Colorado Companies to Watch Reception
5 – 5:30 PM
Municipal Building Lobby
1777 Broadway

BOULDER CITY COUNCIL MEETING
COUNCIL CHAMBERS, 1777 Broadway
November 18, 2014
5:30 p.m.

AGENDA

1. **CALL TO ORDER AND ROLL CALL**
   A. **Declaration for Colorado Companies to Watch**

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 **approve the** City Council Meeting Minutes **from October 21, 2014**

   B. Consideration of a motion to **accept** the September 30, 2014 **study session summary on Flood Management**

   C. Consideration of a motion to **accept** the October 14, 2014 Joint Planning Board/City Council **study session summary on Planning Issues and the Boulder Valley Comprehensive Plan**

   D. Consideration of a motion to **accept the Lower Bear Canyon Creek Floodplain Mapping Study update**, **submit the study to FEMA and direct staff to** consider and **use the study results in** the **regulation of** all **annexations and development proposals during** the interim **period** in which **FEMA is reviewing the study** results.

   E. Consideration of a motion to adopt **Emergency Ordinance No. 8013 adopting Supplement No. 121,** which codifies previous adopted Ordinance No. 7981, Appendix Council Procedure, and other miscellaneous corrections and amendments, **as an amendment to the Boulder Revised Code, 1981**

F. Second reading and consideration of **Ordinance No. 8011** amending Chapter 2-2, B.R.C. 1981 by the addition of a new Section 2-2-19, "Records Retention;" **adopting the Colorado State Records Retention Schedule** and repealing Ordinance Nos. 5753, 5879 and 5972

G. Introduction, **first reading** and consideration of a motion to order published by title only, O**rdinance No. 8014 approving supplemental appropriations to the 2014 Budget.**

H. Introduction, **first reading** and consideration of a motion to order published by title only, **Ordinance No. 8015 amending** Chapter 6-4, B.R.C. 1981, adding a new section 6-4-3.5 **"Smoking Prohibited in Public Places," including electronic smoking devices in the definition of smoking**, and setting forth related details

I. Introduction, **first reading** and consideration of a motion to order published by title only, **Ordinance No. 8016 amending** Chapter 4-11, **Mall Permits and Leases**," Sections 4-1-9 "Authority to Deny Issuance of Licenses," 4-20-11 "Mall License and Permit Fees," and 8-6-6 "Requirements for Revocable Permits, Short-term Leases and Long-term Leases," B.R.C. 1981, **to update the code to be consistent with current mall practices and needs**, and setting forth related details

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.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS**

A. Second reading and **consideration of Ordinance No. 8007** to extend the pilot project **allowing e-bike use on certain multi-use paths** by removing the expiration date

B. **Continued second reading** and consideration **of** a motion to 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

6. **MATTERS FROM THE CITY MANAGER**

A. Request for Council **direction regarding** the City's participation in **the Securities Exchange Commission Municipal Bond compliance initiative**

7. **MATTERS FROM THE CITY ATTORNEY** - none

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL**

A. **Potential Call-Ups -**

1. Potential Call-up and Concept Plan Review application for the redevelopment of a six acre site located at 3000 Pearl Parkway; 2100, 2170 30th and 2120 32nd Streets located within the Business Regional- 1 (BR-1) and Industrial General (IG) zoning districts. Last Opportunity for Call-up : 11/18/14
2. Landmark Alteration Certificate to construct a 1,282 sq. ft. addition to the main house, to relocate an existing garage on the property, and to construct a 330 sq. ft. one-car garage at 711 Pine St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00172). This Landmark Alteration Certificate is subject to City Council call-up no later than **November 18, 2014**.
3. Landmark Alteration Certificate to construct a 308 sq. ft. garage at 2250 6th St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00309). This Landmark Alteration Certificate is subject to City Council call-up no later than **November 18, 2014**.
4. Landmark Alteration Certificate to construct a 300 sq. ft. addition and 150 sq. ft. screened-in mechanical area at the Union Pacific Depot at 30th and Pearl St., and individual landmark, per section 9-11-18 of the Boulder Revised Code (HIS2014-00299). This Landmark Alteration Certificate is subject to City Council call-up no later than **November 18, 2014**.

B. Election of Mayor Pro Tem

C. Nod of Five to prepare a declaration of appreciation for Senator Mark Udall

D. Appointment of subcommittee for Council employees salary review

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**

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CITY COUNCIL PROCEEDINGS
CITY OF BOULDER
October 21, 2014

1. **CALL TO ORDER AND ROLL CALL** – 6:06 PM

Mayor Appelbaum called the October 21, 2014 City Council meeting to order at 6:06 PM in Council Chambers.

Those present were: Mayor Appelbaum, Council Members Cowles, Jones, Karakehian, Morzel, Plass, Shoemaker, Weaver, and Young.

A. **Report from Fire and Police on Mobile Home Fire**

Police Chief Greg Testa and Interim Fire Chief Michael Calderazzo gave an update to Council regarding the response to a recent mobile home fire in Boulder Meadows.

Council Member Cowles noted that anyone interested n donating to the Jimenez to assist them in their time of loss could do so at www.gofundme.com/fvbxyo.

2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE** – 6:28 PM

1. Greg Wilkerson – Asked that Council commission a survey of Boulder citizens regarding the target population for the city at build-out. He proposed a target population of 120,000 by the year 2100.

2. John Hereford – Thanked the Council for their work on the electric assist bicycle pilot and in favor of removing the sunset date.

3. Carl Norby – Spoke about the environmental problems caused by lining wastewater pipes, he was primarily concerned about the rising water table. He presented Council with a letter signed by citizens living in Frasier Meadows supporting the views he presented.

4. Patricia Multhauf – Thanked Council for increasing the utility budget in 2015 to continue flood recovery efforts. She echoed Mr. Norby's concerns regarding ground and wastewater.

3. **CONSENT AGENDA** – 6:47 PM

A. **CONSIDERATION OF A MOTION TO ACCEPT THE STUDY SESSION SUMMARY ON THE A PROPOSAL TO BAN SMOKING ON SELECTED CITY PROPERTIES FROM SEPTEMBER 23, 2014**

B. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE 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**

C. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, THE FOLLOWING ORDINANCES:**

1. **AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO (1) SIMPLIFY VARIOUS VEHICULAR PARKING STANDARDS AND REDUCE QUANTITATIVE REQUIREMENTS FOR WAREHOUSES, STORAGE FACILITIES, AND AIRPORTS AND (2) CREATE NEW LAND USE – BASED BICYCLE PARKING STANDARDS; AND**

2. **AN ORDINANCE AMENDING THE DESIGN AND CONSTRUCTION STANDARDS (DCS) RELATED TO BICYCLE PARKING DESIGN STANDARDS**

D. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO PUBLISHED BY TITLE ONLY, AN ORDINANCE TO REMOVE THE SUNSET PROVISION TO ORDINANCE NO. 7941 ALLOWING ELECTRIC ASSISTED BICYCLES ON CERTAIN HARD-SURFACED, MULTI-USE PATHS, BUT EXCLUDING THOSE ON OPEN SPACE AND MOUNTAIN PARK PROPERTY**

E. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE VACATING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A DEED OF VACATION FOR FOUR SIDEWALK EASEMENTS AND ONE PUBLIC ROADWAY EASEMENT AT 28TH AND CANYON (LUR2014-00075)**

F. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY, AN ORDINANCE DESIGNATING THE BUILDING AND PROPERTY AT 1919 14TH ST., TO BE KNOWN AS THE COLORADO BUILDING, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION ORDINANCE**

OWNER/APPLICANT: 1919 14TH STREET, LLC

G. **CONSIDERATION OF A MOTION APPROVING THE PROPOSED 2015 BUDGET, OPERATING PLAN AND BOARD NOMINATIONS FOR THE DOWNTOWN BOULDER BUSINESS IMPROVEMENT DISTRICT (DBBI)**

Council Member Weaver moved, seconded by Council Member Jones, to approve Consent Agenda Items 3A thru 3G, with item 3A amended. The motion carried 9:0. Vote taken at 7:01 PM.

4. **POTENTIAL CALL-UP CHECK IN** – 7:02 PM

No interest was expressed in calling-up item 8A-1.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS** - 7:03 PM Items 5A through 5G were conducted as one hearing.

A. **CONSIDERATION OF THE FOLLOWING ITEMS RELATING TO THE 2015 BUDGET:**

1. **PUBLIC HEARING ON THE PROPOSED 2015 CITY OF BOULDER BUDGET; AND**

2. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8001 THAT ADOPTS A BUDGET FOR THE CITY OF BOULDER, COLORADO, FOR THE FISCAL YEAR COMMENCING ON THE FIRST DAY OF JANUARY 2015 AND ENDING ON THE LAST DAY OF DECEMBER 2015, AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

3. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8002 THAT ESTABLISHES THE 2014 CITY OF BOULDER PROPERTY TAX MILL LEVIES WHICH ARE TO BE COLLECTED BY THE COUNTY OF BOULDER, STATE OF COLORADO, WITHIN THE CITY OF BOULDER IN 2015 FOR PAYMENT OF EXPENDITURES BY THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

4. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8003 THAT APPROPRIATES MONEY TO DEFRAY EXPENSES AND LIABILITIES OF THE CITY OF BOULDER, COLORADO, FOR THE 2015 FISCAL YEAR OF THE CITY OF BOULDER, COMMENCING ON THE FIRST DAY OF JANUARY 2014, AND ENDING ON THE LAST DAY OF DECEMBER 2014, AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

5. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 8004 THAT AMENDS CHAPTERS 3-8-3 AND 4-20 OF THE B.R.C. 1981 CHANGING CERTAIN FEES, AND SETTING FORTH DETAILS IN RELATION THERETO**

CONSIDERATION OF A MOTION TO ADJOURN FROM THE BOULDER CITY COUNCIL AND CONVENE AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT BOARD OF DIRECTORS

B. **CONSIDERATION OF A MOTION TO ADOPT THREE RESOLUTIONS PERTAINING TO THE 2015 BUDGET OF THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT FUND):**

1. **A RESOLUTION CONCERNING THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT FUND), ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2015; AND**

2. **A RESOLUTION ESTABLISHING THE 2014 CITY OF BOULDER CENTRAL AREA GENERAL IMPROVEMENT DISTRICT PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE 2015 FISCAL YEAR, AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

3. **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL GENERAL IMPROVEMENT DISTRICT FUND) FOR THE 2015 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

CONSIDERATION OF A MOTION TO ADJOURN FROM THE CAGID BOARD OF DIRECTORS AND TO CONVENE AS THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT (UHGID) BOARD OF DIRECTORS

C. **CONSIDERATION OF A MOTION TO ADOPT THREE RESOLUTIONS PERTAINING TO THE 2015 BUDGET OF THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT FUND):**

1. **A RESOLUTION CONCERNING THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT FUND), ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2015; AND**

2. A **RESOLUTION ESTABLISHING THE 2014 CITY OF BOULDER UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE 2015 FISCAL YEAR, AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

3. **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE UNIVERSITY HILL COMMERCIAL DISTRICT FUND) FOR THE 2015 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

CONSIDERATION OF A MOTION TO ADJOURN FROM THE UHGID BOARD OF DIRECTORS AND CONVENE AS THE BOULDER MUNICIPAL PROPERTY AUTHORITY BOARD OF DIRECTORS

D. **CONSIDERATION OF A MOTION TO ADOPT A RESOLUTION FORMALLY ADOPTING THE 2015 BUDGET FOR THE BOULDER MUNICIPAL PROPERTY AUTHORITY; AND**

CONSIDERATION OF A MOTION TO ADJOURN FROM THE BOULDER MUNICIPAL PROPERTY AUTHORITY BOARD OF DIRECTORS AND CONVENE AS THE FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT BOARD OF DIRECTORS

E. **CONSIDERATION OF A MOTION TO ADOPT THREE RESOLUTIONS PERTAINING TO THE 2015 BUDGET OF THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT FUND:**

1. **A RESOLUTION CONCERNING THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT, ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2015; AND**

2. **A RESOLUTION ESTABLISHING THE 2014 CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE 2015 FISCAL YEAR, AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

3. **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT FOR THE 2015 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

CONSIDERATION OF A MOTION TO ADJOURN FROM THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT BOARD OF DIRECTORS, AND CONVENE AS THE BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – PARKING BOARD OF DIRECTORS

F. **CONSIDERATION OF A MOTION TO ADOPT THREE RESOLUTIONS PERTAINING TO THE 2015 BUDGET OF THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – PARKING FUND:**

1. **A RESOLUTION CONCERNING THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – PARKING FUND, ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2015; AND**

2. **A RESOLUTION ESTABLISHING THE 2014 CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – PARKING PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE 2015 FISCAL YEAR, AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

3. **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – PARKING FUND FOR THE 2015 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

CONSIDERATION OF A MOTION TO ADJOURN FROM THE BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – PARKING BOARD OF DIRECTORS AND CONVENE AS THE BOARD OF DIRECTORS OF THE BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT

G. **CONSIDERATION OF A MOTION TO ADOPT THREE RESOLUTIONS PERTAINING TO THE 2015 BUDGET OF THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT FUND:**

1. **A RESOLUTION CONCERNING THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT FUND, ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2015; AND**

2. **A RESOLUTION ESTABLISHING THE 2014 CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT PROPERTY TAX MILL LEVY FOR PAYMENTS OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE 2015 FISCAL YEAR, AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

3. **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT FUND FOR THE 2015 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

CONSIDERATION OF A MOTION TO ADJOURN FROM THE BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT BOARD OF DIRECTORS AND RECONVENE AS THE CITY COUNCIL

Budget Manager Peggy Bunzli presented on this item, staff from departments across the city and representatives from the Boulder Chamber of Commerce were available to answer questions.

The public hearing on Items 5A thru 5G was opened at 7:58 PM:

1. Shaun Oshman – Spoke in favor of funding for the Small Business Development Center (SBDC) and his experience working with them when he first moved to Boulder and started his own business.

2. Ulla Merz – Spoke about the important role the SBDC played in the Boulder Community and in favor of funding that would allow the SBDC relocate to the Boulder Public Library.

3. Betty Artes – Spoke as the owner of Casa Alvarez in favor of funding to move the SBDC to the Boulder Public Library.

4. Nino Gallo – Thanked Council for their support of the SBDC and spoke about the assistance the entity provided to the Spanish speaking community.

5. Christine Rendell – Spoke in support of the SBDC and future funding from the city of Boulder.

6. Sharon King – Spoke as the Executive Director of the SBDC and thanked Council for their support.

7. Sheila Horton – Spoke as the Executive Director of the Boulder Rental Housing Association concerned about the inequity between those properly licensed for rentals and those renting their homes as Vacation Rentals by Owner (VRBO).

8. Mark Gordon – Spoke in support of the SBDC move to the Boulder Public Library.

9. Angelique Espinoza – Spoke as the Public Affairs Director for the Boulder Chamber expressing strong support for the SBDC and its move to the library. She also commented about her experience speaking to local business owners about the proposed water rate increases.

There being no further speakers, the public hearing was closed at 8:25 PM.

Member Plass moved, seconded by Council Member Morzel, to adopt Ordinance No.8001 that adopted a budget for the city of Boulder, Colorado, for the fiscal year commencing on the first day of January 2015 and ending on the last day of December 2015, Ordinance No. 8002 that establishes the 2014 City of Boulder Property Tax Mill Levies, Ordinance No.8003 that appropriates money to defray expenses and liabilities for the 2015 fiscal year and Ordinance No. 8004 which sets certain fees.

Council Member Plass complimented staff for their work on the 2015 budget.

Council Member Morzel also thanked staff for their efforts.

Council Member Jones commented that it was important to note that only 5 percent of the budget increase was related to ongoing costs.

Council Member Karakehian assured the public that Council had thoroughly reviewed the budget document. He stated that the only portion of the budget he disagreed with was borrowing 4 million dollars from the General Fund to pay for Energy Future expenses.

The motion carried 8:1, with Council Member Karakehian opposed to Ordinance Nos. 8001 and 8003. Vote taken at 8:31 PM.

Council Member Jones moved, seconded by Council Member Karakehian, to approve Resolution Nos. 267, 268 and 269 relating to the adoption of the CAGID budget for 2015.

Council Member Jones commented on the importance of a vibrant downtown and the importance of the budget in ensuring success.

The motion carried 9:0. Vote taken at 8:35 PM.

Council Member Weaver moved, seconded by Council Member Young, to approve Resolution Nos. 192, 193 and 194 relating to the adoption of the UHGID budget for 2015. The motion carried 9:0. Vote taken at 8:35 PM

Council Member Young moved, seconded by Council Member Plass, to approve Resolution No. 138 relating to the adoption of the Boulder Municipal Property Authority budget for 2015. The motion carried 9:0. Vote taken at 8:35 PM.

Council Member Cowles moved, seconded by Council Member Jones, to approve Resolution Nos. 46, 47 and 48 relating to the adoption of the Boulder Forest Glen Transit Pass General Improvement District budget for 2015. The motion carried 9:0. Vote taken at 8:36 PM.

Council Member Cowles moved, seconded by Council Member Morzel, to approve Resolution Nos. 11, 12 and 13 relating to the adoption of the Boulder Junction Access Commission Parking Fund budget for 2015. The motion carried 9:0. Vote taken at 8:36 PM.

Council Member Shoemaker moved, seconded by Council Member Weaver, to approve Resolution Nos. 11, 12 and 13 relating to the adoption of the Boulder Junction Access District Travel Demand Management budget for 2015. The motion carried 9:0. Vote taken at 8:37 PM.

H. **CONSIDERATION OF A LANDMARK ALTERATION CERTIFICATE TO DEMOLISH A CONTRIBUTING ACCESSORY BUILDING, CONSTRUCT A 6' X 6' REAR DECK, FLAGSTONE PATIO, AND BASKETBALL COURT, RETAINING WALLS AND FIRE PIT WITH CONCRETE BASE AT 437 HIGHLAND AVE. IN THE MAPLETON HILL HISTORIC DISTRICT, PER SECTION 9-11-16 OF THE BOULDER REVISED CODE (HIS2014-00176). THIS HEARING WILL BE HELD UNDER THE QUASI JUDICIAL HEARING PROCEDURES OF THE BOULDER REVISED CODE**

OWNER/APPLICANT: ANDREW HORNING

Council Member Karakehian disclosed a potential conflict of interest related to his personal business and stated that he would recuse himself.

Mayor Appelbaum asked for any *ex parte* communications.

Council Member Morzel stated that she had visited and walked around the property and spoke with neighbors.

Mayor Appelbaum commented he had also visited the site.

Council Member Shoemaker recounted a conversation he had with Council Member Plass regarding historical structures.

Council Member Cowles explained that he had also visited the property and reviewed questions about the fire pit and open flames in Boulder that he had emailed to staff.

Council Member Plass noted that he was sitting on the Landmarks Board when one of the Alteration Certificates had been requested in the past and affirmed he had a conversation with Council Member Shoemaker.

Council Member Young stated she had visited the site.

City Clerk Alisa Lewis administered oaths to all those presenting and testifying at the quasi-judicial hearing.

Senior Planner James Hewat presented on this item and answered questions from Council.

Attorney Ed Byrne presented to Council on behalf of the applicant Andrew Horning. He explained the events from the perspective of the applicant and walked Council through the history of alterations to the property. He asked Council to consider removing the requirement that the family reconstruct the accessory building as any new structure would not have the same historical significance.

Andrew Horning apologized to City Council for not obtaining the proper permits for the work done on his home and recounted the events around the contracted work.

The public hearing was opened at 9:50 PM:

1. Karl Anuta – Spoke about the importance that Council enforce the requirements for those who had chosen to live in landmarked homes or historic districts to avoid similar issues going forward. He noted that he previously served on the Landmarks Board.

2. Abby Daniels – Spoke as the Director of Historic Boulder, she pointed out how the 40-year-old ordinance regarding historic districts and landmarks had served Boulder well. She encouraged Council to provide more educational tools and resources for those home owners and expressed support for staff's recommendation.

3. Sue Grauerholz – Spoke as the previous owner of 437 Highland Avenue about the contributing building that had been demolished by the applicant and its state of disrepair. She asked Council to reconsider the recommendation staff had made.

4. Kris Sustronk – Spoke as a neighbor of the Horning family, she recounted the safety issues with the demolished structure and steps she had taken to keep her children away from it. She also spoke about the benefits the neighborhood received in having a basketball court for the kids to play while adults were nearby visiting.

5. David Dyer – Spoke as a neighbor of the Horning family happy with the work that had been done at 437 Highland Avenue.

6. Maggi Ward – Spoke as a neighbor of the Horning family asking Council to consider the condition of the structure that was removed from the property and the value added to the neighborhood related to the work done at 437 Highland Avenue.

7. Beverly Potter – Expressed concerns about the decision made by the Landmarks Board and the lack of communication with those living in historical homes and neighborhoods. She asked Council to enforce the preservation ordinance as written, including the requirement to replace the contributing structure.

8. Kathryn Barth – Spoke about her work in surveying historical homes in Boulder and the finding of the survey that the contributing structure was considered to be in "good" condition. She reviewed the criteria for the rating of the structure and stated that only minor repairs would have been required to return it to its fully functioning state.

9. Jenny Horning – Spoke about the emotional toll on her family in having to continue to attend hearings with the city of Boulder. She stated that the process was unnecessarily punitive and had been very disruptive for her family.

10. Deborah Malden – Spoke about the benefit children in the neighborhood received from the improvements made to the property at 437 Highland Avenue. She asked Council to consider the importance of having a safe play space for children in the Mapleton Historic District.

There being no further speakers, the public hearing was closed at 10:23 PM.

Letters of support from the Mapleton Historic District and cost estimates for work required by the Landmarks Board were presented to Council by Andrew Littman. He also gave rebuttal remarks arguing that the costs associated with the proposed recommendation to rebuild the structure did not make sense.

Council Member Plass explained that from his perspective, Council was being asked to enforce the Historic Preservation Ordinance and if Council did not support staff, the applicant would be rewarded for not following the process that was outlined in the Boulder Revised Code.

<u>Council Member Morzel moved, seconded by Council Member Plass, to adopt the memorandum and its findings and to deny the application for the demolition of the contributing accessory building finding that it would have a damaging effect on the property within the Mapleton Hill Historic District per Section 9-11-18(b)(1)(4) B.R.C.1981;</u>

Approves with conditions an alteration certificate for the construction of a rear deck, patio and fence finding the proposal meets the standards for issuance of a Landmark Alteration Certificate in Section 9-11-18, B.R.C.; and

Conditions of Approval:

1. The applicant shall:

   a. Reconstruct the demolished accessory building in its original location based upon photographic evidence;

   b. Remove a sufficient amount of the current hardscape such that no more than 50% of the backyard as defined as the area between the back plane of the home and the lot line at the alley is covered by hardscape;

   c. Remove the fire pit, retaining walls and planter retaining walls;

   d. Revise fence design to a maximum height of 5’6”;

   e. Submit for review by Design Review Committee materials, color and exterior lighting

2. The applicant shall submit detailed plans for the work as described above. These design details shall be reviewed and approved by the Landmarks Design Review Committee prior to the issuance of a building permit. The applicant shall demonstrate that the design details are in compliance with the intent of this approval and the *Mapleton Hill Historic District Design Guidelines* and the *General Design Guidelines*

3. The applicant shall be responsible for completing the work as shown on plans that have been approved

Council Member Plass warned against setting a precedent that Council would not enforce ordinances that they had put in place.

Council Member Morzel asked how staff would follow-up to ensure the work was completed by a date specified by Council.

Mr. Hewat responded that the date would be attached to the Alteration Certificate if it was approved and follow-up would occur with inspection.

Council Member Morzel offered a friendly amendment, which was accepted by Council Member Plass, to require all work to be completed by a date approved by staff.

4. Motion amended to state that all of the above shall be completed by a date certain to be approved by staff.

Council Member Weaver offered a friendly amendment, which was accepted by Council Members Plass and Morzel, to allow the fence height up to a maximum height of 5'6".

d. Motion amended to revise fence design to a maximum height of 5'6";

Council Member Shoemaker asked how reconstruction of a building would work in relation to historic preservation and landmarks.

Mr. Hewat responded that there were guidelines for reconstructing historic structures that would have to be followed in order for the new building to be considered as part of the landmark.

Council Member Young offered a friendly amendment to require the deck be reduced to the original 88 square feet approved.

Council Member Plass asked Mr. Hewat if the friendly amendment was in line with the Historic Preservation Ordinance.

Mr. Hewat responded that the board had not made a recommendation to reduce the size of the deck and he believed the applicant would have received approval if they had followed the process.

Council Member Young withdrew her friendly amendment.

Council Member Shoemaker asked the applicant to remember that Council's decision did not make them bad people, but was acknowledging their role in not following the policies of the city in relation to a historic home.

Council Member Cowles noted that owners of homes that are landmarked or in designated districts generally understand the laborious process involved in making alterations. Council's decision was not about the chicken coop or shed, but about maintaining the history of Boulder. He read the verbiage in the Historic Preservation Ordinance and related its requirements to the hardscaping and deck that had been constructed at the home pointing out that the work was a clear violation. He pointed out that the work was not in line with a historic district and there was no way to know if future residents of the neighborhood would find the same value as the current residents. He did not feel there was sufficient evidence that the structure was in such disrepair that it could not be restored. He pointed out that owners of historic homes were stewards and the actions taken in this case did not align with the vision for Mapleton Hill. He offered a friendly amendment that required the concrete be replaced with pavers and sand so the surface would no longer be impervious.

Mayor Appelbaum moved, seconded by Council Member Morzel, to suspend the rules and continue the meeting. The motion carried 8:0, with Council Member Karakehian absent. Vote taken at 11:00 PM.

Council Member Plass asked if there was a difference between requiring 50 percent of the hardscape and Council Member Cowles request to remove the concrete.

Council Member Cowles responded that the point was to create more permeable area, which would not be achieved in the remaining area left where there was a concrete slab covered with pavers and sand.

Council Member Shoemaker noted that he would withdraw support of the motion if the amendment were accepted.

Council Member Weaver stated that he was not in favor of the amendment proposed by Council Member Cowles.

Council Member Cowles withdrew his friendly amendment.

Mayor Appelbaum agreed with the comments of his colleagues and noted that the licensed contractors that performed the work should have also known better than to go forward with the work on 437 Highland Avenue. He noted that he would support the motion.

Council Member Jones expressed support for the motion and acknowledged the remorse expressed by the applicant.

Council Member Young expressed support for the motion.

The motion carried 8:0, with Council Member Karakehian recused. Vote taken at 11:05 PM.

6. **MATTERS FROM THE CITY MANAGER** - 11:05 PM

A. **UPDATE TO CITY COUNCIL ON 2014 CITY-WIDE SPECIAL EVENTS**

City-Wide Special Events Coordinator Mike Eubank presented on this item.

Council Member Shoemaker moved, seconded by Mayor Appelbaum, to direct the City Manager to negotiate a contract for Iron Man in 2015 and 2016.

