mr. Kidd, if he chose to do so, to make a public statement at an open meeting.

[9] Attached Exhibit 9.

Obviously, all of the facts in this matter have not been collected or firmly established and it would be inappropriate for any of us, at this juncture, to pre-judge this case without the benefit of all those facts.

Sincerely yours,

R. Bruce Fickel

RBF:jh

Document must be filed electronically.
Paper documents are not accepted.
Fees & forms are subject to change.
For more information or to print copies
of filed documents, visit www.sos.state.co.us.

E-Filed

Colorado Secretary of State
Date and Time: 09/30/2014 08:14 AM
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Document number: 20141598827
Amount Paid: $1.00

ABOVE SPACE FOR OFFICE USE ONLY

Articles of Incorporation for a Profit Corporation

filed pursuant to § 7-102-101 and § 7-102-102 of the Colorado Revised Statutes (C.R.S.)

1. The domestic entity name for the corporation is

ProCode Inc.

(Caution: The use of certain terms or abbreviations are restricted by law. Read instructions for more information.)

2. The principal office address of the corporation's initial principal office is

Street address
360 Walnut Ave
(Street number and name)

Eaton | CO | 80615
(City) | *(State)* | *(ZIP/Postal Code)*

(Province – if applicable) | United States *(Country)*

Mailing address
(leave blank if same as street address)
(Street number and name or Post Office Box information)

(City) | *(State)* | *(ZIP/Postal Code)*

(Province – if applicable) | *(Country)*

3. The registered agent name and registered agent address of the corporation's initial registered agent are

Name
(if an individual)
Gesick | Jonathan | David | *(Last)* | *(First)* | *(Middle)* | *(Suffix)*

or

(if an entity)
(Caution: Do not provide both an individual and an entity name.)

Street address
360 Walnut Ave
(Street number and name)

Eaton | CO | 80615
(City) | *(State)* | *(ZIP/Postal Code)*

Mailing address
(leave blank if same as street address)
(Street number and name or Post Office Box information)

(City) | CO *(State)* | *(ZIP/Postal Code)*

(The following statement is adopted by marking the box.)

☑ The person appointed as registered agent above has consented to being so appointed.

4. The true name and mailing address of the incorporator are

Name
(if an individual)

Gesick	Jonathan	David	
(Last)	*(First)*	*(Middle)*	*(Suffix)*

or

(if an entity)

(Caution: Do not provide both an individual and an entity name.)

Mailing address

360 Walnut Ave
(Street number and name or Post Office Box information)

Eaton	CO	80615
(City)	*(State)*	*(ZIP/Postal Code)*

	United States.
(Province – if applicable)	*(Country)*

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

☐ The corporation has one or more additional incorporators and the name and mailing address of each additional incorporator are stated in an attachment.

5. The classes of shares and number of shares of each class that the corporation is authorized to issue are as follows.

◉ The corporation is authorized to issue 1 common shares that shall have unlimited voting rights and are entitled to receive the net assets of the corporation upon dissolution.

○ Information regarding shares as required by section 7-106-101, C.R.S., is included in an attachment.

6. *(If the following statement applies, adopt the statement by marking the box and include an attachment.)*

☐ This document contains additional information as provided by law.

7. *(Caution: Leave blank if the document does not have a delayed effective date. Stating a delayed effective date has significant legal consequences. Read instructions before entering a date.)*

(If the following statement applies, adopt the statement by entering a date and, if applicable, time using the required format.)

The delayed effective date and, if applicable, time of this document is/are _____.
(mm/dd/yyyy hour:minute am/pm)

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8. The true name and mailing address of the individual causing the document to be delivered for filing are

Gesick (Last) Jonathan (First) David (Middle) _____ (Suffix)

360 Walnut Ave
(Street number and name or Post Office Box information)

Eaton (City) CO (State) 80615 (ZIP/Postal Code)

_____ (Province – if applicable) United States (Country).

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

☐ This document contains the true name and mailing address of one or more additional individuals causing the document to be delivered for filing.

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Introduction

ProCode
Professional Code Services

Company

We offer a full service building department with unmatched customer service, knowledge and efficiency. By being efficient we are able to reduce the cost of our services to your municipality and charge a fraction of the cost of other agencies that offer similar services.

We understand our customers want to start their projects quickly and finish on their scheduled date. We pride ourselves in helping the contractor to keep moving through their project while meeting the adopted standard codes.

We provide quick plan review turn-around, greater inspection availability, waiver of fees for municipal projects and community involvement.

Our company has contracted services with Northern Colorado municipalities since 1997.

Philosophy

Our philosophy is,

"We are only players on a team that treat every project as if it were our own."

We are very familiar with many software programs. We can work with any system you may have or recommend one for you.

Our obligation and commitment to your Town is to ensure every property meets a standard to safeguard life, health, and public welfare of the occupants and the community.

