



**TOWN OF MILLIKEN  
TOWN BOARD  
AGENDA MEMORANDUM**

<b>To:</b> Mayor Tokunaga and Town Board of Trustees		<b>Public Hearing Date:</b> April 22, 2015	
<b>From:</b> Martha Perkins, Community Development Director			
<b>Via:</b> Kent Brown, Town Administrator			
Agenda Item #	Action: x	Discussion:	Information:
<b>Agenda Title:</b> Public Hearing/Meeting for the Review and Recommendation to the Milliken Board of Trustees on an Ordinance Disconnecting a Long, Thin, Trapezoidal Piece of Land consisting of Approximately 6.78 Acres Located in the East One-Half Northwest One Quarter (E ½ NW ¼) of Section 34, Township 5 North, Range 67 West of the 6th Principal Meridian, Weld County Colorado from the Town of Milliken. The property owners are Robert David Fields and Doris Ann Fields who own 100% of the subject property. Their agent is their son Robert David Field, as Power of Attorney.			
<b>Staff Recommendation:</b> Staff recommends approval by the Town Board of Trustees.			

**PURPOSE**

To review and consider an Ordinance to disconnect approximately 6.78 acres immediately west of the Mill Iron Subdivision. The subject property has a long, thin trapezoidal shape, about a half mile long along its east and west boundaries, approximately 160 feet along its south boundary and approximately 68 feet along its north boundary. The disconnection petition is signed by David Nelson Fields, who is the agent for Robert and Doris Ann Fields, the property owners owning 100% of the subject land.

The Town Board of Milliken accepted the disconnection petition filed by the Fields' attorney, Christian J. Schulte on March 11, 2015 with the passage of Resolution 15-08. The Planning & Zoning Commission heard the request in a public meeting on April 15, 2015 and recommended approval to the Board of Trustees for their scheduled meeting on April 22, 2015 at 7:00 p.m. in the Meeting House located at 1201 Broad Street.

**BACKGROUND INFORMATION**

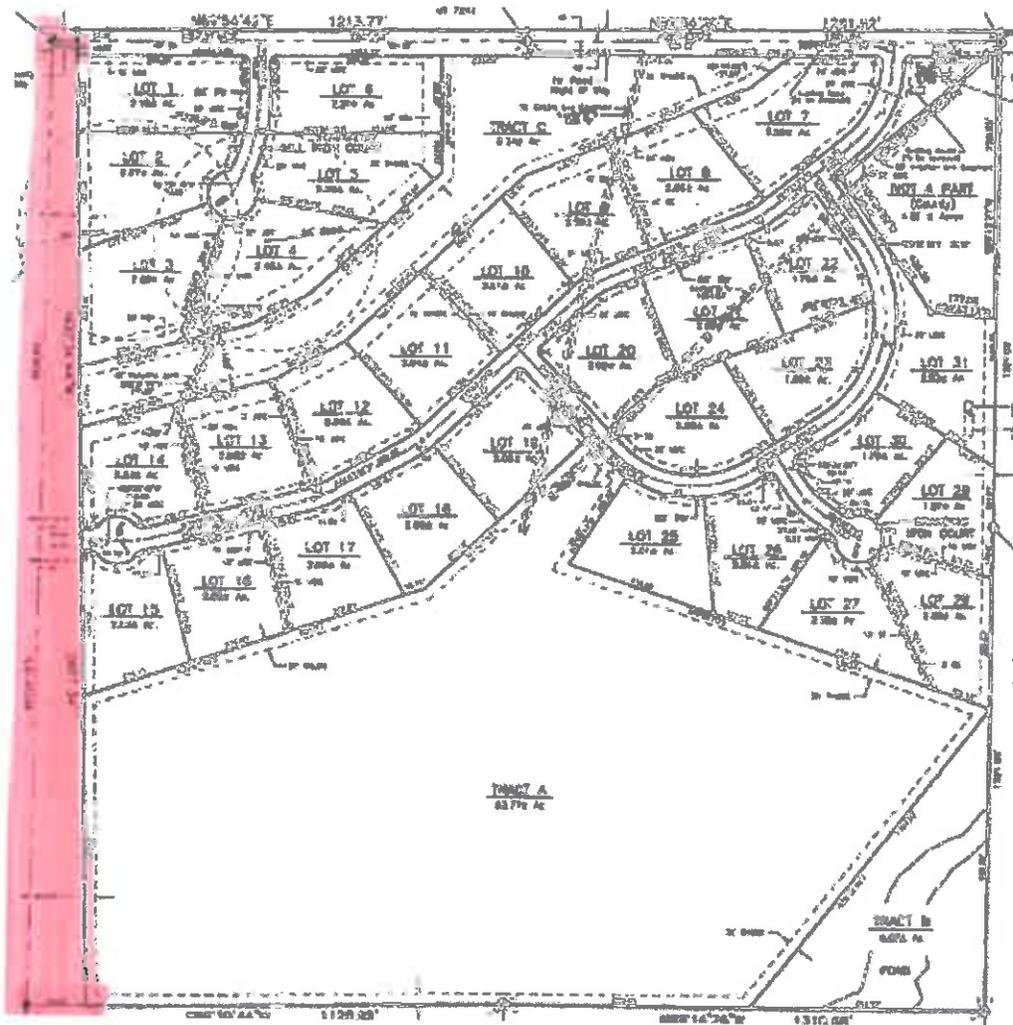
<b>Type of Application:</b>	Disconnection or de-annexation from the Town of Milliken
<b>Location:</b>	The Fields' subject property is located between the Field's residence addressed as 9190 County Road 52 and the Mill Iron V subdivision.
<b>Applicant:</b>	David Nelson Fields

<b>Existing Land Use:</b>	Vacant agricultural
<b>Surrounding Land Use:</b>	North: agricultural West: agricultural South: agricultural East: single family housing in the AE "Agricultural Estates" Zoning District
<b>Zoning:</b>	Currently not platted as part of Mill Iron V Subdivision, so A "Agricultural"
<b>Comprehensive Plan</b>	Low density residential or agricultural uses
<b>Notice</b>	Notice was mailed to Surrounding Property Owners within 300' of the proposed development via Certified/Return Receipt mail on March 15, 2015. The hearing was published in the <i>Johnstown Breeze</i> on March 19 and 26, 2015 and April 2 and 9, 2015. Referral notices were mailed and recorded with the Weld County Commissioners on April 3, 2015. The notice was posted on the property on April 2, 2015.

### PROPERTY LOCATION

The property is contiguous to the Town of Milliken. It has a long, thin trapezoidal shape, about a half mile long along its east and west boundaries, approximately 160 feet along its south boundary and approximately 68 feet along its north boundary.





### COMPLIANCE WITH TOWN LAND USE CODE

Town staff prepared an impact report in compliance with Section 31-12-501 C.R.S., with the attached exhibits necessary for the disconnection of approximately 6.78 acres of land from the Town of Milliken. The Town of Milliken’s Municipal Code does not specifically address disconnections, only annexations. Staff is including the annexation text in case the Board would like to see what is considered with an annexation in making its decision on whether or not to support the petition for the “de-annexation” or disconnection.

#### ARTICLE XIII

##### Annexation Procedures

##### Sec. 16-13-10. Purpose.

The purpose of this Article is to establish a procedure to bring land under the jurisdiction of the Town in compliance with the *Colorado Municipal Annexation Act of 1965*, as amended. This Article, in part, provides supplemental requirements for annexation pursuant to the *Colorado Municipal Annexation Act of 1965*, and is not to be construed as altering, modifying, eliminating or replacing any requirement set forth in that act, or any requirements set forth in other portions of this Code. In the event of a conflict between the act, the provisions of this

Article or any requirements set forth in other portions of this Code, it is the expressed intent of the Board of Trustees that the more stringent provision shall control. (Ord. 627 §1, 2010)

**Sec. 16-13-15. Responsibilities of applicant.**

In addition to other duties imposed upon all applicants by this Code and the Colorado Municipal Act of 1965 (the "Act"), as amended, all applicants shall have the following responsibilities: The applicant is responsible for having a representative at all meetings of the Planning Commission and the Board of Trustees where the request is reviewed. Failure to have a representative present may cause to have the item withdrawn from the agenda of that meeting. (Ord. 627 §1, 2010)

**Sec. 16-13-20. Annexation policy**

(a) All annexations to the Town shall comply with the *Colorado Municipal Annexation Act of 1965* (Sections 31-12-104 and 31-12-105, C.R.S.).

(b) All annexation shall comply with the annexation policies of the Town's Comprehensive Plan including:

- (1) Annexation of enclaves may be accomplished for the purpose of improving the continuity of the Town's boundary and to provide more efficient and effective delivery of services.
- (2) Annexation of unincorporated land may be accomplished in situations where the Town has the ability to serve, or will have the ability to serve in the near future, the annexed land.
- (3) Annexation of land should mainly be limited to the Urban Growth Area of the Town as defined by the Framework Map.
- (4) The fiscal impact of the annexation, if any, shall be determined by applying the Town's fiscal impact model to the present and proposed land use of the annexed area. The fiscal impact shall not be the sole determinant of annexation approval, but shall be one of the determinants in a decision to annex land.
- (5) At the time of annexation action on the part of the Town, all adjoining landowners and any landowners within three hundred (300) feet shall be notified. (Ord. 627 §1, 2010)

**Sec. 16-13-30. Annexation application process.**

The requirements as set forth in this Section may be waived or modified as determined by the Town Administrator or his or her designee based on the size of the proposed land area to be annexed and the timing and intensity of development proposed by the applicant. No such waiver or modification shall apply to the requirements of the *Colorado Municipal Annexation Act of 1965*, as amended.

- (1) Step 1: Preapplication Conference. The applicant shall schedule a preapplication conference with the Community Development Department for the purpose of reviewing

the Town's requirements, obtaining the annexation application materials and to discuss any special conditions pertaining to the annexation.

(2) Step 2: Annexation Application Submittal. At least fifteen (15) days prior to the presentation of any annexation petition to the Board of Trustees, the applicant shall submit two (2) copies of the following information to the Town:

- a. Land Use Application Form.
- b. Application and Deposit Fees. A nonrefundable application fee as determined by the adopted Town Fee Schedule shall accompany each application. This fee is for the cost of the Town to process and review the application. A deposit as determined by the adopted Town Fee Schedule shall accompany each application for outside fees accrued by the Town for review and processing of the application. Any unused amount will be refunded to the applicant as per the fee and deposit agreement. The aforementioned fee and deposit may be waived at the discretion of the Town.
- c. Annexation map. All annexation maps shall be made with an engineer's scale, minimum scale to be one (1) inch represents one hundred (100) feet, and shall be on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches. The annexation map shall contain the following information:
  1. The date of preparation, the scale and a symbol designating true north.
  2. The name of the annexation. The name of the annexation shall be approved by Town Staff.
  3. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the annexation map.
  4. The legal description shall be provided in digital format either in MSWord WordPerfect format.
  5. Designation of the boundary that is contiguous to the Town and the length of the same.
  6. Lot and block numbers if the area is already platted.
  7. Existing and proposed easements and rights-of-way.
  8. Existing and requested zoning and acreage of each requested zone.
  9. Ownership of all parcels within and adjacent to the annexation.
  10. Appropriate certification blocks as directed by the Community Development Department.
  11. A digital copy of the annexation map shall be submitted.
- d. Concept plan. All concept plans shall be made with an engineer's scale, at a minimum scale of one (1) inch represents one hundred (100) feet, and shall be on a

reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches. The concept plan shall contain the following information:

1. The date of preparation, the scale and a symbol designating true north.
  2. The name of the annexation. The name of the annexation shall be approved by Town Staff.
  3. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the concept plan.
  4. Existing and proposed easements and rights-of-way.
  5. Location and approximate acreage of proposed land uses including open space and public sites to be dedicated.
  6. Existing watercourses with adequate easements for flood control.
  7. Land Use Table that includes land uses (including oil and gas facilities and their required setbacks), approximate acreage of each land use, percentage of each land use, proposed density or floor area ratio and proposed number of dwelling units.
  8. USGS topographic contours, most current available.
  9. Proposed zoning of the property.
  10. A digital copy of the concept map shall be submitted.
- e. Supportive information. The following supportive information may be submitted with the annexation map and master plan:
1. Annexation petition. See CRS 31-12-107 for requirements.
  2. Soils description and limitation.
  3. Preliminary utility plan.
  4. Floodplain information.
  5. Title commitment. Such commitment must have an effective date less than thirty (30) days prior to the date of the submittal of the annexation petition.
  6. Mailing list and labels for county, special districts, irrigation ditch companies, mineral interest owners and adjacent property owners. The applicant is to provide a mailing address list and labels as required by the Town of all property owners within three hundred (300) feet of the boundaries of the annexation.
  7. In the case of flagpole annexations, a separate list and set of mailing labels of owners of property adjacent to the public right-of-way proposed to achieve contiguity.