7. **MATTERS FROM THE CITY ATTORNEY** - 11:17 PM

None

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL** – 11:17 PM

A. **POTENTIAL CALL-UPS**

1. **LAND USE REVIEW FOR 1750 14TH STREET FOR A FOUR STORY, 52-FOOT TALL, MIXED-USE BUILDING WITHIN THE DOWNTOWN (DT-5) ZONING DISTRICT. BOARD VOTE: 6-1 (PAYTON OPPOSED). IP DATE: OCTOBER 21 LAST OPPORTUNITY FOR CALL-UP: OCTOBER 21**

No interest was expressed in calling up item 8A-1.

B. **CONSIDERATION OF A MOTION DIRECTING A COMPENSATION STUDY FOR THE THREE CITY COUNCIL EMPLOYEES**

Mayor Appelbaum moved, seconded by Council Member Cowles, to appoint a 2 member sub-committee to conduct a peer review of compensation for the 3 Council employees.

C. **BOARD AND COMMISSION APPOINTMENTS**

By the flip of a coin, City Clerk Alisa Lewis determined that the order of voting was be reverse alphabetical.

Library Commission

Nominations were opened:

Council Member Weaver nominated Elorie Slater.

Council Member Young nominated Laura Kennedy.

Council Member Cowles nominated Alicia Gibb.

Council Member Morzel nominated Timothy O'Shea.

There being no further nominations Alicia Gibb was appointed to an unexpired term ending March 31, 2018; vote 5:4, with Council Members Morzel and Young voting for Laura Kennedy and Council Members Plass and Weaver voting for Elorie Slater.

Mayor Appelbaum moved, seconded by Council Member Karakehian, to ratify the Board and Commission appointments.

D. **DISCUSSION OF PROPOSED CONTROLLED BURN AT ROCKY FLATS**

Council Member Morzel presented on this item and gave the history of previously requested controlled burns. She asked Council to approve a motion she planned to make at the next meeting of the Rocky Mountain Stewardship Council requesting that they forego the burn and instead continue using goats on the property to deal with vegetation.

Council Member Plass recalled past protests against proposed controlled burns and the concerns of the community around work being done at Rocky Flats.

Council Member Morzel moved, seconded by Council Member Plass, to support Council Member Morzel's request to propose a motion to the Rocky Flats Stewardship Council requesting the Department of Fish and Wildlife not hold the proposed controlled burn.

E. **CONSIDERATION OF A MOTION TO AUTHORIZE THE CITY MANAGER TO SIGN AGREEMENTS FORMALIZING THE EXISTENCE OF A REGIONAL GROUP KNOWN AS "MAKING LOCAL FOODS WORK"**

Council Member Jones presented on this item and explained how the group came together and what their mission would be.

Council Member Plass urged Council to support the creation of Making Local Foods Work.

City Attorney Tom Carr expressed concern about the indemnification clause proposed in the Memorandum of Understanding.

Council Member Cowles moved, seconded by Council Member Morzel, to authorize the City Manager to sign a Memorandum of Understanding and fiscal sponsorship agreement formalizing the existence of a regional group known as "Making Local Foods Work."

9. **PUBLIC COMMENT ON MATTERS** – 11:51

The public hearing was opened at 11:51 PM, there being no speakers present the public hearing was immediately closed.

10. **FINAL DECISIONS ON MATTERS** – 11:52

Council Member Shoemaker moved, seconded by Mayor Appelbaum, to direct the City Manager to negotiate a contract for Iron Man in 2015 and 2016. The motion carried 9:0. Vote taken at 11:57 PM.

Mayor Appelbaum moved, seconded by Council Member Cowles, to appoint a 2 member sub-committee to conduct a peer review of compensation for the 3 Council employees. The motion carried 9:0. Vote taken at 11:57 PM.

Council Member Appelbaum moved, seconded by Council Member Karakehian, to ratify the Board and Commission appointments. The motion carried 9:0. Vote taken at 11:57 PM.

Council Member Morzel moved, seconded by Council Member Plass, to support Council Member Morzel's request to propose a motion to the Rocky Flats Stewardship Council requesting the Department of Fish and Wildlife not hold the proposed controlled burn. The motion carried 9:0. Vote taken at 11:58 PM.

Council Member Cowles moved, seconded by Council Member Morzel, to authorize the City Manager to sign a Memorandum of Understanding and fiscal sponsorship agreement formalizing the existence of a regional group known as "Making Local Foods Work." The motion carried 9:0. Vote taken at 11:58 PM.

11. **DEBRIEF** – 11:58 PM

Council Member Cowles expressed concern about the landscape designer and contractor involved with the call-up on 437 Highland Avenue. He noted that in testimony during the public hearing there were allegations that those contractors had not received the proper permits for the work they had done. He requested the City Attorney investigate the matter further to determine if there was a violation and what should be done to address the violation if there was one.

12. **ADJOURNMENT** – 11:59 PM

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on October 21, 2014 at 11:59 PM.

Approved this ___ day of _____, 2014.

APPROVED BY:

_____
Matthew Appelbaum,
Mayor

ATTEST:

_____
Alisa D. Lewis,
City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: November 18, 2014

AGENDA TITLE
Consideration of a motion to accept the September 30, 2014 Study Session Summary on Flood Management.

PRESENTER/S
Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
Jeff Arthur, Director of Public Works for Utilities
Bob Harberg, Principal Engineer - Utilities
Annie Noble, Flood and Greenways Engineer Coordinator
Kurt Bauer, Engineering Project Manager
Katie Knapp, Engineering Project Manager
Kristin Dean, Utilities Planner

EXECUTIVE SUMMARY
This agenda item provides a summary of the Sept. 30, 2014 City Council Study Session on flood management. The purpose of the study session was to provide council with background information about the city's flood management program and upcoming agenda items, including the South Boulder Creek Mitigation Study. The study session also included information about an assessment of the September 2013 flood magnitude, impacts to private property, and Federal Emergency Management Agency (FEMA) insurance/disaster relief payments.

The following questions guided council's discussion:

1. Does City Council have any questions or feedback about the overall flood management program or the draft reports analyzing the Sept. 2013 flood event?

2. Does City Council have questions about upcoming flood mapping and mitigation items? Would Council support consolidating items or using the consent agenda to help reduce redundancy?

3. What questions and feedback does City Council have about the South Boulder Creek recommended flood mitigation alternative, including project phasing, impacts and next steps?

STAFF RECOMMENDATION
Staff recommends acceptance of the summary of the Sept. 30, 2014 study session on flood management.

Suggested Motion Language:
Staff requests council consideration of this matter and action in the form of the following motion:

Motion to accept the summary of the September 30, 2014 flood management study session included in this agenda item as **Attachment A.**

ATTACHMENT
Attachment A – Summary of the Sept. 30, 2014 flood management study session.

NEXT STEPS
Based on input at the study session, staff will:

1. Determine the engineering feasibility and technical specifics of using more of the University of Colorado (CU) South Campus land for the proposed South Boulder Creek flood mitigation regional detention facility at US36. If technically feasible, discussions will then be held with CU to explore these options.
2. Initiate discussions with CU about using more of their land for South Boulder Creek mitigation.
3. Continue working with the project consultant team to revise the number of units impacted by the South Boulder Creek Mitigation Plan alternatives as presented at the Study Session. This information, including cost per structure and dwelling unit by project phases, will be presented at the South Boulder Creek flood mitigation public hearing. This meeting has not yet been scheduled and is contingent on the timing of the refinement of the US36 regional detention alternative portion of the recommended mitigation alternative along with discussions with CU.
4. Move mapping updates forward for council review and consideration as they are completed.

BACKGROUND
The background information for this topic can be found in the study session memo.

ATTACHMENT A

Study Session Summary – Nov. 18, 2014
Floodplain Management

PRESENT:
City Council: Mayor Matt Appelbaum, Mayor Pro-Tem George Karakehian, Lisa Morzel, Suzanne Jones, Macon Cowles, Sam Weaver, and Mary Young

City Staff: Jane S. Brautigam, City Manager; Jeff Arthur, Director of Public Works for Utilities; Bob Harberg, Principal Engineer – Utilities; Annie Noble, Flood and Greenways Engineering Coordinator; Kurt Bauer, Engineering Project Manager; Katie Knapp, Engineering Project Manager; Kristin Dean, Utilities Planner

PURPOSE:
The objective of the study session was to provide City Council with background information about the city's flood management program and upcoming agenda items including the South Boulder Creek Mitigation Study. The study session also included information about an assessment of the September 2013 flood magnitude, impacts to private property, and Federal Emergency Management Agency (FEMA) insurance/disaster relief payments.

PRESENTATION OVERVIEW:
J. Arthur started the study session by providing a brief description of the topics to be discussed and introducing staff and guest speakers.

K. Knapp presented an overview of the city's flood management program and explained the flood mapping and mitigation processes, the four defined city flood zones, the city's flood preparedness resources, education and outreach efforts, the property acquisition program, and flood recovery efforts.

Bob Glancy, Warning Coordination Meteorologist at the National Weather Service, presented information about the weather patterns that caused the September 2013 flood event. Shannon Tillack, with Wright Water Engineers, presented an analysis of the rain amounts that fell during the September 2013 event and the associated runoff return periods for each drainage basin in the city.

Results of a city initiated flood impact survey and a damage analysis were presented by B. Harberg along with information related to flood insurance in Boulder.

A. Noble outlined some key projects scheduled for City Council consideration in the next year including; a.) updating floodplain mapping along Boulder Slough, Bear Canyon Creek, Skunk Creek, Bluebell Canyon Creek, King's Gulch, Upper Goose Creek, and Twomile Canyon Creek; and b.) mitigation plans for South Boulder Creek, Gregory Canyon Creek, Bear Canyon Creek, and Boulder Creek. She also provided a status

update on capital improvement projects along Wonderland Creek and Fourmile Canyon Creek.

K. Bauer led the presentation and discussion about the South Boulder Creek Mitigation Study. The presentation included a summary of the study background, alternatives that have been evaluated, study recommendation, board motions and issues relating to the study recommendation. Ken MacKenzie, with the Urban Drainage Flood Control District, was also present to answer questions about the district's role in flood preparedness, response, and recovery efforts.

COUNCIL RESPONSES TO STUDY SESSION QUESTIONS AND DISCUSSION SUMMARY:

Council had thoughtful and wide ranging discussions that were prompted by the following questions:

1. Does City Council have any questions or feedback about the overall flood management program or the draft reports analyzing the Sep. 2013 flood event?
   - <u>High Hazard Zone Property Acquisition</u>
     Additional discussion was held about the High Hazard Zone Property Acquisition Program and the adequacy of funding as well as the process for being notified about properties. Staff noted that the focus is on purchasing residential properties in the High Hazard Zone that come on the market. While $500,000 is allocated annually for this program, there is not always a willing seller each year. The funds currently available at this time are approximately $1.5 million. Other funding sources are also available for property acquisition in association with other drainageway improvements.
   - <u>Groundwater</u>
     Questions were raised about addressing groundwater when development is proposed. Staff commented that groundwater is not currently regulated, except that residential basements are prohibited to be built if the property is in the 100-year floodplain. Additionally, staff noted that education centered on the importance of having a sump pump and the risks of basement flooding is key to addressing groundwater issues.
   - <u>Wonderland Creek Project Financing</u>
     Council requested that they be kept up-to-date for the potential of using eminent domain for the proposed Wonderland Creek improvements in order to ensure that the project continues to move forward and that funding is not jeopardized if easements have not been secured by the deadline.

2. Does City Council have questions about upcoming flood mapping and mitigation items? Would Council support consolidating items or using the consent agenda to help reduce redundancy?
   - Additional questions were raised about the process for mapping studies and when they go to council. Staff reiterated that mapping studies have to follow very technical guidelines set by FEMA and the Urban Drainage and Flood Control

District, thus there is not a lot of opportunity for the public to weigh in. However, all entities affected by a mapping study, including educational institutions, are notified about mapping updates in progress. Council members agreed that mapping studies could be presented on the consent agenda, unless the study is controversial. Council members also agreed that all mitigation studies should be presented as a public hearing.

3. What questions and feedback does City Council have about the South Boulder Creek recommended flood mitigation alternative, including project phasing, impacts and next steps?
   - Council requested clarification on the number of structures affected by the South Boulder Creek mitigation options and a cost per unit analysis for each option.
   - Council raised questions and requested more information about the cost effectiveness of flood proofing individual structures compared to other large scale mitigation options. Staff noted that flood proofing may protect structures, but mitigation is also necessary to minimize the life-safety risk associated with flash floods. Staff also noted that individual property owners could utilize landscaping and walls to help divert surface water away from their structures.
   - Questions were raised about the feasibility of building a berm in a natural area containing threatened and endangered species. Staff noted that the estimated cost to construct the proposed regional detention facility at US36 includes estimates to mitigate for environmental impacts associated with federal permitting requirements.
   - Council requested that Staff initiate discussions with CU about the possibility of using more of their land for South Boulder Creek mitigation. Council recognized that the goal is to figure out how to reduce flood risk for everyone but at a reasonable cost.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: November 18, 2014

AGENDA TITLE: Consideration of a motion to accept the October 14, 2014 Joint Planning Board/ City Council Study Session Summary on Planning Issues and the Boulder Valley Comprehensive Plan

PRESENTERS
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Lesli Ellis, Comprehensive Planning Division Manager

EXECUTIVE SUMMARY

This agenda item provides a summary of the October 14, 2014 Joint Planning Board/ City Council Study Session on Planning Issues and the Boulder Valley Comprehensive Plan (**Attachment A**).

The purpose of the study session was for Planning Board and City Council to discuss and provide feedback on the following:

1. Planning Board input on priority issues of concern from September 16 City Council discussion and motion on planning issues
2. Priorities/ focus for the 2015 work plan and community engagement
3. Update on the Boulder Valley Comprehensive Plan Assessment and feedback on the desired approach to the 2015 Major Update

At the study session, a few council members requested updated information on Residential Growth Management allocations and exemptions. An update to the chart provided on Sept. 16 with this information is included as **Attachment B**.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff recommends Council consideration of this summary and action in the form of the following motion:

Motion to accept the October 14, 2014 Joint Planning Board/ City Council Study Session Summary on Planning Issues and the Boulder Valley Comprehensive Plan

NEXT STEPS

1. Planning issues:
    - 2015 work plan options to address priority areas of concern in addition to other planning and policy initiatives already underway will be presented to council in advance of the council retreat.
    - Staff will move forward to implement a broader community engagement strategy for the Comprehensive Housing Strategy.
    - On December 9, Victor Dover will facilitate a council discussion on design outcomes, to be followed by recommendations on potential changes to the city's processes and codes, as part of the Design Excellence Initiative.
2. Boulder Valley Comprehensive Plan:
    - Staff and consultants will attend a joint meeting of the County Planning Commission and Board of Commissioners on Nov. 3, 2014.
    - The consultants will prepare a report and assessment later in November.
    - Council and Planning Board will have further opportunity to guide the scope of work tentatively in December and subsequently at the council retreat in January.

ATTACHMENTS

Attachment A: October 14, 2014 Study Session Summary on Planning Issues and the Boulder Valley Comprehensive Plan

Attachment B: 2003-2014 Housing, Population, Residential Growth Management Allocations and Employment Data

October 14, 2014 Study Session Summary on Planning Issues and the Boulder Valley Comprehensive Plan

PRESENT
City Council: Mayor Matt Appelbaum**,** Mayor Pro Tem George Karakehian, Council Members Macon Cowles, Suzanne Jones, Lisa Morzel, Tim Plass, Andrew Shoemaker, Sam Weaver, and Mary Young.

Planning Board: Chair Aaron Brockett, Vice Chair Bryan Bowen, Planning Board Members John Gerstle, Crystal Gray, Leonard May, Liz Payton, John Putnam

Staff members: City Manager Jane S. Brautigam, Executive Director of Community Planning and Sustainability David Driskell, Deputy Director of Community Planning and Sustainability Susan Richstone, Comprehensive Planning Manager Lesli Ellis

Consultants: Ben Herman, FAICP, Clarion Associates; David Godschalk, FAICP, University of North Carolina, Professor Emeritus

PLANNING ISSUES

Overview of the Presentation

Mayor **Matt Appelbaum** asked each council and board member to introduce themselves. He reminded everyone that the purpose of the meeting was to identify priorities and not to come up with solutions.

City Manager **Jane Brautigam** indicated that there are two main items on the agenda. City Council put a large number of items on the table at its September 16 meeting, and tonight it is important to prioritize the most important things to accomplish in the next year. Boulder Junction is an example of the hard work that goes into large projects in terms of time and resources. So much work has gone into it, and although not everyone agrees with the design of some of the buildings, it is important to acknowledge what has been accomplished: 71 permanently affordable units, the only underground RTD transit facility outside of downtown Denver, the multi-way boulevard and new bike connections, market rate housing affordable to middle income households, preservation of the historic depot, and creation of a new public plaza. It is rare to get all of you in the room together and staff is looking forward to hearing your discussion.

Executive Director of Community Planning **David Driskell** discussed how planning is vision driven, values based, and informed by data. It is an iterative process, with monitoring and feedback loops, that involves developing strategies to achieve the vision, and implementation tools to put the vision and strategies into action. Much of council's discussion on Sept.16 focused on implementation. He provided an overview of the "ladder of participation" for citizen engagement, going from informing and consultation to engagement and dialogue, where community members are not just sharing their views, but listening to each other and co-developing responses to community issues. As you go higher up the ladder, the time and resources required increase. Mr. Driskell walked through a wallgraphic illustrating the major projects already on the city's work program,

including Civic Area Implementation, Design Excellence, Envision East Arapahoe, UniHill Moratorium, Comprehensive Housing Strategy, Boulder Valley Comprehensive Plan Update, Climate Commitment and numerous code changes. These projects impact multiple departments; many result in suggested code changes with different parts of the community impacted; and all entail community outreach as well as the involvement of various boards. Nearly every code change is a significant work effort, and we will be looking at strategies to approach code changes in a more holistic way. We are rethinking the engagement strategy for the Comprehensive Housing Strategy. Staff heard concerns about the desire to ensure a participatory and inclusive process, and we developing a more robust engagement process. Staff is looking at an inclusive community launch event (potentially in November, but may more realistically be January). There will be online and community based activities as well as working groups, and perhaps an ignite type event in 2015. We are looking at how we can group some of these projects together and make them more accessible to the community, and build a stronger platform for community engagement and information sharing. Tonight we'd like to hear what the highest priorities are for the coming year.

Aaron Brockett, Planning Board Chair, provided an overview of the board's comments and priorities. Planning Board discussed this, responding to council's September 16th motion. The board came up with a few focus areas as the top priorities:

- Importance of robust community engagement process and ensuring we get to people who don't usually get involved.
- Developing more effective strategies for creating affordable housing, in particular for middle income residents, including tools to require on-site affordable housing as well as different housing types and price;
- Changes to the site review criteria – while there were different ideas as to specific ideas among board members, all agree we'd like to see better outcomes.
- Community benefit – projects requesting modifications to setbacks, height, etc. do not currently require community benefit. Four board members believe there should be a requirement for community benefit. All board members agreed the topic of community benefit is an important discussion that needs to happen.
- Boulder Valley Comprehensive Plan – we'll talk about in next part of the meeting.

David Driskell provided an overview of the materials in the packet, explaining the color coding of potential work plan items, and asked that the discussion focus on identifying the highest impact items for us to work on.

Discussion Summary:
M. Applebaum requested that council and board members identify their top priorities.

L. Morzel was interested in looking at the residential growth management exemptions.

M. Young: Metrics; adequate public facilities or other mechanism to address externalities such as community benefit requirements and mitigation of energy impacts; area plans and neighborhood plans (concerned in particular about 28th and 30th Streets, and area around hospital on Broadway).

L. May: Metrics; 3D visioning showing what current zoning would result in over time; area plans; adequate public facilities.

T. Plass: Site review criteria: the big projects have drawn community concern, community benefit and how those relate to modifications such as height modifications; 3D model of current zoning at buildout.

S. Weaver: Visioning is a good tool for a community discussion and to help set goals, then we need metrics to track progress on goals; it would be phenomenal to have metrics to look at how each project relates to progress towards goals; adequate public facilities

A. Brockett: Visualization - not a model of buildout but rather for a section of town; site review criteria; design quality.

M. Applebaum: 3D visuals – it should not be of buildout but rather limited visuals in key locations; bundle of issues relating to site review criteria, design guidelines, and community benefit; adequate public facilities – should not on be on individual projects but rather analyzed on an areawide basis; residential growth management exemptions – time to review.

M. Cowles: Quality of design; site review criteria and the role of community benefit; doesn't agree with looking at an adequate public facilities ordinance, unless specific metrics that would get us better neighborhoods, better streets, better public realm, not interested.

J. Gerstle: Metrics are useful for determining if you are moving in the right direction; area planning – agrees it's the right place to look at needed infrastructure and services, and then ensure individual projects are designed accordingly and pay fair share of providing public services; role of community benefit needs to be considered more explicitly.

A. Shoemaker: Visioning as formulated by Matt and Aaron; Transit Village - if you thought of as a subway stop then you would want exactly what is happening; better design – not just site review but also by-right; affordable housing

B. Bowen: Comprehensive Housing Strategy – need to address middle class; area plans – provides predictability; visualization – neighborhoods want to know what to expect in the future; public realm; character of area, not overall buildout; at detailed site review level it's hard to craft conditions that get a good building – need earlier process – concept plans are getting better.

C. Gray: Community engagement – need to make sure we don't get out of step with community, affordable housing – find out what makes housing affordable in different neighborhoods, supportive of comments on site review and use tables.

S. Jones: Need to agree on what we want, what we want to incentivize, and then make sure that is what we get; define community benefits, increase basic requirements for by-right development; ensure we get what was approved; protect first floor in key areas; visioning to look at buildout and at design and what street feels like, Comp Plan – look at bigger issues of what it all adds up to, housing, more inclusive process.

G. Karekehian: Predictability is extremely important, visioning – Downtown Alliance was great and everyone was involved, metrics as a tool – but not to halt growth, adequate public facilities needs to looked at citywide not project by project, agrees with council involvement early on with concept plans.

L. Payton: Applicant wants a modification when they come for site review – need well defined community benefits; metrics – projects have been oriented to specific housing types and demographics, and would be helpful to have metrics on desired housing types we need; measures to improve design quality through site review criteria or design guidelines

J. Putnam: Site review criteria - mismatch with community desires, area plans, comp plans, resilience – feedback loop; metrics – look at how to use effectively.

M. Young: Would like Planning Board to get more involved in coming up with specific recommendations; thinking about how booked staff is: perhaps through committees.

L. Morzel: Need predictability and with metrics to be able to anticipate where we want to go in the community. Some projects in recent years have not necessarily been what I think are our needs. Need real inclusive engagement strategy.

S. Weaver: Adequate public facilities – would like us to think creatively. If you know what is going to be built, as projects come in, you can assess adequate public facilities. Metrics – perhaps we can creatively think about a ratio between residential and business and rates, not a hard cap.

L. May: Can look at metrics the way you look at retirement and rebalancing your portfolio. Visioning – you have to use what's on the books.

M. Appelbaum: Need to deal with by-right and limit perhaps only to relatively small projects. . Development impact fees – need to look at this. Look at linkage of housing and jobs. We know a lot more now. Don't presuppose solutions like oaus/adus; need to get best bang for buck but don't go in with solutions. Happy to have Planning Board do the heavy lifting, but council needs to figure out priorities and policy calls, and that's what we need to do next. Council needs to determine priorities and Planning Board needs to make recommendations on the details.

A. Brockett: There has been some talk on Planning Board of sending list of priorities to council. Instead perhaps council can send to the board items council would like the board to work on. I feel like it's not the function of Planning Board to come up with the ideas.

L. Morzel: Would like to know when Planning Board feels your hands are tied.

A. Shoemaker: Don't presuppose solutions, for example requiring on-site affordable housing.

M. Cowles: Summary table from Sept. 16 – agrees ongoing projects can have design-related items folded in. Linkage and development fees: important and on 2015 work plan, and rubs up against adequate public facilities. Agrees by-right needs to be looked at. Projects need to work for developer, occupants and stand up to community. We need to improve quality of buildings but requiring community benefit, just having items to check off, isn't necessarily the answer. We need to be concerned about public realm, materials, etc. in every building.

S. Weaver: Annual letter is only way Planning Board communicates to council. Wants board to have latitude mid-year to refer items to council. If there are things that are not working, should be

an opportunity to refer up to council. Right now, we are looking at everything, but perhaps in a year or two.

L. May: We owe it to council to provide our thoughts. In terms of buildings, you can write all of the guidelines you want, fundamental issue is whether Planning Board is willing to say no to a bad project.

C. Gray – If you get underlying zoning right, then the by-right projects will be what you want in that area.

M. Appelbaum wrapped up the discussion. He observed that there was agreement on a large majority of items and disagreement on a number of items as to whether to pursue and the definition as to what they might look like. He requested that **D. Driskell** summarize.

David Driskell summarized the discussion:

- Strong consensus about items in main motion.
- Differing perspectives on things on the longer list that were not in green.
- A lot of interest in area plans, which are significant work efforts.
- We are slated to look at development impact fees, which intersects with some of concerns about adequate public facilities. There were many perspectives on this.
- Visioning and 3D modeling is in main motion. Early work on comp plan update can look at objectives and what exactly this might be.
- Strong consensus about site review criteria, by-right development, getting better development, community benefit and modeling, which are components of the main motion.
- Set to make progress on areas of most agreement.

BOULDER VALLEY COMPREHENSIVE PLAN

Staff Presentation:
L. Ellis introduced the project and consultants with PowerPoint slides.

Planning Board Overview:
A. Brockett provided an overview of Planning Board discussion on BVCP from previous board meeting discussions.

Consultant Presentation:
B. Herman and D. Godschalk provided consultant observations as included in the packet and the Range of Approaches, as follows:

- Retain Current Plan/Focus on Implementation Tools
- Minor Plan Update with focus on Vision and Policy Refinement
- Plan Repackaging/Sustainability Integration and Outcomes
- Major Update with Community/Partnership Process

Discussion Topics:
The following questions guided the council discussion:

1. New Topics and Issues: What new issues and opportunities should the 2015 plan update address?
2. Update Approach: What is the appropriate level of effort and community engagement for the plan update?
3. Resilience Strategy: Should the resilience strategy process and/or outcomes be bundled with the BVCP update?

City Council and Planning Board provided the following comments and questions:
M. Cowles: Like the upper end of range of approaches for the comp plan update, because the community has had floods, fires, and seen increased focus on climate change. The plan should address areas of the city that are less resilient and have more vulnerable people. We should do the plan in line with the resilience strategy. It is surprising that the plan is not expressing the vision. It is expressed with heavy text, and many desires without priorities. It may be time for analysis related to outcomes.

J. Gerstle: We have been well served by the plan's vision and goals of existing plans, and it is not obvious that the vision needs attention. It makes sense to incorporate resilience, but it is not clear we need to redefine the vision. It is appropriate to talk about it and ensure agreement. Focus on implementation is absolutely appropriate and most useful to issues raised by Planning Board.

