

COUNCIL AGENDA COMMITTEE
December 1, 2014

Present: Mayor Matt Appelbaum, Mayor Pro Tem George Karakehian, Council Member Suzanne Jones, City Manager Jane Brautigam, City Attorney Tom Carr, Deputy City Attorney David Gehr, City Clerk Alisa Lewis, Assistant to the City Manager Tammye Burnette and Acting Deputy City Clerk Dianne Marshall.

CAC convened at 8:03 AM.

I. Review of December 2 Agenda

The meeting will begin at 6 PM.

1. CALL TO ORDER AND ROLL CALL

A. Recognition of Open Space and Mountain Parks Director Mike Patton*

B. Solar Friendly Communities Designation*

C. Items Relating to the Certification of the 2014 Election Results

The City Clerk informed CAC that the Canvas Board would, again, not be certifying the results of the 2014 election because of a continuing disagreement over mail ballot elections. The Boulder County Clerk & Recorder has forwarded all results to the Secretary of State's Office and it is anticipated that results will be accepted.

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE

3. CONSENT AGENDA

A. Consideration of a motion to **accept** the October 28, 2014 **study session summary on the Access Management and Parking Study.**

Staff has provided additional information regarding parking revenue and expenses in the final memo.

Council Member Jones asked whether the City issues more parking permits than spaces allocated.

B. Consideration of a motion to **authorize the City Manager** to enter into **intergovernmental agreements** with Boulder County and Colorado Department of Transportation for the provision of construction and maintenance the **US 36 bikeway** and the **US 36 Davidson Mesa Scenic Overlook.**

CAC requested staff provide more clarity on where the jointly maintained area by Boulder County and the City ends and where maintenance by Louisville and Superior begins.

- C. Council consideration of a **resolution approving** and adopting amendments to the **Beverage Licensing Authority Rules of Procedure**.

CAC requested more information regarding the change in the “Renewal License Challenge” reducing 30 days notice to 10 days notice.

- D. Third Reading and consideration of a motion to **adopt** and order published by title only **Ordinance No. 7957 amending** Title 2, “Government Administration,” Chapter 7, “**Code Of Conduct,**” B.R.C. 1981 and setting forth related details.

Mayor Appelbaum raised some concern about “personal benefit” in Attachment C and asked the City Attorney to give some thought to whether additional language should be included to provide more clarity.

- E. Second reading and consideration of a motion to **adopt** Ordinance No. 8014 approving **supplemental appropriations to the 2014 Budget;** and

Consideration of a motion to adjourn from the Boulder City Council and convene as the Central Area General Improvement District Board of Directors*

- F. Consideration of a motion to adopt a **resolution amending the 2014 Downtown Commercial District Fund** (formerly CAGID Fund) Budget; and

Consideration of a motion to adjourn from the CAGID Board of Directors and reconvene as the Boulder City Council.

Council Member Jones asked for more information regarding the \$25,000 supplemental budget request for the AMPS study.

City Manager Brautigam stated that an estimate was included in the 2014 budget and that actually costs were more.

- G. Introduction, **first reading** and consideration of a motion to order published by title only an **ordinance** amending Title 9, “Land Use Code,” B.R.C. 1981, **to create an additional method of property valuation** for the determination of whether proposed work on a property triggers upgrades to lighting, landscaping, site access and non-conforming drive throughs under the Land Use Code.

Council Member Jones asked why staff did not recommend that the additional method of property valuation be included in the ordinance for the 2nd Reading of this item.

Staff responded that the valuation will be shared with the County through administrative methods. The plan would be to share these valuations with the County but would not be required to do so.

- H. Introduction, **first reading** and consideration of a motion to order published by title only an **ordinance** amending **Emergency Ordinance No. 7985 to correct the legal description** for the annexation area of the property at **2130 Tamarack Avenue**. Has already been annexed but did not get the correct legal description.*
- I. Introduction, first reading, order to publish by title only and consideration of an **emergency ordinance** amending Chapter 6-16, B.R.C. 1981, amending Sections 6-16-2 “Definitions,” and 6-16-3 “License Required” **to extend the time for medical marijuana businesses to convert to recreational marijuana** businesses from December 31, 2014 to March 31, 2015.