8. Descriptive Summary stating how the annexation is consistent with the goals, policies and strategies set forth in the Comprehensive Plan.
9. Water rights. Water rights sufficient for development of annexed land shall be provided to the Town. One-acre-foot, as the net amount delivered to the applicable treatment facility, per single-family residential unit or in an amount as determined by a water demand analysis for residential or non-residential development shall be applicable. Water rights shall be conveyed as units of the Northern Colorado Water Conservancy District or paid for based on the current market value as determined by the Town Administrator based upon current reliable sales information. Water rights shall be provided at the time of final plat approval or prior to the issuance of a building permit as determined by the Board of Trustees upon approval of the final plat.
10. Zoning map of property to be annexed. All zoning maps shall be made with an engineer's scale at a minimum scale of one (1) inch represents one hundred (100) feet, and shall be on a reproducible medium with outer dimensions of twenty-four (24) by thirty-six (36) inches. The concept plan shall contain the following information:
  - i. The date of preparation, the scale and a symbol designating true north.
  - ii. The name of the annexation. The name of the annexation shall be approved by Town Staff.
  - iii. The names, addresses and phone numbers of the applicant and the firm or person responsible for preparing the zoning map.
  - iv. Existing and requested zoning and acreage of each requested zone. Type and maximum density, including gross and net density of residential land uses; and floor area ratios of nonresidential uses.
  - v. Legal description of the property.
  - vi. All existing land uses within the parcels to be rezoned.
  - vii. Appropriate certification blocks as directed by the Community Development Department.
  - viii. A digital copy of the zoning map shall be submitted.
  - ix. Property tax statement.
  - x. Vicinity map with a radius of one and one-half (1½) miles, at a minimum scale of one (1) inch represents two thousand (2,000) feet.
  - xi. Statement on community need for proposed annexation and zoning.
  - xii. For all annexations in excess of ten (10) acres, the applicant shall obtain from the school district governing the area to be annexed a statement of the effect of the annexation upon the school district, including an estimate of the number

of students generated by the proposed annexation.

f. Annexation impact report. See Section 31-12-108.5, C.R.S., for requirements.

1. One (1) copy of the impact report shall be filed with the Board of County Commissioners governing the area proposed to be annexed within five (5) days thereafter. The preparation and filing of the annexation impact report may be waived upon approval of the Board of County Commissioners governing the area proposed to be annexed.
2. The annexation impact report shall include the following:
  - i. A map or maps of the Town and adjacent territory showing the following information:
    - (a) The present and proposed boundaries of the Town in the vicinity of the proposed annexation.
    - (b) The present streets, major trunk water lines, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation.
    - (c) The existing and proposed land use pattern in the areas to be annexed.
  - ii. A statement of the Town's plans for extending or providing for municipal services within the area to be annexed.
  - iii. A statement of the Town's plans for the financing of municipal services to be extended into the area to be annexed.
  - iv. A statement identifying all existing districts within the area to be annexed.
  - v. A statement of the effect of the annexation upon the school district governing the area to be annexed, as is more fully set forth in Subparagraph i. above.

(3) Step 3: Staff Certifies the Application is Complete. Within thirty (30) days, Staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct any deficiencies in the application package, if necessary, and submit the required number of copies of the application (as specified by the Community Development Director) to the Town. If all documents are complete and accurate, the Community Development Department shall submit the annexation petition to the Town Clerk.

(4) Step 4: Annexation Petition Referral to the Board of Trustees. The Town Clerk shall present the annexation petition and a resolution initiating annexation proceedings to the Board of Trustees, which shall thereafter establish the dates for a public hearing.

(5) Step 5: Publish Public Notice. At least thirty (30) days prior to the public hearing, the Town Clerk shall publish notice of the date, time and place that the Planning Commission and Board of Trustees will be holding the public hearing. The notice must be published once a week for four (4) consecutive weeks.

(6) Step 6: Clerk Refers Annexation Petition, Resolution and Maps to the County, Neighboring Municipalities and Special Districts. Upon the establishment of a public hearing date, the Town Clerk shall give appropriate notice in accordance with the *Colorado Municipal Annexation Act of 1965*, as amended, and shall specifically direct copies of the annexation petition, maps and the resolution initiating the annexation procedure by certified mail to the Clerk of the Weld Board of County Commissioners and the Weld County Attorney. Copies of the annexation petition, maps and the resolution initiating the annexation procedure shall also be sent by certified mail to any school district or special district having territory within the annexed area and all municipalities within three (3) miles of the subject property. These copies shall be sent at least twenty-five (25) days prior to the public hearing.

(7) Step 7: Referral of the Annexation to Interested Parties. Upon acceptance of the annexation petition by the Board of Trustees, Staff shall send copies of the annexation materials to additional interested entities as determined by the Community Development Department. Such entities shall be advised of the scheduled hearing date and shall further be notified that any objections to the annexation and concept plan must be submitted to the Town in writing no later than twelve (12) days after receipt of the annexation map and master plan.

(8) Step 8: Town Clerk Files the Annexation Impact Report. The Town Clerk shall file one (1) copy of the Annexation Impact Report with the Board of Weld County Commissioners at least twenty (20) days before the date of the first public hearing. The preparation and filing of the Annexation Impact Report may be waived if the land being annexed is less than ten (10) acres.

(9) Step 9: Posting of Property and Notification.

- a. Using the mailing list provided by the applicant, notification shall be sent by the Town via first-class mail to the all owners of property within three hundred (300) feet of the property proposed for annexation, mineral interest owners of the property and irrigation ditch companies no later than twelve (12) days before the first public hearing.
- b. The applicant shall post the property with a notice of the public hearings at least twelve (12) days prior to the first public hearing. The sign shall meet the standards determined by the Community Development Department.

(10) Step 10: Annexation Agreement. The Community Development Department shall coordinate discussion among the applicant and appropriate representatives of the Town regarding the provisions of an annexation agreement. The agreement shall be in a form provided by the Town. A draft agreement shall be prepared in advance of the Town Board Public Hearing.

(11) Step 11: Planning Commission Review and Recommendation.

- a. The Planning Commission shall consider the petition for annexation and zoning of the property at a regular or special meeting to be held prior to the date of the public hearing before the Board of Trustees.
- b. The Planning Commission shall, by resolution, recommend approval of the petition for annexation and zoning with or without modifications and/or conditions, or recommend denial. The Planning Commission shall refer any such recommendation to the Board of Trustees.

(12) Step 12: Board of Trustees Public Hearing. Upon the submission of documentation in accordance with this Article and upon compliance with the notice and hearing requirements as set forth in the *Colorado Municipal Annexation Act of 1965*, as amended, and the public hearing, the Board of Trustees may consider the approval of an ordinance annexing and zoning the subject property to the Town. Before approval or denial of the ordinance to annex the subject property, the Board of Trustees per Section 31-12-110, C.R.S., shall set forth a finding of facts through a resolution regarding compliance with Sections 13-12-104 and 13-12-105, C.R.S., and whether or not an election is required. If the Board of Trustees, in its sole discretion, finds that the annexation is not in the best interest of the Town, it may deny the petition by resolution, stating the grounds for such denial. In the event the Board of Trustees considers and disapproves such ordinance, no similar request may be heard for a period of one (1) year from the date of denial.

(13) Step 13: Final Submittal. In the event the Board of Trustees approves the annexation and zoning ordinance, the applicant shall submit to the Town Clerk two (2) mylars of the final annexation and zoning maps within ten (10) days of the effective date of the ordinances.

(14) Step 14: Record the Documents. The Town Clerk shall record two (2) certified copies of the annexation and zoning maps and the signed annexation agreement, if any, with the Weld County Clerk and Recorder Office. (Ord. 627 §1, 2010)

#### **Sec. 16-13-35. Review criteria.**

It shall be the general policy of the Town with respect to annexations and the consideration of annexation petitions that:

(1) Annexation is a discretionary act. With the exception of an initiated petition for the annexation of an enclave, the Board of Trustees shall exercise its sole discretion in the annexation of territory to the Town.

(2) The property is eligible for annexation if the annexation complies with the *Colorado Annexation Act of 1965* (Sections 31-12-104 and 13-12-105, C.R.S.), as amended.

(3) All annexation shall comply with the annexation policies of the Town's Comprehensive Plan. See Section 16-13-20(b). (Ord. 627 §1, 2010)

#### **COMPREHENSIVE PLAN GOALS IMPLEMENTED**

The Community's Vision of the Comprehensive or Envision Milliken Plan is used to measure the Town's success is provided below:

*"Milliken is peaceful, quiet, and safe. Citizens know, respect and care for each other and there is a general concern for the community as a whole. Through their collective efforts and strong leadership, Milliken residents have maintained and built upon the community's high quality of life."*

The Town's Municipal Code in Chapter 16 "Land Use" under Section 16-2-5 "Vision and Intent" states that the intention of the Town's Article II "Community Design Principles and Development Standards" is to clearly describe the Town's Vision. The Vision maintains that the Town's greatest source of pride is its small-town character. As the Town grows, the Code asserts that the elements that contribute to this character must be strengthened and nurtured.

If the Fields want to disconnect this small sliver of land from the Town and combine it with the rest of their farm in the County's boundaries, then staff supports their request. Staff believes showing respect and caring for each other fosters good will and provides a cohesive, strong sense of community, which knows no boundaries. Just because the Fields' land is in the County doesn't mean that they are not valued members of Milliken and its small town character.

The Envision Plan's Community's Vision is expressed through stated principles and supportive policies. Principles and policies form the yardstick against which future ordinances and public programs are to be measured. The Plan states the principles should provide a basis for community decision-making, not only in the development review process, but throughout all sectors of local government. All principles and policies should be compatible with and assist in realizing the Framework Map and serve as the Town's Three-Mile Plan, which shows agricultural and large estate single-family lots bordering County's agricultural land in this area.

## **REVIEW CRITERIA**

Town staff believes that the petition substantially complies with the statutory requirements set forth in Colorado Revised Statutes Section 31-12-501 and other applicable sections. The Town of Milliken does not provide the Fields water and sewer to this land. The Fields have their own well and septic services. To provide the subject property with all services, a road would need to be paved and a water line extended in an existing right of way from a cul-de-sac on Mill Iron Road. Some significant funds will need to be expended to provide sewer services to the subject property as sewer infrastructure currently does not exist. The Mill Iron V Subdivision uses septic systems. The Town does provide the fire and police services, which could also be provided by the County of Weld.