M. Young: Seems the plan does not have a correlating Master Plan to the built environment. The text is good, but it needs visualization of the definitions. Make it clear to the whole community what is appropriate. Do a minor update and focus on the implementation of the built environment section and then do code changes. Weave in resilience.

Consultant response: The plan could include a more defined version of urban form definition (e.g. San Francisco or other examples). It could be part of the plan or a separate element.

L. May: The value statements are clear if you use it a lot. I would not call for a minor update, but we need to an update with focus on vision and policy requirements. Roll in resilience. As part of that, a significant community partnership process needs to be incorporated. Do a modest update and incorporate topics that have not previously been in there, and flesh out the built environment topic.

S. Weaver: Take a holistic look. The values are there. The vision is there but is not clear to all. The update should be somewhere between minor and major. It needs an urban form component that gives more guidance – for both by-right and site review projects. The climate goal that was adopted needs to be included and flow down to implementation. If not we will miss our goals. The BVCP is the place to include big aspirational goals. Add resilience and net energy goals. Key is to show what goals look like to the community.

A. Brockett: Focus on implementation tools. Add prioritization particularly in built environment and outcomes. A separate built environment plan is intriguing, if it guides the shape of development, areas of city, different streetscapes. Maybe not in this plan if it is to be done. Achievability of completing the built environment plan is a concern.

J. Putnam: With plan repackaging, be careful not to lose what is in the comp plan. Policies are there, but there are holes in translation. The plan needs a good definition of compact urban form. We have good understanding and policies to prevent sprawl. With visual and graphic tools we can address urban form. Take a hard look at urban form goals with the public, as people may not agree with text. Then, look at implementation tools and outcomes. Agree that resilience needs to be integrated with the plan to take it seriously. This may mean that we have something rougher and less perfect that can be refined later, rather than wait. Get to implementation.

S. Jones: Agree that the plan has served Boulder well. The values are solid – don't rehash them. But, repackage to tell the story better. Resilience is important. Rough out the visualization piece where details will happen with other processes. Other issues have been ripening in the community, such as arts. The plan doesn't really address, but people seem ready to embrace it more holistically.

L. Morzel: Agree with plan repackaging, sustainability, and outcomes. The comp plan is great. When I was a neighborhood advocate, it got me into planning and action. It will be important to integrate sustainability and resilience – they have to be done in parallel. Don't do much visioning. Sharpening and refining policies could help. It will be critically important to add implementation tools. There is too much wiggle room from Planning Board approval through site review, and we need more certainty. Address the map changes. Want to look at Area III – Planning Reserve and where we are going with that. The last thing we want to do is to loosen our belt and go sprawling into Area III. We should not consider developing into Area III. Not something city should go talk to county about. Discuss area II as well. Want to have time to discuss map.

A. Shoemaker: Ditto to what Aaron said, including built environment. Allow the update to evolve culturally and reflect demographics. There is a lot of change in the city – implementation tools are critical. If we do not have those tools, we lose opportunity to shape things as they are happening. Perhaps the vision statement needs more clarity. Improve the graphics of what is a wonky document.

B. Bowen: Agree with what others said. Address plan update at the appropriate level of light touch. Address urban form more deeply and sustainability and resilience. We have won past battles. Need to be doing a deep enough revision to address current issues and get ahead of them.

C. Gray: The report was interesting and I appreciate the consultant observations. A process with resilience integrated into the comp plan update makes sense. Use the new neighborhood liaison to have a real involved process in the community. Community partnerships are important in Boulder (e.g., with major employers, university, labs, art and culture). Not so much about growing the community but understanding the needs of those partners.

T. Plass: The bones of the plan are strong. We may be too close to see that the vision is not clear. It's worth looking at how to make it clearer. Tie in resilience – it's the next really important thing. Would like to also see local food as part of implementation, as it is currently aaspirational, but we need to get more specific. Another more detailed topic is to incorporate better cellular coverage in our community, as it is a safety issue and desired by the community.

M. Appelbaum: Agrees with Tim and John, and would like to address built environment, possibly as a master plan or separate element. Concerned we might focus on built form too much, and it will slow down the process. The comp plan is not just a land use plan – that is what people see, but it is much more than that, and we should remind people it is more. Other sections probably need some revision and updating to get them more in sync with other plans. Sometimes, the land use drives other things and sometimes it's the other way around. Resilience is like that as well. Map is a working component but not the only thing. Not sure about prioritizing goals. Despite the ability to use policies to justify anything, that may not be a bad thing, as we can't always have it all. Projects (on project-by-project basis) cannot be expected to solve all the problems. A giant battle about ranking the goals will not get us far. Sort out the detailed needs in area plans. Regional is important, but not just for partnerships. Boulder is part of a bigger metro area. The way we look at implications and the way we measure things is important. We cannot just look at how things affect Boulder. Regional impacts need to be considered, in how we measure (e.g., housing). We need to consider "if it weren't here what would that mean?" We need a full and accurate picture of not just Boulder's sustainability but the sustainability of the region.

G. Karakehian: Minor update rather than major. Agree with other comments. Update and modernize, but not interested in seeking a major work effort. The plan works and needs fine tuning.

L. Payton: Part of the reason we have so little community engagement is because we average across the community. We should have a section on neighborhoods (e.g., a couple of pages per neighborhood). Get people involved to describe and set vision for the future, identify ways they are vulnerable, resilient, sustainable, or could be more sustainable. It would get people involved and thinking about it. Policies are too generic and that creates distance between people and the plan.

M. Young: Would like to reiterate support for the arts. Resilience it has the potential to weave into other areas also. Also, like Liz's idea of defining neighborhoods and having them define themselves.

S. Jones: Agree with Tim on local food; it fits with resilience.

G. Karakehian: Agree with review of maps – confirm they still reflect what we want them to. Value of neighborhood planning in general should be stressed – neighborhood plans indicate what may be expected of individual developments.

S. Weaver: Like idea of a very light touch of neighborhood plans – preparation for that could be useful. Not going to get so many area plans in the next five years.

L. May: Reinforce maps and neighborhoods. As we look at developing neighborhood plans, we need to look at growth and development pressures and the question of growth paying its own way.

M. Appelbaum: Neighborhood plans are not where the action is. They have almost no changes unless we started some real rezoning or increase in density. Not saying I am in agreement with no changes, but we need to focus on where change is happening and where it is likely to change. For most neighborhoods, very little is happening. For areas where things are changing, that might be helpful, but that is different than the conversation we're having. Neighborhood planning could spread us too thin.

T. Plass: Agrees that the neighborhood planning idea by Liz has merit. It gives the residents more buy-in, engagement. There is value to calling out neighborhood and having pride in where they live.

M. Appelbaum: Need to address scope of what is possible.

L. Morzel: Agrees with Tim that neighborhoods could help create better social fabric (e.g., flood resulted in people getting to know each other). Buy-in to the comp plan is important. It isn't just land use.

Consultant summary: Common themes tonight are middle range of level of effort; integrate sustainability and resilience; not a redefining of vision, but clarify policies in some cases and make the plan more graphic. Explore integrating metrics and outcomes, and add new or emerging topics, such as built environment clarification.

NEXT STEPS

David Driskell closed the meeting by highlighting the following next steps:

- Consultant will provide recommendations related to Boulder Valley Comprehensive Plan Assessment and thoughts on process and scope.
- Our goal is to get suggestions to you on work plan prioritization and options in advance of your January retreat.
- Didn't hear concerns around new thinking about engagement strategy for Comprehensive Housing Strategy. We will move to implement.
- Victor Dover is now planned for Dec. 9 with City Council as part of Design Excellence Initiative.

City of Boulder

2003-2014 Housing, Population, Residential Growth Management Allocations (RGMS), and Employment Data

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014 [3]
Housing Units [2]												
Total Housing Units	41,031	41,175	41,482	41,812	42,120	42,260	42,574	43,037	43,178	43,617	43,791	44,028
New Housing Units Completed	189	335	376	363	204	372	489	160	449	213	247	227
Housing Units Growth Rate	0.5%	0.8%	0.9%	0.9%	0.5%	0.9%	1.2%	0.4%	1.0%	0.5%	0.6%	--
Building Permits Issued for New Housing Units	284	540	217	300	583	401	141	453	106	415	878	607
RGMS Allocations [4]	558	78	229	263	254	184	309	193	537	293	1,020	--
Excess	--	--	--	--	--	--	--	--	36	192	571	--
Exempt	--	--	--	--	--	--	--	--	491	80	933	--
Demolition [5]	39	20	44	68	62	42	23	15	10	21	25	--
Population												
Area I (City Limits) Population	97,562	97,870	98,526	99,232	99,891	100,190	100,792	97,706	98,986	101,169	101,824	102,420
Population Growth Rate	1.0%	0.3%	0.7%	0.7%	0.7%	0.3%	0.6%	-3.2%	1.3%	2.2%	0.6%	0.6%
Employment [6]												
Area I (City Limits) Employment	98,164	98,394	98,400	98,400	100,100	97,753	97,500	96,800	97,500	99,400	102,500	--
Employment Growth Rate	1.3%	0.2%	0.0%	0.0%	1.7%	-2.3%	-0.3%	-0.7%	0.7%	1.9%	3.1%	--
Commuting Patterns [7]												
Work in Boulder, Commute from Outside Boulder	--	--	--	51,556	--	52,852	--	52,907	--	59,000	--	--
% Work in Boulder, Commute from Outside City of Boulder				52%		54%		55%		59%		
Work and Live in Boulder	--	--	--	46,844	--	44,901	--	43,893	--	40,400	--	--
% Work and Live in City of Boulder				48%		46%		45%		41%		
Live in Boulder, Commute to Outside Boulder	--	--	--	13,992	--	11,733	--	10,296	--	13,500	--	--

[1] All numbers are for Area I (city limits)

[2] Building permit numbers reflect Certificates of Occupancy issued for new residential units and do not account for demolitions and mobile home park unit variations.

[3] 2014 numbers and estimates are as of October 28, 2014.

[4] Number reflects excess, exempt, and demolition RGMS allocations for years data is available. Some allocations may have expired or may not have been used. Note two corrections from the September 16, 2014 City Council memo - 1) the 2011 total RGMS allocations are 537 (not 538) and 2) the 2013 total allocations were 1,020 (not 995) as the previous number excluded demolition allocations. Numbers do not include reserved allocations.

[5] Demolition allocations may be used to replace a demolished unit within three years subject to the provisions of section 9-3-13(e), B.R.C. 1981.

[6] The total employment estimate is developed using US Bureau of Labor Statistics data, reviewed for accuracy at a local level by the University of Colorado LEEDS School of Business – Business Research Division, and a self employment factor (10%) is applied to establish a total jobs estimate.

[7] The City of Boulder commuting estimates are a labor force driven estimate, using a mixture of federal and local data and assumptions. The estimate begins with an estimated number of households (City and State estimate) and develops a resident labor force (the population of workers) using a factor of 1.3 workers per household (State Department of Labor).

2011 – 2013 Exempt RGMS Allocations Summary

2011 Exempt Allocations	
Type	**Count**
Permanently Affordable	**97**
Residences at Twenty Ninth Street	*34*
Hi Mar Development	*59*
Misc	*4*
Intergovernmental Agreement	**0**
Thirty-five Percent Affordable	**0**
Mixed Use Developments	**316**
3100 Pearl St	*316*
Rezoned to Residential	**78**
910 28th St	*19*
*900 28th St**	*59*
Total	491

2012 Exempt Allocations	
Type	**Count**
Permanently Affordable	**12**
Sanitas Terrace	*3*
1000 Rosewood	*9*
Intergovernmental Agreement	**9**
1000 Rosewood	*9*
Thirty-five Percent Affordable	**0**
Mixed Use Developments	**0**
Rezoned to Residential	**59**
*900 28th St**	*59*
Total	80

2013 Exempt Allocations	
Type	**Count**
Permanently Affordable	**262**
29th Street Apartments	*61*
28th Street Apartments	*69*
Depot Square (Transit Village)	*71*
1175 Lee Hill Transitional Housing	*31*
Misc	*30*
Intergovernmental Agreement	**0**
Thirty-five Percent Affordable	**3**
Mixed Use Developments	**353**
Gunbarrel Center	*251*
Boulder Views (6655 Lookout)	*68*
1707 Walnut	*26*
1580 Canyon	*8*
Rezoned to Residential	**315**
The Providence (958 28th St)	*84*
Alexan Flatirons (5460 Spine Road)	*231*
Total	933

** Note that allocations issued for 900 28th St in 2011 expired and were reissued in 2012.*

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: November 18, 2014

AGENDA TITLE
Consideration of a motion to accept the Lower Bear Canyon Creek Floodplain Mapping Study update, submit the study to FEMA and direct staff to consider and use the study results in the regulation of all annexations and development proposals during the interim period in which FEMA is reviewing the study results.

PRESENTERS
Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
Jeff Arthur, Director of Public Works for Utilities
Bob Harberg, Principal Engineer - Utilities
Annie Noble, Flood and Greenways Engineering Coordinator
Katie Knapp, Engineering Project Manager
Kristin Dean, Utilities Planner

EXECUTIVE SUMMARY
The city has a comprehensive floodplain management program designed to identify flood risks, mitigate the risks of flooding, minimize loss of life and property damage and support recovery following a major flood event. Floodplain mapping provides the basis for the city's floodplain management program by identifying the areas at the highest risk for flooding. Changes in land use, updated topographic mapping and upgrades to hydrologic and hydraulic models warrant periodic mapping updates. This memorandum presents the proposed floodplain mapping revision for Lower Bear Canyon Creek.

The Lower Bear Canyon Creek study area extends from the confluence of Bear Canyon Creek and Boulder Creek (downstream) to Foothills Parkway (upstream).

The study includes the data and documentation required for accreditation of the Harrison Levee. The Harrison Levee is provisionally accredited on the current Flood Insurance Rate Maps. This study also incorporates the updated hydraulic model for Boulder Creek at the downstream tie-in location and the additional culverts below Arapahoe Avenue that were installed in 2007 to increase the conveyance of Bear Canyon Creek. Once adopted by the city and FEMA, this flood mapping study will provide the regulatory basis for land use applications, building permit applications and flood insurance requirements for properties impacted by the 100-year floodplain.

STAFF RECOMMENDATION

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to accept the Lower Bear Canyon Creek Floodplain Mapping Study update, submit the study to FEMA and direct staff to consider and use the study results in the regulation of all annexations and development proposals during the interim period in which FEMA is reviewing the study results.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Flood insurance is required for properties located in the 100-year floodplain if they are financed by a federally-backed mortgage. Flood insurance rates are set by FEMA based on the flood risk as shown on the flood insurance rate maps. Accurate floodplain mapping helps facilitate accurate flood insurance rates. The average annual rate for flood insurance within the city in 2013 was $760 (3,830 policies). Flood protection land use regulations also create costs for the property owners in the form of permit fees, increased costs of remodeling and restrictions on development. Flood insurance and land use regulations do, however, provide protection from potentially catastrophic losses due to floods.
- Environmental: Flood events can result in damage or destruction to buildings and corresponding release of man-made contaminants. Flood waters can also cause erosion and damage to areas of the natural environment that are not capable of conveying high-velocity stormwater. The updated mapping will more accurately identify the areas with the greatest flooding risks.
- Social: Floodplain mapping provides the basis for flood management by identifying the areas subject to flooding. This information is essential for determining areas where life safety is threatened and property damage is likely. Land use regulations help reduce risks to people and property in these high flood-risk areas. Accurate mapping of flood risks also helps implement effective flood preparedness and response programs, thereby increasing the safety of people living, working or visiting the City of Boulder.

OTHER IMPACTS

- Fiscal: Funding for this study is included in the Department of Public Works Utilities Division budget.
- Staff Time: Time for completing the study is included in existing work plans.

BOARD AND COMMISSION FEEDBACK

An open house was held on July 1, 2014 with floodplain maps on display for public review. The Water Resources Advisory Board (WRAB) considered the floodplain mapping update on July 21, 2014. The WRAB unanimously recommended that City Council adopt the floodplain mapping update.

PUBLIC FEEDBACK

Postcard notifications were sent to all property owners and residents in the project area and letters were mailed to all affected property owners to inform them about the mapping study, upcoming public meetings and where to find information about the study on the city website. An open house meeting was held in early July 2014 to inform the public about the mapping revisions. Most questions and concerns were about flood insurance requirements and plans for future drainageway improvements.

BACKGROUND

The risk of flash flooding is an important issue city, primarily due to its location at the mouth of Boulder Canyon and other canyon creeks. Approximately 13 percent of the city is located within the 100-year floodplains of Boulder Creek and its 14 tributaries. Nearly 2,600 individual structures are located within this flood zone. Additional information about the city's floodplain management program, floodplain regulations and flood insurance can be found at the Flood Management Program Overview web page**.**

Floodplain mapping provides the basis for the city's floodplain management program by identifying the areas at the greatest risk for flooding. Changes in land use, updated topographic mapping and upgrades to hydrologic and hydraulic models warrant periodic mapping updates.

The city delineates four flood zones:

- 500-year floodplain: The 500-year floodplain delineates the flood limits resulting from a storm that has a 0.2 percent chance of occurring in any given year.
- 100-year floodplain: The 100-year floodplain delineates the flood limits resulting from a storm that has a one percent chance of occurring in any given year (26 percent chance over a 30-year mortgage).
- Conveyance zone: The conveyance zone is the area of the floodplain that is specifically reserved for the passage of floodwaters. This zone is delineated to allow development to occur in some areas of the floodplain while still accommodating the passage of 100-year storm flows.
- High hazard zone: The high hazard zone defines the area of the floodplain where water depth and velocity pose a threat to life and safety. This area is delineated for areas in the floodplain where water depths are four feet or greater or where the water velocity multiplied by water depth equals or exceeds the number four.

The city has recently updated or is in the process of updating all of the floodplain mapping for the major drainageways. Current mapping studies include Upper Goose and

Twomile Canyon Creeks, Skunk Creek, Kings Gulch, Bluebell Canyon Creek, and Boulder Slough.

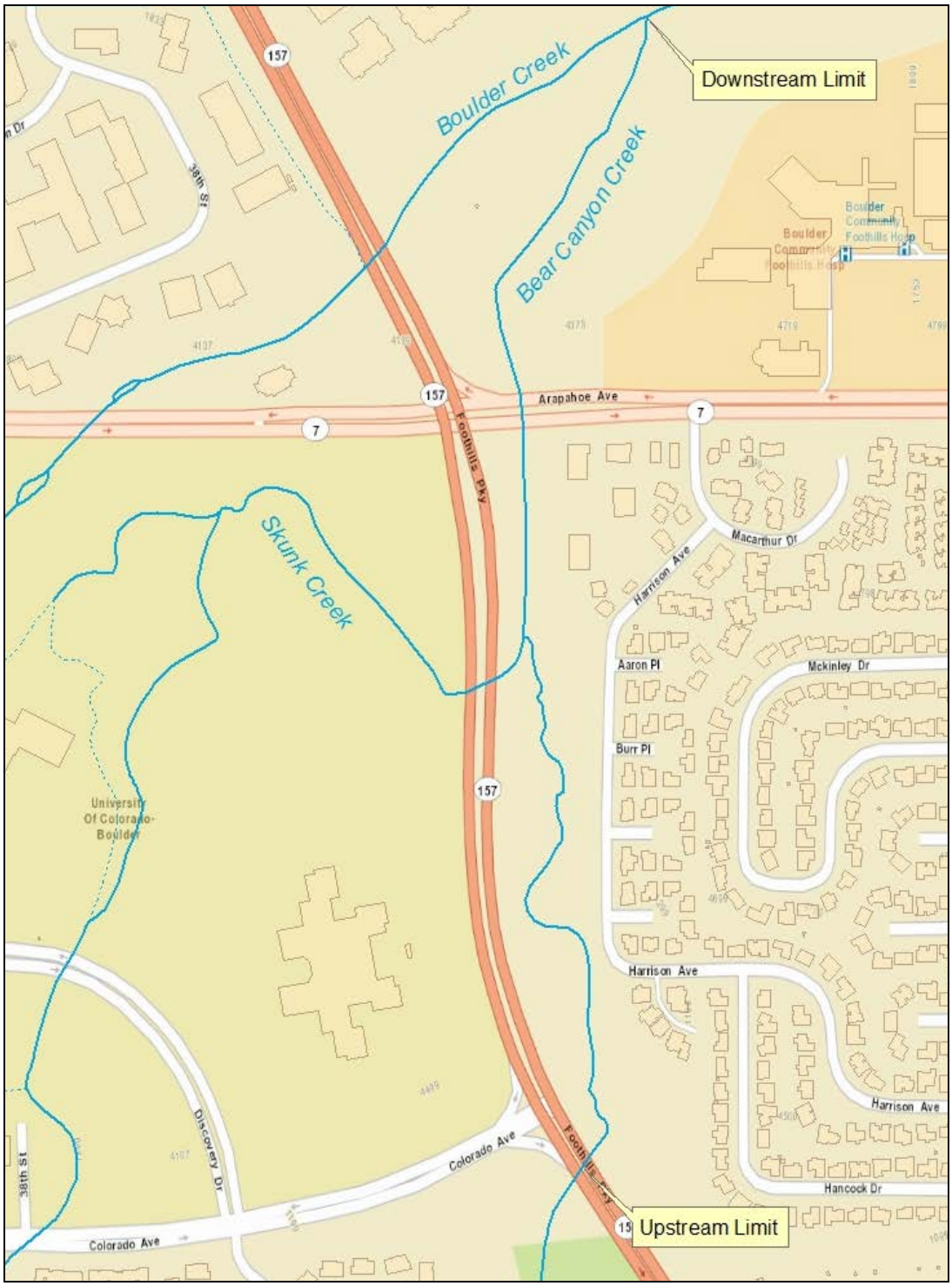
On Sept. 30, 2014, a Flood Study Session was held with council. Staff communicated that studies are currently under review and are scheduled to be brought to council. Council members supported the mapping studies being reviewed as consent items provided there are no significant issues of concern. This mapping study for Lower Bear Canyon Creek is the first to be scheduled for the council's consent agenda and will be reviewed concurrently with the summary for the Sept. 30 Flood Study Session.

ANALYSIS

A Letter of Map Revision (LOMR) updates floodplain mapping and hydraulic models. The Lower Bear Canyon Creek LOMR request is being made to update a short reach of the Bear Canyon Creek floodplain. A LOMR is required to formalize flood mitigation improvements and to update hydraulic models. The hydrology used in the mapping update is from the 2012 FEMA Flood Insurance Study and is based on a 1-hour storm event.

The city previously submitted a LOMR for Bear Canyon Creek from Foothills Parkway (downstream) to the city limits (upstream) to reflect changes authorized by city floodplain permits and update hydraulic models based on better, more detailed topographic information. This LOMR was submitted to FEMA in 2002 and approved on February 27, 2003.

The study area for the current LOMR addresses the remainder of Bear Canyon Creek within the city limits, extending from the confluence of Bear Canyon Creek and Boulder Creek (downstream) to Foothills Parkway (upstream). See the map below.



This study includes the data and documentation required for accreditation of the Harrison Levee. The Harrison Levee is provisionally accredited on the current Flood Insurance Rate Maps. The LOMR will also incorporate the updated hydraulic model for Boulder Creek at the downstream tie-in location and incorporate the additional culverts below Arapahoe Avenue that were installed to increase the conveyance of Bear Canyon Creek. A summary of the number of structures affected by this remapping is provided below.

Summary of Proposed Changes

Lower Bear Canyon Creek			
Number of Structures	**100-Year Floodplain**	**Conveyance Zone**	**High Hazard Zone**
Existing Floodplain	64	0	0
Proposed Floodplain	39	0	0
Change	-25	0	0
No Longer Affected	37		
Newly Affected	12		
No Change	27		

Although the proposed floodplain mapping results in fewer structures designated within the 100-year floodplain, the proposed mapping includes slight modifications to the outer boundaries for the 100-year floodplain and the boundaries of a higher elevation or "island" areas within the 100-year floodplain, resulting in some newly identified structures. All structures within the 100-year floodplain with federally backed financing are required to purchase flood insurance. The city's floodplain regulations also apply to all properties within the 100-year floodplain, although existing structures that were constructed without a 100-year floodplain designation are grandfathered and can remain in their current configuration.

Results
Attachments A through D present figures showing a comparison between existing and proposed floodplain mapping.

MATRIX OF OPTIONS:

City Council options for review and consideration include:

- Accept the updated flood study, which will then be submitted to FEMA. Staff will consider and use the results in the regulation of all annexations and development proposals during the interim period while FEMA reviews the study results. (Staff Recommendation)

- Accept the updated flood study with changes or conditions that require additional public involvement, information or evaluation of the flood hazard situation before submittal to FEMA or use by city staff.

- Do not accept the updated flood study and continue use of the current floodplain maps for city regulatory purposes.

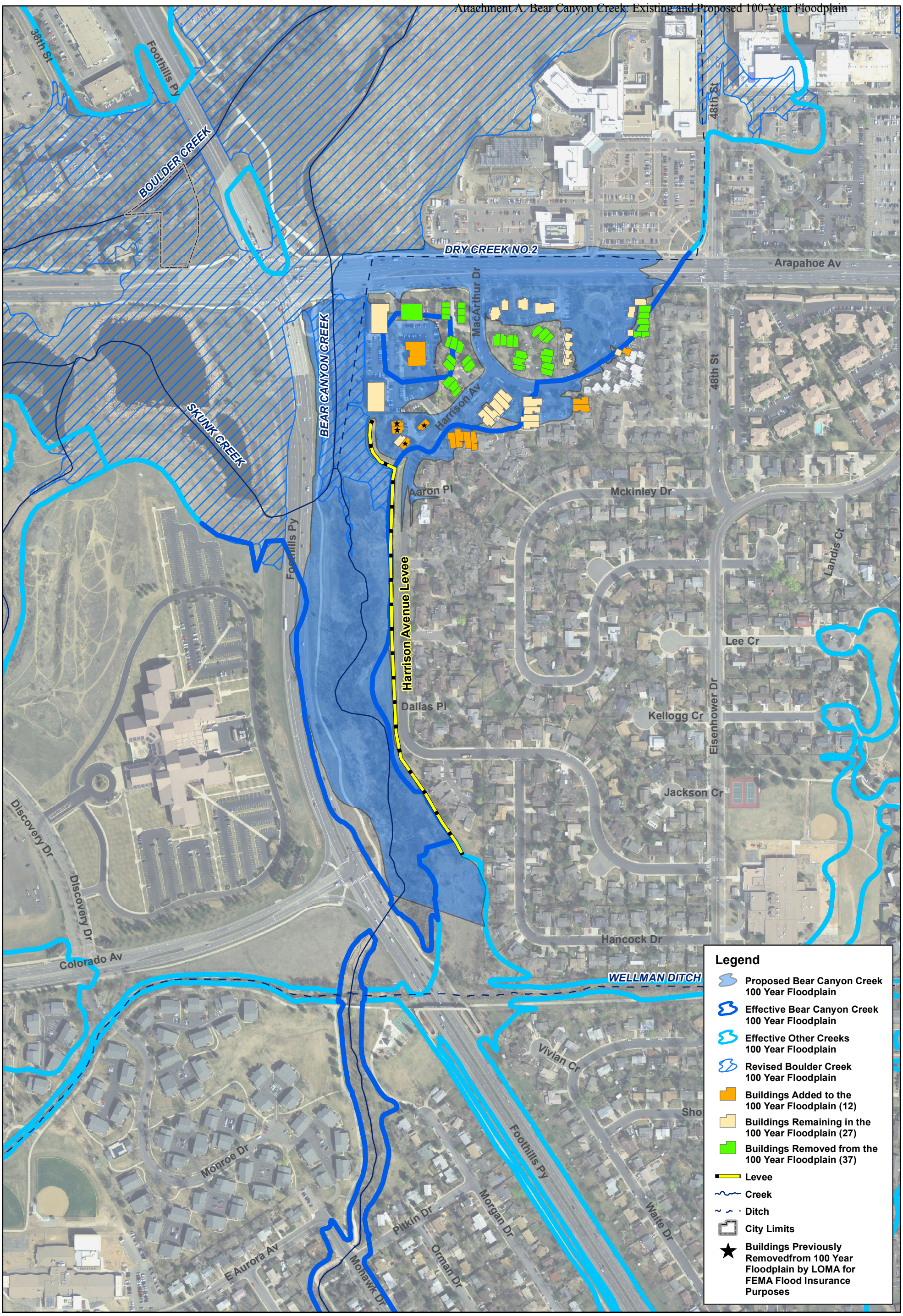
NEXT STEPS:

If City Council approves the map revisions, the city will submit the LOMR requests to FEMA for review. During the FEMA review and approval process (estimated to be six to 12 months) it is recommended that the new mapping be used for regulatory purposes by regulating to the more restrictive of the existing and new mapping. This would mean that

development within the newly identified flood zones would be subject to the city floodplain regulations. In order to comply with FEMA requirements, development within the areas that are being removed from the floodplain would still be subject to the city's floodplain regulations until FEMA officially adopts the new floodplain mapping. Following formal adoption by FEMA, the city would regulate solely based on the new mapping.