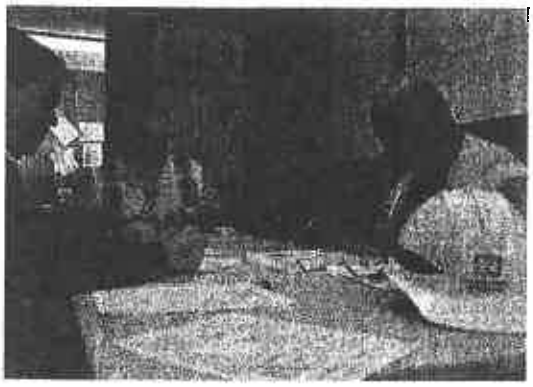
ProCode
Professional Code Services

Services

Working with the Public...

Contractors appreciate and respect the fact that all of our inspectors have construction experience. This experience enables our staff to work hand in hand with architects, contractors, engineers, and homeowners to resolve issues pertaining to their projects.

Our goal is to provide appropriate health, safety, welfare, and social and economic value, while promoting innovative, flexible and responsive solutions that optimize the expenditure and consumption of resources.



Primary Services Provided

- Plan Review – New residential reviews are done within 2 working days, master plan reviews done in 24 hours, commercial and industrial completed in a timely manner depending on the size and complexity.
- Inspections
- Electronic records and submittal
- Issuance of permits
- Certificate of Occupancy
- Inspection requests taken by phone and electronically
- Same day inspections
- After hour services and weekend inspections
- Assist town staff with building code adoption and updates to municipal codes
- Code enforcement
- Contractor orientation and licensing
- Pre-construction meetings
- Educational seminars
- Assist with fire and disaster relief
- Meet with homeowners
- Individualized and specialized plans catered to the towns specific needs

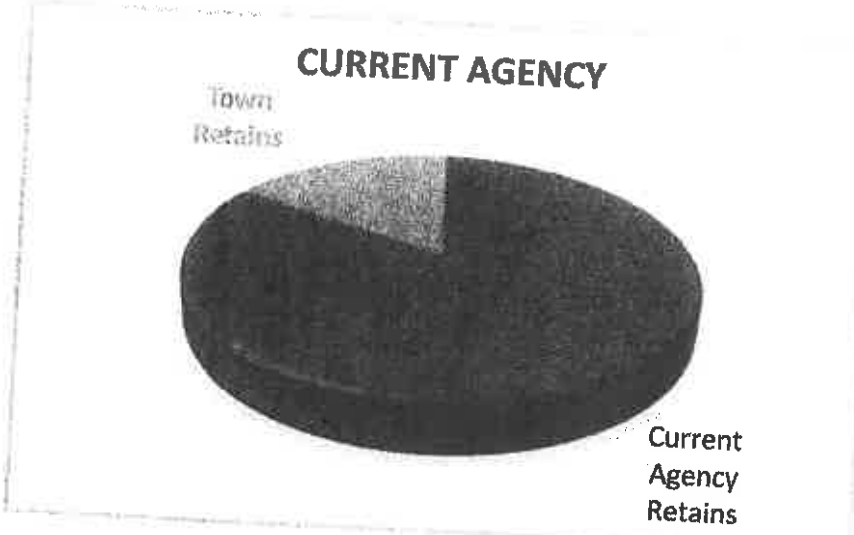
Waived fees provided for our clients.

We waive all fees on municipal projects located in municipalities we serve. Fees include plan review, building, electrical, and inspections. These are considered a courtesy to your Town.