The applicant's family has utilized the subject property for agricultural uses continuously since 1972 along with contiguous parcels consisting of approximately 70 acres. The Fields have submitted with this disconnection petition that they do not use nor plan to use any of the Town's services, including any services or access that could be provided through Mill Iron V Subdivision. The Fields will continue to farm the subject land for a period of 6 years after the effective date of a Board approved disconnection.

The Fields maintain that they owned the subject land before the annexation. There is a fence line along the east boundary of the subject land, which marked historically an agreed-upon boundary line between the Fields' land and the McDowells' land. The Fields assumed the boundary line was property line. The Fields did not realize that the long, thin, trapezoidal subject parcel had been annexed into the Town and platted with the Mill Iron V subdivision until later.

After the death of James McDowell Jr., the applicants attempted to resolve the matter of ownership by paying the McDowell's Estate \$878.00 for the sliver of land, which they claim was well below market value at that time. It paid for the survey and the other legal costs of transferring the land. Now, the Fields are requesting the Town de-annex or disconnect this parcel too.

The Fields pay a small amount of property tax on the land, so the Town receives less than \$50 a year. Board approval of the disconnection would mean that the Town would not have to provide Town services to this property for at least 6 years.

The Findings of Fact are contained in Staff's proposed attached Ordinance for the Commission and Board's consideration.

### **STAFF RECOMMENDATION**

Staff recommends the Commission recommend the Town's Board of Trustee's approved the attached Ordinance 706.

### **TOWN BOARD APPROVAL**

\_\_\_\_\_The Milliken Town Board of Trustees after hearing testimony, examination of the documents presented and the findings of fact finds the application MEETS the provisions of the Colorado Revised Statutes Section 31-12-501 et. seq. and APPROVES Ordinance 706 to disconnect approximately 6.78 acres owned by Fields immediately west of the Mill Iron Subdivision.

or:

\_\_\_\_\_The Milliken Town Board of Trustees after hearing testimony, examination of the documents presented and the findings of fact finds the application DOES MEET the provisions of the Colorado Revised Statutes Section 31-12-501 et. seq. and DOES NOT approve Ordinance 706 to disconnect approximately 6.78 acres owned by the Fields immediately west of the Mill Iron Subdivision.

**ORDINANCE NO. 706**

**AN ORDINANCE DISCONNECTING A LONG THIN TRAPEZOIDAL PIECE OF LAND CONSISTING OF APPROXIMATELY 6.78 ACRES LOCATED IN THE EAST ONE-HALF NORTHWEST ONE QUARTER (E ½ NW ¼) OF SECTION 34, TOWNSHIP 5 NORTH, RANGE 67 WEST OF THE 6 P.M., WELD COUNTY, COLORADO, FROM THE TOWN OF MILLIKEN**

**BE IT ORDAINED BY THE BOARD OF TRUSTEES, TOWN OF MILLIKEN, WELD COUNTY, COLORADO**

Section 1. Upon due consideration of application of Robert David Fields and Doris Ann Fields, owners, and their son David Nelson Fields as the owner's son, who has Power of Attorney authorizing him to act on behalf of Robert David Fields and Doris Ann Fields, for the disconnection of one parcel of ground more particularly described hereinafter.

The Board of Trustees finds as follows:

- A. Robert David Fields and Doris Ann Fields are the owners of this thin trapezoidal piece of land consisting of approximately 6.78 acres immediately west of the Mill Iron V Subdivision.
- B. The north, east, and south boundaries of the subject land run along the Town of Milliken's municipal boundary in that location.
- C. The Board of Trustees has duly considered the application by the Fields' for disconnection of this property from Milliken as the property has been exclusively used for agricultural purposes continuously since 1972 along with agricultural uses on the contiguous parcels owned by the Fields. These parcels comprise the bulk of the west half of the Northwest quarter of Section 34, Township 5 N, Range 67 W of the 6<sup>th</sup> Prime Meridian.
- D. The subject land was annexed by the Town of Milliken pursuant to Ordinance No. 367 effective December 20, 1997 as part of the Mill Iron V Annexation to the Town of Milliken Colorado.
- E. The subject thin trapezoidal piece of land was never platted for development as part of the Mill Iron V Subdivision or any other project.
- F. The adjacent Mill Iron Subdivision property is zoned A-E "Agricultural Estate District" with the intent to provide present and future residents of the Town with areas in which to locate and establish residential land uses and land uses are that compatible with large lot residential areas and agriculturally related uses and the rest of the adjacent agricultural property to the subject parcel is agricultural.
- G. The Fields claim that a fence line existing along the east boundary of the subject. It historically marked an agreed-upon boundary line since at least the 1930s. Even though the Fields were aware of the Mill Iron V Annexation to the Town of Milliken at the time it

occurred, they did not then realize that the annexation was described within a survey to include the subject land and thought the annexation was to the east boundary fence line of the subject land.

- H. The Fields maintain that they owned the subject land since before the Mill Iron V Annexation, by adverse possession. After the annexation of the subject land came to the Fields' attention and after the death of the developer, James T. McDowell Jr., the Fields attempted to resolve the matter of ownership by a settlement agreement with the personal representative of the developer's estate, who agreed to deed the subject land to the Fields for \$878.00, and amount the Fields claim was well below the market value for the subject land at the time.
- I. The Town of Milliken does not provide the Fields water and sewer to this land. The Fields have their own well and septic services.
- J. To provide the subject property with all services, a road would need to be paved and a water line extended in an existing right of way from a cul-de-sac on Mill Iron Road.
- K. Some significant funds will need to be expended to provide sewer services to the subject property as sewer infrastructure currently does not exist. The Mill Iron V Subdivision uses septic systems.
- L. The Town does provide the fire and police services, which could also be provided by the County of Weld.
- M. The Fields have expressed an interest to the Town not to be connected to the subject land by a road to the Town of Milliken even though a right of way (ROW) exists from the Mill Iron V Subdivision cul-de-sac, known as Mill Iron Road. In addition, the Mill Iron V Association has asked the Town to vacate that the ROW access easement to the subject property.
- N. The Fields commit to continue using the property for agricultural uses and commit to continue using the subject land for agricultural uses for six years from the effective date of disconnection except for a family home for David Nelson Fields and for the development of mineral rights attached to the subject land.
- O. The Fields will not annex this subject land within the period of six years from the effective date of the disconnection.
- P. The Fields acknowledge that if the subject land is disconnected from the Town of Milliken it shall not be exempt from the payment of any outstanding taxes lawfully assessed against the subject land associated with the payment of any indebtedness lawfully contracted by the governing body of the Town while such land was within the limits of the Town of Milliken and which remains unpaid and for the payment of which said land could be lawfully taxed, pursuant to C.R.S. §31-12-502 even though the Fields believe currently they owe no taxes to the Town on this subject property.

Section 2. Upon due consideration of C.R.S. §31-12-501, which provides for disconnection of a tract of land from a town by ordinance, the Board of Trustees finds as follows:

- A. When an owner of a tract of land within and adjacent to the boundary of a city or town desires to have said tract disconnected from such city or town, such owner may apply to the governing body of such city or town for the enactment of an ordinance disconnecting such tract of land from such city or town. On receipt of such application, the Town Board shall give due consideration to the such application and if the best interests of the city or town will not be prejudiced by the disconnection of the subject property, then the Town Board will enact an ordinance effecting such disconnection.
- B. The ordinance once enacted shall be effective thirty days after publication. Certified copies of this ordinance will be filed with County of Weld County Clerk and Recorder and the State of Colorado's Division of Local Government's Department of Local Affairs, as provided in C.R.S. §24-32-109.
- C. The subject land consists of thin trapezoidal piece of agricultural, rural land consisting of approximately 6.78 acres immediately west of the Mill Iron V Subdivision that will continue to be used for agricultural uses for a minimum of six years and not urbanized in the foreseeable future.
- D. The subject land is and has been a part of a larger agricultural operation owned by the Fields consisting of several other family-owned land entirely situated in the unincorporated Weld County and thus, the Field's interest in the subject land exists with the larger, broader agricultural community outside the Town of Milliken.
- E. The subject land is using minimal Town services, only police and fire, since it has its own well, septic system, and access. The Fields are requesting not to be provided municipal services including access through the Mill Iron V Subdivision and the Mill Iron V Subdivision Association is asking to vacate the right of way (ROW) necessary for the Town to serve the subject property with services.

**WHEREAS**, the Board of Trustees of the Town of Milliken hereby determines that it has given due consideration to the Fields disconnection application and that the Town Board believes the best interests of the Town of Milliken will not be prejudiced by the disconnection of the subject property, then the Town Board will enact an ordinance effecting such disconnection.

**WHEREAS**, no community of interest exists between the subject land and the Town of Milliken, since the subject land is so small and continues to be rural, not urban, and will not be urbanized in the foreseeable future as a part of the farm.

**WHEREAS**, the owners and their son, David Nelson Fields, will continue to use the subject land for agricultural uses for a minimum of six years after the effective date of disconnection and into the foreseeable future without subdividing the land into residential lots with the exception of the building of one family home for David Nelson Fields and the development of mineral rights attached to the subject land.

**WHEREAS**, the property owners or David Nelson Fields will not request an annexation or use Town services and access for a minimum of six years after the effective date of disconnection.

**WHEREAS**, the property owners acknowledge that if the subject land is disconnected from the Town of Milliken shall not be exempt from the payment of any outstanding taxes lawfully assessed against the land for the purpose of paying any indebtedness lawfully contracted by the governing body of such city or town while such land was within the Town's limits and which remains unpaid and for the payment of which said land could be lawfully taxed, pursuant to C.R.S. §31-12-502 even though the Fields believe they owe no taxes to the Town on this subject property.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, COUNTY OF WELD, STATE OF COLORADO THAT:**

Section 1: After due consideration of the Fields' disconnection application, the Milliken Town Board believes that the best interests of the Town will not be prejudiced by the disconnection of the subject property described as follows:

A parcel of land being part of the East One-Half Northwest One-Quarter (E ½ NW ¼) of Section Thirty-Four (34), Township Five (5) North, Range Sixty-Seven (67) West of the 6 Principal Meridian (P.M.), Weld County, Colorado, being more particularly described as:

Considering the north line of the East One Half Northwest One-Quarter (E ½ NW ¼) of said Section Thirty-Four (34) to bear North 89°54'43" East and all bearings contained herein relative thereto:

Beginning at the West One-Sixteenth (W 1/16) Corner of said Section Thirty-Four (34); thence along the north line of the East One-Half Northwest-One Quarter (E ½ NW ¼) of said Section Thirty-Four (34), North 89°54'43" East 68.00 feet; thence leaving the north line of the East One-Half Northwest One-Quarter (E ½ NW ¼) of said Section Thirty-Four (34), South 00°34'44" East, 2593.94 feet to a fence line north of the south line of the East One-Half Northwest One-Quarter (E ½ NW ¼) of said Section Thirty-Four (34); thence, North 89°20'22" West, 158.22 feet along a fence line to a point on the west line of the East One-Half Northwest One-Quarter (E ½ NW ¼) of said Section Thirty-Four (34); thence, North 01°24'53" East, 2592.66 feet to the Point of Beginning.

The above-described parcel contains 6.73 acres, more or less, including rights-of-way and/or easements reserved for Weld County Road 52 along the northerly side of said parcel and is also subject to rights-of-way and/or easements of record as recorded and/or as now exist.