ATTACHMENTS:

A. Bear Canyon Creek: Existing and Proposed 100-Year Floodplain
B. Bear Canyon Creek: Existing and Proposed Conveyance Zone
C. Bear Canyon Creek: Existing and Proposed High Hazard Zone
D. Bear Canyon Creek: Existing and Proposed 500-Year Floodplain



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Bear Canyon Creek

Proposed 100-Yr Floodplain Compared to FEMA Effective

CITY OF BOULDER Utilities Division

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Bear Canyon Creek

Proposed Conveyance Zone Compared to FEMA Effective

CITY OF BOULDER Utilities Division

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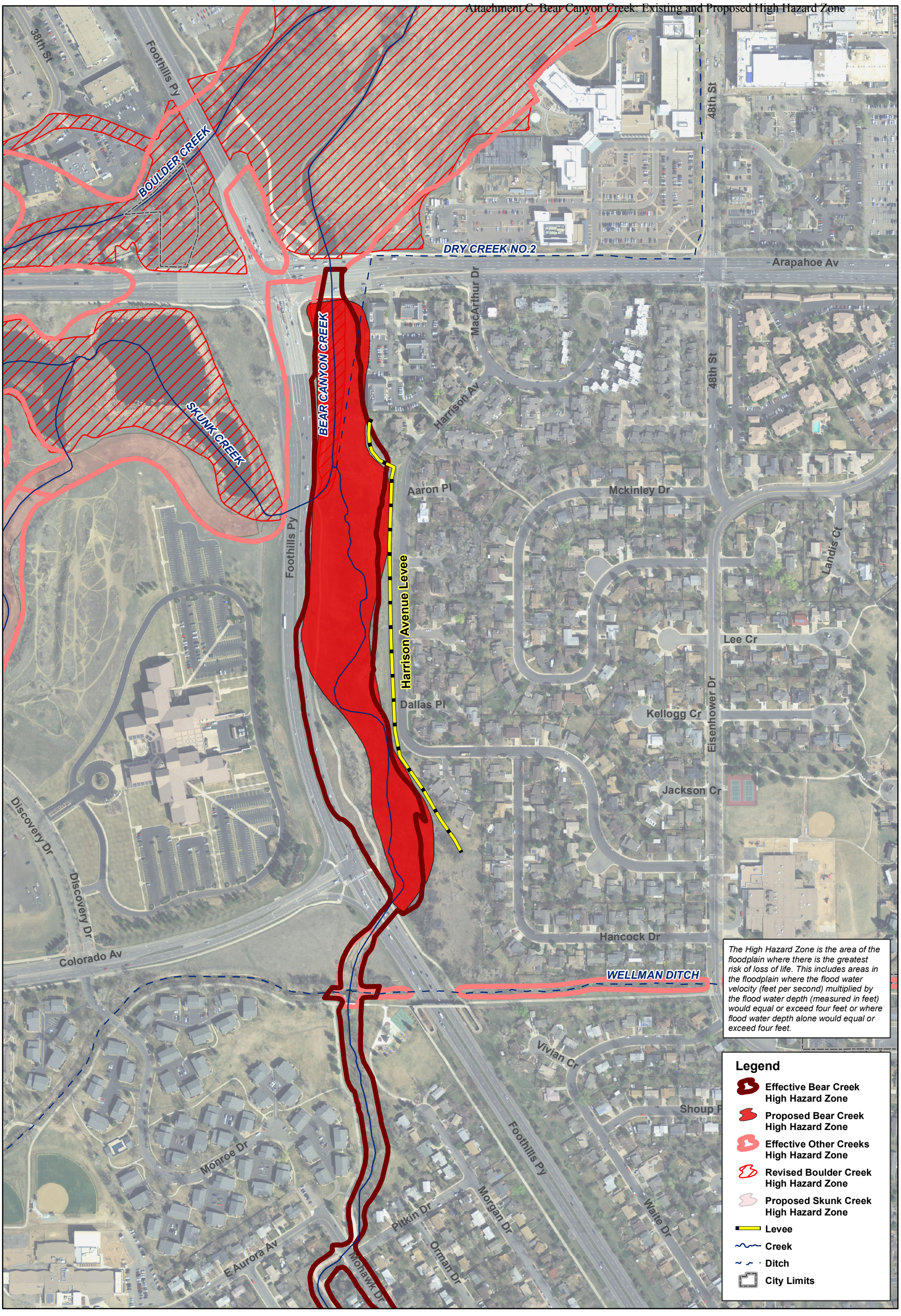

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Bear Canyon Creek

Proposed High Hazard Zone Compared to FEMA Effective

Utilities Division

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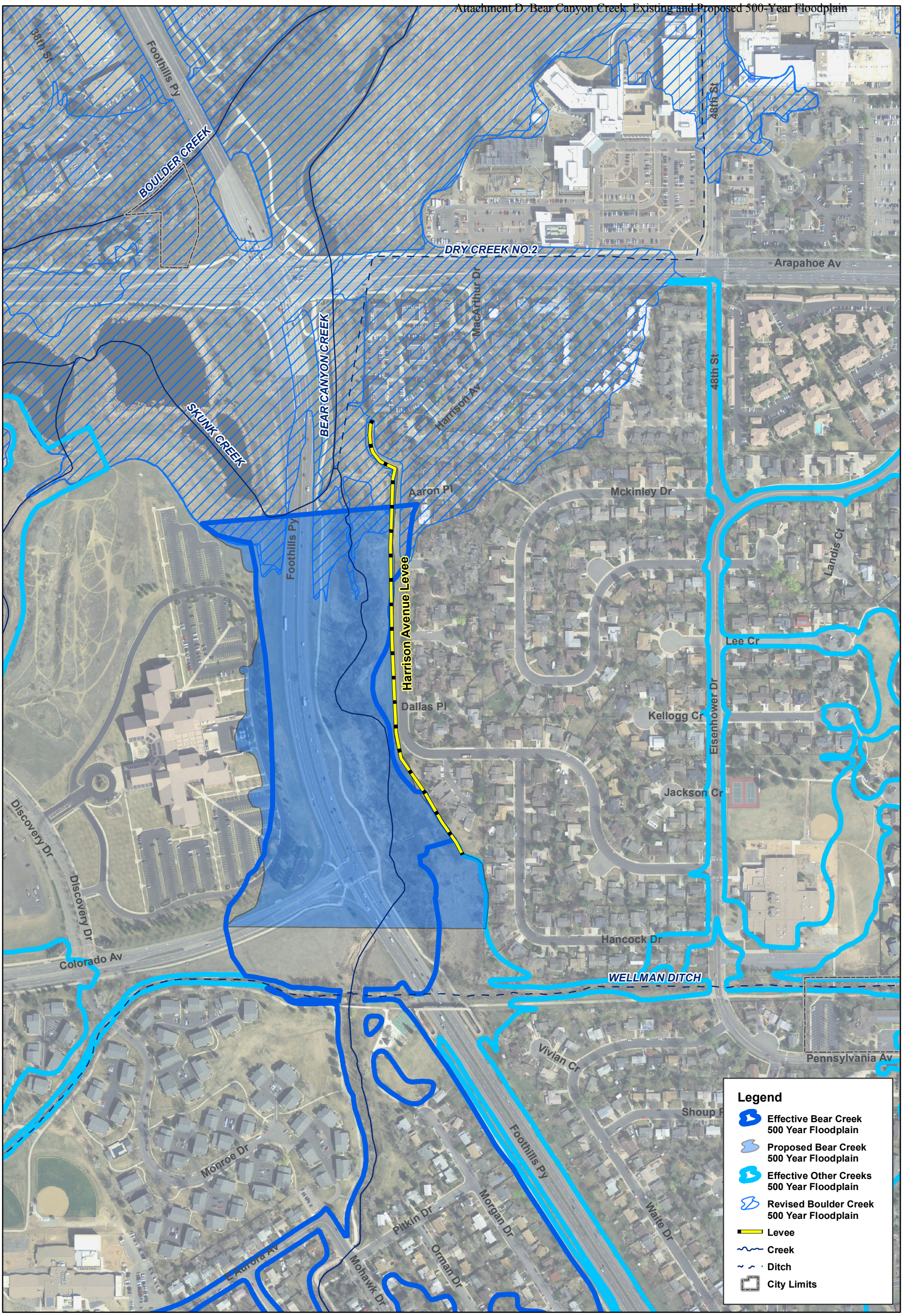

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Bear Canyon Creek

Proposed 500-Yr Floodplain Compared to FEMA Effective

CITY OF BOULDER Utilities Division

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: November 18, 2014

AGENDA TITLE

Introduction, first reading and consideration of a motion to adopt Emergency Ordinance No. 8013 adopting Supplement No. 121, which codifies previously adopted Ordinance No. 7981, Appendix Council Procedure, and other miscellaneous corrections and amendments, as an amendment to the Boulder Revised Code, 1981.

PRESENTER:
Office of the City Attorney
Thomas A. Carr, City Attorney

EXECUTIVE SUMMARY:

The Boulder Revised Code ("B.R.C. 1981") is the official book of laws of the City of Boulder. Four times a year (quarterly), the City Council is asked to adopt supplements to the B.R.C. 1981. An ordinance format is used to bring ordinances that the City Council adopted in the prior quarter into the B.R.C. 1981, and to ensure that there is no question regarding what constitutes the official laws of the City of Boulder. These supplement ordinances are approved as a matter of routine by the City Council.

In order to generate the printed supplements to the B.R.C. as soon as possible, council is asked to adopt the proposed ordinance at first reading as an emergency measure.

The text of Supplement No. 121 has been previously adopted by the following ordinance:

7981 AN ORDINANCE AMENDING SECTION 4-20-55, "COURT AND VEHICLE IMPOUNDMENT COSTS, FEES, AND CIVIL PENALTIES," B.R.C. 1981, CHANGING CERTAIN COURT FEES, AND SETTING FORTH RELATED DETAILS.

FISCAL IMPACTS:

Budgetary: None

Staff Time: None beyond the time always allocated to code maintenance in the City Attorney's overall work plan.

Economic: None

COUNCIL FILTER IMPACTS:

Ongoing code maintenance is an essential and largely administrative obligation of the city.

STAFF RECOMMENDATION:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt Emergency Ordinance No. _____ regarding Supplement No.121.

FORMAT NOTES:

Code amendments (if any) may be reflected in strike out and double underline format along with a "Reason for Change" as part of this agenda item. Such amendments are intended to correct non-substantive errors discovered through review of these ordinances and/or which may have occurred in previously adopted ordinances already in the B.R.C. 1981. Major and/or substantive corrections or revisions are brought forward as a separate ordinance to City Council during the normal course of future City Council business.

DISCUSSION:

This supplement includes one ordinance that was adopted by the City Council in the last supplement quarter. It is added to the official version of the B.R.C. 1981 by way of the attached supplement ordinance. The City Council adopts a quarterly supplement ordinance to ensure that a clearly identifiable version of the Boulder Revised Code is legislatively adopted.

The printed supplements to the B.R.C. may not be distributed until the proposed adopting ordinance is effective. The laws of the city should be current and available to the residents of the City of Boulder as soon as possible, therefore, council is asked to adopt the proposed ordinance at first reading as an emergency measure.

AMENDMENTS:

1. Section 2-3-1, B.R.C. 1981.

2-3-1. General Provisions.

….

(b) Each city board or commission shall:

….

(4) Conduct its meetings under the then current Robert's Rules of Order~~,~~ Newly Revised ~~(2000)~~, unless the board or commission adopts other rules of meeting procedure;

….

Reason for change: Robert's Rules of Order has been revised at least once since this language was created. Amending here to remove requirement of a specific revision and simply require the most current revision.

2. Section 8-4-10, B.R.C. 1981.

8-4-10. Advisory Committee.

….

(c) The advisory committee shall:

….

(4) Conduct its meetings under the then current Robert's Rules of Order~~,~~ Newly Revised ~~(2000)~~, unless the board or the committee adopts other rules of meeting procedure; and

….

Reason for change: Robert's Rules of Order has been revised at least once since this language was created. Amending here to remove requirement of a specific revision and simply require the most current revision.

---

3. Chapter 2, "Government Organization," Appendix Council Procedure, B.R.C. 1981.

XIV. Parliamentary Procedure

Except as otherwise provided herein or as advised by the city attorney, all matters of procedure are governed by the then current Robert's Rules of Order Newly Revised ~~(2000)~~.

Reason for change: Robert's Rules of Order has been revised at least once since this language was created. Amending here to remove requirement of a specific revision and simply require the most current revision.

---

4. Section 6-1-21, B.R.C. 1981.

6-1-21 Animals as Nuisance Prohibited.

….

(b) No person shall be charged with violating this section unless a written warning was given to the person by an agent or employee of the city within twelve months preceding the first date alleged as a date of violation in the complaint. Such warning is sufficient if it recites subsection (a) of this section and states that a complaint has been received that an animal of which the defendant is the guardian or keeper is disturbing the peace of another individual. A warning is given under this subsection if it is personally given to a person owning or keeping an animal or if it is mailed first class to such person. The city manager shall keep records of all warnings given, and such records are prima facie evidence that such warnings were given. This subsection shall not apply to a charge of owning or keeping an animal that damages the property of another.

….

Reason for change: Ordinance 7901, adopted in June 2013, revised subsection 6-1-21(b) exactly as noted above. In March 2014, subsection 6-1-21(a) was revised in Ordinance 7965 to remove a penalty provision. Subsection (b) was included in 2014 as reference only, however a scrivener error did not include the revised sentence from 2013. Amending here will ensure Section 6-1-21 reflects all of council's amendments.

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5. Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981 Table 7-1.

Zoning District	A RR-1	RR-2 RE	RH-2 RH-5 P	RL-1 RM-2 RMX-1	BT-2	BT-1 BC BR IS-1 IS-2 IG IM	RL-2 RM-1	RH-4	MU-1	RM-3 RH-1 RH-6	RMX-2	RH-3 RH-7	BCS	MU-3	BMS MU-4	DT-1 DT-2 DT-3 DT-5	DT-4	MU-2 IMS	MH
Form module	**a**	**b**	**c**	**d**	**e**	**f**	**G**	**h**	**i**	**j**	**k**	**l**	**m**	**n**	**o**	**p**	**q**	**r**	**s**
SETBACK AND SEPARATION REQUIREMENTS																			
Principal Buildings and Uses																			
Minimum side yard landscaped setback from a street (a)~~, (i)~~	25'		12.5' (k)		15'		10'	1' per 2' of bldg. height, 10' min. (i)	0' or 5' (b)	1' per 2' of bldg. height, 10' min. (i)	0' (attached DUs); 1' per 2' of bldg. height, 5' min. (detached DUs) (i)	1' per 2' of bldg. height, 10' min. (i)	10'	0' for first and second stories 12' for third story and above		0' (k)	0'	0'	n/a
Minimum side yard setback from an interior lot line ~~(i)~~	15'	10'		5'	10'	0' or 12'	1' per 2' of bldg. height, 5' min. (i)		0' or 5' (b)	0' or 3'	0' (attached DUs); 1' per 2' of bldg. height, 5' min. (detached DUs) (i)	1' per 3' of bldg. height, 5' min (i)	0' or 12'	0' or 5'	0' or 5'	0' or 12'	0' or 12'	0' or 5'	See Section 9-7-13
Accessory Buildings and Uses																			
Minimum side yard landscaped setback from a street (a)~~, (i)~~	25'		12.5' (k)		15'		10'	1' per 2' of bldg. height, 10' min. (i)	0' or 5' (b)	1' per 2' of bldg. height, 10' min. (i)	0' (at-tached DUs); 1' per 2' of bldg. height, 5' min. (de-tached DUs) (i)	1' per 2' of bldg. height, 10' min. (i)	10'	0'		0' (k)	0'	0'	n/a

Reason for change: Clarifies the exact setbacks that are adjusted per building height as mentioned in footnote (i).

6. Paragraph 9-9-15(c)(2)(A), "Fences and Walls," B.R.C. 1981.

(A) Fence and Retaining Wall on Property Line: The combined height of a retaining wall and fence or a fence, located on or within three feet of a property line, may exceed seven feet when the abutting property owners are in joint agreement. (See figure 9-12 of this section.) The fence shall not exceed an individual height of seven feet when measured from the highest elevation of grade within three feet of either side of the property line. (See figure 9-13 of this section.) In no event shall such a fence exceed twelve feet in height. (See figure 9-14 of this section.) ~~A fence not exceeding forty-two inches in height may be placed on a retaining wall regardless of the combined fence and retaining wall height.~~

(B) A fence not exceeding forty-two inches in height may be placed on a retaining wall regardless of the combined fence and retaining wall height.

Reason for change: Two different requirements are conveyed in paragraph (A) and would be better communicated in two different code sections.

---

7. Paragraph 9-9-15(d)(1)(C), "Fences and Walls," B.R.C. 1981.

(C) Location of Electric Fences: Electric fences may be permitted in the A district when used as an internal fence not on the periphery of the property to contain livestock, and in the A, RR, RE, and RL districts, as an internal fence not on the periphery of the property to protect crops and plantings. No person shall maintain an electric fence without a fence permit. All such electric fencing must meet the following requirements:

(i) Controllers are approved by Underwriters Laboratories and so designated on an attached label;

(ii) Electric fencing may not be located within five feet of the periphery of the property and must be located interior to a nonelectric fence which completely encloses the yard;

(iii) Electric fencing may not be located in a required yard abutting a street nor in a required ~~vision~~ sight triangle, as prescribed in section 9-9-7, "Sight Triangles," B.R.C. 1981; and

….

Reason for change: Landscape setback is already defined in the code and should be used. "Vision" triangle is not a defined term and conflicts with the term "sight" triangle already used in various parts of the code.

---

8. Paragraph 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, Table 6-1.

Breweries, distilleries or wineries <15,000 square feet and with a restaurant	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	*	*	9-6-5(b)(3.5)
Breweries, distilleries or wineries <15,000 square feet and without a restaurant	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	*	*	~~9-6-5(b)(3.5)~~
Breweries, distilleries or wineries with or without a restaurant >15,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	C	C	*	*	*	9-6-5(b)(3.5)

Reason for change: Code section 9-6-5(b)(3.5) would not apply to breweries, distilleries or wineries without a restaurant and therefore, it is proposed for removal from the Specific Use Standard column.

9. Paragraph 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, Table 6-1.

Zoning Districts	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	....	
Use Modules	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	....	Specific Use Standard
Commercial, Retail and Industrial Uses (cont'd)																					
Business support services ≥10,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	A	A	A	A	....	
Industrial service center	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	....	9-6-9(j)

Reason for change: Industrial Service Centers have specific use standards yet the current code does not include a reference in the Specific Use Standards column. This change corrects that omission.

10. Paragraph 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, Table 6-1.

Daycare center with ≤50 children or adults (excluding employees)	U	U	C	U	U	C	C	U	U	A	U	U	U	A	U	A	A	A	U	A	A	U	U	U	U	U	U	9-3-2(i) 9-6-6(a)

Daycare center with >50 children <u>or adults</u> <u>(excluding employees)</u>	U	U	U	U	U	U	U	*	*	U	U	U	U	A	U	A	A	A	U	A	A	U	U	U	U	U	U	9-3-2(i) 9-6-6(a)

Reason for change: Day cares may include adults or children per the definition in the code. Therefore, the use standards table should reflect the same.

---

11. Paragraph 9-6-3(a)(2)(C)(iv), "Specific Use Standards-Residential Uses," B.R.C. 1981.

(iv) The accessory dwelling unit is created only through internal conversion of the principal structure. Minor exterior changes may be made on the building~~, however,~~ if the square footage added constitutes no more than five percent of the principal structure's existing foundation area.

Reason for change: The 'however' is not necessary and interrupts the statement and thus, should be removed.

---

12. Paragraph 9-7-6(c), "Building Height, Conditional," B.R.C. 1981.

(c) Downtown-5 (DT-5) Review Criteria: In the DT-5 zoning district, principal building height for a building located on a corner lot that faces two public streets may be increased by up to ten feet in height and up to three stories if:

(1) The building contains no more than three stories above the finished grade~~.~~:

(2) The horizontal dimensions of the third story are no greater than fifty feet along the front yard street frontage by seventy feet along the side yard street frontage~~.~~:

(3) The vertical planes of the third story are located directly above the vertical planes of the stories below~~.~~:

(4) The zoning districts on the other three corners of the intersection where the property is located are within the DT-5 or the P zoning districts~~.~~, and

(5) The building is not within a historic district created under the provisions of chapter 9-11, "Historic Preservation," B.R.C. 1981.

Reason for change: Clarifies that all (5) criteria are required to be met to have the extra height.

---

13. Paragraph 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981,Table 7-1.

….

Footnotes to Table 7-1, Form and Bulk Standards:

In addition to the foregoing, the following miscellaneous form and bulk requirements apply to all development in the city:

….

(h) For front yard setback reductions, see Subsection 9-7-2(a), B.R.C. 1981.

(i) For side yard setback requirements based on building height, see Appendix B, "Setback Relative to Building Height," of this title.

(j) The maximum percentage of the third floor area that can be in a fourth story standard may not be ~~varied~~ modified as part of a site review.

….

Reason for change: The term "varied" is replaced with "modified" as variances are not granted as part of Site Review.

ATTACHMENT:

A - Proposed Emergency Ordinance No. _____

ORDINANCE NO. _____

AN EMERGENCY ORDINANCE ADOPTING SUPPLEMENT NO. 121, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NO. 7981, APPENDIX COUNCIL PROCEDURE, AND OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE BOULDER REVISED CODE, 1981, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Legislative Findings.

A. Supplement No. 121 amending the Boulder Revised Code 1981 ("B.R.C.") has been printed.

B. The City Council intends that this supplement be codified and published as a part of the B.R.C.

C. Supplement No. 121 to the B.R.C. is a part of this ordinance and contains all of the amendments to the B.R.C. enacted by the City Council in Ordinance No.7981, Appendix Council Procedure, and other miscellaneous corrections and amendments. The City Council intends to adopt this supplement as an amendment to the B.R.C.

D. The ordinance contained in Supplement No. 121 is available in printed copy to each member of the City Council of the City of Boulder, Colorado, and the published text of the supplement, along with the text of this ordinance, is available for public inspection and acquisition in the office of the city clerk of the City of Boulder, in the Municipal Building, 1777 Broadway, Boulder, Colorado.

Section 2. The City Council adopts Supplement No. 121 by this reference.

Section 3. The City Council orders that a copy of Supplement No. 121 as proposed for adoption by reference herein be on file in the office of the city clerk of the City of Boulder, Colorado, Municipal Building, 1777 Broadway, City of Boulder, Boulder County, Colorado, and may be inspected by any person at any time during regular business hours pending of the adoption of this ordinance.

Section 4. The annotations, source notes, codifier's notes, and other editorial matter included in the printed B.R.C. are not part of the legislative text. These editorial provisions are provided to give the

public additional information for added convenience. No implication or presumption of a legislative construction is to be drawn from these materials.

Section 5. The B.R.C., or any chapter or section of it, may be proved by a copy certified by the city clerk of the City of Boulder, under seal of the city; or, when printed in book or pamphlet form and purporting to be printed by authority of the city. It shall be received in evidence in all courts without further proof of the existence and regularity of the enactment of any particular ordinance of the B.R.C.

Section 6. These provisions of the B.R.C. shall be given effect and interpreted as though a continuation of prior laws and not as new enactments.

Section 7. Unless expressly provided otherwise, any violation of the provisions of the B.R.C., as supplemented herein, shall be punishable by a fine of not more than one thousand dollars or incarceration for not more than ninety days in jail, or by both such fine and incarceration, as provided in section 5-2-4, "General Penalties," B.R.C. 1981.

Section 8. Section 2-3-1, B.R.C. 1981 is amended as follows:

2-3-1. General Provisions.

….

(b) Each city board or commission shall:

….

(4) Conduct its meetings under the then current Robert's Rules of Order~~,~~ Newly Revised ~~(2000)~~, unless the board or commission adopts other rules of meeting procedure;

….

Section 9. Section 8-4-10, B.R.C. 1981 is amended as follows:

8-4-10. Advisory Committee.

….

(c) The advisory committee shall:

….

(4) Conduct its meetings under the then current Robert's Rules of Order~~,~~ Newly Revised ~~(2000)~~, unless the board or the committee adopts other rules of meeting procedure; and

….

Section 10. Chapter 2, "Government Organization," Appendix Council Procedure, B.R.C. 1981 is amended as follows:

XIV. Parliamentary Procedure

Except as otherwise provided herein or as advised by the city attorney, all matters of procedure are governed by the then current Robert's Rules of Order Newly Revised ~~(2000)~~.

Section 11. Section 6-1-21, B.R.C. 1981, is amended as follows:

6-1-21 Animals as Nuisance Prohibited.

….