Council Member Jones inquired if we knew the names of the five businesses that would potentially be affected and if a three month extension would be sufficient to address this issue.

The City Attorney replied yes to both inquiries.

- J. Introduction, **first reading** and consideration of a motion to order published by title only an ordinance **amending the cable television franchise agreement** between the City of Boulder and Comcast of Colorado IV, LLC, to **extend the term of the agreement by 120 days**.

The City Attorney informed CAC that negotiations were moving forward with Comcast. The City has its own cable code (in compliance with Federal regulations) and finds there are items in the Comcast agreement that violate our code. Comcast has taken the position that the Federal rules determine the agreement. However, staff indicated that negotiations should be completed within the extended time frame.

- K. Consideration of the following **items related to the annexation** and initial zoning of the properties identified as **1950 Riverside Drive, 4415 Garnet Lane, 1085 Gapter Road, 2200 Emerald Road, 2350 Norwood Avenue, and 2140 Tamarack Avenue**:

The City Clerk advised CAC that the property at 2140 Tamarack Avenue has withdrawn its application for annexation.

Mayor Appelbaum raised the issue of development in Githens Acres noting that when initially approved by council it was stipulated that no additional development would be allowed.

Planner Chris Meschuk affirmed that this was correct but noted that the properties on Riverside Dr. and Garnet Ln. were east of Githens Acres. And therefore were not bound by that stipulation.

Council Member Jones asked about the road closure in that neighborhood and if that was still an issue of concern.

Mr. Meschuk stated that staff proposes to “honor” the continuation of the road closure. The Mayor reminded him that when Boulder County originally closed this road the City strongly objected. He expected this to be part of the discussion on second reading.

Council Member Jones requested information on ditches and stated this was a broader conversation than the annexation and asked if would be an appropriate discussion for 2nd Reading.

Deputy City Attorney Gehr stated that each annexation had a provision requiring that a minimum stream of flow be maintained.

The City Manager informed CAC that the 2015 budget reflects the hiring of a storm water position and would provide the resources to be proactive in researching the issue of ditches (issues that arose during the 2013 flood) and could be prepared by the end of 2015 for a study session.

Council Member Jones requested staff make a brief presentation on impacts of ditches at second reading. Deputy City Attorney Gehr agreed that staff could bring forward more information (presentation) for 2nd Reading.

The Mayor recommended this as a retreat topic as well.

1. Resolutions finding the annexation petitions for each property in compliance with state statutes and establishing January 20, 2015 as the date for a public hearing; and
2. Introduction, first reading and consideration of a motion to order published by title only, six ordinances annexing the properties with initial zonings as follows:

a. 1950 Riverside Dr.

Proposed Zoning: Residential-Estate

Applicant/Owner: Seana Grady

b. 4415 Garnet Ln. and a portion of the Garnet Lane right-of-way

Proposed Zoning: Residential-Estate

Applicant/Owner: Frank Alexander

c. 1085 Gapter Rd.

Proposed Zoning: Residential-Rural 2

Applicant/Owner: Silvano and Elvira Deluca

d. 2200 Emerald Rd.

Proposed Zoning: Residential-Rural 1

Applicant/Owner: Stephen and Amy Carpenter

e. 2350 Norwood Av.

Proposed Zoning: Residential-Estate

Applicant/Owner: Norwood Garden, LLC

~~f. 2140 Tamarack Av.~~

~~Proposed Zoning: Residential-Estate~~

~~Applicant/Owner: Stephen Tebo~~

This property was withdrawn but is expected to come back at a later date.