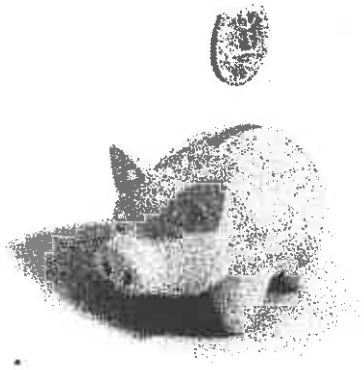
Savings

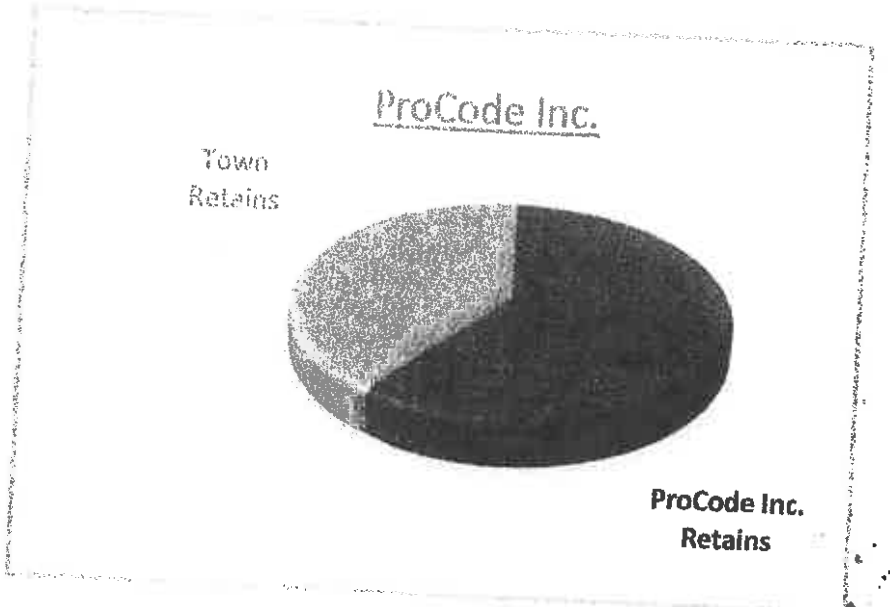
ProCode
Professional Code Service

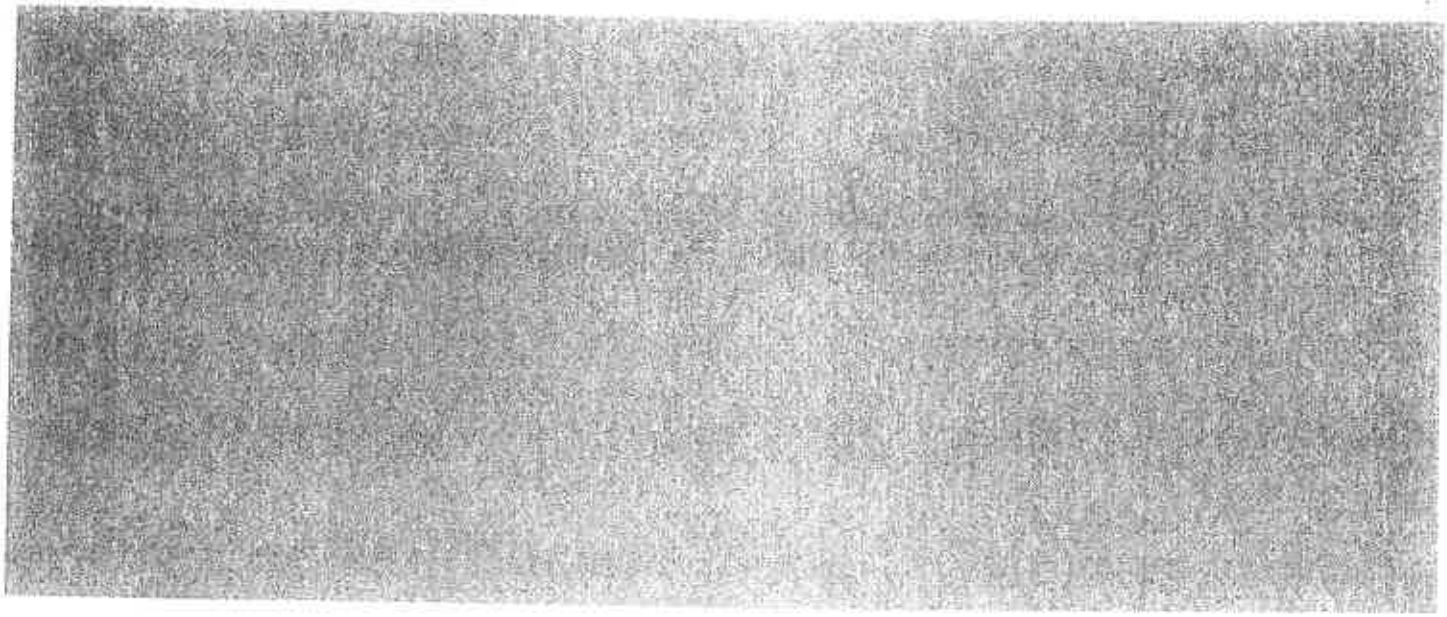
Your current service charges a high percentage of the permit fees. These charts are based off of actual permit fees that are taken from the town. Your current agency can charge up to 90% of the permit fee.



Colorado Inspection Connection Inc. provides the same full building department services while charging a fraction of the amount of your current inspection service.