(b) No person shall be charged with violating this section unless a written warning was given to the person by an agent or employee of the city within twelve months preceding the first date alleged as a date of violation in the complaint. Such warning is sufficient if it recites subsection (a) of this section and states that a complaint has been received that an animal of which the defendant is the guardian or keeper is disturbing the peace of another individual. A warning is given under this subsection if it is personally given to a person owning or keeping an animal or if it is mailed first class to such person. The city manager shall keep records of all warnings given, and such records are prima facie evidence that such warnings were given. This subsection shall not apply to a charge of owning or keeping an animal that damages the property of another.

….

Section 12. Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981 Table 7-1 is amended as follows:

Zoning District	A RR-1	RR-2 RE	RH-2 RH-5 P	RL-1 RM-2 RMX-1	BT-2	BT-1 BC BR IS-1 IS-2 IG IM	RL-2 RM-1	RH-4	MU-1	RM-3 RH-1 RH-6	RMX-2	RH-3 RH-7	BCS	MU-3	BMS MU-4	DT-1 DT-2 DT-3 DT-5	DT-4	MU-2 IMS	MH
Form module	**a**	**b**	**c**	**d**	**e**	**f**	**g**	**h**	**i**	**j**	**k**	**l**	**m**	**n**	**o**	**p**	**q**	**r**	**s**
SETBACK AND SEPARATION REQUIREMENTS																			
Principal Buildings and Uses																			
Minimum side yard landscaped setback from a street (a)~~, (i)~~	25'		12.5' (k)		15'		10'	1' per 2' of bldg. height, 10' min. (i)	0' or 5' (b)	1' per 2' of bldg. height, 10' min. (i)	0' (attached DUs); 1' per 2' of bldg. height, 5' min. (detached DUs) (i)	1' per 2' of bldg. height, 10' min. (i)	10'	0' for first and second stories 12' for third story and above		0' (k)	0'	0'	n/a
Minimum side yard setback from an interior lot line ~~(i)~~	15'	10'		5'	10'	0' or 12'	1' per 2' of bldg. height, 5' min. (i)		0' or 5' (b)	0' or 3'	0' (attached DUs); 1' per 2' of bldg. height, 5' min. (detached DUs) (i)	1' per 3' of bldg. height, 5' min (i)	0' or 12'	0' or 5'	0' or 5'	0' or 12'	0' or 12'	0' or 5'	See Section 9-7-13
Accessory Buildings and Uses																			
Minimum side yard landscaped setback from a street (a)~~, (i)~~	25'		12.5' (k)		15'		10'	1' per 2' of bldg. height, 10' min. (i)	0' or 5' (b)	1' per 2' of bldg. height, 10' min. (i)	0' (at-tached DUs); 1' per 2' of bldg. height, 5' min. (de-tached DUs) (i)	1' per 2' of bldg. height, 10' min. (i)	10'	0'		0' (k)	0'	0'	n/a

Section 13. Paragraph 9-9-15(c)(2)(A), "Fences and Walls," B.R.C. 1981 is amended as follows:

(A) Fence and Retaining Wall on Property Line: The combined height of a retaining wall and fence or a fence, located on or within three feet of a property line, may exceed seven feet when the abutting property owners are in joint agreement. (See figure 9-12 of this section.) The fence shall not exceed an individual height of seven feet when measured from the highest elevation of grade within three feet of either side of the property line. (See figure 9-13 of this section.) In no event shall such a fence exceed twelve feet in height. (See figure 9-14 of this section.) ~~A fence not exceeding forty-two inches in height may be placed on a retaining wall regardless of the combined fence and retaining wall height.~~

(B) A fence not exceeding forty-two inches in height may be placed on a retaining wall regardless of the combined fence and retaining wall height.

Section 14. Paragraph 9-9-15(d)(1)(C), "Fences and Walls," B.R.C. 1981 is amended as follows

(C) Location of Electric Fences: Electric fences may be permitted in the A district when used as an internal fence not on the periphery of the property to contain livestock, and in the A, RR, RE, and RL districts, as an internal fence not on the periphery of the property to protect crops and plantings. No person shall maintain an electric fence without a fence permit. All such electric fencing must meet the following requirements:

(i) Controllers are approved by Underwriters Laboratories and so designated on an attached label;

(ii) Electric fencing may not be located within five feet of the periphery of the property and must be located interior to a nonelectric fence which completely encloses the yard;

(iii) Electric fencing may not be located in a required yard abutting a street nor in a required ~~vision~~ sight triangle, as prescribed in section 9-9-7, "Sight Triangles," B.R.C. 1981; and

....

Section 15. Paragraph 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, Table 6-1, is amended as follows:

Breweries, distilleries or wineries <15,000 square feet and with a restaurant	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	C	C	C	C	*	*	9-6-5(b)(3.5)
Breweries, distilleries or wineries <15,000 square feet and without a restaurant	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	A	A	A	A	*	*	~~9-6-5(b)(3.5)~~
Breweries, distilleries or wineries with or without a restaurant >15,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	U	C	C	*	*	*	9-6-5(b)(3.5)

Section 16. Paragraph 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, Table 6-1, is further amended as follows:

Zoning Districts	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	....	
Use Modules	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	....	Specific Use Standard
Commercial, Retail and Industrial Uses (cont'd)																					
Business support services ≥10,000 square feet	*	*	*	*	*	*	*	*	*	*	*	*	U	*	U	A	A	A	A	....	
Industrial service center	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	....	9-6-9(j)

Section 17. Paragraph 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, Table 6-1, is further amended as follows:

Daycare center with ≤50 children or adults (excluding employees)	U	U	C	U	U	C	C	U	U	A	U	U	U	A	U	A	A	A	U	A	A	U	U	U	U	U	U	9-3-2(i) 9-6-6(a)
Daycare center with >50 children or adults (excluding employees)	U	U	U	U	U	U	U	*	*	U	U	U	U	A	U	A	A	A	U	A	A	U	U	U	U	U	U	9-3-2(i) 9-6-6(a)

Section 18. Paragraph 9-6-3(a)(2)(C)(iv), "Specific Use Standards-Residential Uses," B.R.C. 1981, is amended as follows:

(iv) The accessory dwelling unit is created only through internal conversion of the principal structure. Minor exterior changes may be made on the building~~, however,~~ if the square footage added constitutes no more than five percent of the principal structure's existing foundation area.

Section 19. Paragraph 9-7-6(c), "Building Height, Conditional," B.R.C. 1981, is amended as follows:

(c) Downtown-5 (DT-5) Review Criteria: In the DT-5 zoning district, principal building height for a building located on a corner lot that faces two public streets may be increased by up to ten feet in height and up to three stories if:

(1) The building contains no more than three stories above the finished grade~~.~~:

(2) The horizontal dimensions of the third story are no greater than fifty feet along the front yard street frontage by seventy feet along the side yard street frontage~~.~~:

(3) The vertical planes of the third story are located directly above the vertical planes of the stories below~~.~~:

(4) The zoning districts on the other three corners of the intersection where the property is located are within the DT-5 or the P zoning districts~~.~~, and

(5) The building is not within a historic district created under the provisions of chapter 9-11, "Historic Preservation," B.R.C. 1981.

Section 20. Paragraph 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981,Table 7-1 is amended as follows:

....

Footnotes to Table 7-1, Form and Bulk Standards:

In addition to the foregoing, the following miscellaneous form and bulk requirements apply to all development in the city:

....

(i) For side yard setback requirements based on building height, see Appendix B, "Setback Relative to Building Height," of this title.

(j) The maximum percentage of the third floor area that can be in a fourth story standard may not be ~~varied~~ modified as part of a site review.

….

Section 21. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 22. The printed supplements cannot be distributed until the adopting ordinance is effective. The laws of the city should be current and available to the residents of the City of Boulder as soon as possible. On that basis, this ordinance is declared to be an emergency measure and shall be in full force and effect upon its final passage.

READ ON FIRST READING, PASSED, ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of November 2014.

_____
Mayor

Attest:

_____
City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: November 18, 2014

AGENDA TITLE:
Second reading and consideration of a motion to adopt Ordinance No. 8011 amending Chapter 2-2, B.R.C. 1981 by the addition of a new Section 2-2-19, "Record Retention"; adopting the Colorado State Records Retention Schedule; and repealing Ordinance Nos. 5753, 5879 and 5972.

PRESENTERS
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Elesha M. Johnson, City Records Manager

EXECUTIVE SUMMARY
The proposed ordinance would add a new Section 2-2-19 to the Boulder Revised Code and adopt the Colorado State Records Retention Schedule (CSRRS). This schedule will be used as a basis to make decisions related to the destruction and preservation of city records. Before seeking council approval, the City Manager and Colorado State Archivist approved the proposed records retention schedule in July 2014 **(Attachment B)**. Additionally, the proposed ordinance will repeal three ordinances that established a city records retention policy beginning in 1995.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff requests council consideration of this matter and action in the form of the following motions:

Second reading and consideration of a motion to adopt Ordinance No. 8011 amending Chapter 2-2, B.R.C. 1981 by the addition of a new Section 2-2-19, "Record Retention"; adopting the Colorado State Records Retention Schedule; and repealing Ordinance Nos. 5753, 5879 and 5972.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic**: Over time, as the city implements the record retention and destruction system, it is anticipated that the city will make more efficient use of city resources, including physical storage and electronic storage.

- **Environmental:** The proposed retention schedule supports the city's continued use of electronic records, which is supportive of the city's environmental values.

- **Social:** The proposed schedule will bring the city into alignment with 192 other municipalities in the State of Colorado and will provide consistency and transparency for those interested in accessing government records.

OTHER IMPACTS

- **Fiscal –** There are no budgetary impacts associated with the adoption of the CSRRS.
- **Staff time –** This work will be performed with existing staff as part of their normal duties.

BACKGROUND

In 1995, the city council adopted a records retention policy (Ordinance No. 5753). Council extended this policy in 1997 and 1998 (Ordinance Nos. 5879 and 5972) **(Attachment C)**. As a home rule city, Boulder has the choice of using the state's retention schedule or establishing its own. Of the 271 municipalities in Colorado, 192 use the CSRRS. Staff from several municipalities recognized the need for a comprehensive records retention schedule that could be used by any municipality. The *"Colorado Municipal Records Retention Schedule"* was made possible through a cooperative venture between the state and local governments.

The State Archivist reviews and updates the schedule on an annual basis to ensure the practices are current and efficient. The most current revision and amendments were completed in May 2013. The Archivist compiles, reviews, and approves all changes/updates and distributes them to the municipalities through the Colorado Code Publishing Company.

The City of Boulder has both electronic and physical off-site storage. With the current schedule, the majority of records are retained permanently. This creates electronic and off-site repositories that are cluttered, difficult to manage and result in increased retention costs. Our off-site storage count to date is 4,053 boxes with a cost of approximately $1,700 to $2,000 per month.

A new retention schedule will provide the opportunity to re-assess the city's permanent retention practices and dispose of records that have reached the end of their useful life cycles. Fewer electronic and physical records will reduce off-site storage costs and decrease the burden on the city's IT infrastructure. This is a more sustainable retention model than what exists currently.

ANALYSIS
Staff recommends that the council adopt the CSRRS. This will ensure the following industry-standard records management practices will be supported:

- ✓ Allow the Central Records staff and the City's Records Management Committee, once established, to perform a complete inventory of its paper and electronic records. This will include a box audit of all records currently being stored at our off-site facility and the electronic records stored within the city's network servers and hard drives.
- ✓ Once the inventory is completed, staff will be able to decrease the cost of off-site storage.
- ✓ Re-claim inefficiently used server space.
- ✓ Provide a yearly schedule for records purging and destruction.
- ✓ Establish a foundation for training and standard operating procedures covering overall records management practices.

By adopting the state's retention schedule, the city would be in alignment with the 192 municipalities that currently use this schedule. The state's schedule has been well researched and tested over time. The research and feedback given to its authors has proven it to be effective and efficient for all types and sizes of municipalities. It is reviewed quarterly to ensure the forms and documents utilized by Colorado municipalities are current with the active life cycle of the record.

The city's existing schedule and the state's schedule are both too extensive to include as attachments, but can be found at https://www-static.bouldercolorado.gov/docs/retention-1-201305021250.pdf and https://www.colorado.gov/archives/municipal-records-retention-manual. The primary change is a reduction in the types of records that must be maintained permanently. The state schedule provides a rational basis for destroying records when they have reached the end of their life cycles. The following are a few illustrative examples of the differences between the city's current retention schedule and the state schedule.

Type or Document	Category	Current City Policy	Proposed State Schedule
OATHS OF OFFICE	Elected and Appointed Officials	Permanent	1 year after the end of the Term of Office
PROOFS OF PUBLICATION	Ordinances and Resolutions	Permanent	6 years or until ordinance is repealed, reenacted, whichever is later
DOCKET SHEET	All	Permanent	2 years, except retain those older than 1920 permanently
PENSION RECORDS	All	Permanent	10 years after benefits are no longer paid or after eligibility of employee or survivors for benefits ceases, whichever is later

The next step is to review and refine the inventory of the city's paper and electronic records. This inventory will inform the city's retention practices and provide a solid foundation from which to further implement records management industry best practices. Decisions about what documents will be retained or destroyed will be guided by the Colorado Municipal Records Retention Schedule.

ATTACHMENTS
Attachment A - Proposed Ordinance
Attachment B - Colorado State Archivist Approval Form
Attachment C - Ordinance Nos. 5753, 5879 and 5972

ORDINANCE NO. 8011

AN ORDINANCE AMENDING CHAPTER 2-2, B.R.C. 1981 BY THE ADDITION OF A NEW SECTION 2-2-19, "RECORD RETENTION"; ADOPTING THE COLORADO STATE RECORDS RETENTION SCHEDULE; REPEALING ORDINANCE NOS. 5753, 5879 AND 5972; AND SETTING FORTH RELATED DETAILS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. The City Council finds and recites:

The Council recognizes a need for a comprehensive records retention schedule for the district's non-permanent records and the retention of those records that have long-term administrative, fiscal and historical value.

Section 2. Ordinances Nos. 5753, 5879 and 5972, establishing city records retention schedules are repealed by this ordinance.

Section 3. The city council amends Chapter 2-2, B.R.C. 1981, by the addition of a new section 2-2-19, to read:

Section 2-2-19 Records Retention.

(a) The city manager is the custodian of the public records of the city not specifically entrusted to any other department by the city charter or other ordinance.

(b) The city adopts the Colorado Records Retention Schedule of the Colorado State Archives and subsequent revisions and amendments.

(c) The Records Retention Manual will be used as a basis to make decisions related to the destruction and preservation of city records.

Section 4. The Council authorizes the City Manager to submit the Records Management Manual Approval Request Form to the Colorado State Archives on behalf of the city.

Section 5. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 6. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 7th day of November, 2014.

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_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of November, 2014.

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_____
Mayor

Attest:

_____
City Clerk

Records Management Manual

Approval Request Form

☐ County ☑ Municipality ☐ School District/BOCES ☐ Special District

NAME OF ENTITY
City of Boulder

CONTACT PERSON/TITLE:
Elesha M. Johnson, City Records Manager

MAILING ADDRESS:
1777 Broadway, Office of Central Records, 2nd Floor, Boulder, CO 80302

TELEPHONE:
303-441-3059

E-MAIL:
JohnsonE2@bouldercolorado.gov

LOCAL EXCEPTIONS:
(List and provide basis and description of any local exceptions for records retention periods that are specified by formal direction of the local ordinance, Home Rule Charter provision, by board resolution or formal direction of the school board, governing body, etc., that differ from those set out in the Records Retention Manual for your specific entity. Use additional pages if needed.)

THE ABOVE ENTITY HEREBY REQUESTS APPROVAL FROM THE COLORADO STATE ARCHIVES TO FOLLOW *THE SPECIFIC ENTITY'S RECORDS RETENTION MANUAL*, WITH THE LOCAL EXCEPTIONS INDICATED.

SIGNATURE OF AUTHORIZED ENTITY REPRESENTATIVE

7-10-14

DATE OF SUBMITTAL OF REQUEST FOR APPROVAL

07/09/2014

SIGNATURE OF STATE ARCHIVIST AND DATE

ORDINANCE NO. 5753

AN ORDINANCE ADOPTING A RECORD RETENTION SCHEDULING SYSTEM AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the City of Boulder, in the County of Boulder and the State of Colorado (the "City"), is a municipal corporation duly organized and existing as a home rule city pursuant to Article XX of the Constitution of the State of Colorado and the Charter of the City (the "Charter"); and

WHEREAS, the promotion of storage efficiency and paper product recycling and conservation in a City record retention facility will promote the common welfare and benefit the inhabitants of the City and is a matter of local concern; and

WHEREAS, Section 68 of the Charter provides in relevant part that the Director of Finance and Record, ex-officio City Clerk, shall "have custody of all public records of the city not specifically entrusted to any other department by this charter or by ordinance and perform such other duties pertaining to such department as are in this charter specified, or may be by ordinance required, or be assigned by the city manager;" and

WHEREAS, the Records Manager, on behalf of the Director of Finance and Record ex-officio City Clerk, has corresponded with the Colorado State Archivist proposing a retention schedule in compliance with the guidelines prepared by the Colorado Municipal Clerks Association, to which the Archivist has agreed; and

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WHEREAS, the proposed new record retention schedule and disposal process will be on a trial basis for a period not to exceed eighteen (18) months beginning with the effective date of this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. **POLICY**

It is hereby declared to be the policy of the City to provide for efficient, economical and effective controls over the creation, distribution, organization, maintenance, use and disposition of all City records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with accepted records management practices.

Section 2. **CITY RECORDS DECLARED PUBLIC PROPERTY**

All City records as defined by state law are the property of the City. No City official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

Section 3. **RECORDS MANAGER**

The Director of Finance and Record shall designate an individual who will serve as the Records Manager of the City. The Records Manager shall implement the policies of the records management program for the City as defined in this ordinance.

Section 4. **ESTABLISHMENT OF THE RECORDS MANAGEMENT STEERING COMMITTEE: DUTIES**

A Records Management Steering Committee, consisting of a representative of the City Manager's department, a representative from the Information Systems department, a representative from the City Attorney's Office, and the City's internal auditor, is hereby established. The Committee shall:

A. Assist the Records Manager in the development of policies and procedures governing the Records Management Program;

B. Review the performance of the program on a regular basis and propose changes and improvements when necessary;

C. Review and approve record retention schedules submitted by the Records Manager;

D. Give approval to the destruction of records in accordance with approved records retention schedules; and

E. Actively support and promote the Records Management Program throughout the City.

Section 5. **DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS**

In addition to other duties as assigned, department heads shall:

A. Cooperate with the Records Manager in carrying out the policies and procedures established in the City for efficient and economical management of records and in carrying out the requirements of this ordinance.

B. Adequately document the transaction of government business and the services programs duties for which the department head and their staff are responsible; and

C. Maintain the records in their care and carry out their preservation, destruction, or other disposition only in accordance with the policies and procedures of the records management program of the City and requirements of this ordinance.

Section 6. **DESIGNATION OF RECORDS LIAISON OFFICERS**

Each department head shall designate a staff member to serve as Records Liaison Officer for the implementation of the Records Management Program in such department. If the Records Manager determines in the best interest of the program that more than one Records Liaison Officer should be designated for a department, the department head shall designate the number of Records Liaison Officers specified by the Records Manager. Persons designated as Records Liaison Officer shall be thoroughly familiar with all the records created and maintained by such department and shall have full access to all of the records of the City maintained by the department. In the event of the resignation, retirement, dismissal or removal by action of the department head of a person designated as a Records Liaison Officer, the department head shall

promptly designate another person to fill the vacancy. A department head may serve as Records Liaison officer.

Section 7. **DUTIES AND RESPONSIBILITIES OF RECORDS LIAISON OFFICERS**

In addition to other duties as assigned, Records Liaison Officers shall:

A. Assist the Records Manager in conducting inventories of the records of the department in preparation for the development of a records retention schedule;

B. In cooperation with the Records Manager, coordinate and implement the policies and procedures of the Records Management Program in their departments; and

C. Disseminate information to staff concerning the Records Management Program.

Section 8. **RECORDS RETENTION SCHEDULES TO BE DEVELOPED; APPROVAL; FILING WITH STATE**

A. The Records Manager, in cooperation with department heads and Records Liaison Officers, shall prepare record retention schedules, on a department by department basis, listing all records created or received by the department and the retention period for each record.

B. Each records retention schedule shall be monitored and amended as needed by the Records Manager on a regular basis to ensure that compliance is maintained, and that the schedule continues to reflect the record keeping procedures and needs of the department and the Records Management Program of the City.

C. Before its adoption, a records retention schedule or revision of an existing records retention schedule for a department must be approved by the department head, the members of the Records Management Steering Committee, and the City Attorney.

D. After the adoption of a records retention schedule, the schedule will be submitted to the State Archivist. If a retention schedule is not accepted, the schedule shall be amended to make it acceptable for filing with the State Archivist. In the event of a retention period being lengthened by the State Archivist, any records that have been destroyed by the City prior to notification of the change are covered by the previous retention schedule.

Section 9. **IMPLEMENTATION OF RECORDS RETENTION SCHEDULES; DESTRUCTION OF RECORDS UNDER SCHEDULE**

A. A records retention schedule for a department that has been approved and adopted under this ordinance shall be implemented by department heads and Records Liaison officers according to the policies and procedures set up by the Records Management Steering Committee.

B. A record for which the retention period has expired on a records retention schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the record is pertinent to a pending lawsuit, or the department head submits in writing to the Records Management Steering committee a valid reason for retaining the record for an additional period.

C. Prior to the destruction of a record under an approved retention schedule, authorization for the destruction must be obtained by the Records Manager from the Records Management Steering Committee.

Section 10. **DESTRUCTION OF UNSCHEDULED RECORDS**

A record that has yet to be listed on an approved record retention schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Records Manager has submitted to and received from the Records Management Steering Committee an approved destruction request. Drafts, notes, electronic mail, and other items not normally retained as public records may be destroyed without any such formality.

Section 11. **TRACKING OF DESTROYED RECORDS**

A log of destroyed records shall be maintained by the Records Manager as evidence of the records having been destroyed. This log shall contain what records series the record was, the date the record was destroyed, the authorization number, and how it was destroyed. This log shall be a permanent record and kept on file in the office of the Records Manager.

Section 12. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 13. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 5th day of September, 1995.

Mayor

Attest:

Director of Finance and Record
Ex-Officio City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 19th day of September, 1995.

Mayor

Attest:

Director of Finance and Record
Ex-Officio City Clerk

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ORDINANCE NO. 5879

AN EMERGENCY ORDINANCE TO EXTEND THE PROVISIONS OF ORDINANCE NO. 5753 RELATED TO THE RECORD RETENTION SCHEDULING SYSTEM FOR AN ADDITIONAL TWELVE MONTHS AND SETTING FORTH DETAILS IN RELATION THERETO.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, THAT:

Section 1. Ordinance 5753 is amended to extend the new record retention schedule and disposal process on a trial basis beyond the original eighteen months for an additional twelve month period, beginning with the effective of this ordinance. The council finds this extension necessary to provide staff with additional time for training of personnel responsible for the implementation of records retention schedules and destruction of records.

Section 2. The council finds that an emergency exists due to the need to complete additional training and more fully develop appropriate handling procedures under the guidelines of the Colorado State Archivist. This ordinance is intended to be interim in nature and replaced by permanent legislation. Therefore, the council orders that this ordinance be effective immediately upon adoption.

Section 3. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 4. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of March, 1997.

Mayor

Attest:

Director of Finance and Record
Ex-Officio City Clerk

READ ON SECOND READING, PASSED, ADOPTED AS AN EMERGENCY BY A TWO-THIRDS VOTE OF COUNCILMEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY this 1st day of April, 1997.

Mayor

Attest:

Director of Finance and Record
Ex-Officio City Clerk

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ORDINANCE NO. 5972

AN ORDINANCE TO EXTEND THE PROVISIONS OF ORDINANCE NO. 5879 RELATED TO THE RECORD RETENTION SCHEDULING SYSTEM FOR AN ADDITIONAL THREE YEARS AND SETTING FORTH DETAILS IN RELATION THERETO.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, THAT:

Section 1. Ordinance No. 5879 is amended to extend the new record retention schedule and disposal process on a trial basis ~~the~~ for an additional three year period beginning April 1, 1998. Ordinance No. 5879 amended Ordinance No. 5753 to extend the new record retention schedule and disposal process on a trial basis beyond the original eighteen months for an additional twelve month period until April 1, 1998. The council finds ~~this~~ a new three year extension to April 1, 2001 is necessary to provide staff with additional time for staff to establish department specific retention schedules and to train personnel responsible for the implementation of records retention schedules and destruction of records.

Section 2. The council finds that there is a need to complete additional training and more fully develop appropriate handling procedures under the guidelines of the Colorado State Archivist. This ordinance is intended to be interim in nature and replaced by permanent legislation.

Section 3. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 4. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

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INTRODUCED, READ ON FIRST READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of March, 1998.

Mayor

Attest:

Director of Finance and Record
Ex-Officio City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of March, 1998.

Mayor

Attest:

Director of Finance and Record
Ex-Officio City Clerk

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C I T Y O F B O U L D E R
CITY COUNCIL AGENDA ITEM

MEETING DATE: November 18, 2014

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8014 approving supplemental appropriations to the 2014 Budget.

PRESENTERS:
Jane S. Brautigam, City Manager
Bob Eichem, Chief Financial Officer
Cheryl Pattelli, Director of Finance
Peggy Bunzli, Budget Officer
Maria Diaz, Budget Analyst

EXECUTIVE SUMMARY

As described in the *Budget Philosophy and Process* section of the annual budget document, each year at least two supplemental ordinances are presented to City Council for review and approval. Council receives what is usually the first ordinance, the **Carryover and First Budget Supplemental**, in April/May. In years where new initiatives are launched after annual budget approval (such as Recreational Marijuana and the new Transportation tax), or where other circumstances require (such as flood recovery), additional supplementals may be brought to council throughout the year. Council then receives another ordinance, usually **the Final Budget Supplemental**, in November/December. This is the final budget supplemental being presented to council for the 2014 budget.

The supplemental ordinances adjust only the current year budget and are considered "one-time" adjustments. As a result, they have no direct or immediate impact on the following year's budget. In contrast, the city assigns budget requests with "ongoing" or multi-year impacts only to the annual budget process (budget planning for the coming fiscal year) and not to a budget supplemental.

This packet includes budget supplemental "one-time" line items that represent new budgeted amounts for 2014. A proposed ordinance is provided as **Attachment A** to this packet. Detailed narrative information on each budget supplemental request is included in **Attachment B**.

STAFF RECOMMENDATION

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce and order published by title only an ordinance approving supplemental appropriations to the 2014 Budget.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental ordinance appropriates funding for a variety of citywide projects and services that positively affect economic, environmental or social sustainability in the community.

OTHER IMPACTS

- Fiscal:
  In the **General Fund** this ordinance will appropriate $1,611,943 from additional revenue, $392,538 from fund balance reserves, and $2,123,721 from fund balance. It also includes increase in revenue only of $21,500.

  In **restricted funds**, this ordinance will appropriate $1,067,375 from additional revenue and $3,016,129 from fund balance. It also includes increase in revenue only of $743,343.