4. POTENTIAL CALL UP CHECK IN - none

5. PUBLIC HEARINGS

- A.** Second reading and consideration of a motion to adopt **Ordinance No. 8010 to rezone** the property located at **5400 Spine Road**, from Industrial – General to **Business Community-2**, consistent with the Boulder Valley Comprehensive Plan land use designation of Community Business.*

B. Consideration of the following items related to Open Space Property:

- 1) Consideration of a motion to **approve the disposal of 11 noncontiguous, paved parcels of Open Space land to the City of Boulder Transportation Department** for the purpose of **electric bicycle use** as a means of alternate transportation. This is a disposal of Open Space land pursuant to Article XII, Section 177, of the Boulder City Charter.
- 2) Discussion of the process for identifying Open Space uses and disposal of Open Space lands.

The Mayor did not anticipate the disposal of the 11 parcels to be controversial but that it raised the issue of what the Charter states about disposal of Open Space land.

The Deputy City Attorney responded that the issue of disposal of Open Space land in the Charter between city departments is not clearly addresses. A practice has developed over time to use the general disposal provision of charter Section 177. In the future, the Council could continue this practice or open a discussion on the topic. The council will also be provided an opportunity to discuss how decisions are made about the use of open space land.

The Mayor inquired why the Bob 'o Link trail was not included in the map of paved paths and requested that staff advise Council whether there were other paved paths that have not been included.

6. MATTERS FROM CITY MANAGER

A. Request for Council Direction Regarding EcoPasses

The City Manager stated there is a timing issue with Payroll needing to key in the payroll information by December 7, but a final decision by Congress may not happen until December 11.

No matter what decision is made the focus will be for employees to be made whole. She noted that EcoPasses are a very important benefit for staff and the community.

7. MATTERS FROM CITY ATTORNEY

A. Consideration of a motion to amend the Council Rules of Procedure to add a new Section XVII Executive Sessions.

Council Member Jones asked about whether executive session needed to have public notice.

The City Attorney responded that the council could, by 2/3 vote, call an executive session without notice at any time during any regular or special council meeting.

Council Member Jones also asked for additional clarity in the rules of procedure with regard to who approves what staff should attend and for a process for council to

determine when to destroy the executive session tapes.

The City Attorney will draft an amendment to the guidelines for Council consideration.

8. MATTERS FROM MAYOR AND MEMBERS

- A. Potential Call Ups***
- B. Mayor Pro Tem Election***

The process will be nominations, flip a coin and vote (similar to boards and commissions appointments).

- C. Meeting Management**

Council Members Karakehian and Morzel will introduce the topic and suggest that it be added to the retreat agenda.

- D. Kauffman Foundation Report from Council Member Karakehian**

If it is quite late in the evening this item council may choose to postpone this item.

- E. *New Item - Discussion regarding request from Council Members Plass and Weaver***

Council Members Plass and Weaver requested that a motion be placed on the agenda dealing with the ability of Planning Board to call special meetings.

The City Manager advised CAC that the City does not always have the ability to staff additional meetings. The City Attorney reminded CAC that the boards would need to notice and record meetings and there needed to be discussion of what resources would be available.

CAC placed this as Item 8E on the December 2 agenda for a nod of five to schedule this item or identify this as a retreat topic.

II. Additional Items

- A. *The Mayor Pro Tem requested that a study session be scheduled on February 10 to discuss the Pollard Property.*

The Deputy City Attorney advised that there would be a closing on this property scheduled for December 16 with an extension of the lease for the next two years.

The City Manager advised CAC that this would be a good topic for the retreat and that staff would be prepared by the end of 2015 for a study session.

The Deputy City Attorney will provide an information item on the status of this property.

CAC adjourned at 9:07AM.

COUNCIL AGENDA COMMITTEE
November 24, 2014

Present: Mayor Matt Appelbaum, Council Member Lisa Morzel, Council Member Tim Plass, Executive Director of Public Works Maureen Rait, City Attorney Tom Carr, Deputy City Attorney David Gehr, City Clerk Alisa Lewis, Assistant to the City Manager Tammye Burnette and Acting Deputy City Clerk Dianne Marshall.