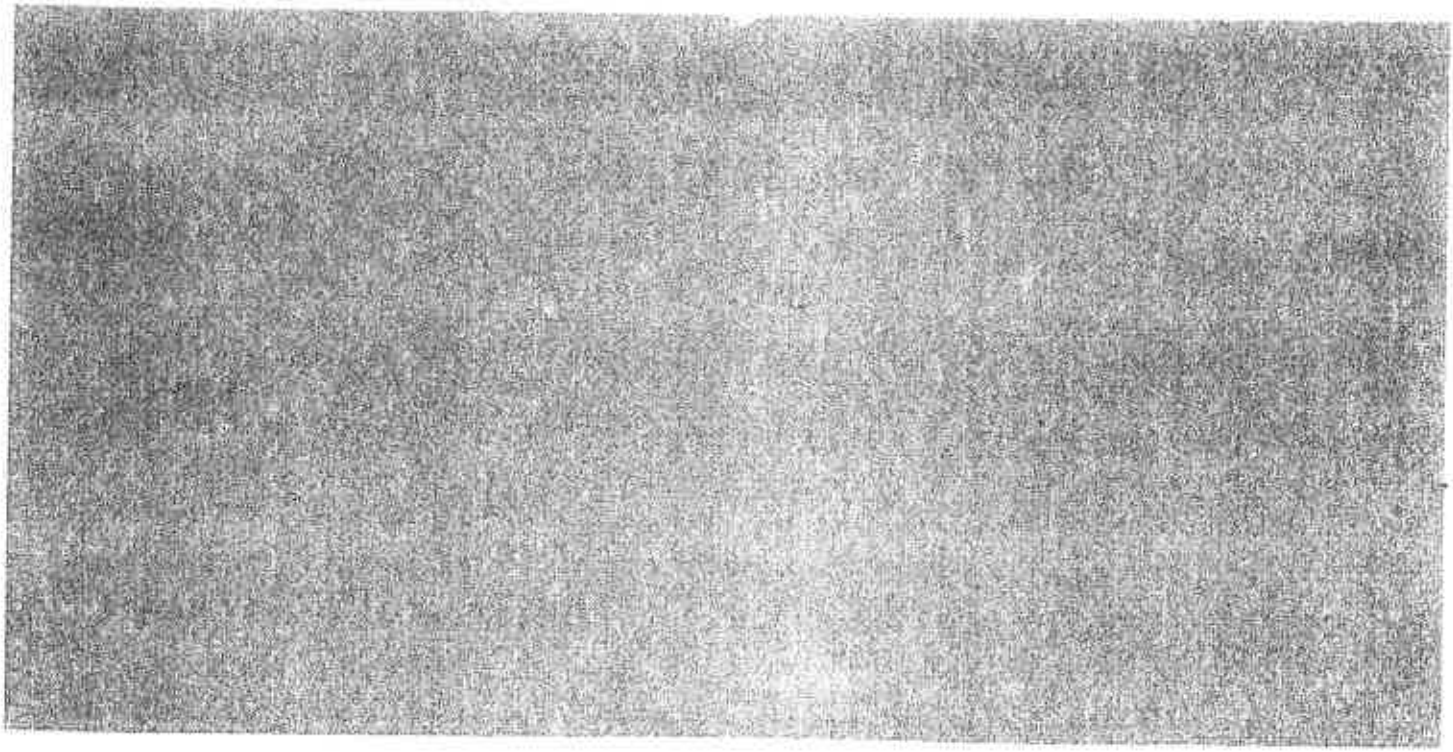




ProCode

Professional Code Services

360 Walnut Ave
Eaton, CO 80615
P- (970)518-5269
Email – jgesick@procodeinc.net
Website – www.procodeinc.net



ProCode

Professional Code Services

Partnering with municipalities to provide exceptional building department services at an affordable price.

COLORADO INSPECTION CONNECTION INC.

Call us Today - 970

OUR COMPANY AT A GLANCE

Colorado Inspection Connection Inc. has been in business since 1997. Serving northern Colorado municipalities with professional building department services. All of our inspectors and plan reviewers are ICC certified and have worked in the trades.

Ken Kidd is the President of Colorado Inspection Connection Inc. He has been in the construction industry for the past 35 years. Ken Kidd is an expert in his field and well respected in the industry.

Jonathan Gesick is the Vice President. He certified building official. Jonathan has be construction industry since 1998.

Towns we currently partner with

- Eaton
- LaSalle
- Fort Lupton
- Garden City
- Berthoud
- Johnstown

CICI only employees ICC and NEC certified inspectors. All inspectors are certified in the disciplines that they inspect. Our company uses mainly combination inspectors. The reason for this is to provide better servic contractors and home owners. By having combination inspectors the contractors only have to wait for one

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Paper documents are not accepted.
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of filed documents, visit www.sos.state.co.us.

E-Filed

Colorado Secretary of State
Date and Time: 12/14/2014 01:32 PM
ID Number: 19991114037

Document number: 20141756421
Amount Paid: $10.00

ABOVE SPACE FOR OFFICE USE ONLY

Periodic Report

filed pursuant to §7-90-301, et seq. and §7-90-501 of the Colorado Revised Statutes (C.R.S)

ID number: 19991114037

Entity name: WEKANTU, INC.

Jurisdiction under the law of which the entity was formed or registered: Colorado

1. Principal office street address:
2280 Birdie Way
(Street name and number)

Milliken | CO | 80543
(City) | *(State)* | *(Postal/Zip Code)*

(Province – if applicable) | United States *(Country – if not US)*

2. Principal office mailing address:
(if different from above)

(Street name and number or Post Office Box information)

(City) | *(State)* | *(Postal/Zip Code)*

(Province – if applicable) | *(Country – if not US)*

3. Registered agent name: (if an individual) Kidd | Sherri | | |
(Last) | *(First)* | *(Middle)* | *(Suffix)*

or (if a business organization)

4. The person identified above as registered agent has consented to being so appointed.

5. Registered agent street address:
2280 Birdie Way
(Street name and number)

Milliken | CO | 80543
(City) | *(State)* | *(Postal/Zip Code)*

6. Registered agent mailing address:
(if different from above)

(Street name and number or Post Office Box information)

(City) | *(State)* | *(Postal/Zip Code)*

(Province – if applicable) | *(Country – if not US)*

Notice:
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7. Name(s) and address(es) of the individual(s) causing the document to be delivered for filing:

Kidd (Last) | Sherri (First) | (Middle) | (Suffix)

2280 Birdie Way
(Street name and number or Post Office Box information)

Milliken (City) | CO (State) | 80543 (Postal/Zip Code)

(Province – if applicable) | United States (Country – if not US)

(The document need not state the true name and address of more than one individual. However, if you wish to state the name and address of any additional individuals causing the document to be delivered for filing, mark this box ☐ and include an attachment stating the name and address of such individuals.)