- Staff time for this process is allocated in the Budget Division's regular annual work plan.

ANALYSIS

Types of Requests

The following requests provide examples of General Fund supplemental appropriations from various types of fund balance:

- Actuarial adjustment for Police and Fire Pension plans (fund balance)
- Allocation of Education Excise Tax dollars to educational institutions (fund balance reserves from restricted revenue source)
- Costs associated with 2013 flood recovery (fund balance reserves).

The following requests provide examples of Restricted Fund supplemental appropriations from fund balance:

- One-time capital costs, unknown at time of 2014 budget approval (fund balance)
- Costs associated with 2013 flood recovery (fund balance reserves).

The following requests provide examples of supplemental appropriations from new revenue:

- Appropriation for program costs from wildland fire reimbursements (General Fund)
- Appropriation for additional program funding from grant revenue (multiple funds).

A third category of supplemental appropriation is a negative appropriation, an example of which is reduced appropriation due to reduced grant funding.

This packet also includes appropriation requests for transfers between funds, an example of which is for interfund loan repayments.

Finally, a number of adjustments are made in this final supplemental ordinance to meet accounting requirements or for interest transfers.

2013 Flood

The following supplemental requests, relating to 2013 Flood recovery work and totaling $1,608,000 were submitted:

- Community Planning and Sustainability, fixed-term Flood Recovery Coordinator - $77,000
- Public Works Projects Coordinator - $66,000
- Water Utility, infrastructure repair - $765,000
- Wastewater Utility, infrastructure repair - $700,000

New revenues from city insurance proceeds of $199,145 and FEMA reimbursements of $1,017,625 are also included in this packet. In many cases, the recovery costs have already been incurred and appropriation requested from reserves, therefore as reimbursement revenues comes in, these revenues are simply being allocated back to the funds from which the costs were paid to replenish reserves, and adjustments are not needed here. In a few cases, increased appropriation is needed to increase budgets which had not yet been adjusted. Those adjustments relating to the flood reimbursement revenues are noted as *Appropriation from Additional Revenue*.

Supplement Request Related to Sunshine Transmission Line Replacement

During the summer of 2013 several water transmission mains experienced failures that were repaired and revealed the need to replace certain pipe segments sooner than anticipated. Of immediate concern is the 26” main between Sunshine Hydroelectric Facility and 4th & Mapleton. This main was installed in 1946 and carries about half of the City’s treated water on an annual basis. After analysis and prioritization, a parallel replacement with a new 30” line between 4th and Mapleton and the existing 30” line east of Sunshine Hydroelectric Facility is scheduled to start in December 2014. Money already budgeted in the Capital Improvement Program (CIP) for rehabilitation/inspection

of the upper 30" section of main between the Betasso Water Treatment Facility and the Sunshine Hydroelectric Facility has been re-prioritized to this lower 26" section. Based on the engineer's cost estimate this amount was originally thought to be enough to complete the work, however, the low bid came in 60 percent over the engineer's cost estimate. The spread on the bids was from 60 percent over the $1,000,000 cost estimate to 150 percent over the estimate, and is indicative of the current volatility in construction pricing. This adjustment to base is needed to complete this priority work, in order to then move on to work on the other transmission mains in need of attention in 2015 and beyond.

Overview of Total Requests

A summary table of the carryover and supplemental requests by fund can be found in **Attachment C**. In this table, in the narrative information (**Attachment B**) and in common usage in city meetings, the April/May and November/December budget supplementals are also referred to as the **First Adjustment to Base** and **Second Adjustment to Base**, respectively. The current year's council-approved budget is the "base" in the term Adjustment to Base (ATB).

In total, the city recommends $8,211,705 in appropriations, of which $2,679,318 come from new revenues and $5,532,388 from fund balance. **Attachment D** is a schedule reflecting the impact of the supplemental appropriations for 2014 on the projected fund balance for each fund.

The council's second reading of this item is scheduled for the Dec. 2 City Council meeting.

ATTACHMENTS

A. Proposed Ordinance containing supplemental appropriations to the 2014 Budget
B. Narrative descriptions of all supplemental appropriations to the 2014 Budget by fund
C. Table of all supplemental appropriations to the 2014 Budget by fund
D. 2014 Fund Activity Summary

ORDINANCE NO. _____

AN ORDINANCE RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER, COLORADO, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2014 SETTING FORTH DETAILS IN RELATION TO THE FOREGOING.

WHEREAS, Section 102 of the Charter of the City of Boulder provides that: "At any time after the passage of the annual appropriation ordinance and after at least one week's public notice, the council may transfer unused balances appropriated for one purpose to another purpose, and may by ordinance appropriate available revenues not included in the annual budget;" and

WHEREAS, the City Council now desires to make certain supplemental appropriations for purposes not provided for in the 2014 annual budget; and,

WHEREAS, required public notice has been given;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, that the following amounts are appropriated from additional projected revenues and from unused fund balances to the listed funds:

Section 1. General Fund

Appropriation from Fund Balance	$2,123,721
Appropriation from Fund Balance - Reserves	392,538
Appropriation from Additional Revenue	1,611,943
Increase in Revenue Only	21,500

Section 2. Capital Development Fund

Increase in Revenue Only	516,550

Section 3. Planning & Development Services

Appropriation from Additional Revenue	1,500

Section 4. .25 Cent Sales Tax Fund (1995 Ballot Issue)

Appropriation from Additional Revenue	163,378
Negative Appropriation - Additional Revenue	(7,988)

Section 5. Library Fund

Appropriation from Fund Balance	1,947
Appropriation from Additional Revenue	94,152

Section 6. Recreation Activity Fund

Appropriation from Additional Revenue	40,480

Section 7. Open Space Fund

Appropriation from Additional Revenue	30,474

Section 8. Airport Fund

Appropriation from Fund Balance	25,000

Section 9. Transportation Fund

Appropriation from Additional Revenue	320,276
Increase in Revenue Only	63,057

Section 10. Community Development Block Grant Fund

Appropriation from Additional Revenue	36,531

Section 11. HOME Fund

Appropriation from Additional Revenue	148,752

Section 12. Boulder Junction Improvement Fund

Appropriation from Additional Revenue	7,805

Section 13. Water Utility Fund

Appropriation from Fund Balance	1,776,000

Section 14. Wastewater Utility Fund

Appropriation from Fund Balance	700,000

Section 15. Stormwater Utility Fund

Appropriation from Additional Revenue	45,000

Section 16. Telecommunications Fund

Appropriation from Fund Balance	18,182
Appropriation from Additional Revenue	187,014
Increase in Revenue Only	152,986

Section 17. Worker Compensation Insurance Fund

Appropriation from Fund Balance	200,000

Section 18. Compensated Absences Fund

Appropriation from Fund Balance	295,000

Section 19. Fleet Replacement Fund

Increase in Revenue Only	10,750

Section 20. The City Council finds that this ordinance is necessary to protect the public health, safety, and welfare of the residents of the City and covers matters of local concern.

Section 21. If any part or parts hereof are for any reason held to be invalid, such shall not affect the remaining portion of this ordinance.

Section 22. The Council deems it appropriate that this ordinance be published by title only and order that copies of this ordinance be made available in the Office of the City Clerk for public inspection and acquisition.

INTRODUCED, READ, ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of November, 2014.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE this 2nd day of December, 2014.

_____
Mayor

Attest:

_____
City Clerk

DEFINITIONS AND REQUEST NARRATIVE
FINAL ADJUSTMENT TO BASE OF 2014

DEFINITIONS

Budget Supplementals

Budget Supplemental from Fund Balance
Adjustments for new appropriation from a specific fund's available fund balance.

Budget Supplemental from Fund Balance Reserve
Adjustments for new appropriation from a specific fund's available fund balance where use is limited for specific purposes, typically due to legal restrictions or management assignment.

Budget Supplemental from Additional Revenue

Grants – Budget supplementals from grant revenues are required throughout the year since either the grant was not anticipated and was therefore not incorporated into the original budget, or because the grant amount actually received was more than the amount specified in the original budget.

Miscellaneous – This category includes annual unanticipated funds received for city programs and services, including items such as donations, fundraisers, wildland fire costs or cooperative agreements between municipalities. In addition, beginning in 2007, reimbursements for some services (e.g. insurance proceeds, off-duty police officer services, city-sponsored training programs) are now officially recognized as miscellaneous revenues instead of reducing expenditures. Best practices accounting and reporting standards require these revenues to be reflected through the formal appropriation process.

Transfers to/from Other Funds
Transfers between funds requiring City Council approval.

Budget Adjustments Necessitated by Accounting Requirements
Adjustments required based on generally accepted accounting and reporting requirements. These adjustments are made in the final adjustments to base.

Negative Appropriations
Adjustments reducing approved appropriations based on identified reductions in revenue sources (e.g. grant funding reductions).

BUDGET SUPPLEMENTAL DETAILS BY FUND

GENERAL FUND

Budget Supplemental(s) from Fund Balance

Municipal Court – Justice Center Improvements – $14,302

This request appropriates funds for payment of the city's share for the Boulder Justice Center capital improvements for 2014. The share of 3.8 percent of costs and is set in the lease agreement but specific 2014 improvements and related costs were not known when the 2014 Budget was approved in October of 2013.

Downtown University Hill Management – AMPS – $20,000

This request appropriates funds for the General Fund portion of 2014 consulting costs for the Access Management and Parking Strategy (AMPS) project. The 2014 consulting will include work on: a best practices report and peer city research; ongoing communication strategy support; project evaluation criteria; implementation of a Park Plus program that does parking and TDM scenario development; and a request for proposal for the replacement of the city's garage access system and associated technologies.

Information Technology – CRM Software Maintenance – $13,800

This request appropriates funds for one-time funding of the "InquireBoulder" Constituent Relationship Management (CRM) system's annual cloud hosting and software maintenance agreement. This system supports a critical service for city departments providing direct public services. These predictive annual costs begin in 2014. Funding for ongoing costs was included in the 2015 Budget.

Risk Management – Unemployment Compensation Payment– $138,000

This request appropriates additional funding needed for 2014 unemployment compensation payments above original budget estimates.

Police Pension – Adjustment – $84,838

This request adjusts the required city contribution to the Old Hire Police pension plan, as per actuarial assessment.

Public Works – Center Green Move – $490,000

This request appropriates funds for the costs of moving over 100 employees into the rental facility located near Foothills Parkway. The expenditures include but are not limited to: information technology network, furniture, security system, and space configuration.

Public Works – Communications Division/Channel 8 Move – $148,000

This request appropriates funds for the relocation of Communications Division staff to the Main Library. The move consolidated the location of Communications and Channel 8 staff members and provided needed office space in the Municipal Building.

Public Works – Flood Recovery – $66,000

This request appropriates funds for personnel expenditures for a fixed-term Flood Public Works Project Coordinator position that was added in 2014. This position provides leadership to coordinate citywide efforts in the area of infrastructure and operations including drainage way repair and recovery.

Public Works – Sep. 2013 Flood – $22,275

This request appropriates funds to FAM's operating budget for the repair and flood remediation work completed at the West Senior Center. The damages were caused by the Sep. 2013 flood.

Public Works – Sep. 2013 Flood – $35,300

This request appropriates funds to FAM's operating budget for the renovation work completed at the temporary Wildland Fire Station located near the Municipal Service Center. The remodel was necessary because the Wildland Fire Cache building was inhabitable after the September 2013 flood. The remodel provided work space, sleeping quarters, and storage for equipment and vehicles for the Wildland fire fighters. The Wildland fire fighters will move out of this building in 2015 when construction of the new Wildland fire station is complete.

Community Planning and Sustainability – Flood Recovery– $77,000

This request appropriates funds to the Flood Recovery Coordinator for Community Services. This position is part of a flood recovery team and provides leadership and coordinates citywide efforts in the areas of Planning and Development, Housing, Human Services, the Long Term Flood Recovery Group, Community Development Block Grant – Disaster Recovery (CDBG-DR) funding and community outreach.

Budget Supplemental(s) from Fund Balance – Carryover

Community Planning and Sustainability – Grandview – $100,000

This request appropriates funds to support the relocation and preservation efforts of the two historic residential structures at 1220 and 1243 Grandview. Budget was originally approved for this prior to 2014 but, due to timing of actual relocation, was not used previously and is therefore being requested as a carryover to the 2014 budget for the 2014 relocations.

Budget Supplemental(s) from Additional Revenue

City Manager's Office – FEMA DAC Reimbursement – $32,821

This request appropriates FEMA funds received for flood related Direct Administrative Cost (DAC) paid out of the City Managers Offices (CMO).

City Manager's Office – Education Access Funding PEG – $73,673

This request appropriates funds for Public Education Programming. The City of Boulder currently receives a .50 cents subscriber fee from Comcast to fund equipment for both a government and public access channel. The 2014 subscriber fee is distributed between Municipal Channel 8 (government station managed by the city) and the entity the City of Boulder contracts with to provide Education Access service (Ch 22). Currently this contract is held by Boulder Valley Media Alliance. This request appropriates the Education Access portion of revenue to fund equipment replacement.

City Manager's Office – Channel 8 Revenue – $13,000

Channel 8 estimates $13,000 in revenue from requests for additional programming. This request appropriates these revenues to cover the additional costs associated with these production requests.

Downtown University Hill Management – Pay Station Credit Card Fees – $6,000

This request appropriates funds for credit card fees, resulting from revenues above projections. The additional revenues received will cover the city's increased credit card collection fees.

Human Resources – Medicare Reimbursement Expenses– $100,000

This request appropriates funds received for a Medicare tax Reimbursement. Funds will be used to cover the costs of administering and distributing the tax reimbursement to employees.

Police – Off Duty Overtime– $336,000

This request appropriates funds to offset expenditures from Off Duty Police Overtime Services.

Police – Blood and Chemical Testing– $30,000

This request appropriates funds for blood and chemical testing on DUI enforcements. The request will be funded by revenue received from DUI Fines. The State of Colorado law requires that the fees charged be returned to the testing agency to offset expenses.

Police – Miscellaneous Services– $76,500

American Medical Response (AMR) has contracted with the city's Communications Center to dispatch their services on emergency calls. Funding has been received from Boulder Regional Emergency Telephone Authority (BRETSA) to support Communication Aided

Dispatch (CAD). This request includes appropriation of $52,000 to partially fund a Project Manager for implementation of the new Records Management System (purchased from Asset Forfeiture Reserves); and $24,500 for additional Communications Center costs associated with the services provided (as noted above).

Police – Training Classes- $12,000

This request appropriates funds of $12,000 from multi-agency training provided by the department. The training unit collected funds from outside agencies and these funds will be needed to offset the expenditures, which paid for outside instructors. Multi-agency training helps the department leverage funding in order to participate in advanced training at nminimal cost. Multi-agencies pay for instructors and the department receives two to four slots free per classes held.

Police – Open Records Research- $41,000

This request appropriates records research revenues to offset expenditures related to archive records research. Of these funds, $10,000 was collected for copies of dispatch tapes/CD's for the District Attorney, lawyers, and clients. The other $31,000 was collected for providing copies of records to the public, newspapers, lawyers, and insurance companies.

Police – Justice Assistance Grant (JAG) 2014- $49,517

This request appropriates funds received from the U.S. Department of Justice, Office of Justice Programs, for the 2014 Edward Byrne Justice Assistance Grant (JAG) for a joint submission with the City of Longmont Police Department. The JAG will provide $24,133 to the Boulder Police Department for lightweight officer jackets; suppressors for rifles; and SWAT uniforms. This equipment will be used to prevent and control crime in the community. The balance of the grant, $25,384, was awarded to the Longmont Police Department to fund the Longmont Ending Violence Initiative.

Police – Law Enforcement Assistance Fund (LEAF) – $14,000

This request appropriates funds from grant revenue from the Colorado Division of Transportation 2014 LEAF Grant. The Police Department was awarded the funds to increase and improve the enforcement of laws pertaining to alcohol and drug related traffic offenses. These funds will be used to conduct saturation patrols and DUI enforcement throughout the year.

Police – Community Oriented Policing Services (COPS) – $250,000

This request appropriates funds from the U.S. Department of Justice for the Community Oriented Policing Services (COPS) Grant. The grant will provide a portion of the salary and benefits for two new hire officers for a period of three years. The city will be responsible for ongoing personnel costs beyond that. Funds had not yet been received when the 2014 Budget was approved, so this adjustment is necessary for 2014. Ongoing

expenses for these two new officers has been included in the 2015 Budget.

Police – Recreational Marijuana – $4,800

This request is to appropriate funds for training provided to multiple businesses by the department. The Community Services unit collected funds from outside businesses and these funds will be needed to offset the expenditures, which paid for the instruction. This training is important to the businesses to make sure they stay in compliance with laws associated with a Marijuana business. The businesses pay for the class provided by city instructors.

Police – Internet Crimes Against Children (ICAC) – $8,044

This request appropriates funds from the Colorado Springs Police Department, from a flow though grant from the U.S. Department of Justice, for the Internet Crimes Against Children (ICAC) 2014-2015 Grant. The ICAC Grant will fund $2,544 for two detectives to attend the National Conference and Training, and $5,500 to purchase the Guidance Software Training Passport. The grant funds will be used to prevent and reduce child pornography.

Police – Colorado Office of Victim Advocates (COVA) – $8,740

This request appropriates funds from grant revenue from the COVA scholarship. These funds are used to send the Victim Advocates and several officers to the annual training and conference for Victim Advocates. Victim Advocates help members of the community who have been victims of or witnessed violent crimes.

Police – Alumni Foundation Donation – $1,000

This request appropriates donated funds from the Boulder Alumni Foundation for officer carry-on trauma kits.

Fire – EMS Response – $4,810

This request appropriates funds received from our ambulance provider, AMR Ambulance. The city's contract with AMR Ambulance includes a provision in which AMR must pay if they do not meet the established response time criteria. Appropriation of these funds is requested to be applied toward emergency response costs.

Fire – Classes and Coverage- $4,684

This request appropriates funds received for classes or standby coverage provided by the Fire Department to local businesses. The revenue is collected from these classes and coverage and is used to offset the costs incurred to provide the services.

Fire – Wildland Fire Reimbursement- $339,083

This request appropriates funds received in reimbursement for expenses incurred by the city for sending resources to wildland fires and other emergencies around the country.

Fire – EMS Software – $6,525
This request appropriates funds received for reimbursing expenses incurred by the City for EMS training software being used by AMR Ambulance.

Fire – Medical Advisor – $60,000
This request appropriates funds received from AMR Ambulance for the fees of required medical advisor.

Public Works – FEMA Reimbursement – $36,853
This request appropriates FEMA funds to Public Works for building repairs completed at the West Senior Center.

Parks and Recreation – FEMA Reimbursement – $7,190
This request appropriates FEMA funds to Parks and Recreation for facility repairs at the Elmer's Two Mile Park.

Human Services – Sr Foundation Grant – $5,000
This request appropriates funds awarded to the Human Services department from the Boulder Seniors foundation, to be used for production costs of the "Human Services Insight" television (Ch 8) show.

Human Services – Silver Sneakers® – $24,000
The City of Boulder's Department of Parks and Recreation and the Senior Services Division of the Department of Human Services (HS) have entered into a contract with Healthcare Dimensions Inc. (Healthways) to provide the nationally successful Silver Sneakers® program in the City of Boulder. The Silver Sneakers® program, which is free to eligible participants, enhances the fitness and wellness of Medicare eligible seniors and disabled people. $24,000 in revenues, from Healthways, will be used to cover the HS costs of providing the program.

Human Services – ENCORE – $2,000
This request appropriates funds to the Boulder Encore Program, an optional membership program for Senior Services. The program offers discounts for classes and services in exchange for an annual membership fee. The $2,000 will be received from memberships sold in 2014. Appropriation will be used to cover costs of the program.

Human Services – Family Resource Schools– $24,000
This request appropriates funds received for afterschool programming activities at Columbine, Creek side, Crestview, Dunhill and Whittier Elementary Schools.

Housing – Boulder Housing Partners Pilot Payment – $12,438

This request appropriates funds to reimburse Boulder Housing Partners (BHP) for property tax payments. BHP is required to pay Payment in Lieu of Taxes (PILOT) to various property taxing districts. This amount represents the city portion of the 2014 PILOT payment from BHP.

Community Planning and Sustainability – CDBG-DR Grant – $75,625

This request appropriates grant funding to support planning efforts for the fourmile canyon creek west area, including the Ponderosa Mobile Home Park and undeveloped parcel of the Foothills Community. The grant will include an annexation and financial analysis for the Ponderosa Mobile Home Park, and options for infrastructure and utility upgrades and/or redevelopment scenarios through a design process.

Budget Supplemental(s) from Fund Balance – Reserves

City Manager's Office – Education Excise Tax Grants – $281,838

This request appropriates previously collected Education Excise Tax funds for educational grants. On Sep. 17, the City Council authorized the City Manger to disburse funds in the amount of $281,838 from the city's education excise tax reserves. Funds were awarded to community non-profit organizations through a selection process. As the Education Excise Tax is no longer collected, it is anticipated that this will be the final appropriation needed for Education Excise Tax dollars.

Police- Federal Asset Forfeiture- $110,700

This request appropriates funds from the Federal Asset Forfeiture reserves for the Training Academy for new police officers; ethics training for the police officers; and to purchase helmets with shields for the officers.

General Fund Negative Appropriation

Fire Pension – Adjustment – $93,108

This request reduces the required city contribution to the Old Hire Fire pension plan, as per actuarial assessment.

Human Services – Adjustment to Grants – $61,359

This request reduces the appropriation levels for the following grants based on actual grant amounts received under projections: 13/14 Infant Toddler Quality Improvement & Availability grant ($2,250); the 13/14 United Way grant ($496); the 13/14 21st Century Learning Center (CLC) grant ($8,366); and the 14/15 BVSD Prevention & Intervention grant ($50,247).

General Fund Transfer(s) From Other Funds

Citywide – Airport Fund – Loan Repayment – $25,000

This request transfers funds from the Airport Fund to the General Fund for the repayment of a $260,000 interfund loan to be repaid over the next six years (1 of 6).

Citywide – Interest Income – $11,000

This request transfers interest revenue from the Recreation Activity Fund to the General Fund.

General Fund Transfer(s) to Other Funds

Citywide – Zayo Proceeds – $340,000

This request transfers $340,000 from the General Fund to the Telecommunications Fund. In 2013, revenues were received by the city for the sale of fiber to the Zayo Group. While the proceeds were collected in the General Fund the Telecommunications Fund incurred related costs. This transfer is to reimburse the Telecommunications Fund for the expenses paid from that fund directly related to the fiber sale.

Fire – Fire Engine Delivery Rebate – $10,750

This request transfers funds received from the manufacturer for missing the delivery deadline. The funds will be transferred to the Fleet Replacement Fund for future fire engines or apparatus replacements.

Citywide – Photo Radar Revenue to Transportation – $63,057

This request transfers half of 2013 photo enforcement surplus revenues from the General Fund to the Transportation Fund. From 1998 to 2003, the Transportation Fund subsidized the Photo Radar Enforcement Program in the amount of $846,687. An agreement was established that this subsidy would be paid back from future photo radar enforcement revenue. From 2004–2013, the Transportation Fund received transfers of $647,911. After this requested transfer of $63,057, the remaining balance to refund the subsidy is $135,719.

Public Works – Capital Development – Loan Repayment – $516,550

This request transfers funds from the General Fund to the Capital Development Fund for the repayment of the 13th Street Plaza Clean Up $4,000,000 interfund loan to be repaid over the next six years (1 of 6).

CAPITAL DEVELOPMENT FUND

Transfer(s) From Other Funds

Public Works – Capital Development – Loan Repayment – $516,550

This request transfers funds from the General Fund to the Capital Development Fund for the repayment of the 13th Street Plaza Clean Up $4,000,000 interfund loan to be repaid

over the next six years (1 of 6).

PLANNING & DEVELOPMENT SERVICES FUND

Budget Supplemental(s) from Additional Revenue

Community Planning & Sustainability – 2014 CLG Grant – $1,500

This request appropriates grant funding for Landmarks Board members' attendance at the 2014 NAPC Forum in Philadelphia, PA.

.25 CENT SALES TAX FUND

Budget Supplemental(s) from Additional Revenue

Parks and Recreation – Flatiron Event Center– $163,378

This request appropriates funds received from flood insurance proceeds for flood damage at the Flatiron Event Center. These funds only partially cover the costs for repair or demolition and additional appropriation will be requested once a final plan for the Flatiron Event Center has been determined.

Negative Appropriation – Additional Revenue

Parks and Recreation – FEMA Adjustment – $7,988

This request corrects an entry from the First Adjustment to Base in which a Flood related appropriation was attributed incorrectly to the .25Cent Sales Tax Fund. The appropriation is decreased in this fund and the correct appropriation is included in the Parks and Recreation Department General Fund Account, from which expenditures actually were incurred.

LIBRARY FUND

Budget Supplemental(s) from Fund Balance

Library – 2013 State Grant – $1,947

This request appropriates additional grant funds received in 2013 from a State Grant. The full amount was not originally included in operating carryover with the first adjustment to base and the remaining balance fell to fund balance. This is a corrective entry.

Budget Supplemental(s) from Additional Revenue

Library – MARC Record Cost Sharing – $1,900

This request appropriates funds for the cost-sharing arrangement with Loveland, Lafayette, Broomfield, Westminster, Louisville, and Longmont to allow their patrons to use the Overdrive downloadable content service. These are pass through funds that offset additional costs of materials.

Library – Bookshop Sales – $13,833

This request appropriates funds for library materials acquisition. Proceeds from used

book sales supplement the library materials acquisition budget.

Library – Carnegie Photos – $3,727

This request appropriates funds for Carnegie photos. In 2004, a service to provide scanning of historic photographs was implemented. Revenues from this service will be used to offset the cost of digitizing the photographic collections; equipment maintenance and replacement; and supplement the library materials acquisition budget.

Library – Front Range Consortium – $70,379

This request appropriates funds from Broomfield and Louisville's share of the Front Range Consortium agreement. The library has a cost-sharing arrangement with public libraries for the downloadable content service patrons use. The revenues from the cost-sharing arrangement offset the costs of the database management, equipment and other fees necessary to operate the Integrated Library System (ILS).

Library – Boulder Library Foundation Grant – $4,313

This request appropriates funds for succession planning of Carnegie Branch staffing received from the Library Foundation.

RECREATION ACTIVITY FUND

Budget Supplemental(s) from Additional Revenue

Parks and Recreation – EXPAND Scholl Grant– $9,500

This request appropriates grant funds from the Dr. Scholl Foundation to be used for the EXPAND program. EXPAND program will use the proceeds to fund the Outdoor Adventure Camp Program, Youth Services Initiative, and other EXPAND programs and services.

Parks and Recreation – Ironman Fun Run Donation – $700

This request appropriates funds for the Fun Run hosted by the Boulder Running Company to benefit local charities including EXPAND and Valmont.