This ordinance shall take effect thirty days after publication. Certified copies of this ordinance will be filed with County of Weld County Clerk and Recorder and the State of Colorado's Division of Local Government's Department of Local Affairs, as provided in C.R.S. §24-32-109.

Section 2:

At its regular meeting of the Board of Trustees on this \_\_\_\_ day of \_\_\_\_\_, 2015, this Ordinance was introduced, read and passed by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

TOWN OF MILLIKEN

\_\_\_\_\_  
Milt Tokunaga – Mayor

ATTEST:

\_\_\_\_\_

Town Clerk, Cheryl Powell

Published: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_

R. Bruce Fickel, Town Attorney

NOTICE OF PUBLIC HEARING  
TOWN OF MILLIKEN

NOTICE is hereby given of a public hearing before the Planning Commission of the Town of Milliken, Colorado at 7:00 P.M. on the 15th of April 2015. A public hearing before the Town Board of Trustees may be heard at 7:00 P.M. on the 22th day of April, 2015. Both meetings will be held at 1201 Broad Street in the Meeting House for the purpose of considering Resolution 15-06 initiating a disconnection proceeding for Robert and Doris Fields' petition to disconnect a certain tract of land within and adjacent to the boundary of the Town of Milliken located in the East One-Half Northwest One-Quarter (E ½ NW ¼) of Section 34, Township 5 North, Range 63 West of the 6 P.M. Weld County, Colorado, more particularly described in a personal representatives deed dated February 22, 2007, signed by James T. McDowell , III, recorded with the Clerk and Recorder of Weld County, Colorado at Reception No. 3463387 on March 21, 2007, which is a long thin trapezoidal piece of land consisting of approximately 6 to 7 acres of land immediately west of the Mill Iron V subdivision. A copy of Robert and Doris Fields' petition for disconnection with maps and other associated materials may be reviewed at the Town Hall, 1101 Broad St. between the hours of 8:00 A.M. and 5:00 P.M., Monday through Friday.

This notice given and published by order of the Town Board of the Town of Milliken, Colorado.

TOWN OF MILLIKEN, COUNTY OF WELD, COLORADO

By: Cheryl Powell, Town Clerk

Published in the Johnstown Breeze, March 12, 2015



Town of Milliken  
1101 Broad Street  
Milliken, CO 80543  
WWW.MILLIKENCO.GOV

March 22, 2015

Weld County Commissioners  
915 10th Street  
Greeley, CO 80632

**RE: De-Annexation Report for Fields**

Dear Commissioners;

In compliance with Section 31-12-501 C.R.S., we respectfully submit this letter and the attached exhibits for the disconnection of approximately 6 to 7 acres of land into the County of Weld, which consists of one application for disconnection. The following is a list of the items and issues that the City is required to address for the benefit of the Commissioners.

**Project Location:**

Robert David Fields and Doris Ann Fields own 100% of the subject property, which is located between the Field's residence addressed as 9190 County Road 52 and Mill Iron 5 subdivision. The subject property consists of approximately 6 to 7 acres as a long, thin trapezoidal shape with the north boundary consisting of 68 feet, which fronts County Road 52. The parcel is located in the East One-Half Northwest One-Quarter (E ½ NW ¼) of Section 34, Township 5 North, Range 63 West of the 6 P.M., Weld County, Colorado, more particularly described in a Personal Representative's Deed dated February 22, 2007, signed by James T. McDowell, III recorded with the Clerk and Recorder of Weld County, Colorado at Reception No. 3463387 on March 21, 2007 (Exhibit 3 in the Petition).

The aerial view shown here is not meant to replace the attached Exhibits, but hopefully illustrates where the disconnection is proposed. The land to be disconnected is shown with the fuchsia outline and the purple area shows the current property within Milliken.

Town Hall ● 1101 Broad St., Drawer 290 ● Milliken, CO 80543 ● (970) 587-4331 ● Fax: (970) 587-2678



### **Project Overview:**

Christian Schulte, an attorney with Otis, Bedingfield, & Peters, LLC, legally representing Robert David Fields and Doris Ann Fields, the property owners, are requesting the disconnection of roughly 6 to 7 acres immediately west of the Mill Iron Subdivision. It has a long, thin trapezoidal shape, about a half mile long along its east and west boundaries, approximately 160 feet along its south boundary and approximately 68 feet along its north boundary. The disconnection petition is signed by David Nelson Fields, who is Robert and Doris Ann Field's son. David Fields has Power of Attorney to act on their behalf in this matter.

The Town Board of Milliken accepted this petition on March 11, 2015. The Planning and Zoning Commission will hear the request 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. This public hearing is currently being publically noticed.

### **Background:**

Town staff believes that the petition substantially complies with the statutory requirements set forth in Colorado Revised Statutes. The applicant's family has utilized the subject property for agricultural uses continuously since 1972 along with contiguous parcels consisting of approximately 70 acres. The Fields have submitted with this disconnection petition that they do not use nor plan to use any of the Town's



services, including any services or access that could be provided through Mill Iron V Subdivision. The Fields will continue to farm the subject land for a period of 6 years after the effective date of a Board approved disconnection.

The Fields maintain that they owned the subject land before the annexation. There is a fence line along the east boundary of the subject land, which marked historically an agreed-upon boundary line between the Fields' land and the McDowells' land. The Fields assumed the boundary line was property line. The Fields not realize that the long, thin, trapezoidal subject parcel had been annexed into the Town and platted with the Mill Iron V subdivision until later.

After the death of James McDowell Jr., the applicants attempted to resolve the matter of ownership by paying the McDowell's Estate \$878.00 for the sliver of land, which they claim was well below market value at that time. Now, the Fields are requesting the Town de-annex or disconnect this parcel too.

The Fields pay small amount of property tax on the land, so the Town receives less than \$50 a year. Board approval of the disconnection would mean that the Town would not have to provide Town services to this property for at least 6 years.

#### **Legal Description for Fields Disconnection (Exhibits 1 and 3 of the Petition)**

A parcel of land being part of the East One-Half Northwest One-Quarter (E  $\frac{1}{2}$  NW  $\frac{1}{4}$ ) of Section Thirty-Four (34), Township Five (5) North, Range Sixty-Seven (67) West of the 6 Principal Meridian (P.M.), Weld County, Colorado, being more particularly described as:

Considering the north line of the East One Half Northwest One-Quarter (E  $\frac{1}{2}$  NW  $\frac{1}{4}$ ) of said Section Thirty-Four (34) to bear North 89°54'43" East and all bearings contained herein relative thereto:

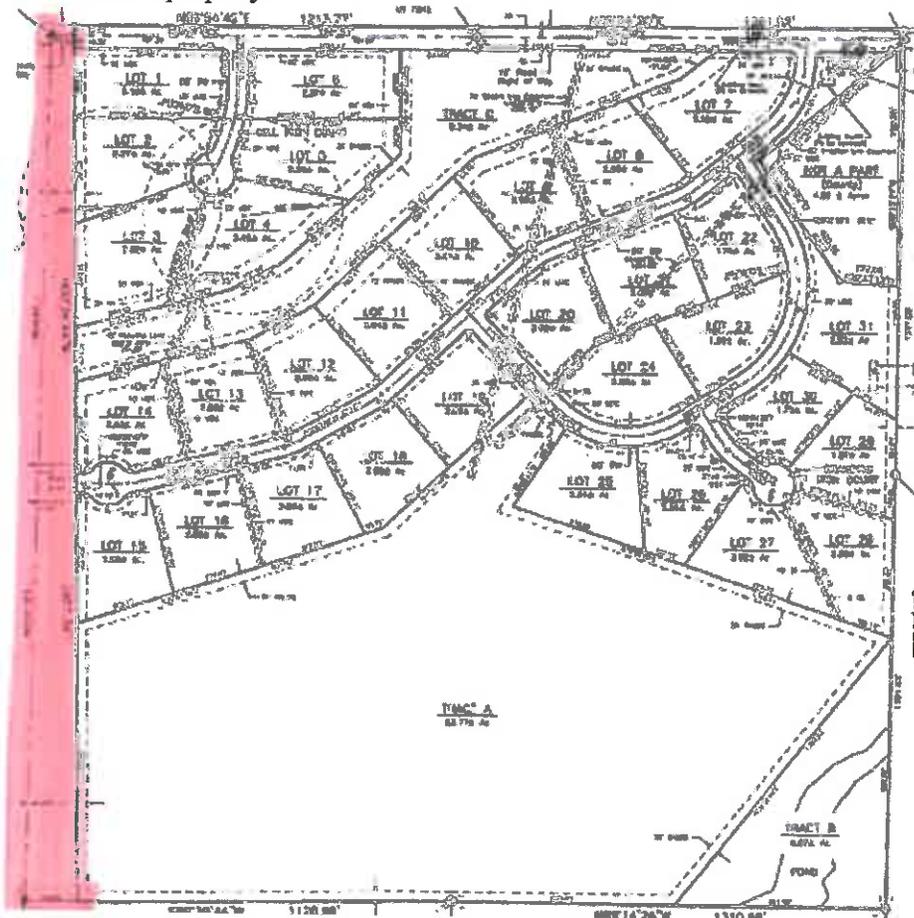
Beginning at the West One-Sixteenth (W  $\frac{1}{16}$ ) Corner of said Section Thirty-Four (34); thence along the north line of the East One-Half Northwest-One Quarter (E  $\frac{1}{2}$  NW  $\frac{1}{4}$ ) of said Section Thirty-Four (34), North 89°54'43" East 68.00 feet; thence leaving the north line of the East One-Half Northwest One-Quarter (E  $\frac{1}{2}$  NW  $\frac{1}{4}$ ) of said Section Thirty-Four (34), South 00°34'44" East, 2593.94 feet to a fence line north of the south line of the East One-Half Northwest One-Quarter (E  $\frac{1}{2}$  NW  $\frac{1}{4}$ ) of said Section Thirty-Four (34); thence, North 89°20'22" West, 158.22 feet along a fence line to a point on the west line of the East One-Half Northwest One-Quarter (E  $\frac{1}{2}$  NW  $\frac{1}{4}$ ) of said Section Thirty-Four (34); thence, North 01°24'53" East, 2592.66 feet to the Point of Beginning.



The above-described parcel contains 6.73 acres, more or less, including rights-of-way and/or easements reserved for Weld County Road 52 along the northerly side of said parcel and is also subject to rights-of-way and/or easements of record as recorded and/or as now exist.

1. *A map or maps of the Town and adjacent territory showing: the present and proposed boundaries of the Town in the vicinity of the proposed annexation; and the present streets, major trunk water lines, sewer interceptors and outfalls, other utility lines and ditches and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation.*

The property is contiguous to the Town of Milliken. The property is capable of being integrated with Milliken. Mill Iron V Subdivision next door has all services that other properties in Town enjoy, except they use septic systems. A right of way through the Mill Iron Subdivision exists for access to the Field's property.





Attached, please find:

- a. A vicinity map showing current and proposed municipal boundaries in the vicinity of the annexation.
  - b. Maps from Milliken's draft Master Water/Wastewater Plan showing proposed water and sewer lines.
  - c. The Milliken Comprehensive Land Use Map showing the Milliken street system. Extensions of such streets is unknown at this time. They will be determined through the Town's subdivision process.
2. *A copy of any draft or final pre-annexation agreement, if available.*

No agreement has been made between the Town of Milliken and the Fields.