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$20.00

Colorado Secretary of State
Date and Time: 12/03/2009 02:19 PM
ID Number: 20091632943

Document number: 20091632943
Amount Paid: $20.00

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Statement of Trade Name of a Reporting Entity

filed pursuant to §7-71-103 and §7-71-107 of the Colorado Revised Statutes (C.R.S)

1. For the reporting entity delivering this statement, its ID number, true name, form of entity and the jurisdiction under the law of which it is formed are

ID Number	19991114037 *(Colorado Secretary of State ID number)*
True name	WEKANTU, INC.
Form of entity	Corporation
Jurisdiction	Colorado

2. The trade name under which such entity transacts business or conducts activities or contemplates transacting business or conducting activities in this state is

Colorado Inspection Connection, Inc.

3. A brief description of the kind of business transacted or activities conducted or contemplated to be transacted or conducted in this state under such trade name is

Building Inspection

4. *(If the following statement applies, adopt the statement by marking the box and include an attachment.)*
☐ This document contains additional information as provided by law.

5. *(**Caution:** Leave blank if the document does not have a delayed effective date. Stating a delayed effective date has significant legal consequences. Read instructions before entering a date.)*

(If the following statement applies, adopt the statement by entering a date and, if applicable, time using the required format.)
The delayed effective date and, if applicable, time of this document are _____
(mm/dd/yyyy hour:minute am/pm)

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This perjury notice applies to each individual who causes this document to be delivered to the Secretary of State, whether or not such individual is identified in this document as one who has caused it to be delivered.

6. The true name and mailing address of the individual causing this document to be delivered for filing are

Sherri (Last) Kidd (First) (Middle) (Suffix)

2280 Birdie Way
(Street number and name or Post Office Box information)

Milliken (City) CO (State) 80543 (Postal/Zip Code)

(Province – if applicable) United States (Country – if not US)

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

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FILED
VICTORIA BUCKLEY
COLORADO SECRETARY OF STATE

19991114037 C
$ 65.00
SECRETARY OF STATE
06-15-1999 13:46:45

ARTICLES OF INCORPORATION
FOR
WEKANTU, INC.
~~d/b/a KK ELECTRIC, INC. AND~~ d/b/a ~~KIDDIS KIDS, INC.~~

I, the undersigned natural person of the age of eighteen years or more, acting as incorporator of a corporation under the laws of the Colorado Corporation Act, adopt the following Articles of Incorporation for such corporation:

FIRST: The name of the Corporation is Wekantu, Inc. ~~d/b/a KK Electric, Inc. and d/b/a Kiddis Kids, Inc.~~

SECOND: The period of duration for the corporation is perpetual.

THIRD: The purpose for which the corporation is organized:

1. To operate diversified businesses including but not limited to a child care business and an electrical inspections business.

2. To acquire, own, pledge, dispose of, and deal in shares of capital stock, franchises, rights, debentures, notes, trust receipts or other securities, obligations, choses in actions and evidences of indebtedness, mortgages or interest issued or created by any corporations, (including this corporation), associations, firms, trusts or persons, public or private, by any government entity.

3. To do any and all business or contracting incidental to real estate and property management, and to do any and all other things necessary, proper or convenient for or incidental to the furtherance or carrying out of the powers or purposes herein mentioned and,

4. To engage in any legal and lawful purpose pursuant to the Colorado Corporation Code.

FOURTH: The aggregate number of shares which this corporation shall have authority to issue is 100,000 shares of Common Stock, each having .001 par value consisting Common Stock; each share to have (1) vote per share. All shares shall be fully paid and nonassessable when issued.

FIFTH: Cumulative voting of Common Stock is not authorized.

SIXTH: The holders of the Common Stock of the Corporation shall have preemptive rights to purchase any shares of the corporation hereafter issued, any securities exchangeable or convertible into shares, any warrants or other instruments evidencing rights or options to subscribe for, purchase, or otherwise acquire such shares and said Common Stock shall be with par value.

SEVENTH: The address of the initial registered office for the Company is 3354 Dudley Way, Fort Collins, CO 80526; the name of the initial registered agent at such address is Douglas C. Dickson and the Consent of Appointment as Initial Registered Agent is given by their signature here _____

EIGHTH: The address of the place of business of the Corporation is 3354 Dudley Way, Fort Collins, CO 80526.

NINTH: The number of directors shall be fixed in accordance with the By-laws of the Company provided that the number of directors shall not be less than three unless there are only as many directors as there are shareholders.

The number of directors constituting the initial Board of Directors of the corporation is two (2). The names and addresses of the person who are elected to serve as a director, until the first annual meeting of shareholders, or until their successors are elected and shall qualify are:

NAME	ADDRESS
Kenneth H. Kidd	3354 Dudley Way Fort Collins, CO 80526
Sherri K. Kidd	3354 Dudley Way Fort Collins, CO 80526

TENTH: To issue additional shares of common stock, amend these articles, to establish a quorum, sell assets, grant loans to directors, merge or consolidate, distribution in partial liquidation, or dissolve the company only a majority vote of the outstanding shares of common stock will be required to authorize such an action.