Parks and Recreation – Boulder County Inclusion Grant– $16,427

This request is to appropriate grant funds from Boulder County for the EXPAND program. Funds will be used to provide weekly Special Olympic sport training programs and will assist with inclusion costs. Inclusion is the federally-mandated process of providing accommodations to individuals with disabilities to enable them to participate in general recreation programs. Often inclusion costs include hiring additional staff or interpreters for persons who are deaf.

Parks and Recreation – Summer Fun Program– $2,853

This request appropriates funds received from PLAY Boulder Foundation to support Summer Fun, a summer program serving Young Adults with developmental disabilities ages 18-30 years of age. This program focuses on leisure education and independent living skills such as transportation, safety, social, health and well being.

Transfer(s) to Other Funds

Parks and Recreation – Interest Income – $11,000

This request transfers interest revenue from the Recreation Activity Fund to the General Fund.

OPEN SPACE FUND

Budget Supplemental(s) from Additional Revenue

Open Space and Mountain Parks (OSMP) – CSFS Flagstaff Road 2014– $15,474

This request appropriates funds received from the Colorado State Forest Service (CSFS) for OSMP incurred expenses for forest thinning/fire mitigation in the Flagstaff Road area.

Open Space and Mountain Parks (OSMP) – Flood Repair on Flagstaff Road – $15,000

This request appropriates funds received from Boulder County for OSMP incurred expenses of flood repair work on Flagstaff Road.

AIRPORT FUND

Transfer To Other Funds

Public Works – Loan Repayment – $25,000

This request transfers funds from the Airport Fund to the General Fund for repayment of interfund loan over the next six years (1 of 6).

TRANSPORTATION FUND

Budget Supplemental(s) from Additional Revenue

Public Works – Foothills Operational Improvements – $50,000

This request appropriates contributions from CDOT for maintenance and traffic signal replacement at the intersection of Foothills and Valmont.

Public Works – Safe Routes to School Grant– $270,276

This request appropriates funds for Safe Routes to School. The city received this grant, which will be used for a new multi-use path along Hanover, west of Broadway.

Transfer(s) From Other Funds

Public Works – Photo Radar Revenue to Transportation – $63,057

This request transfers half of 2013 photo enforcement surplus revenues from the

General Fund to the Transportation Fund. From 1998 to 2003, the Transportation Fund subsidized the Photo Radar Enforcement Program in the amount of $846,687. An agreement was established that this subsidy would be paid back from future photo radar enforcement revenue. From 2004-2013, the Transportation Fund received transfers of $647,911. After this requested transfer of $63,057, the remaining balance to refund the subsidy is $135,719.

COMMUNITY DEVELOPMENT BLOCK GRANT

Budget Supplemental(s) from Additional Revenue

Human Services - Community Development Block Grant - $5,385

This request adjusts the appropriation levels to the 2014 CDBG award level.

Housing - CDBG Grant Adjustment - $31,146

This request adjusts the appropriation levels to the 2014 CDBG award level.

HOME FUND

Budget Supplemental(s) from Additional Revenue

Housing - HOME Grant Adjustment - $128,753

This request adjusts the appropriation levels to the federal grant award. Additional funds were received above projections. The funds will be used for allowable housing activities.

Housing - HOME Grant Adjustment - $19,999

This request appropriates program income revenue received in the HOME grant program. The funds will be used for allowable housing activities, as per the federal program guidelines.

BOULDER JUNCTION IMPROVEMENT FUND

Budget Supplemental(s) from Additional Revenue

Public Works - Developer Contributions for survey - $7,805

This request appropriates funds for Developer's share of professional surveying expenses related to resolution of private and public property line issue near old Pearl Street and the BNSF railroad crossing.

WATER UTILITY FUND

Budget Supplemental(s) from Fund Balance

Public Works - Flood Expenses- $765,000

This request appropriates funds for flood recovery related costs incurred in 2014. This is in addition to $1,000,000 appropriated through an adjustment in 2013. A portion of flood costs will be reimbursed by FEMA and the State but the amounts are unknown at

this time. Flood costs to the Water Fund include pipeline and transmission line stabilization, sediment removal from valve boxes, stream gauge replacement, repair to access roads, and irrigation ditch repairs.

Public Works – Sunshine Transmission Line – $850,000

This request appropriates additional funding to increase the budget for the Sunshine Transmission Line Replacement Project. The low bid for this project came in at $1.585 million, 60 percent over the engineer's cost estimate. The next lowest bid was approximately $2 million and the remaining two were around $2.5 million. These bids are reflective of the current bidding environment. Staff does not believe that delaying the construction and rebidding the project next summer will gain any price relief. During 2013 the pipe was kept in service for a live repair, but it was noted that the surface coating of the pipe was missing in several areas. In the event of a failure or break that would require taking this section of pipe out of service, water restrictions might be required in some portions of the City, which highlights the need to move forward with this project, as a high priority.

Public Works – Water Rights Consulting – $81,000

This request appropriates funds for consulting costs associated with the water rights management.

Public Works – Ditch Assessment Charges – $80,000

This request appropriates funds for increases in ditch assessment charges. Additional funds are needed due to many ditch companies raising their annual shareholder rates to cover increased maintenance costs due to the 2013 flood event.

WASTEWATER UTILITY FUND

Budget Supplemental(s) from Fund Balance

Public Works – 2013 Flood Response/Impact Expenses– $700,000

This request appropriates funds for flood recovery related costs incurred in 2014. This is in addition to $750,000 appropriated through an adjustment in 2013. A portion of flood costs will be reimbursed by FEMA and the State but the amounts are unknown at this time. Flood costs to the Wastewater Fund include sewer line repairs and stabilization, sediment removal, and cleanup costs.

STORMWATER AND FLOOD MANAGEMENT UTILITY FUND

Budget Supplemental(s) from Additional Revenue

Public Works – Boulder Creek Watershed Grant– $45,000

This request appropriates additional grant funds the City was awarded from the State. This grant will provide funding for the development of a watershed plan for the Boulder

Creek watershed.

TELECOMMUNICATIONS FUND

Budget Supplemental(s) from Fund Balance

Information Technology – Fiber Replacement – $18,181

This request appropriates funds to complete the replacement of the aged (installed in the early-1990s) and over-capacity multimode fiber optic cable presently connecting the Main Library (and West Senior Center) to the Municipal Building.

Transfer(s) from Other Funds – Additional Revenue

Information Technology – Zayo Proceeds – $340,000

This request transfers $340,000 from the General Fund to the Telecommunications Fund. In 2013, revenues were received by the city for the sale of fiber to the Zayo Group. While the proceeds were collected in the General Fund the Telecommunications Fund incurred related costs. This transfer is to reimburse the Telecommunications Fund for the expenses paid from that fund directly related to the fiber sale. It appropriates $187,014 to cover 2014 expenses directly related to the sale and allocates the remaining amount of $152,986, as revenue only to reimburse the fund for 2013 expenses directly related to the sale.

WORKER COMPENSATION INSURANCE FUND

Budget Supplemental(s) from Fund Balance

Finance – Worker's Compensation- $200,000

This request appropriates additional funds to cover estimated additional costs in insurance claims and medical expenses related to worker's compensation. Any unused funding will remain in the fund balance at the end of the year.

COMPENSATED ABSENCES FUND

Budget Supplemental(s) from Fund Balance

Finance – Compensated Absences- $295,000

This request appropriates funds to cover costs related to an unusually high number of retirements that occurred in the city in 2014, above projected 2014 (budgeted) costs. Retirees received lump-sum payments for their unused leave balances, when they separate from the city. This liability is covered by planned savings managed through the Compensated Absences Fund and the fund balance is maintained at appropriate levels to cover the liability ongoing. The annual budget, drawn from the fund, is based on payout and retirement trend assumptions. While budget adjustment is needed in 2014, the fund balance remains at appropriate levels for the liability.

FLEET REPLACEMENT FUND

Budget Supplemental(s) from Additional Revenue

Fire – Fire Engine Delivery Rebate – $10,750

This request appropriates funds received from the manufacturer for missing the delivery deadline. The funds will be transferred to the Fleet Replacement Fund from the General Fund for future fire engines or apparatus replacements.

REQUEST BY FUND AND DEPT

Fund/ Dept#	Dept Title	Type / Item	Carryover/ Budget Supplemental	Source: Additional Revenue	Source: Fund Balance	Increase (Decrease) in Revenue Only
GENERAL FUND						
		Budget Supplemental(s) from Fund Balance				
2	Municipal Court	Justice Center 2014	14,302		14,302	
4	Downtown University Hill Mgmt	AMPS	20,000		20,000	
15	Information Technology	CRM software maintenance fee	13,800		13,800	
16	Risk Management	Adjust Unemployment Compensation payment	138,000		138,000	
29	Pensions	Police Pension Adjustment	84,838		84,838	
30	Public Works	Center Green City office relocation	490,000		490,000	
30	Public Works	Channel 8 moves	148,000		148,000	
30	Public Works	Flood Projects Coordinator position	66,000		66,000	
30	Public Works	Sept 2013 Flood - Wildland Fire Station	22,275		22,275	
30	Public Works	Sept 2013 Flood - West Senior Center	35,300		35,300	
30	Public Works	Insurance proceeds- West Senior Center flood related projects	87,707		87,707	
72	Community Planning & Sustainat	Flood Recovery Coordinator -Community Services	77,000		77,000	
72	Community Planning & Sustainat	Grandview Bungalows (2013 Carryover)	100,000		100,000	
		Budget Supplemental(s) from Additional Revenue				
4	City Manager	FEMA DAC Reimbursement	32,821	32,821		
4	City Manager	FEMA Reimbursement - DAC Adjustment BOULD04	3,250	3,250		
4	City Manager	Education Access Funding PEG	73,673	73,673		
4	City Manager	Channel 8 Revenue	13,000	13,000		
4	Downtown University Hill Mgmt	Credit Card fees for pay stations	6,000	6,000		
13	Human Resources	Medicare Refund Expenses	100,000	100,000		
21	Police	Off Duty Overtime	336,000	336,000		
21	Police	Blood/Chemical Testing	30,000	30,000		
21	Police	Miscellaneous Services	76,500	76,500		
21	Police	Training Classes	12,000	12,000		
21	Police	Open Records Research	41,000	41,000		
21	Police	Justice Assistance Grant (JAG) 2014	49,517	49,517		
21	Police	Law Enforcement Assistance Fund (LEAF) 201	14,000	14,000		
21	Police	Community Oriented Policing Services (COPS)	250,000	250,000		
21	Police	Marijuana Training Classes	4,800	4,800		
21	Police	Internet Crimes Against Children (ICAC) 2014-2015	8,044	8,044		
21	Police	Colorado Office of Victim Advocates (COVA) Scholarship	8,740	8,740		
21	Police	Boulder Alumni Donation	1,000	1,000		
26	Fire	EMS Response	4,810	4,810		
26	Fire	Classes and Coverage	4,684	4,684		
26	Fire	Wildland Fire Reimbursement	339,083	339,083		
26	Fire	EMS Software	6,525	6,525		
26	Fire	Medical Advisor	60,000	60,000		
30	Public Works	FEMA Reimbursement - BOULD47	36,853	36,853		
41	Parks and Recreation	FEMA Reimbursement - BOULD04	4,738	4,738		
41	Parks and Recreation	FEMA Reimbursement - BOULD39	2,452	2,452		
61	Human Services	Sr Foundation Grant	5,000	5,000		
61	Human Services	Silver Sneakers	24,000	24,000		
61	Human Services	Encore	2,000	2,000		
61	Human Services	FRS Fees and donations	24,000	24,000		
65	Housing	BHP Pilot Payment	12,438	12,438		
72	Community Planning & Sustainat	CDBG-DR Resiliency Planning Grant	75,625	75,625		
		Budget Supplemental(s) from Reserves				
4	City Manager	EETax-BVSD Boulder High School CLASS: Collaborate, Learn, Attend & Study to	27,000		27,000	
4	City Manager	EETax-BVSD Casey Middle School Community Learning Center	25,000		25,000	
4	City Manager	EETax-BVSD Whittier Elementary School Best Practices in Social Emotional Learr	26,155		26,155	
4	City Manager	EETax-BVSD Whittier Elementary School Writing Project	20,155		20,155	
4	City Manager	EETax-Boulder Institute for Psychotherapy & Research School Readiness for At-R	26,155		26,155	
4	City Manager	EETax-Early Childhood Education Council of Boulder County Touchpoints Training	50,061		50,061	
4	City Manager	EETax-I Have A Dream Foundation DREAM BIG Project	91,155		91,155	
4	City Manager	EETax-Voices For Children Special Truancy Advocate	16,157		16,157	
21	Police	Federal Asset Forfeiture	110,700		110,700	
		Negative Appropriation				
29	Pensions	Fire Pension Adjustment	(93,108)		(93,108)	
61	Human Services	13/14 BVSD Prevention & Intervention Technical Adjustment (1st ATB)				(4,500)
61	Human Services	2014 Bldr Co CCAP Provider Training grant Technical Adjustment (1st ATB)				(10,000)
61	Human Services	13/14 Infant Toddler Quality Improvement & Availability grant	(2,250)	(2,250)		
61	Human Services	13/14 United Way grant	(496)	(496)		
61	Human Services	13/14 21st Century Learning Center (CLC) grant	(8,366)	(8,366)		
61	Human Services	14/15 BVSD Prevention & Intervention grant	(50,247)	(50,247)		
		Transfers From Other Funds				
	Citywide	Airport Interfund Loan Repayment				25,000
	Citywide	Transfer From Recreation Activity Fund-correction FEMA reimbursement				11,000
		Transfers to Other Funds				
26	Fire	Transfer Vendor Delivery rebate to Fleet Replacement Fund	10,750	10,750		
	Citywide	Transfer to Telecommunications Fund	340,000		340,000	
	Citywide	Transfer out - Photo Radar Revenue to Transportation Fund	63,057		63,057	

REQUEST BY FUND AND DEPT

Fund/ Dept#	Dept Title	Type / Item	Carryover/ Budget Supplemental	Source: Additional Revenue	Source: Fund Balance	Increase (Decrease) in Revenue Only
	Citywide	Capital Development Interfund loan repayment - 13th St Cleanup	516,550		516,550	
		Subtotal	**$ 4,128,202**	**$ 1,611,943**	**$ 2,516,259**	**$ 21,500**
CAPITAL DEVELOPMENT FUND						
		Transfer(s) from Other Funds				
30	Public Works	Capital Development Interfund loan repayment - 13th St Cleanup				516,550
		Subtotal	**$ -**	**$ -**	**$ -**	**$ 516,550**
PLANNING & DEVELOPMENT SERVICES						
		Budget Supplemental from Additional Revenue				
72	Community Planning & Sustainat	2014 CLG Grant	$ 1,500	$ 1,500		
		Subtotal	**$ 1,500**	**$ 1,500**	**$ -**	**$ -**
.25 CENT SALES TAX (1995 Ballot Issue)						
		Budget Supplemental(s) from Additional Revenue				
41	Parks and Recreation	Insurance proceeds- Flat Iron Event Center flood related projects	163,378	163,378		
		Negative Appropriation - Additional Revenue				
41	Parks and Recreation	FEMA Reimbursement - DAC Adjustment BOULD04	(3,250)	(3,250)		
41	Parks and Recreation	FEMA Reimbursement - Force Account Adjustment BOULD04	(4,738)	(4,738)		
		Subtotal	**$ 155,390**	**$ 155,390**	**$ -**	**$ -**
LIBRARY FUND						
		Budget Supplemental(s) from Fund Balance				
46	Library	2013 State Grant	1,947		1,947	
		Budget Supplemental(s) from Additional Revenue				
46	Library	Adjustment to Overdrive Fee Collection - MARC Record Cost Sharing	1,900	1,900		
46	Library	Bookshop Sales	13,833	13,833		
46	Library	Carnegie Photos	3,727	3,727		
46	Library	Flatirons Consortium	70,379	70,379		
46	Library	Boulder Library Foundation Grant	4,313	4,313		
			$ 96,099	**$ 94,152**	**$ 1,947**	**$ -**
RECREATION ACTIVITY FUND						
		Budget Supplemental(s) from Additional Revenue- Grants				
41	Parks and Recreation	Scholl Grant	9,500	9,500		
41	Parks and Recreation	Ironman Fun Run donation	700	700		
41	Parks and Recreation	Boulder County Inclusion Grant	16,427	16,427		
41	Parks and Recreation	Summer Fun	2,853	2,853		
		Transfer to Other Funds				
41	Parks and Recreation	Transfer of Interest to General Fund	11,000	11,000		
		Subtotal	**$ 40,480**	**$ 40,480**	**$ -**	**$ -**
OPEN SPACE FUND						
		Budget Supplemental(s) from Additional Revenue				
52	Open Space & Mtn Parks	CSFS Flagstaff Road 2014	15,474	15,474		
52	Open Space & Mtn Parks	Flood Repair on Flagstaff Road	15,000	15,000		
		Subtotal	**$ 30,474**	**$ 30,474**	**$ -**	**$ -**
AIRPORT FUND						
		Transfer to Other Fund				
30	Public Works	Airport Loan Repayment	25,000		25,000	
		Subtotal	**$ 25,000**	**$ -**	**$ 25,000**	**$ -**
TRANSPORTATION FUND						
		Budget Supplemental(s) from Additional Revenue				
30	Public Works	Foothills Operational Improvements/CDOT traffic signal replacement	50,000	50,000		
30	Public Works	SRTS Hanover	270,276	270,276		
		Transfer(s) from Other Funds				
30	Public Works	Transfer in - Photo Radar Revenue from General Fund				63,057
		Subtotal	**$ 320,276**	**$ 320,276**	**$ -**	**$ 63,057**
COMMUNITY DEVELOPMENT BLOCK GRANT						
		Budget Supplemental(s) from Additional Revenue				
61	Human Services	2014 CDBG grant Adjust to appropriate federal grant levels	5,385	5,385		
65	Housing	2014 CDBG grant Adjust to appropriate federal grant levels	31,146	31,146		
		Subtotal	**$ 36,531**	# **$ 36,531**	**$ -**	**$ -**

REQUEST BY FUND AND DEPT

Fund/ Dept#	Dept Title	Type / Item	Carryover/ Budget Supplemental	Source: Additional Revenue	Source: Fund Balance	Increase (Decrease) in Revenue Only
HOME FUND						
		Budget Supplemental(s) from Additional Revenue				
65	Housing	Adjust to appropriate federal grant levels	128,753	128,753		
65	Housing	Program Income Revenue Adjustment	19,999	19,999		
		Subtotal	**$ 148,752**	**$ 148,752**	**$ -**	**$ -**
BOULDER JUNCTION IMPROVEMENT FUND						
		Budget Supplemental(s) from Additional Revenue				
30	Transportation	Boulder Junction survey reimbursement	7,805	7,805		
		Subtotal	**$ 7,805**	**$ 7,805**	**$ -**	**$ -**
WATER UTILITY FUND						
		Budget Supplemental(s) from Fund Balance				
30	Public Works	Flood Recover Repair Work	765,000		765,000	
30	Public Works	Sunshine Transmission Line Replacement	850,000		850,000	
30	Public Works	Water Rights Consulting Costs	81,000		81,000	
30	Public Works	Ditch Assessment Charges	80,000		80,000	
		Subtotal	**$ 1,776,000**	**$ -**	**$ 1,776,000**	**$ -**
WASTEWATER UTILITY FUND						
		Budget Supplemental(s) from Fund Balance				
30	Public Works	Flood Recover Repair Work	700,000		700,000	
		Subtotal	**$ 700,000**	**$ -**	**$ 700,000**	**$ -**
STORMWATER AND FLOOD MANAGEMENT UTILITY FUND						
		Budget Supplemental(s) from Additional Revenue				
30	Public Works	Boulder Creek Watershed Grant	45,000	45,000		
		Subtotal	**$ 45,000**	**$ 45,000**	**$ -**	**$ -**
TELECOMMUNICATIONS FUND						
		Budget Supplemental(s) from Fund Balance				
15	Information Technology	Fiber Replacement	18,182		18,182	
		Transfer(s) from Other Funds				
15	Information Technology	Zayo Group 2013 expenses	187,014	187,014		152,986
		Subtotal	**$ 205,195**	**$ 187,014**	**$ 18,182**	**$ 152,986**
WORKER COMPENSATION INSURANCE FUND						
		Budget Supplemental(s) from Fund Balance				
14	Finance	Adjust worker compensation	200,000		200,000	
		Subtotal	**$ 200,000**	**$ -**	**$ 200,000**	**$ -**
COMPENSATED ABSENCES FUND						
		Budget Supplemental(s) from Fund Balance				
14	Finance	Adjust compensated absences	295,000		295,000	
		Subtotal	**$ 295,000**	**$ -**	**$ 295,000**	**$ -**
FLEET REPLACEMENT FUND						
		Transfer from Other Funds				
30	Public Works	Transfer From General Fund - Vendor Delivery penalty (Fire)				10,750
		Subtotal	**$ -**	**$ -**	**$ -**	**$ 10,750**
		Total General Fund	4,128,202	1,611,943	2,516,259	21,500
		Total Restricted Funds	4,083,504	1,067,375	3,016,129	743,343
		Total All Funds	**$ 8,211,705**	**$ 2,679,318**	**$ 5,532,388**	**$ 764,843**

ATTACHMENT D

2014 FUND ACTIVITY SUMMARY
CARRYOVER AND 1ST BUDGET SUPPLEMENTAL OF 2014

	At January 1, 2014			Appropriation Ordinance February 18, 2014		Carryover & 1st Budget Supplemental		2nd Budget Supplemental		Projected Dec 31, 2014
FUND	Unreserved Fund Balance	Original Estimated Revenues (Including Xfers In)	Original Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Appropriations	Increase in Estimated Revenues	Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Appropriations (Including Xfers Out)	Fund Balance
General	39,354,424	115,046,180	115,683,502	2,000,000	2,000,000	761,478	7,934,027	1,633,443	4,128,202	29,049,795
Capital Development	2,943,508	605,329	373,105				111,561	516,550		3,580,721
Lottery	1,509,712	837,254	836,000				1,058,946			452,020
Planning and Development Services	7,720,841	9,176,226	10,517,645			120,000	872,343	1,500	1,500	5,627,079
Affordable Housing	19,137,870	1,430,131	1,417,350				12,661,539	0		6,489,113
Community Housing Assistance Program	2,045,390	2,314,902	2,306,005				2,009,913			44,374
.25 Cent Sales Tax	3,433,521	7,637,127	7,575,342			184,136	2,723,396	155,390	155,390	956,045
Library	3,010,338	7,629,003	7,629,003			19,238	1,832,125	94,152	96,099	1,195,504
Recreation Activity	1,511,370	9,946,385	10,269,708			70,425	70,625	40,480	40,480	1,187,847
Climate Action Plan	1,222,833	1,845,600	1,845,600				873,432			349,401
Open Space and Mountain Parks	17,032,351	28,209,965	27,319,312				4,685,777	30,474	30,474	13,237,227
Airport	86,000	0	0				0		25,000	61,000
Transportation	12,386,735	28,728,591	31,421,772	4,500,000	4,500,000	16,189,578	19,605,014	383,333	320,276	6,341,176
Transportation Development	1,748,596	676,592	917,490				1,191,363			316,335
Community Development Block Grant (CDBG)	0	684,180	684,180			961,074	961,074	36,531	36,531	0
HOME Investment Partnership Grant	0	811,331	811,331			1,554,916	1,554,916	148,752	148,752	0
Permanent Parks and Recreation	2,266,055	2,513,790	2,783,289			110,496	1,729,928	0		377,124
Fire Training Center Construction	46,295	0	0				42,351			3,944
Boulder Junction Improvement	1,511,952	1,793,951	1,543,944			59,210	1,772,337	7,805	7,805	48,832
2011 Capital Improvement	34,004,397	0	0				33,700,268			304,128
Water Utility	34,341,311	27,803,454	26,503,491			300,000	5,501,072	0	1,776,000	28,664,203
Wastewater Utility	12,510,147	15,120,245	16,039,376			201,525	2,252,569	0	700,000	8,839,972
Stormwater/Flood Management Utility	16,203,856	8,361,781	13,925,314			949,950	10,959,381	45,000	45,000	630,892
Telecommunications	1,323,316	723,262	730,326				3,756	340,000	205,195	1,447,301
Worker's Compensation Insurance	1,803,122	1,534,213	1,817,292				541		200,000	1,319,501
Compensated Absences	1,732,116	0	0				0		295,000	1,437,116
Fleet	10,566,149	10,036,135	11,159,324				751,878	10,750	0	8,701,832
Computer Replacement	6,678,894	1,816,128	1,891,092				19,075			6,584,855
Equipment Replacement	4,132,852	802,331	1,953,147							2,982,036
Facility Renovation and Replacement	10,678,886	3,893,892	3,544,617			414,077	8,331,262			3,110,976

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: November 18, 2014

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only, Ordinance No. 8015 amending Chapter 6-4, B.R.C. 1981, adding a new section 6-4-3.5 "Smoking Prohibited in Public Places," including electronic smoking devices in the definition of smoking, and setting forth related details.

PRESENTER/S
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Maureen Rait, Executive Director of Public Works
Jeff Dillon, Director of Parks and Recreation
Sandra Llanes, Senior Assistant City Attorney
Lisa Martin, Urban Parks Manager
Eric M. Ameigh, Public Works Projects Coordinator

EXECUTIVE SUMMARY
In January of 2014, council provided staff with general direction to develop a proposal to ban smoking in parks, on open space, and in other public places that would further council's goal of making Boulder as healthy and smoke free as possible. In response, an interdepartmental staff team developed a draft ordinance. After consulting numerous boards and commissions and soliciting council feedback on the draft ordinance at a Sept. 23 study session, staff has refined the ordinance for formal council consideration.

The existing code prohibits smoking in buildings (with some exceptions) and within fifteen feet of any entryway including patios. The proposed ordinance (see Attachment A) extends the ban to public outdoor spaces such as open space, multi-use paths, parks, within the downtown Business Improvement District, within 25 feet of transit stops, and within a defined area surrounding Boulder High School. In addition, the definition of smoking was expanded to include electronic smoking devices, also known as electronic cigarettes or e-cigs.

The Council Agenda Committee also requested that staff include an option for an amended smoking ordinance that did not include a ban on electronic smoking devices,

which has been provided as Attachment B. Staff recommends that council pass both versions on first reading. Council will then be able to consider whether to include electronic cigarettes after having the benefit of a public hearing on second reading. If both versions are passed on first reading, council can then chose one to pass on second reading and avoid the necessity of a third reading.

Second reading has been scheduled for Jan. 20, 2015 due to near-term demands on the 2014 council calendar. If council passes the ordinance at second reading, it will become effective on Feb. 20, 2015. Law enforcement personnel will provide warnings and education from Feb. 20 through Apr. 15 and then begin writing tickets as needed. A robust public information campaign will commence during the first quarter of 2015 to inform the public about the expanded smoking ban before enforcement begins.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff requests council consideration of this matter and action in the form of the following motion:

Motion for the introduction, first reading and consideration of an ordinance amending Chapter 6-4, B.R.C. 1981, adding a new section 6-4-3.5 "Smoking Prohibited in Public Places," including electronic smoking devices in the definition of smoking, and setting forth related details.