3. *A statement of the Town's plans for extending or providing for municipal services within the area to be annexed.*

The Town is capable of providing services to this area. A Water and Wastewater Master Plan illustrates how these additional services would be provided for this area. The Town serves Mill Iron V Subdivision with water, so a municipal water line currently exists in County Road 52 and Mill Iron V is on a septic system. Additional development requiring sewer service could be provided with a lift station and a force main. Currently, the Town is not providing municipal services to the Fields property, except for fire and police services. The current right-of-way from the Mill Iron V cul-de-sac would need to be paved to the property line to allow access to their property.

The entities below have indicated they have the capacity to serve this property:

Electricity	Excel Energy/ Poudre Valley REA
Telephone	Century Link Communications
Water	Town of Milliken / Little Thompson
Sanitary Sewer	Town of Milliken once developed –currently Mill Iron V is on septic systems
Fire	Front Range Fire Rescue Authority
Police	Town of Milliken
Street Maintenance	Town of Milliken

4. *A statement of the Town's plans for the financing of municipal services within the area to be annexed.*

The Petitioner understands that there may be a significant period of time before **all** municipal utilities will be available if urbanization takes place. However, the Petitioner has no desire to



urbanize this subject land in the foreseeable future. The Fields are arguing that this sliver of land was annexed by mistake with the Town's Ordinance 367 in 1997.

5. *A statement identifying all existing districts within the area to be annexed.*

The area to be annexed is included within the following special districts:

Weld County  
Weld County School District, RE-5J  
Northern Colorado Water  
Johnstown Fire aka Front Range Fire Rescue Authority Bonding District  
Aims Junior College  
High Plains Library District  
West Greeley Conservation

6. *A statement of the effect of the annexation upon the school district governing the area to be annexed, as is more fully set forth in Section 15-3(d)(7) of this chapter.*

The de-annexation or disconnection will not generate additional impacts to the School District.

Please let me know if you have any additional questions at 970-660-5047.

Sincerely yours,

Kent Brown  
Town Administrator

cc: Weld County Board of County Commissioners  
Weld County School District RE5J  
CDOT, Gloria Hice-Idler  
Baja Cable Company  
Century Link  
Xcel Energy  
Thompson River Parks and Recreation  
Weld County Health  
Waste Management  
Big Thompson, Platte River and Bee Line Ditch Company  
Weld County Planning  
Front Range Fire Rescue  
US Post Office



Town of Johnstown  
Northern Colorado Water  
Aims Junior College  
High Plains Library District  
West Greeley Conservation

Wednesday, February 18, 2015

Martha Perkins, Community Development Director  
Town of Milliken  
1101 Broad Street  
Milliken, Colorado 80543

Re: *Petition to disconnect certain land from the Town of Milliken*

Dear Ms. Perkins:

Accompanying this letter, please find three copies of Robert and Doris Fields' PETITION FOR DISCONNECTION and exhibits thereto. Please bring this material to the attention of all persons necessary to fairly consider the Fields' request.

It is my clients' request that this petition be brought before the Board of Trustees as quickly as possible for consideration, as an agenda item at the next meeting if feasible. To that end, I will make myself available as necessary. In particular, if I may answer any questions or address any concerns, I would be glad to.

Please let me know if you need additional materials or information from me or my client. Thank you for your attention to this matter.

Yours truly,

Otis, Bedingfield & Peters, LLC



Christian J. Schulte

/cjs

cc: David Fields (via email only)  
Tom Parko (via email only)

Exhibit 1

**SPECIAL AND DURABLE POWER OF ATTORNEY**

I, ROBERT DAVID FIELDS (DOB 9/25/1942) of 9190 Weld County Road 52, Milliken, Colorado, as Principal, appoint my son DAVID NELSON FIELDS (DOB 5/29/1973) of 4904 30<sup>th</sup> Street, Greeley, Colorado, my lawful agent and attorney and give my son DAVID NELSON FIELDS full power and authority to act for me to prosecute any action to clear title, re-zone, de-annex, disconnect or otherwise affect certain real property belonging to me ("the Property") described as a parcel located in the East One-Half Northwest One-quarter (E 1/2 NW 1/4) of Section 34, Township 5 North, Range 63 West of the 6 P.M., Weld County, Colorado, more particularly described as follows:

A parcel of land being part of the East One-Half Northwest One-Quarter (E 1/2 NW 1/4) Section Thirty-Four (34), Township Five (5) North, Range Sixty-Seven (67) West of the 6th Principal Meridian, Weld County, Colorado, being more particularly described as:

Considering the north line of the East One-Half Northwest One-Quarter (E 1/2 NW 1/4) of said Section Thirty-Four (34) to bear North 89°54'43" East and all bearings contained herein relative thereto.

Beginning at the West One-Sixteenth (W 1/16) Corner of said Section Thirty-Four (34); thence along the north line of the East One-Half Northwest One-Quarter (E 1/2 NW 1/4) of said Section Thirty-Four (34), North 89°54'43" East, 68.00 feet; thence leaving the north line of the East One-Half Northwest One-Quarter (E 1/2 NW 1/4) of said Section Thirty-Four (34), South 00°34'44" East, 2593.94 feet to a fence line north of the south line of the East One-Half Northwest One-Quarter (E 1/2 NW 1/4) of said Section Thirty-Four (34); thence, North 89°20'22" West, 158.22 feet along a fence line to a point on the west line of the East One-Half Northwest One-Quarter (E 1/2 NW 1/4) of said Section Thirty-Four (34); thence, North 01°24'53" East, 2592.66 feet to the Point of Beginning.

The above-described parcel contains 6.73 acres, more or less, including rights-of-way and/or easements reserved for Weld County Road 52 along the northerly side of said parcel and is also subject to rights-of-way and/or easements of record as recorded and/or as now exist.

1. Said agent is authorized to execute and deliver any and all documents reasonably necessary to consummate the disconnection of the Property from the Town of Milliken.
2. Such authority to act on my behalf, includes, without limitation, the authority to assert and maintain before a court or administrative agency or municipal body a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief.
3. Subject to the restrictions set forth in this Power of Attorney, said agent and attorney shall have the powers conferred upon power of attorney by the Colorado Uniform Power of Attorney Act (as amended) as it exists at the time of the execution of this Power of Attorney.

4. Said agent and attorney shall have the power to appoint substitute attorneys-in-fact and make such appointments in writing.

5. This Power of Attorney shall not be affected by my disability.

6. This Power of Attorney shall be construed and interpreted as a special power of attorney.

7. Third parties may rely upon the representations of my agent and attorney as to all matters relating to any power granted herein. Any person who acts in reliance upon the representations of my agent and attorney or the authority granted to DAVID NELSON FIELDS pursuant to this power shall not incur any liability to me as the result of permitting said agent and attorney to exercise any power granted herein.

EXECUTED and delivered this 13<sup>th</sup> day of February, 2015.

Robert David Fields  
Robert David Fields, Principal

David Nelson Fields  
David Nelson Fields, Agent

STATE OF COLORADO )  
                                  ) ss.  
COUNTY OF WELD     )

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 13<sup>th</sup> day of February, by Robert David Fields, Principal, and by David Nelson Fields, Agent.

WITNESS my hand and official seal.

My commission expires: 7.10.2016

ANNA M. GEISENHOF  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20084023933  
MY COMMISSION EXPIRES JULY 10, 2016

Anna M Geischoff  
Notary Public

Exhibit 2

**SPECIAL AND DURABLE POWER OF ATTORNEY**

I, DORIS ANN FIELDS (DOB 12/27/1942) of 9190 Weld County Road 52, Milliken, Colorado, as Principal, appoint my son DAVID NELSON FIELDS (DOB 5/29/1973) of 4904 30<sup>th</sup> Street, Greeley, Colorado, my lawful agent and attorney and give my son DAVID NELSON FIELDS full power and authority to act for me to prosecute any action to clear title, re-zone, de-annex, disconnect or otherwise affect certain real property belonging to me ("the Property") described as a parcel located in the East One-Half Northwest One-quarter (E ½ NW ¼) of Section 34, Township 5 North, Range 63 West of the 6 P.M., Weld County, Colorado, more particularly described as follows:

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The above-described parcel contains 6.73 acres, more or less, including rights-of-way and/or easements reserved for Weld County Road 52 along the northerly side of said parcel and is also subject to rights-of-way and/or easements of record as recorded and/or as now exist.

1. Said agent is authorized to execute and deliver any and all documents reasonably necessary to consummate the disconnection of the Property from the Town of Milliken.
2. Such authority to act on my behalf, includes, without limitation, the authority to assert and maintain before a court or administrative agency or municipal body a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief.
3. Subject to the restrictions set forth in this Power of Attorney, said agent and attorney shall have the powers conferred upon power of attorney by the Colorado Uniform Power of Attorney Act (as amended) as it exists at the time of the execution of this Power of Attorney.

4. Said agent and attorney shall have the power to appoint substitute attorneys-in-fact and make such appointments in writing.

5. This Power of Attorney shall not be affected by my disability.

6. This Power of Attorney shall be construed and interpreted as a special power of attorney.

7. Third parties may rely upon the representations of my agent and attorney as to all matters relating to any power granted herein. Any person who acts in reliance upon the representations of my agent and attorney or the authority granted to DAVID NELSON FIELDS pursuant to this power shall not incur any liability to me as the result of permitting said agent and attorney to exercise any power granted herein.

EXECUTED and delivered this 13<sup>th</sup> day of February, 2015.

Doris Ann Fields  
Doris Ann Fields, Principal

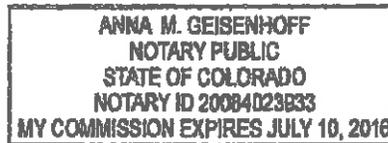
David Nelson Fields  
David Nelson Fields, Agent

STATE OF COLORADO )  
                                  ) ss.  
COUNTY OF WELD )

The foregoing instrument was subscribed, sworn to, and acknowledged before me this 13<sup>th</sup> day of February, by Doris Ann Fields, Principal, and by David Nelson Fields, Agent.

WITNESS my hand and official seal.

My commission expires: 7.10.2016



Anna M Geisendorff  
Notary Public



# Northwest Town of Milliken

(Subject Land outlined red)

Exhibit 4



Copyright 2015 West Loosly Government. All rights reserved. Thu Feb 12 2015 03:16:18 PM

ORDINANCE NO. 367

AN ORDINANCE APPROVING THE ANNEXATION AND ZONING OF LAND TO THE TOWN OF MILLIKEN, COUNTY OF WELD, STATE OF COLORADO, TO BE KNOWN AND DESIGNATED AS THE MILL IRON 5 ANNEXATION TO THE TOWN OF MILLIKEN, COLORADO.

WHEREAS, a Petition for Annexation together with seven copies of a Plat of said land as required by ordinance were filed with the Town of Milliken by the owners of one hundred percent (100%) of the area of the land hereinafter described; and,

WHEREAS, the Board of Trustees by motion at its regular meeting accepted said Petition and found that the Petition substantially complied with the statutory requirements set forth in Sections 31-12-104, 31-12-105 and 31-12-107, C.R.S.; and,

WHEREAS, the Board of Trustees has determined that an election is not required under Section 31-12-107(2), C.R.S. as provided in Section 31-12-111, C.R.S.; and,

WHEREAS, the Board of Trustees has determined that additional terms and conditions were not to be imposed and that the Petition was signed by owners of one hundred percent (100%) of the property proposed to be annexed, exclusive of streets and alleys. Therefore, in accordance with Section 31-12-107, C.R.S., the Board of Trustees of the Town of Milliken has determined that an ordinance to annex such land to the municipality should be considered.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, COLORADO:

Section 1.