CAC convened at 8:05 AM.

- I. **Reminder** – No meeting on Tuesday, November 25 (Thanksgiving week).
- II. **Review of December 2 Agenda**

BOULDER CITY COUNCIL MEETING
COUNCIL CHAMBERS, 1777 Broadway
December 2, 2014
6 PM
AGENDA

1. **CALL TO ORDER AND ROLL CALL**

- A. Recognition of Open Space and Mountain Parks Director Mike Patton
CAC recommended that an additional 5 minutes be scheduled for this item.
- B. Solar Friendly Communities Designation
The City Clerk is awaiting confirmation for Executive Director of Energy Heather Bailey that the December 2 date works for COSEIA to make its presentation. CAC recommended that an additional 5 minutes be scheduled for this item.

Post Meeting Follow Up

The City Clerk's Office confirmed that COSEIA is available for the December 2 meeting.

- C. Items Relating to the Certification of the 2014 Election Results
Council Member Morzel referenced an article in the CAMERA and asked if the election can be certified without the canvas board signing off. The City Clerk responded that the County Clerk's Office works with the Secretary of State's Office to meet the certification deadline.
2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE** (limited to 45 min.) Public may address any city business for which a public hearing is not scheduled later in the meeting (this includes the consent agenda and first readings). After all public hearings have taken place any remaining speakers will be allowed to address council. All speakers are limited to three minutes.

3. **CONSENT AGENDA** (to include first reading of ordinances) Vote to be taken on the motion at this time. Roll Call vote required.
- A. Consideration of a motion to **accept** the October 28, 2014 **study session summary on the Access Management and Parking Study**.*
- B. Consideration of a motion to **authorize the City Manager** to enter into **intergovernmental agreements** with Boulder County and Colorado Department of Transportation for the provision of construction and maintenance the **US 36 bikeway** and the **US 36 Davidson Mesa Scenic Overlook**.*
- C. Council consideration of a **resolution approving** and adopting amendments to the **Beverage Licensing Authority Rules of Procedure**.
Council Member Plass requested that the attachment header on page 40 of the memo be corrected.
- The Mayor requested more information about the history of the BLA meetings start time and if this meets the needs of the public. He would like to know if the board discussed this matter and have there been any issues or complaints.*
- The City Clerk will contact Licensing Manager Mishawn Cook and request additional information on this issue to be included in the memo.*
- D. Third Reading and consideration of a motion to **adopt** and order published by title only **Ordinance No. 7957 amending** Title 2, "Government Administration," Chapter 7, "**Code Of Conduct**," B.R.C. 1981 and setting forth related details.
The City Attorney will provide an additional option with regard to sports tickets. If this option is approved, a fourth reading will be required.
- E. Second reading and consideration of a motion to **adopt** Ordinance No. 8014 approving **supplemental appropriations to the 2014 Budget**; and
- Consideration of a motion to adjourn from the Boulder City Council and convene as the Central Area General Improvement District Board of Directors*
- F. Consideration of a motion to adopt a **resolution amending the 2014 Downtown Commercial District Fund** (formerly CAGID Fund) Budget; and
- Consideration of a motion to adjourn from the CAGID Board of Directors and reconvene as the Boulder City Council.*
- G. Introduction, **first reading** and consideration of a motion to order published by title only an **ordinance** amending Title 9, "Land Use Code," B.R.C. 1981, **to create an additional method of property valuation** for the determination of whether proposed work on a property triggers upgrades to lighting, landscaping, site access and non-conforming drive throughs under the Land Use Code.

Mayor Appelbaum requested clarification on how information will be passed to the Boulder County Assessor.

Council Member Plass agreed that the language on page 107 was confusing as written because staff was not requesting that it be codified but rather handled as an administrative matter.

The Executive Director of Public Works stated staff would clarify this issue in the final memo.