Signed: _____ 6/14/99
Douglas C. Dickson, Incorporator Date

C.R.S. 31-4-404

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session
of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 31. GOVERNMENT - MUNICIPAL
CORPORATE CLASS - ORGANIZATION AND TERRITORY
ARTICLE 4. ORGANIZATIONAL STRUCTURE AND OFFICERS
PART 4. REQUIREMENTS AND COMPENSATION OF OFFICERS

C.R.S. 31-4-404 (2014)

31-4-404. Not to be appointed to office

(1) During the time for which he has been elected or for one year thereafter, no member of the governing body of any city or town shall be appointed to any municipal office which is created or the emoluments of which are increased during the term for which he has been elected except in the cases provided in this title.

(2) Any member of the governing body of any city or town who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body, shall not vote thereon, and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

(3) A member of the governing body of any city or town may vote notwithstanding subsection (2) of this section if his participation is necessary to obtain a quorum or otherwise enable the body to act and if he complies with the voluntary disclosure provisions of section 24-18-110, C.R.S.

HISTORY: Source: L. 75: Entire title R&RE, p. 1035, § 1, effective July 1.L. 88: Entire section amended, p. 1127, § 1, effective March 18; entire section amended, p. 907, § 2, effective July 1.

Editor's note: This section is similar to former § 31-5-304 as it existed prior to 1975.

ÀNNOTATION

Law reviews. For article, **"Conflicts of Interest** in Government", see 18 Colo. Law. 595 (1989).

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C.R.S. 31-25-819

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session
of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 31. GOVERNMENT - MUNICIPAL
POWERS AND FUNCTIONS OF CITIES AND TOWNS
ARTICLE 25. PUBLIC IMPROVEMENTS
PART 8. DOWNTOWN DEVELOPMENT AUTHORITIES

C.R.S. 31-25-819 (2014)

31-25-819. **Conflict of interest**

No board member nor any employee of the board shall vote or otherwise participate in any matter in which he has a specific financial interest, defined as a matter in which the member or employee would receive a benefit or incur a cost substantially greater than other property owners within the district. When such interest appears, it is the duty of the board member or employee to make such interest known, and he shall thenceforth refrain from voting on or otherwise participating in the particular transaction involving such interest. Willful violation of the provisions of this section constitutes malfeasance on the part of a member of the board and is grounds for instant dismissal of any employee. The governing body may by ordinance provide for automatic forfeiture of office by a board member for violation of this section.

HISTORY: Source: L. 76: Entire part added, p. 710, § 1, effective April 26.

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C.R.S. 18-8-308

COLORADO REVISED STATUTES

*** This document reflects changes current through all laws passed at the Second Regular Session
of the Sixty-Ninth General Assembly of the State of Colorado (2014) ***

TITLE 18. CRIMINAL CODE
ARTICLE 8. OFFENSES - GOVERNMENTAL OPERATIONS
PART 3. BRIBERY AND CORRUPT INFLUENCES

C.R.S. 18-8-308 (2014)

18-8-308. Failing to disclose a **conflict of interest**

(1) A public servant commits failing to disclose a **conflict of interest** if he exercises any substantial discretionary function in connection with a government contract, purchase, payment, or other pecuniary transaction without having given seventy-two hours' actual advance written notice to the secretary of state and to the governing body of the government which employs the public servant of the existence of a known potential conflicting interest of the public servant in the transaction with reference to which he is about to act in his official capacity.

(2) A "potential conflicting interest" exists when the public servant is a director, president, general manager, or similar executive officer or owns or controls directly or indirectly a substantial interest in any nongovernmental entity participating in the transaction.

(3) Failing to disclose a **conflict of interest** is a class 2 misdemeanor.

HISTORY: Source: L. 71: R&RE, p. 461, § 1. C.R.S. 1963: § 40-8-308.L. 79: (1) amended, p. 744, § 1, effective July 1.

ANNOTATION

Law reviews. For article, "Director Conflicts: The Effect on Disclosure -- Parts I and II", see 17 Colo. Law. 461 and 639 (1988). For article, "**Conflicts of Interest** in Government", see 18 Colo. Law. 595 (1989).

Section deals with formal, express contracts. Former section prohibiting interest in contract by officer had to do with such contracts as the officer is charged with the duty of making, and with those in the awarding of which he has a voice, or vote, and clearly means formal, express contracts, which are in terms agreed upon, or awarded on bids. People v. Brown, 60 Colo. 276, 152 P. 1169 (1915) (decided under former R.S. 08, § 4994).

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21.0 MEDIATION

In the event of a dispute regarding the provisions of this Agreement it will be submitted to a mutually acceptable mediator within seven (7) days after receipt of written notice of the dispute. Mediation will be concluded and a written advisory opinion issued if no resolution is effected within fourteen (14) days from the commencement of mediation. The parties may elect to accept and implement the provisions of the mediator's advisory agreement or proceed with litigation in Weld County.

22.0 INTEREST OF MEMBERS OF A TOWN

No member of the governing body of the Town and no other public official, officer, employee or agent of the Town who exercises any functions or responsibilities in connection with the planning and carrying out of the Agreement, shall have any personal financial interest, direct or indirect in this Contract; and the Contractor shall take appropriate steps to assure compliance.