That the following described land to be known and described as the Mill Iron 5 Annexation to the Town of Milliken, is hereby annexed:

The above described parcel exhibit "A" contains 99.1 acres and shall be zoned Agricultural-E (AE) and described parcel exhibit "B" contains 54.11 acres and shall be zoned Agricultural (A).

Section 2. Effective Date: Dec 20, 1997

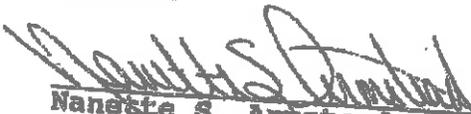
The Board of Trustees of the Town of Milliken herewith finds, determines and designates that this Ordinance shall take effect and be in force 30 days after publication.

At its meeting of October 22, 1997, a public hearing was set by the Board of Trustees of the Town of Milliken for its meeting held on the 12th day of November, 1997. After the public hearing, the Ordinance was read, passed and ordered published by the Board of Trustees at its meeting this 12th day of November, 1997.

TOWN OF MILLIKEN:

  
\_\_\_\_\_  
Ted Chavez - Mayor

ATTEST:

  
\_\_\_\_\_  
Nanette S. Armstead, CMC  
Town Clerk

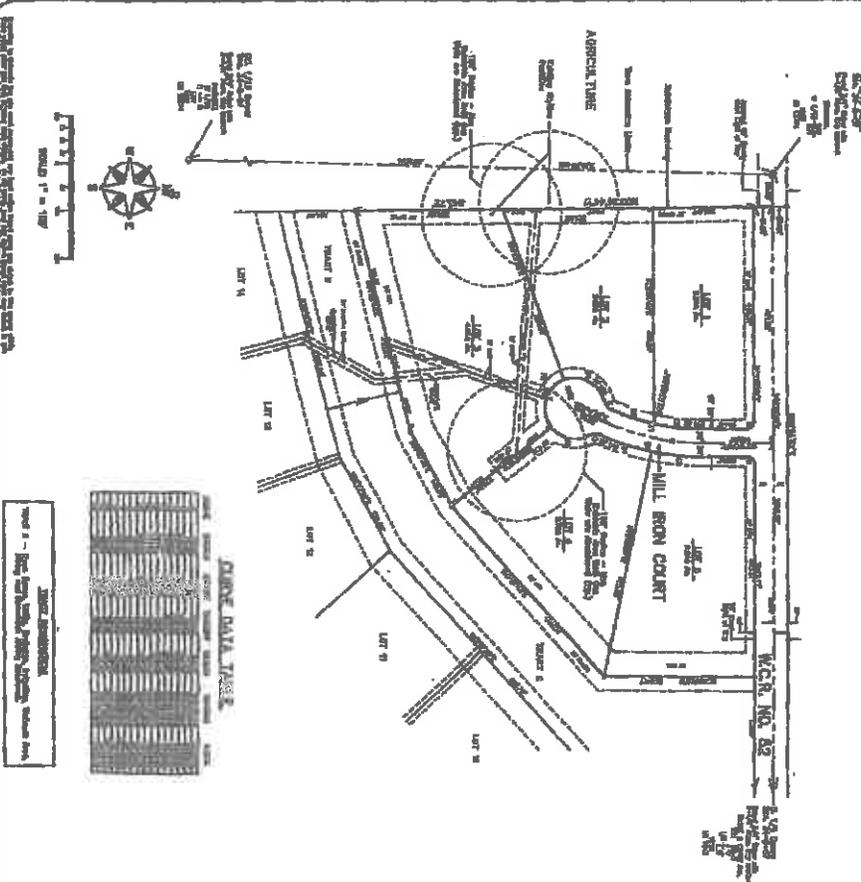
Published: 11/20/97







REPLAT OF LOTS 1, 2, 3, 4, 5 AND 6  
 Y - MILL IRON 5 RANCH ESTATES - Y  
 BEING A PORTION OF THE NORTH HALF OF SECTION 24, TOWNSHIP 2 NORTH, RANGE 6 WEST  
 OF THE 6TH P.M. TOWN OF HOLLAND, COUNTY OF WELLS, STATE OF CALIFORNIA.



APPROVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF WELLS, CALIFORNIA, ON THIS 15th DAY OF MARCH, 1934.

Notary Public in and for the State of California  
 My Comm. Expires \_\_\_\_\_  
 My Comm. No. \_\_\_\_\_



LEGAL REPRESENTATIVES:  
 JAMES T. HARRIS, JR.  
 JAMES T. HARRIS, JR.  
 JAMES T. HARRIS, JR.

REPLAT OF LOTS 1, 2, 3, 4, 5 AND 6  
 Y - MILL IRON 5 RANCH ESTATES - Y

- 1. The area of the replat is 1.25 acres.
- 2. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 3. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 4. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 5. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 6. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 7. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 8. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 9. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 10. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 11. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 12. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 13. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 14. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.

APPROVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF WELLS, CALIFORNIA, ON THIS 15th DAY OF MARCH, 1934.

Notary Public in and for the State of California  
 My Comm. Expires \_\_\_\_\_  
 My Comm. No. \_\_\_\_\_



LEGAL REPRESENTATIVES:  
 JAMES T. HARRIS, JR.  
 JAMES T. HARRIS, JR.  
 JAMES T. HARRIS, JR.

- 1. The area of the replat is 1.25 acres.
- 2. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 3. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 4. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
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- 11. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 12. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 13. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.
- 14. The replat is for the purpose of subdividing the land into lots of approximately 1/4 acre each.







TOWN OF MILLIKEN  
P.O. BOX 290  
MILLIKEN, CO 80543

## APPLICATION FOR DISCONNECTION

### Applicants

1. ROBERT DAVID FIELDS and DORIS ANN FIELDS ("Applicants") own a certain tract of land within and adjacent to the boundary of the Town of Milliken that is the subject of this Application ("the Subject Land").
2. DAVID NELSON FIELDS is the Applicants' son and has their powers of attorney authorizing him to act on their behalf in this matter. [See attached Ex. 1 (Power of Attorney—Robert David Fields); Ex. 2 (Power of Attorney—Doris Ann Fields).]

### The Subject Land (Description and Relevant History)

3. The Subject Land is a parcel located in the East One-Half Northwest One-Quarter (E  $\frac{1}{2}$  NW  $\frac{1}{4}$ ) of Section 34, Township 5 North, Range 63 West of the 6 P.M., Weld County, Colorado, more particularly described in a PERSONAL REPRESENTATIVE'S DEED dated February 22, 2007, signed by James T. McDowell, III, recorded with the Clerk and Recorder of Weld County, Colorado at Reception No. 3463387 on March 21, 2007. [See attached Ex. 3.]
4. By way of general description, which is not meant to modify the above legal description but only to provide perspective, the Subject Land is roughly six to seven acres immediately west of the Mill Iron subdivision. It has a long, thin trapezoidal shape, about a half mile long along its east and west boundaries, about 160 feet along its south boundary, and about 68 feet along its north boundary. [See attached Ex. 4 (GIS map of northwest Town of Milliken).]
5. Applicants' family has utilized the Subject Land for agricultural purposes continuously since 1972, along with contiguous parcels comprising the bulk of the west half of the Northwest quarter of Section 34, Township 5 N, Range 67 W of the 6<sup>th</sup> Prime Meridian, which parcels are owned by Applicants or by family trusts controlled by them.
6. The Subject Land was annexed by the Town of Milliken pursuant to Ordinance No. 367 effective Dec. 20, 1997, as part of the "Mill Iron 5 Annexation to the Town of Milliken, Colorado". [See attached Ex. 5.]
7. However, the Subject Land was never platted for development as part of the Mill Iron subdivision or any other project.
8. There is a fence line along the east boundary of the Subject Land that historically marked the agreed-upon boundary line since at least the 1930s. Although Applicants were generally aware of the Mill Iron 5 Annexation to the Town of Milliken at the time it occurred, they did not then realize that said annexation was described to include the Subject Land, but believed instead that the annexation was to the east boundary of the Subject Land.
9. Applicants maintain they have owned the Subject Land since before the annexation, by adverse possession. After the annexation of the Subject Land came to Applicants' attention, and after the

death of the developer, Applicants resolved the matter of record ownership by settlement agreement with the personal representative of the developer's estate, who agreed to deed the Subject Land to Applicants for \$878.00, an amount well below the market value for the Subject Land at the time. [See Ex. 3.]

10. The north, west and south boundaries of the Subject Land run along the Town of Milliken's municipal boundary in that location.

#### **Grounds for Disconnection**

11. C.R.S. § 31-12-501 provides for disconnection of a tract of land from a town by ordinance as follows:

When the owner of a tract of land within and adjacent to the boundary of a city or town desires to have said tract disconnected from such city or town, such owner may apply to the governing body of such city or town for the enactment of an ordinance disconnecting such tract of land from such city or town. On receipt of such application, it is the duty of such governing body to give due consideration to such application, and, if such governing body is of the opinion that the best interests of the city or town will not be prejudiced by the disconnection of such tract, it shall enact an ordinance effecting such disconnection. If such an ordinance is enacted, it shall be immediately effective upon the required filing with the county clerk and recorder to accomplish the disconnection, and two certified copies thereof shall be filed by the clerk in the office of the county clerk and recorder of the county in which such tract lies. The county clerk and recorder shall file the second certified copy with the division of local government in the department of local affairs, as provided by section 24-32-109, C.R.S.

The cross-referenced C.R.S. § 24-32-109 states that any such detachment becomes effective upon notice of such action with a legal description and map of the area concerned are filed in duplicate with the appropriate county clerk and recorder.

12. The best interests of the Town of Milliken will not be prejudiced by granting this Application, because:
13. **No community of interest exists between the Subject Land and the Town of Milliken.** No roads maintained by the Town of Milliken connect to the Subject Land. The Town of Milliken provides no water to or sewage removal from the Subject Land.
14. Rather, the Subject Land is and has been part of a larger agricultural operation consisting otherwise entirely of land situated in unincorporated Weld County. Therefore, any community of interest that exists with the Subject Land is the broader agricultural community outside the boundaries of the Town of Milliken.
15. Furthermore, on information and belief, Town of Milliken residents proximate to the Subject Land have expressed a desire to Town officials that the Subject Land *not* be connected by road to the Town of Milliken.
16. **The Subject Land is not integrated with the Town of Milliken, as shown above, nor is it readily capable of being integrated with the Town of Milliken.** The Town of Milliken would have to lay road to directly connect the Subject Land to the rest of the Town. On information and

belief, providing sewage removal would require the construction of infrastructure that does not currently exist, including at least one lift station. Additionally, to provide water to the Subject Land would require the Town to incur an undue expense.

17. **The Subject Land is rural, not urban, and will not be urbanized in the foreseeable future.** Notably, the Mill Iron development of residential lots does not presently include the Subject Land and was never intended to include the Subject Land. [See attached Ex. 6 (Maps of Mill Iron Ranch Estates).] With the exception of building one family home for David Nelson Fields in the South part of the Subject Land, Applicants intend to continue to utilize the Subject Land for agricultural purposes into the foreseeable future, and their son after them.
18. Applicants hereby represent that while they or David Nelson Fields are able to farm the Subject Land, they will not pursue or agree to annexation of the Subject Land by any City or Town other than the Town of Milliken for a period of six years after the effective date of disconnection.
19. Applicants hereby further represent that while they or David Nelson Fields are able to farm the Subject Land, for a period of six years after the effective date of disconnection, the Subject Land will not be subdivided into lots or plots of smaller area than is required during said period for lots within the Town of Milliken adjoining the Subject Land under the applicable ordinances or regulations of the Town of Milliken, and will not be used during said period for non-agricultural use except for a family home for David Nelson Fields and as required for the exploitation of mineral rights attached to the Subject Land.
20. Applicants acknowledge that the Subject Land, if disconnected, shall not thereby be exempt from the payment of any taxes lawfully assessed against it for the purpose of paying any indebtedness lawfully contracted by the governing body of such city or town while such land was within the limits thereof and which remains unpaid and for the payment of which said land could be lawfully taxed, pursuant to C.R.S. § 31-12-502. However, on information and belief, there are no such taxes assessed against the Subject Land.