- H. Introduction, **first reading** and consideration of a motion to order published by title only an **ordinance** amending **Emergency Ordinance No. 7985 to correct the legal description** for the annexation area of the property at **2130 Tamarack Avenue**. Has already been annexed but did not get the correct legal description.*
- I. Introduction, first reading, order to publish by title only and consideration of an **emergency ordinance** amending Chapter 6-16, B.R.C. 1981, amending Sections 6-16-2 “Definitions,” and 6-16-3 “License Required” **to extend the time for medical marijuana businesses to convert to recreational marijuana** businesses from December 31, 2014 to March 31, 2015.*
- J. Introduction, **first reading** and consideration of a motion to order published by title only an ordinance **amending the cable television franchise agreement** between the City of Boulder and Comcast of Colorado IV, LLC, to **extend the term of the agreement by 120 days**.*
- K. Consideration of the following **items related to the annexation** and initial zoning of the properties identified as **1950 Riverside Drive, 4415 Garnet Lane, 1085 Gapter Road, 2200 Emerald Road, 2350 Norwood Avenue, and 2140 Tamarack Avenue**: *The Mayor questioned why 1950 Riverside and 4415 Garnet Lane were being zoned RE, which would allow for further development, instead of RR. Githens Acres was approved with the understanding there would not be further development potential. He also asked why staff was supporting the road closure when the City objected when the County originally closed the road. The Mayor asked by what authority staff was pursuing this action and what had applicants been told.*

The City Attorney stated the last clause (relating to the road closure) could be struck.

- 1. A resolution finding the annexation petition for each property in compliance with state statutes and establishing January 20, 2015 as the date for a public hearing; and
- 2. Introduction, first reading and consideration of a motion to order published by title only, six ordinances annexing the properties with an initial zoning as follows:
 - a. **1950 Riverside Dr.**

Proposed Zoning: Residential-Estate
Applicant/Owner: Seana Grady

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e. 2350 Norwood Av.

Proposed Zoning: Residential-Estate
Applicant/Owner: Norwood Garden, LLC

f. 2140 Tamarack Av.

Proposed Zoning: Residential-Estate
Applicant/Owner: Stephen Tebo

4. POTENTIAL CALL UP CHECK IN

Opportunity for Council to indicate possible interest in the call-up of an item listed under agenda Item 8-A1.

5. PUBLIC HEARINGS

- A.** Second reading and consideration of a motion to adopt **Ordinance No. 8010 to rezone** the property located at **5400 Spine Road**, from Industrial – General to **Business Community-2**, consistent with the Boulder Valley Comprehensive Plan land use designation of Community Business.

The Mayor noted that the staff response to the first reading question on page 268 did provide a list of uses allowed by-right for the property. However, he wanted to know if the developer decided to take down the existing building after the property was re-zoned would there be any concern with the property developing any of the by-right uses.

CAC recommended that the time scheduled be reduced by 30 minutes.

- B.** Consideration of a motion to **approve the disposal of 11 noncontiguous, paved parcels of Open Space land** to the City of Boulder Transportation Department for the purpose of electric bicycle use as a means of alternate transportation. This is a disposal of Open Space land pursuant to Article XII, Section 177, of the Boulder City Charter.

The Mayor requested that the memos title reflect that there will be discussion about the disposal of open space.

The City Attorney would send an updated title to the City Clerk.

The Mayor asked why the Bob 'o Link Trail (paved) was not included in the parcels to be discussed.

6. MATTERS FROM CITY MANAGER

- A.** Request from Council Direction Regarding EcoPasses
The City Attorney advised that if this item was resolved then it would be pulled from the agenda; he would know by Wednesday noon.

7. MATTERS FROM CITY ATTORNEY

- A.** Consideration of a motion to amend the Council Rules of Procedure to add a new Section XVII Executive Sessions.
The City Attorney has reviewed the possibility of council members attending executive sessions by phone but did not recommend the practice and would address this in the final memo.