23.0 INTEREST OF CONTRACTOR AND EMPLOYEES

The Contractor covenants that it presently has no interest and shall not acquire interest, direct or indirect, which would allow the Contractor to receive compensation in excess of that being paid pursuant to the Agreement, or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants, that in the performance of this Contract, no person having any such interest shall be employed.

24.0 ELECTRONIC SIGNATURE

This Contract may be executed by electronic signature in accordance with C.R.S. 24-71.3-101 *et seq.*

This Contract was authorized by the Town Board on _____, 20___.

The Contractor has read and understands this Agreement and has discussed and any changes it/he/she deems necessary or appropriate and will continue to comply with its provisions during the term(s) of the Agreement which includes providing insurance and/or documentation thereof as necessary before commencement.

C.R.S. 31-4-307

COLORADO REVISED STATUTES

* This document reflects changes current through all laws passed at the Second Regular Session of the Sixty-Ninth General Assembly of the State of Colorado (2014) and changes approved by the electorate at the November 2014 election *

TITLE 31. GOVERNMENT - MUNICIPAL
CORPORATE CLASS - ORGANIZATION AND TERRITORY
ARTICLE 4. ORGANIZATIONAL STRUCTURE AND OFFICERS
PART 3. ORGANIZATIONAL STRUCTURE AND OFFICERS OF STATUTORY TOWNS

C.R.S. 31-4-307 (2014)

31-4-307. Removal of officers - causes - notice

By a majority vote of all members of the board of trustees, the mayor, the clerk, the treasurer, any member of the board, or any other officer of the town may be removed from office. No such removal shall be made without a charge in writing and an opportunity of hearing being given unless the officer against whom the charge is made has moved out of the limits of the town. When any officer ceases to reside within the limits of the town, he may be removed from office pursuant to this section. A municipal judge may be removed during his term of office only for cause, as set forth in section 13-10-105 (2), C.R.S.

HISTORY: Source: L. 75: Entire title R&RE, p. 1034, § 1, effective July 1.L. 77: Entire section amended, p. 795, § 8, effective June 3.L. 81: Entire section amended, p. 1495, § 8, effective June 8.L. 91: Entire section amended, p. 746, § 17, effective April 4.

Editor's note: This section is similar to former § 31-3-306 as it existed prior to 1975.

ANNOTATION

Annotator's note. Since **§ 31-4-307** is similar to former § 31-3-306 prior to the 1975 repeal and reenactment of this title, and laws antecedent thereto, relevant cases construing those provisions have been included in the annotations to this section.

Constitutional grounds for removal. Under this section the holder of an elective office, duly elected by the people, should not be removed except for official misconduct, such misconduct as affects the performance of his duties as an officer, and for offenses against the corporation of a character directly affecting its rights and interests, and this conclusion is clearly sustainable on constitutional grounds. Bd. of Trustees v. People ex rel. Keith, 13 Colo. App. 553, 59 P. 72 (1899).

The power of removal must be exercised under the same limitations, precautions, and sanctions as in other judicial proceedings, and the regularity of the proceedings and the legality of the removal must always be open to review in the courts. Bd. of Trustees v. People ex rel. Keith, 13 Colo. App. 553, 59 P. 72 (1899).

Mere recital in board minutes insufficient. Upon proceedings in mandamus, to contest the right of removal, it is incumbent upon the person or persons attempting to remove respondent to

show that such charges were preferred, and that they were sustained by legal evidence, and the mere recital in the minutes of the board that there was evidence offered, and that the board found the accused guilty is not sufficient. Bd. of Trustees v. People ex rel. Keith, 13 Colo. App. 553, 59 P. 72 (1899).

Officer not within section. When no ordinance had ever been adopted by a town creating an office of deputy marshal and a plaintiff had never been hired or appointed other than as a deputy marshal, then he is not one of those town officers who is entitled to the protection of the removal provisions of the statute, and therefore he can be summarily discharged. Mitchell v. Town of Eaton, 176 Colo. 473, 491 P.2d 587 (1971).

Implicit right to discharge. Unless otherwise limited or restricted by statute or ordinance, implicit in the power of a city or town to hire is the power to discharge at any time without notice and without necessity of written charges and hearing thereon. Mitchell v. Town of Eaton, 176 Colo. 473, 491 P.2d 587 (1971).

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Larry H. Cozad
1817 Saddleback Drive
Milliken, CO 80543
[redacted]

March 11, 2015

Mr. Mayor and Board of Trustees,

I am here tonight to address the conflict of interest involving Trustee Kidd and Mr. Gesick with Pro Code Inc. It is my belief that Trustee Kidd exercised extreme lack of good judgment in not disclosing his relationship with Mr. Gesick and Pro Code Inc. and subsequently voting in favor of approval of the contract for services between the town and Mr. Gesick's company, Pro Code Inc. Based on the documents provided by the town attorney, Bruce Fickel to the public at the town board meeting on February 25, 2015, I believe that Mr. Gesick used his relationship with Trustee Kidd to "trump up" his business history on his Pro Code Inc. website. I believe this to be very dishonest advertising and I am very disappointed that the Town Board has chosen to reward this dishonestly with a contract for services with the Town of Milliken. I also believe that it was more than a simple "oversight" that Trustee Kidd's, Colorado Inspection Connection Inc.'s website listed Mr. Gesick as the Vice President of Trustee Kidd's company. Trustee Kidd went on to give, what I believe to be a less than truthful statement to the board and the public that he had no conflict of interest in the matter. Yet, in later action, when the board reconsidered the approval of the contract with Pro Code Inc., Trustee Kidd did in fact recuse himself from that re-vote. In light of his lack of good judgment and less than truthful statement, I believe that Trustee Kidd has lost the confidence and trust of the residents of Milliken to faithfully transact the business of the town, and he should step down immediately from the Board of Trustees.