#### **Conclusion**

21. Based on the above, the best interests of the Town of Milliken will not be prejudiced by disconnection of the Subject Land from the Town of Milliken.

Therefore, the undersigned hereby requests that the Town of Milliken, after due consideration to this Application, enact an ordinance effecting disconnection of the Subject Land from the Town of Milliken.

Dated: 2/19/15

**Robert David Fields and Doris Ann Fields,  
Applicants**

By: David N. Fields  
DAVID NELSON FIELDS  
Power of Attorney for Robert David Fields  
and Doris Ann Fields

**MINUTES**  
**TOWN OF MILLIKEN**  
**BOARD OF TRUSTEES**  
Regular Meeting  
November 12, 1997  
7:00 p.m.  
Milliken Community Complex  
Board Room

1 Attendance: Mayor Ted Chavez; Mayor Pro Tem Richard Bejarano, Tom Farmer, Jim Gardner,  
2 Eloy Mares, Linda Measner, and Charles Martin. Town Administrator J.R. Schnelzer, Town  
3 Clerk Nanette Armstead, Public Works Director Leroy Martinez, Chief of Police, Randall  
4 Jacobson, Senior Coordinator Lois Ann Onorato, and Finance Manger Peggy Wakeman.  
5 Audience and press were also present.

6 **PUBLIC HEARING PROPOSED ANNEXATION AND ZONING FOR MILL IRON 5**

7 Mayor Ted Chavez opened the public hearing regarding the proposed annexation and zoning for  
8 Mill Iron 5 at 7:00 p.m. Jim McDowell and Tom Honn represented Mill Iron 5 and fielded any  
9 question from the Board and audience. Bob Ehrlich indicated that he had some concerns with the  
10 water and sewer needs located at Mill Iron 5. There was discussion regarding septic systems,  
11 development plans and traffic on Weld County Road 52. There being no further questions or  
comments, Mayor Chavez closed the public hearing at 7:10 p.m.

13 Mayor Chavez called the regular meeting to order at 7:10 p.m. Mayor Chavez led all present in  
14 the pledge of allegiance.  
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16 **RECOGNITIONS** Ty Buxman, Duane Shable, and Frank Brothers were recognized for their  
time and effort regarding the snow removal project. Certificates were sent to the above  
mentioned.

19 **APPROVAL OF MINUTES** Motion by Measner to approve the October 8, 1997 minutes as  
20 printed, second by Gardner. Motion carried unanimously.

21 Motion by Bejarano to approve the October 22, 199 minutes as printed, second by Farmer,  
22 motion carried.

23 **FINANCIAL REPORT** Finance Manager Peggy Wakeman, presented the Board with the  
24 financial report. Wakeman indicated that at the December 10th board meeting, she will be  
25 supplying them with an amended budget for 1997. The 1998 budget will also be available to  
26 adopt at the December 10th meeting also.

2 **ADDITION TO THE AGENDA** Items "l" and "m" were added to the agenda, inclusion to the  
2 Milliken Fire Department and Budget Update respectively.

**AUDIENCE WITH INDIVIDUALS** Dale Smith from Custom Inspection Service submitted a letter of proposal to provide building inspection service to the Town of Milliken. Smith described what he could offer the Town compared to Colorado Inspection Agency. The board directed Town Administrator, JR Schnelzer to look into this matter and report back later, when the contract with Colorado Inspection Agency is expired.

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**VOICE MAIL PHONE SYSTEM** Nanette Armstead, Town Clerk reported that the new phone system has been installed and requested that all board members come in and set up their own voice mail. The voice mail would let the community, communicate with the board members on one-on-one scenario.

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**BOARD MEETING, DECEMBER 10TH** JR Schnelzer reported to the Board, that the Northern Colorado Regional Planning Association has made arrangements to hold the Lincoln Land Institute seminar on Wednesday evening, December 10th, and all day Thursday, December 11th. The Board members have been invited and JR suggested that the regular scheduled Town Board meeting of December 10th, be moved to Tuesday, December 9th.

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Motion to change the regular scheduled meeting of December 10th, to a special meeting on December 9, 1997, was made by Bejarano, with a second from Martin. Motion carried unanimously.

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**PROPOSED OMNIBUS ORDINANCE** Mayor Chavez read Ordinance #366, **THE FIRST 1997 OMNIBUS ORDINANCE**. Motion by Gardner to adopt Ordinance #366, second by Bejarano. Motion carried.

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**RESOLUTION 97-16, NORTHERN COLORADO PLANNING STUDY** This resolution would be an analysis of growth trends that a regional framework study is needed in the areas of the Town of Milliken, Berthoud, Windsor, Wellington, Johnstown, and the Cities of Fort Collins, Loveland, Evans, Greeley, Larimer and Weld Counties. The study is to establish a resource for community linkages and to maintain separation of communities, to reserve and enhance the identity of each community.

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Trustee Measner made a motion to adopt **RESOLUTION 97-16, THE RECOMMENDATIONS OF THE NORTHERN COLORADO REGIONAL PLANNING STUDY AND ESTABLISHING A FRAMEWORK FOR FUTURE REGIONAL COOPERATION**. Motion was then seconded by Farmer and carried.

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**INTERGOVERNMENTAL AGREEMENT FOR REGIONAL PLANNING STUDY** Town Administrator, Schnelzer informed the Board that this study is to establish a process of intrajurisdictional cooperation in order to manage the growth of the region in the public interest, preserve open lands between communities and achieve the recommendations of the Northern Colorado Regional Planning Study. Schnelzer indicated that the signing of this IGA would not be done until December and would like the Board to approve the IGA with the Mayor signing it on the behalf of the Town of Milliken. Motion by Farmer to approve the IGA with Northern Colorado Regional Planning and to have the Mayor sign on the behalf of the Town. Motion was

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then seconded by Gardner and carried.

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**KEN'S MARKET LIQUOR LICENSE** Owner of the Ken's Market, Ken Spooner was present. Farmer suggested that he would like to see newly hires trained in TIPS or IDing possible under age purchases. Chief Jacobson, indicated there had been no problems reported at Ken's Market. Town Clerk, Armstead indicated that all fees have been paid. Motion by Measner to approve the liquor license for Ken's Market. Motion was then seconded by Bejarano and carried unanimously.

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**PROPOSED APPROVAL OF THE ANNEXATION AND ZONING OF MILL IRON 5** Owner Jim McDowell, town staff and town attorney, Fickel will produce a Development Agreement. Motion by Gardner to approve the Mill Iron 5 Annexation, Ordinance #367, **AN ORDINANCE APPROVING THE ANNEXATION AND ZONING OF LAND TO THE TOWN OF MILLIKEN, COUNTY OF WELD, STATE OF COLORADO, TO BE KNOWN AND DESIGNATED AS THE MILL IRON 5 ANNEXATION TO THE TOWN OF MILLIKEN, COLORADO.** Second to this motion was made by Martin, with motion carrying.

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**WELD COUNTY REFERRAL - KEITH A & MELODIE KAMMERZELL**. The Planning Communication recommendation regarding this referral was "No Conflict". Terry Weidman, represented the Kammerzell's and he indicated that this property is located near Platteville. Motion by Gardner to report "No Conflict" with Weld County Referral. Motion was then seconded by Bejarano and motion carried.

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**LUCKY 13 SPORTS PARK - SPECIAL MEETING REQUEST** Greg Baker requested from the council to hold an emergency meeting on either November 20th or November 21st, 1997 in consideration of the Lucky 13 property annexation. There was many of Baker's neighbors that attended this meetings and requested from the Board, that they not grant the special meeting. They (the residents) felt that this project was being "rushed" through and that many concerns needed to be addressed.

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With all discussion regarding the Sports Park, Attorney Fickel recommended that Baker hold an informational meeting with his neighbors. This meeting would address all concerns regarding the Sports Park. Motion by Gardner to hold a special meeting on November 20, 1997, second by Farmer. Motion was defeated, with Mares, Martin, Chavez and Measner voting against the special meeting. Bejarano, Gardner and Farmer voting for the special meeting.

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The annexation proposal will follow the regular meetings schedule. This schedule being, proposed resolution adoption on December 9, 1997 and a public hearing on January 14, 1998

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**RESOLUTION 97-17, RIGHT TO FARM** Mayor Chavez read "*Right-to-Farm*" resolution. Motion to adopt **RESOLUTION 97-17, RIGHT TO FARM**, was made by Bejarano, with the addition of "may include 24 hours operation" to paragraph three. Motion seconded by Farmer. Motion carried unanimously.

105 **RESOLUTION 97-18. FIRE PROTECTION DISTRICT** Town Attorney presented to the  
5 Board a resolution indicating that the Milliken Fire Protection District will provide fire protection  
7 services to the Blehm Waterway Estates, a.k.a. Mad Russian Estates. Motion to adopt  
3 **RESOLUTION 97-18 A RESOLUTION STATING THAT THE MILLIKEN FIRE**  
109 **PROTECTION DISTRICT WILL PROVIDE FIRE PROTECTION TO MAD RUSSIAN**  
110 **ESTATES** and the Town will pay for the attorney fees, not to exceed \$500, motion seconded by  
11 Martin. Motion carried.

112 **BUDGET UPDATE** Finance Manager Wakeman requested that the information be presented in  
113 the work session.

114 **EXECUTIVE SESSION - PERSONNEL** Mayor Chavez, Town Board, Town Administrator  
115 Schnelzer and Attorney Bruce Fickel retired to an executive session regarding personnel at 9:00  
116 p.m.

117 Mayor Chavez resumed the regular meeting at 9:30p.m.

118 **LIST OF BILLS** Motion to approve the list of bills as presented was made by Bejarano, second  
119 by Gardner. Motion carried. Trustee Mares abstained from the motion.

120 **STATUS REPORTS**

121 **Town Clerk** Armstead reported on the Holiday Town Party, and that the Sports Zone Liquor  
License had been received. Sports Zone has applied for a building permit and will start  
remodeling soon. Judge John Perrott, has appointed Faith Gardner, has Court Clerk.

124 **Public Works Director** Low pressure at Mad Russian Estates, Central Weld Water District was  
125 replacing a line. Weld County Road 44 needs to be repaired, Martinez is looking into this matter.

128 **Finance Manager** Wakeman will be obtaining videos for defensive driving. The 1998 budget  
information was provided by Wakeman and a budget retreat was scheduled November 22, at  
9:00 a.m.

129 **Senior Coordinator** Onorato reported that the boutique went well, they sold over 500 kraut-  
130 burgers and 120 bags of noodles. They are taking a trip to Blackhawk on December 4th and a  
131 light show around the Town of Milliken on December 20th.

132 **Attorney** Fickel reported that they are still trying to work on an agreement with Sam Vigil, the  
133 restraining order is still in effect. The Wilson case is still active, more information when it is  
134 available.

135 **Administrator** Schnelzer reported on status of the storage water tank. Milliken Sanitation  
136 District Manager, Gina Janett and Schnelzer is working on her contract for employment.  
1 Reminded the Board on dates for the Lincoln Land Seminar.