Council Member Plass referred to Section I, Affirmative Duty, and asked about the consequences. He also asked who could access the recordings; in particular, would council members be able to go back and listen to executive sessions?

The City Attorney responded lack of affirmative duty would be a charter violation. He will also add a section to the final memo to address council members' access to the executive session recordings.

Council Member Morzel requested confirmation that the recordings will be held for 90 days. The City Attorney responded yes unless there is litigation in which case they would be preserved for 90 days after the litigation was resolved.

Council Member Plass requested that Council be informed prior to any recordings being destroyed.

8. MATTERS FROM MAYOR AND MEMBERS

- A.** Potential Call Ups*
B. Mayor Pro Tem Election*

- C. Meeting Management*
- D. Kauffman Foundation Report from Council Member Karakehian*

9. **PUBLIC COMMENT ON MATTERS** (15 min.)
Public comment on any motions made under Matters.
10. **FINAL DECISIONS ON MATTERS** Action on motions made under Matters.
11. **DEBRIEF** (5 Min.) Opportunity for Council to discuss how the meeting was conducted.
12. **ADJOURNMENT**

This agenda and the meetings can be viewed at www.bouldercolorado.gov / City Council. Meetings are aired live on Municipal Channel 8 and the city’s Web site and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting. DVDs may be checked out from the Main Boulder Public Library. Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk’s Office at (303) 441-3002, 8 a.m. – 5 p.m. Monday through Friday. **48 hours notification prior to the meeting or preparation of special materials IS REQUIRED.** If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. *Si usted necesita interpretación o cualquier otra ayuda con relación al idioma para esta junta, por favor comuníquese al (303) 441-1905 por lo menos 3 negocios días antes de la junta.* Electronic presentations to the city council must be pre-loaded by staff at the time of sign up and will NOT be accepted after 3:30 p.m. at regularly scheduled meetings. Electronic media must come on a prepared USB jump (flash/thumb) drive and no technical support is provided by staff.

III.	Special Meeting Date for Executive Session – December 8 at 6 PM <i>The City Clerk was instructed to cancel the optional date of December 3.</i>	
IV.	Schedule Special Meeting for the Call Up Hearing for Reve at 30 th and Pearl <i>CAC requested that a special meeting be called for this item January 15 (council will be polled for availability). The City Clerk will also contact University of Colorado Student Government to request an earlier start and change of location from the Student Center at CU to the Municipal Building to facilitate Council then going into a special meeting. An alternative would be to reschedule the UCSG meeting.</i>	
V.	Calendar Items	
	December 16	5:30 start time <i>The Mayor asked why the BVCP update was time sensitive.</i> <i>The City Clerk responded that it was important to support the timeline already indentified for the Comprehensive Plan to move forward.</i>

		2 nd Reading Comcast Franchise Agreement <i>The City Clerk will move the Comcast extension to consent.</i>
		2 nd Reading by Emergency – Marijuana Conversion Extension (PH) <i>CAC reduced the timeline on this from 90 minutes to 60 minutes.</i>
	January 20	2 nd Reading correction to 2130 Tamarack Annexation <i>This item is being moved to consent.</i> 2 nd Reading Smoking Ban <i>CAC requested that Police Department be present to address questions about the logistics of enforcement.</i>
	January 27	Boulder’s Energy Future Study Session 6-7:30 <i>CAC approved and requested this study session be televised.</i>
	February 17	Motion to revise the 2015 State and Federal Legislative Agenda (under Matters from the CM)
VI.	Additional Items	
	A.	Urban Drainage <i>Council Member Morzel raised the importance of the City representation on the Urban Drainage Board. It was her understanding that only the Mayor or Mayor Pro Tem can participate on this board.</i> <i>The City Attorney will follow up and provide information regarding State requirements.</i>
	B.	Process for Televising Study Sessions <i>Council Members Plass and Shoemaker will work with City Manager Jane Brautigam to develop the process by which Boards and Commissions meetings will be televised that will include protocol and timely request to CAC.</i>

8:56 AM adjourned.