In further action on the night of February 20, 2015, Trustee Beck attempted to have an open and transparent public hearing on this issue. If in fact, as represented by Trustee Kidd's statement that there was no conflict of interest in this matter, there should have been no reason not to be open with the public on the matter. Trustee Jemiola attempted to make a motion to prevent an open public hearing before Mayor Tokunaga informed him no motion was necessary. When Trustee Beck made a motion to have an open public hearing the rest of the board of trustees sat quietly on their hands and allowed the motion to die without a second. My question to this board is, if there was no violation of ethics and no conflict of

interest, why would the public not be allowed to hear all the evidence of such? By preventing an open public meeting you prevented the residents from knowing the truth of the matter. To me this action by this board with the exception of Trustee Beck, smacks of the kind of "Chicago style" politics that we all have come to despise. I believe that the Mayor and all Trustees except Trustee Beck have also significantly damaged the trust of the residents of Milliken and you should be ashamed of your actions.

My hope is that the Mayor and the Trustees of the Town of Milliken should become better educated on the subject of "conflict of interest" to prevent future transgressions and work to restore the public trust. A conflict of interest can consist of more than "personal financial gain" as clearly outlined in the documents provided by attorney Fickel. I believe that the contract with Pro Code Inc. should be made void immediately and again be put out for competitive bid. In light of the less than honest advertising on the part of Pro Code Inc. at the time of the original bid, I believe Pro Code Inc. should be excluded from further consideration on this year's contract for services. Lastly, as I stated earlier, I believe Trustee Kidd should immediately step down from the Milliken Board of Trustees.

Larry H. Cozad

To: Milliken Town Board of Trustees
Cc: Attorney Fickle, Finance Officer Pat Murphey, Police Chief Benny Garcia, Kent Brown, TOWN ADMINISTRATOR, CHERYL POWELL, TOWN CLERK

When a new Milliken town trustee takes office, they swear an oath to the following....

OATH OF OFFICE

I, _____, do solemnly affirm, that I will support and enforce the Constitution and Laws of the United States of America and of the State of Colorado, and the Ordinances of the Town Of Milliken, and shall faithfully perform, to the best of my abilities, the duties of the office of Trustee, upon which I am about to enter. Name_____

Subscribed and sworn to before me this ___ Day of April, 20____

Official administering affirmation:_____

Each week at the Johnstown/Milliken Rotary Club, members open our meeting reciting the 4 Way Test. Currently three of the Milliken trustees are members of this Rotary club.....

In all that we think say and do.....
Is it the truth ?
Is it fair to all concerned ?
Will it build good will and better friendships ?
Will it be beneficial to all concerned ?

Commitment to any of these ideals by the current trustees was certainly not present at the last town board meeting.

We citizens elect the trustees to keep open and transparent guidance of our town. Open and transparent seems to have gone the way of dedication to ideals. Even the presented review of Attorney Fickels memo was ignored out of hand.

An appropriate discussion of the conflict issue might have been something like this.....

1. Distribution to the public in attendance, prior available printed materials pertaining to the issue.
2. Public reading of the Fickle memo
3. Public reading of Trustee Beck's statement
4. Public reading of a statement from Trustee Kidd
5. Open discussion

In regard to any statements made, it is clear that only Trustee Beck followed your established protocol

Any discussion that might have taken place was abruptly cut off when a motion was made, seconded and carried to close the issue.

All of this in spite of statements that made it clear that there is/was a public issue raised by citizens questioning potential conflict. Trustees you were elected by the citizens of Milliken to promote and keep our town on solid ground. Your blatant misuse of your authority at the February 25 meeting betrayed every vote that was cast.

The 4 Way test is a simple guide to daily living. We repeat it each week to reaffirm our dedication to being worthy citizens. Your oath of office should have bound you to do the same. (I have mentioned the 4 Way test because of the three trustees who belong to Rotary, who should remain committed to its content, regardless of where they share space.)

I encourage the trustees to re-think the railroad that blew through the last meeting. Provide an appropriate public hearing at which everyone involved may make a statement. Your rush to judgement has deeply damaged your public persona.

At the conclusion of the meeting when I questioned a trustee regarding the way the issue was handled, I was told…"Now we are going to investigate the entire staff for this kind of problem" That sounds to me very much like a threat .

Having already lost some citizen faith in the handling of this issue, renew your commitment to your oath. Put your citizens and our town back as your first priority in your duty as a Milliken Town Trustee.

Colleen Flack