1 **Recreation** Nanette Armstead reported to the Board, the increase of enrollment on sports

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activities.

Planning Commission The Planning Commission is working on Architectural Standards.

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There being no further business, Mayor Chavez closed the regular meeting at 10:00 p.m..

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Nanette S Armstead, CMC

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Town Clerk

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Approved by the Board of Trustees:

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Ted J. Chavez, Mayor

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MINUTES  
TOWN OF MILLIKEN  
BOARD OF TRUSTEES  
Regular Meeting  
September 24, 1997  
7:00 p.m.  
Milliken Community Complex  
Board Room

1398 The regular meeting of the Board of Trustees of the Town of Milliken was called to order  
1399 at 7:00 p.m. by Mayor Ted Chavez. The meeting was attended by Trustees Richard  
1400 Bejarano, Tom Farmer, Jim Gardner, Eloy Mares, Linda Measner, and Charles Martin.  
1401 Town Administrator J.R. Schnelzer, Town Clerk Margaret Wakeman, Senior  
1402 Coordinator Lois Ann Onorato, Police Chief Randall Jacobson, Pat Sorenson of Tuttle-  
1403 Applegate, Attorney Bruce Fickel, Deputy Town Clerk Nanette Armstead. Press and  
1404 audience were also present. Mayor Chavez led all present in the pledge of allegiance.

1405 RECOGNITION None.

06 FINANCIAL REPORT None.

1407 ADDITIONS TO AGENDA None.

1408 AUDIENCE WITH INDIVIDUALS Reuben and Ruby Ehrlich expressed to the Board  
1409 that a stop sign is needed at the corner of Weld County Road 21 and 44. Mr. Ehrlich  
'10 indicated that there have been several near misses at this location and would like to have  
.411 a stop sign placed here. Mayor Chavez directed JR Schnelzer to handle this matter.

1412 PROPOSED ORDINANCE AMENDING ZONING TO RM AND C Ehrlich made a  
1413 request to amend the zoning, PUD on the 480 acres South of Highway 60 and RM and C  
1414 zoning on the 100 acres North of Highway 60, to the following. Ehrlich wants to  
1415 eliminate RM zoning from the request completely. All homes will be placed on  
1416 permanent foundations. If the PUD zoning is approved, the Town will agree to negotiate  
1417 phasing over a period of time, and that the construction of car ports and garages be  
1418 considered to be constructed at a later date. Ehrlich would like the Town and the  
1419 Developer to establish covenants. He would like to form a Board that would be the  
1420 liaison between the school district, the Town and developers regarding to school site  
1421 location, open space and park areas. These agreements could have a cash-in-lieu of land  
22 area for the school district. Ehrlich's proposed funding a position for the town to assist

1423 with planning issues. His last comment regarding the zoning change was to investigate  
1424 the possibility of using the farm well water to water the parks and community gardens.  
1425 Ehrlich did also request, that the operation of the feedlots be permitted over the winter  
1426 and spring months, which will be until June 1, 1998.

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1428 Trustee Linda Measner had a concern that the lots, that were allocated for the Mobile  
1429 Home project will remain the same lot size, as if it was a mobile home park, which lot  
1430 size is 55' by 100' (5,500 sq feet). Ehrlich said in actually the cost revenue form 6,000 -  
1431 7,000 sq feet lots he would continue to have these lots as rental pads, possibly market the  
1432 land as a "lease purchase option". He did indicate that hopefully he would obtain enough  
1433 equity from this phase, so he could move to the other phases of this development.

1434 Trustee Jim Gardner would like to see a Market Study done at this location, with what is  
1435 proposed to be built. Ehrlich indicated that he had a completed market study. Gardner  
1436 feels that to sell these homes they would need to have either car ports or garages. Ehrlich  
1437 reinforced that possibility, but felt that they could handle this situation in the covenants.

1438 There were several other comments, regarding this zoning change. One being the  
1439 possibility of Harlen Truss Company locating to this area. Another, being that the school  
1440 district would take money instead of a school site. What instituted this comment was the  
1441 location of the school within this project. The location proposed was right next to the  
1442 railroad tracks, which was not acceptable with the Board.

1443 John Prosser a representative for the Ehrlich's, informed the Board on the logistic,  
1444 marketing information, the absorption rate of population and general information  
1445 regarding this project. Prosser will keep the Board informed on any issues that come up  
1446 with this project.

1447 Conversation regarding water tap availability was asked by Trustee Richard Bejarano.  
1448 The agreement with Central Weld County Water District and the Town of Milliken is  
1449 almost complete and in this agreement it will address the availability of water taps, as  
1450 well as the installation of a water storage unit, that will help the growth within the  
1451 community. There is the possibility of 200 to 250 taps being available every year,  
1452 possibly more with the water storage unit.

1453 Town Administrator JR Schnelzer re-iterated to the Board that they definitely needed to  
1454 consider the effects of sewer, traffic, schools, additional staff and police with this  
1455 subdivision. Also, that the town could control growth by way of sewer and water tap  
1456 fees. With the Town's Comprehensive Plan being prepared do we want aggressive  
1457 growth? Do we want to wait until the Comprehensive Plan is complete before the Board  
1458 proceeds with this request?

1459 David Siple from Patina Oil, informed the Board that the oil company is looking at  
1460 drilling approximately eight oil wells at this location. They have great concerns regarding  
1461 this subdivision and indicated that they will need to acquire an agreement with the  
1462 Ehrlich before any development is started. There was discussion regarding slant drilling  
1463 for these wells, but, that it might not be cost effective. More information will need to be  
1464 obtained and definitely more preparation will need to be done. Siple indicated that  
1465 usually an agreement can be reached by both parties.

1466 After long discussion, Measner informed the Board that the Planning Commission had  
1467 voted yes to the Historical and Commercial zoning on the North side of Highway 60.  
1468 With that recommendation, motion by Measner to approve the amended zoning to  
1469 Historical Preservation. Motion second by Farmer and motion carried with Farmer  
1470 dissenting.

1471 Measner reported that the Planning Commission decision regarding amending zoning to  
1472 PUD was negative, because of a different proposal to make a sound decision. The  
1473 Planning Commission would like to have more information regarding schools, covenants,  
1474 home owners' association and a market analysis. Motion by Bejarano to approve the  
1475 amended zoning request to PUD from R-1, provided that Ehrlich provides written  
1476 agreements from the school district (cash in lieu of property), the oil companies, railroad  
77 companies and with the Town regarding the water storage project and other issues as  
78 defined by Town Administor JR Schmeizer. Bejarano motion also included that  
1479 covenants be in place, as well as a home owners' association and that the feedlots can  
1480 operate until June 1, 1998 or until the first building permit is pulled, which ever is first.  
81 Bejarano indicated that all conditions need to be met before a building permit is issued.  
1482 Motion was then seconded by Gardner and motion carried with Farmer and Measner  
1483 dissenting.

1484 **MCDOWELL ANNEXATION** Tom Honn, representative of Mill Iron 5 Ranch,  
1485 presented the annexation proposal. The subdivision consists of 160 acres, which would  
1486 be 31 lots situated on 2-4 acres per lot. There are 61 acres of ag-land that will remain ag  
1487 land and will be available for the residents to use. Honn is having the engineers check on  
1488 the pivot water system, that is already available at this location. There is the possibility  
1489 that irrigation will be able for lawn watering. Motion to develop a resolutin initiating  
1490 annexation procedures and finding of substaintail compliance was made by Bejarano with  
1491 Martin seconding the motion, motion carried.

1492 **COMPREHENSIVE PLAN UPDATE** No update.

1493 **WATER STORAGE UPDATE** Pat Sorenson of Tuttle-Applegate reported that the  
1494 Town would possibly need a four million gallon water tank. Sorenson indicated that their

1495 are working with Steve Muellen from Design Workshop regarding the storage tank and  
1496 more information will be given when obtained.

1497 **1996 FINANCIAL AUDIT REPORT** Dan Shommer, Watkins & Schommer presented  
1498 the 1996 financial audit. He discussed with the Board the actual report. Motion by  
1499 Farmer to approve the 1996 audit report, second by Measner and motion carried.

1500 **CLARIFICATION OF SETBACK FOR TOWN HOMES BLOCK 40** When a  
1501 variance for set back requirements was granted for Block 40, it was granted on the  
1502 garages, but not for the houses. When Gary Harkless owner of Block 40 requested the  
1503 variance, he had requested that the buildings and garages both be considered. The  
1504 minutes reflected only the garages and Harkless is requesting clarification on the setback  
1505 variance on the houses also. Motion by Bejarano to grant the variance for the setback  
1506 requirements on Block 40 for both houses and garages, second by Martin. Motion carried  
1507 with Measner dissenting.

1508 **ORDINANCE FOR DETENTION AND INCARCERATION** Motion to approve  
1509 Ordinance 364 was made by Measner, second by Gardner. Motion carried unanimously.

1510 The meeting was adjourned to the work session by Mayor Chavez.

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Nanette Armstead, Deputy Town Clerk  
1513 Approved by the Board of Trustees:

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Ted J. Chavez, Mayor  
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ORDINANCE NO. 367

AN ORDINANCE APPROVING THE ANNEXATION AND ZONING OF LAND TO THE TOWN OF MILLIKEN, COUNTY OF WELD, STATE OF COLORADO, TO BE KNOWN AND DESIGNATED AS THE MILL IRON 5 ANNEXATION TO THE TOWN OF MILLIKEN, COLORADO.

WHEREAS, a Petition for Annexation together with seven copies of a Plat of said land as required by ordinance were filed with the Town of Milliken by the owners of one hundred percent (100%) of the area of the land hereinafter described; and,

WHEREAS, the Board of Trustees by motion at its regular meeting accepted said Petition and found that the Petition substantially complied with the statutory requirements set forth in Sections 31-12-104, 31-12-105 and 31-12-107, C.R.S.; and,

WHEREAS, the Board of Trustees has determined that an election is not required under Section 31-12-107(2), C.R.S. as provided in Section 31-12-111, C.R.S.; and,

WHEREAS, the Board of Trustees has determined that additional terms and conditions were not to be imposed and that the Petition was signed by owners of one hundred percent (100%) of the property proposed to be annexed, exclusive of streets and alleys. Therefore, in accordance with Section 31-12-107, C.R.S., the Board of Trustees of the Town of Milliken has determined that an ordinance to annex such land to the municipality should be considered.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN, COLORADO:

Section 1.

That the following described land to be known and described as the Mill Iron 5 Annexation to the Town of Milliken, is hereby annexed:

The above described parcel exhibit "A" contains 99.1 acres and shall be zoned Agricultural-E (AE) and described parcel exhibit "B" contains 54.11 acres and shall be zoned Agricultural (A).

Section 2. Effective Date: DA 20, 1997

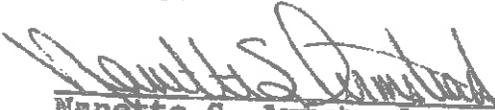
The Board of Trustees of the Town of Milliken herewith finds, determines and designates that this Ordinance shall take effect and be in force 30 days after publication.

At its meeting of October 22, 1997, a public hearing was set by the Board of Trustees of the Town of Milliken for its meeting held on the 12th day of November, 1997. After the public hearing, the Ordinance was read, passed and ordered published by the Board of Trustees at its meeting this 12th day of November, 1997.

TOWN OF MILLIKEN:

  
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Ted Chavez - Mayor

ATTEST:

  
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Nanette S. Armstead, CMC  
Town Clerk

Published: 11/30/97