BOARD AND COMMISSION FEEDBACK

Significant board and commission feedback helped to shape the ordinance. In addition to board and commission input, the proposed ordinance reflects the changes requested by council at its Sept. 23 study session. The council-accepted summary of the Sept. study session has been distributed to all relevant boards and commissions.

PUBLIC FEEDBACK

Public feedback on the proposal to expand the ban on smoking has been somewhat mixed. Many positive comments have been made although opposition to the inclusion of electronic smoking devices has emerged.

Members of the public have spoken against the inclusion of electronic cigarettes or other "vaping" devices on the grounds that there is no demonstrated second hand effect and that they are successfully used for smoking cessation. As of this writing, a change.org petition asking council to exempt vaping devices has gathered 360 signatories, though many of those are not city residents.

BACKGROUND

At a study session on Jan. 28, 2014, council provided staff with general direction to develop a proposal to ban smoking in parks, on open space, and in other public places that would further council's goal of making Boulder as healthy and smoke free as

possible. In addition, council directed staff to do its best to insure the proposed smoking ban would be enforceable. Staff was directed to take the eventual proposal to relevant boards and commissions before returning to council later in the year for consideration of a proposal.

The staff team responded to council's direction with a proposed ordinance that would ban smoking in city parks and recreation facilities (with the exception of Flatirons Golf Course and the Chautauqua Area), on city open space and mountain parks, along all multi-use paths, and in much of downtown Boulder. Feedback was sought from boards and commissions in the areas affected by the proposed ordinance. In the time between the gathering of board and commission comments and the Sept. 23 council study session, a few issues developed that resulted in changes to the original proposal.

First, after numerous questions from boards and commissions, and following additional staff research, staff added electronic cigarettes to the ban. This change occurred in advance of the study session (see the study session memo). Second, in the days leading up to the study session, staff determined that Chautauqua and the Flatirons Golf Course, which were originally excluded, should be added to the ban. Board members and staff at both the Colorado Chautauqua Association and the Parks and Recreation Department supported the additions. Finally, also in the days leading up to the study session, council and staff became aware that many smokers who had been displaced from the municipal campus by the city manager's no-smoking rule, implemented in early 2014, had relocated onto or near Boulder High School property. Understandably, this increase in smoking on or near school property was a cause for concern. In response, staff developed a short term solution to ban smoking by city manager rule in a defined area around Boulder High and also committed to adding the area to the ordinance that would ban smoking permanently. On Oct. 27, following a three week public comment period, the city manager signed the rule and it is now in effect.

These desired changes, along with others, were confirmed by council at the study session (see the full study session summary, item 3A). In summary, they were:

- Include Chautauqua;
- Include Flatirons Golf Course;
- Include the area around Boulder High School;
- Increase the smoke free area around transit stops from 15 to 25 feet; and
- Include the alleys within the boundaries of the downtown Business Improvement District

ANALYSIS

In response to the feedback from boards, commissions, and city council, a few specific changes have been made in the current version of the ordinance. These include the addition of electronic cigarettes and the inclusion of Flatirons Golf Course and Chautauqua in the area subject to the ordinance.

In addition, following the Sept. 23 study session, the exemption for alleys within the Business Improvement District has been removed. The area around Boulder High School has also been defined and included in the area subject to the ordinance. And finally, per council's direction, the buffer around transit stops has been increased to 25 feet in the updated version of the ordinance.

Staff, in cooperation with the Boulder County Department of Public Health, continues to support the inclusion of electronic smoking devices in the ordinance. Electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products. The Federal Food and Drug Administration has not yet provided any definitive guidance on e-cigarettes so consumers do not know the potential risks of their use. However, according to extensive secondary research by Boulder County Public Health staff, e-cigarette vapor has been proven to contain more than just water; it often includes harmful or potentially harmful chemicals.

In addition, there is the potential for children to associate the use of electronic smoking devices with a normative or healthy lifestyle. The use of electronic smoking devices in smoke-free locations also threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment. For more information on vaping, see Attachment C (Electronic Cigarette Fact Sheet from Boulder County Department of Public Health) and Attachment D (Regulating Toxic Vapor, a fact sheet from California based public health non-profit ChangeLab Solutions which provides information about the public health concerns related to electronic cigarettes and vaping).

NEXT STEPS

If council approves these recommended ordinance changes, the next steps will include:

- Jan. 20, 2015: second reading and public hearing.
- Feb. 20, 2015: ordinance goes into effect if council takes action on Jan. 20.
- Nov. 2014 – Feb. 2015: City staff will work in cooperation with Boulder County Department of Public Health's Tobacco Education and Prevention Program to develop smoking cessation messaging and prepare and draft citywide outreach content for print and online media.
- Feb. 20 – Apr. 15, 2015: The public education campaign and warning period will occur.
- Apr. 15, 2015: The warning period will end and the police department will begin writing tickets if and when necessary.
- Apr. 2015: Open Space and Mountain Parks staff will begin their outreach efforts, which take place seasonally each year.

ATTACHMENTS

Attachment A – Ordinance amending Chapter 6-4, B.R.C. 1981. Includes ban on electronic smoking devices.

Attachment B – Ordinance amending Chapter 6-4, B.R.C. 1981. Does not include ban on electronic smoking devices.

Attachment C – Electronic Cigarette Fact Sheet from Boulder County Department of Public Health.

Attachment D – Regulating Toxic Vapor, a fact sheet from ChangeLab Solutions.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 6-4, B.R.C. 1981, ADDING A NEW SECTION 6-4-3.5 "SMOKING PROHIBITED IN PUBLIC PLACES," INCLUDING ELECTRONIC SMOKING DEVICES IN THE DEFINITION OF SMOKING, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Chapter 6-4, "Regulation of Smoking," B.R.C. 1981, is amended as follows:

6-4-1. Legislative Intent.

The purpose of this chapter is to protect the public health, safety, and welfare by prohibiting smoking in designated public places and prohibiting smoking in buildings open to the public or serving as places of work, except in certain buildings or parts of buildings where the council has determined that smoking should not be prohibited, and fixing the requirements of property owners in this regard. T~~In addition, t~~his chapter also regulates access of minors to tobacco products.

In addition, the city council finds that electronic smoking devices are battery operated devices designed to deliver nicotine, flavor, and/or other substances through a vapor inhaled by the user and that use of electronic smoking devices has increased significantly in recent years. The city council further finds that electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products.

City council finds that the use of electronic smoking devices in smoke-free locations threatens to undermine compliance with smoking regulations and reverse the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment.

Therefore, the purpose of this chapter is also to protect the public health, safety, and welfare by discouraging the use of electronic smoking devices around non-users, especially children; by protecting the public from exposure to secondhand byproducts of electronic smoking devices where they live, work, and play; by facilitating uniform and consistent enforcement of smoke-free air laws; by reducing the potential for re-normalizing smoking in public places and places of employment; and by reducing the potential for children to associate the use of electronic smoking devices with a normative or healthy lifestyle.

6-4-2. Definitions.

The following terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

"Bar" means any indoor area that is operated and licensed as a tavern liquor license under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on premises consumption and where the service of food is secondary to the consumption of such beverages.

"Boulder High School Area" means the entire area between the east curb line of Broadway Street, the south curb line of Arapahoe Avenue, the west curb line of 17th Street, and the north curb line of University Avenue, provided, however, that this definition shall not apply to the public right of way associated with Hillside Road, to moving vehicles traveling on any public right of way in the area described, or unless otherwise prohibited by this Chapter, to real property that is privately owned.

"Building" means any structure enclosed for protection from the weather, whether or not windows or doors are open. If a person leases or possesses only a portion of a building, the term "building" applies to the leasehold or possessory interest as well.

"City Municipal Campus," as used in this Chapter shall mean the entire area between the east curb line of 13th Street, to the east curb line of 9th Street and between the north curb line of Arapahoe Avenue and the south curb line of Canyon Boulevard, provided, however, that this definition shall not apply to moving vehicles on Broadway or 13th Street or, unless otherwise prohibited by this Chapter, to real property that is privately owned.

"Cigar-tobacco bar" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from both the onsite sale of tobacco products and the rental of onsite humidors. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales both from the onsite sale of tobacco products and the rental of onsite humidors, shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition, regardless of sales figures.

"Dwelling," as used in this chapter, means any place used primarily for sleeping overnight and conducting activities of daily living, not including a hotel or motel room or suite or bed and breakfast.

"Downtown Boulder Business Improvement District" is as depicted in Appendix 8-B of Chapter 8-6.

"Electronic smoking device" means an electric or battery-operated device, the use of which resembles conventional smoking, which can be used to deliver substances, including, but not limited to, nicotine, tobacco, or marijuana, to the person using such device. Electronic smoking device shall include, without limitation, an electronic cigarette, cigar, cigarillo, pipe, or hookah. Electronic smoking device shall not include any product approved by the food and drug administration as a drug or medical device that is used in accordance with its purpose.

"Enclosed area," as used in this chapter, means an area which contains a structure made up of a roof and two or more walls regardless of the composition of the walls or roof. This includes, but is not limited to, the following: park shelters, event tents, bus shelters, patio awnings and canopies.

"Entryway" means the outside of any doorway leading into and exiting from a building or enclosed area. "Entryway" also includes the area of public or private property within fifteen feet of the doorway.

"Mall" means the Downtown Boulder Mall as defined in Ordinance No. 4267, as amended by Ordinance No. 4543 and any successor ordinance.

"Public," as used in this Chapter shall mean any property that is city owned; city maintained; city owned and leased to others; designated by the city as a path or trail for bicycles or pedestrians; or a transit stop as defined in this section.

"Public conveyance" means any motor vehicle or other means of conveyance licensed by the Public Utilities Commission of the state for the transportation of passengers for hire, and includes, without limitation, busses, taxicabs, limousine services, and airport passenger services.

"Smoke" or "smoking" means the lighting of any cigarette, cigar, ~~or~~ pipe, or activation of an electronic smoking device, or the possession of any lighted cigarette, cigar, ~~or~~ pipe, or activated electronic smoking device regardless of its composition.

"Tobacco product" means cigarettes, cigars, cheroots, stogies, periques, and other products containing any measurable amount of tobacco, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for both chewing or for smoking in a cigarette, pipe, electronic smoking device or otherwise, or both for chewing and smoking. Tobacco also includes cloves, marijuana, and any other plant matter or product that is packaged for smoking.

"Tobacco store" means a retail business open to the public where alcohol is not sold, if more than eighty-five percent of its gross revenue from that location is from the retail sale of cigarettes and tobacco products or products related to the use of cigarettes and tobacco products.

"Transit Stop," as used in this chapter, means a public conveyance passenger waiting area designated by signage attached to a post and the public right of way around the stop, including but not limited to the bus shelter, and bench.

6-4-3. Smoking Prohibited Within Buildings and Enclosed Areas.

(a) No person shall smoke within any building or enclosed area except in one of the following locations:

(1) In any dwelling. This exception does not extend to a city owned dwelling; or a lobby, common elevator, common hallway or any other common area of a building containing attached dwelling units;

(2) In a hotel/motel room or bed and breakfast guest room rented to one or more guests if the total percentage of such smoking rooms in such hotel/motel or bed and breakfast does not exceed twenty-five percent. This

exception does not extend to a lobby, common elevator, common hallway or any other common area of a hotel/motel or bed and breakfast;

(3) In a tobacco store;

(4) In a cigar-tobacco bar which existed as of December 31, 2005, provided that it does not expand its size or change its location from the size and location in which it existed as of December 31, 2005;

(5) In a building or on property which is occupied by the state of Colorado, the United States government, Boulder County or the Boulder Valley School District which was not designated as a smoke free area by the manager of such area. The city council urges such governmental entities to designate smoke free areas in order to promote full access by the public and protect the health of employees;

(6) In private homes, private residences and private automobiles; not to include any such home, residence or vehicle being used for child care or day care or a private vehicle being used for the public transportation of children or as part of health care or day care transportation; or

(7) In a limousine under private hire.

(b) Unless excepted under subsection (a) of this section, the prohibitions of this chapter apply to all buildings or enclosed areas which serve as places of work, but this subsection (b) neither enlarges nor diminishes the meaning of subsection (a) of this section.

(c) Nothing in this chapter shall prevent an owner, lessee, principal manager or person in control of any place, including, without limitation, any motor vehicle, outdoor area or dwelling, from prohibiting smoking completely in such place, and no person shall fail to abide by such a private prohibition.

6-4-3.5. Smoking Prohibited in Public Areas.

No person shall smoke in a public area:

(a) in the Downtown Boulder Business Improvement District including the Mall;

(b) on any park, parkland or facility;

(c) on any open space and mountain parks property;

(d) on any trail, path or multi-use path and within fifteen feet of curtilage to any trail, path or multi-use path;

(e) within twenty-five feet of a library facility;

(f) within twenty-feet of a transit stop;

(g) within the City Municipal Campus; and

(h) within the Boulder High School Area as defined in this Chapter.

~~**6-4-5.5 Smoking Prohibited on the Mall.**~~

~~No person shall smoke on the Mall.~~

6-4-6. Signs Required to Be Posted.

To advise persons of the existence of "No Smoking" or "Smoking Permitted" areas, no owner, lessee, principal manager or person in control of a building, enclosed area or an establishment within a building shall fail to post signs with letters no less than one inch high or symbols no less than three inches high as follows:

(1) Where smoking is prohibited in the entire establishment, a sign using the words "No Smoking" or the international no-smoking symbol shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building, enclosed area or establishment.

(2) Where certain areas are designated as smoking areas pursuant to this chapter, a sign using the words "No Smoking Except in Designated Areas" shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building or establishment.

(3) In tobacco stores, a sign shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building or establishment using the words "Smoking Permitted: children under eighteen years of age must be accompanied by a parent or guardian."

(4) A sign using the words "No Smoking within fifteen feet of the entryway" shall be posted conspicuously on all entryways of buildings, enclosed areas or establishments.

(5) The requirements of this section do not apply to an exempt dwelling or any public areas designated in section 6-4-3.5.

Section 2. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 3. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of November, 2014.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 6-4, B.R.C. 1981, ADDING A NEW SECTION 6-4-3.5 "SMOKING PROHIBITED IN PUBLIC PLACES," AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Chapter 6-4, "Regulation of Smoking," B.R.C. 1981, is amended as follows:

6-4-1. Legislative Intent.

The purpose of this chapter is to protect the public health, safety, and welfare by prohibiting smoking in designated public places and prohibiting smoking in buildings open to the public or serving as places of work, except in certain buildings or parts of buildings where the council has determined that smoking should not be prohibited, and fixing the requirements of property owners in this regard. T~~In addition, t~~his chapter also regulates access of minors to tobacco products.

6-4-2. Definitions.

The following terms used in this chapter have the following meanings unless the context clearly indicates otherwise:

"Bar" means any indoor area that is operated and licensed as a tavern liquor license under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on premises consumption and where the service of food is secondary to the consumption of such beverages.

"Boulder High School Area" means the entire area between the east curb line of Broadway Street, the south curb line of Arapahoe Avenue, the west curb line of 17th Street, and the north curb line of University Avenue, provided, however, that this definition shall not apply to the public right of way associated with Hillside Road, to moving vehicles traveling on any public right of way in the area described, or unless otherwise prohibited by this Chapter, to real property that is privately owned.

"Building" means any structure enclosed for protection from the weather, whether or not windows or doors are open. If a person leases or possesses only a portion of a building, the term "building" applies to the leasehold or possessory interest as well.

"City Municipal Campus," as used in this Chapter shall mean the entire area between the east curb line of 13th Street, to the east curb line of 9th Street and between the north curb line of Arapahoe Avenue and the south curb line of Canyon Boulevard, provided, however, that this definition shall not apply to moving vehicles on Broadway or 13th Street or, unless otherwise prohibited by this Chapter, to real property that is privately owned.

"Cigar-tobacco bar" means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from both the onsite sale of tobacco products and the rental of onsite humidors. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales both from the onsite sale of tobacco products and the rental of onsite humidors, shall not be defined as a "cigar-tobacco bar" and shall not thereafter be included in the definition, regardless of sales figures.

"Dwelling," as used in this chapter, means any place used primarily for sleeping overnight and conducting activities of daily living, not including a hotel or motel room or suite or bed and breakfast.

"Downtown Boulder Business Improvement District" is as depicted in Appendix 8-B of Chapter 8-6.

"Enclosed area," as used in this chapter, means an area which contains a structure made up of a roof and two or more walls regardless of the composition of the walls or roof. This includes, but is not limited to, the following: park shelters, event tents, bus shelters, patio awnings and canopies.

"Entryway" means the outside of any doorway leading into and exiting from a building or enclosed area. "Entryway" also includes the area of public or private property within fifteen feet of the doorway.

"Mall" means the Downtown Boulder Mall as defined in Ordinance No. 4267, as amended by Ordinance No. 4543 and any successor ordinance.

"Public," as used in this Chapter shall mean any property that is city owned; city maintained; city owned and leased to others; designated by the city as a path or trail for bicycles or pedestrians; or a transit stop as defined in this section.

"Public conveyance" means any motor vehicle or other means of conveyance licensed by the Public Utilities Commission of the state for the transportation of passengers for hire, and includes, without limitation, busses, taxicabs, limousine services, and airport passenger services.

"Smoke" or "smoking" means the lighting of any cigarette, cigar, pipe, or the possession of any lighted cigarette, cigar, or pipe, regardless of its composition.

"Tobacco product" means cigarettes, cigars, cheroots, stogies, periques, and other products containing any measurable amount of tobacco, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for both chewing or for smoking in a cigarette, pipe, or both for chewing and smoking. Tobacco also includes cloves, marijuana, and any other plant matter or product that is packaged for smoking.

"Tobacco store" means a retail business open to the public where alcohol is not sold, if more than eighty-five percent of its gross revenue from that location is from the retail sale of cigarettes and tobacco products or products related to the use of cigarettes and tobacco products.

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(3) In a tobacco store;

(4) In a cigar-tobacco bar which existed as of December 31, 2005, provided that it does not expand its size or change its location from the size and location in which it existed as of December 31, 2005;

(5) In a building or on property which is occupied by the state of Colorado, the United States government, Boulder County or the Boulder Valley School District which was not designated as a smoke free area by the manager of such area. The city council urges such governmental entities to designate smoke free areas in order to promote full access by the public and protect the health of employees;

(6) In private homes, private residences and private automobiles; not to include any such home, residence or vehicle being used for child care or day care or a private vehicle being used for the public transportation of children or as part of health care or day care transportation; or

(7) In a limousine under private hire.

(b) Unless excepted under subsection (a) of this section, the prohibitions of this chapter apply to all buildings or enclosed areas which serve as places of work, but this subsection (b) neither enlarges nor diminishes the meaning of subsection (a) of this section.

(c) Nothing in this chapter shall prevent an owner, lessee, principal manager or person in control of any place, including, without limitation, any motor vehicle, outdoor area or dwelling, from prohibiting smoking completely in such place, and no person shall fail to abide by such a private prohibition.

6-4-3.5. Smoking Prohibited in Public Areas.

No person shall smoke in a public area:

(a) in the Downtown Boulder Business Improvement District including the Mall;

(b) on any park, parkland or facility;

(c) on any open space and mountain parks property;

(d) on any trail, path or multi-use path and within fifteen feet of curtilage to any trail, path or multi-use path;

(e) within twenty-five feet of a library facility;

(f) within twenty-feet of a transit stop;

(g) within the City Municipal Campus; and

(h) within the Boulder High School Area as defined in this Chapter.

~~**6-4-5.5 Smoking Prohibited on the Mall.**~~

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6-4-6. Signs Required to Be Posted.

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(1) Where smoking is prohibited in the entire establishment, a sign using the words "No Smoking" or the international no-smoking symbol shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building, enclosed area or establishment.

(2) Where certain areas are designated as smoking areas pursuant to this chapter, a sign using the words "No Smoking Except in Designated Areas" shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building or establishment.

(3) In tobacco stores, a sign shall be posted conspicuously either on all public entrances or in a position clearly visible on entry into the building or

establishment using the words "Smoking Permitted: children under eighteen years of age must be accompanied by a parent or guardian."

(4) A sign using the words "No Smoking within fifteen feet of the entryway" shall be posted conspicuously on all entryways of buildings, enclosed areas or establishments.

(5) The requirements of this section do not apply to an exempt dwelling or any public areas designated in section 6-4-3.5.

Section 2. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 3. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of November, 2014.

.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, 20__.

.

_____
Mayor

Attest:

_____
City Clerk

K:\CCAD\O-Smoking Ban Citywide-Option B-1st Reading-2171.doc

Electronic Nicotine Delivery Systems (ENDS)

ENDS, including electronic cigarettes (i.e. e-cigarettes, or e-cigs) typically contain a battery-operated heating device that vaporizes a nicotine-containing solution, creating an aerosol that is then inhaled. They may be either disposable or refillable. Using ENDS is commonly referred to as vaping, and the aerosol is often referred to as vapor. Products come in over 7,000 flavors, including food and candy flavors, such as chocolate, strawberry, mint, and piña colada.

HEALTH RISKS

The safety and efficacy of ENDS have not been fully studied, though the World Health Organization has determined that there is sufficient evidence for negative implications in brain development and cautions against use by children, youth, women of reproductive age, and pregnant women. These products are not considered to be safe or effective replacements for other tobacco products.

Recent studies have found that ENDS can contain as much nicotine as a regular cigarette – or more. The liquid nicotine solution is very toxic and can potentially be spilled onto skin or accidentally swallowed.

- Cartridges generally contain up to 20 mg of nicotine. The lethal dose of nicotine for small children is approximately 10 mg.

Consistency in the manufacturing of ENDS and e-juice or e-liquid is a concern. Inconsistencies that could impact health have been found, including differing levels of nicotine from one cartridge to another in the same product.

- U.S. Food and Drug Administration (FDA) analysis of ingredients in a small sample of cartridges from two leading brands found that one contained diethylene glycol, a toxic chemical used in antifreeze, and several others contained carcinogens, including nitrosamines.
- Some electronic devices claim to be nicotine-free. In tests of several of them, however, all but one had measurable levels of nicotine present.
- Refillable ENDS may make it possible to refill cartridges with liquid marijuana or other substances, including homemade e-liquids. Serious injuries have occurred when the devices were modified or filled with liquids that were not compatible with the heating element temperature.

LAWS & REGULATIONS

E-cigarettes are not currently regulated by the FDA. They do not contain any health warnings comparable to FDA-approved nicotine replacement products or conventional cigarettes. It is illegal for youth under 18 to buy or possess them in Colorado; it is also illegal for adults to sell or give them to anyone under 18.

AS NICOTINE REPLACEMENT THERAPY

Nicotine replacement therapy (NRT) is for temporary use as a smoking cessation aid. FDA-approved NRT exists in a variety of forms, including: dermal patches, gum, lozenges, and inhalers. These products all have standardized amounts of nicotine, and undergo rigorous quality control.

ENDS are marketed as a means to avoid discomfort from smoke-free laws, and to continue nicotine use in places where traditional smoking is not allowed. They are not subject to quality control requirements, and have been demonstrated to have wide variability across brands and products, including containing levels of nicotine significantly different from the labelled amount. Continuous exposure to nicotine deepens addiction, and makes quitting nicotine more difficult for current tobacco users. Watching someone else use ENDS has been found to trigger cravings in former smokers, and may increase relapse.

> *"If large numbers of adult smokers become users of both traditional cigarettes and e-cigarettes — rather than using e-cigarettes to quit cigarettes completely — the net public health effect could be quite negative." Dr. Tim McAfee, Director of the Office on Smoking and Health, Center for Disease Control and Prevention (CDC)*

SECONDHAND AEROSOL

Aerosol from ENDS can contain nicotine, heavy metals, nitrosamines, and a variety of other chemicals and ultrafine particulates, depending on the liquid used and the temperature of the heating element. It dissipates faster than secondhand cigarette smoke, though exposure patterns are not well studied. One study has demonstrated that bystanders were exposed to the same level of nictotine as the user, through secondhand aerosol. Though it may be marketed as water vapor, ENDS aerosol has consistently been demonstrated to contain more than water.

YOUTH

Unrestricted advertising, appealing flavors, messages of freedom, rebellion, and discretion, low prices, and ready availability have led to over a quarter of a million middle and high school students that had never smoked a cigarette using e-cigarettes in the United States in 2013. Of those, almost half reported that they intended to use conventional cigarettes in the next year, according to the CDC. Youth respond strongly to advertising, price, and behavior modeling from parents, peers, and community members.

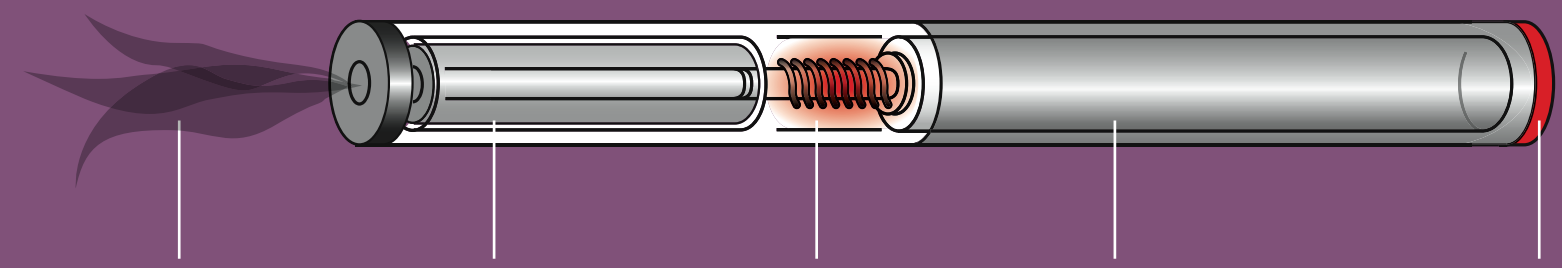
To learn more about ENDS, and other tobacco-related products and issues, please contact Boulder County Tobacco Education and Prevention Partnership (TEPP) staff at 303.413.7524.

This fact sheet provides information about the public health concerns related to electronic smoking devices, the steps that have been taken to regulate electronic smoking devices, and what additional measures communities can take to limit access to and the availability of electronic smoking devices.

Regulating Toxic Vapor

A Policy Guide to Electronic Smoking Devices

Electronic smoking devices (also known as "electronic cigarettes," "e-cigarettes," "electronic nicotine delivery systems," "e-cigars," "e-cigarillos," "e-pipes," "e-hookahs," "hookah pens," etc.) are battery operated devices often designed to look like and be used in a similar manner to conventional tobacco products.[1] Electronic smoking devices are used to inhale a vaporized liquid solution that frequently, though not always, contains nicotine. Because the liquid solution is converted into vapor, electronic smoking device use is sometimes referred to as "vaping," rather than smoking. The increasing popularity of electronic smoking devices, combined with loopholes in some existing tobacco control laws, have the potential to renormalize tobacco use.[2]



Vapor is inhaled by the user and exhaled into the environment putting bystanders at risk of secondhand vapor exposure

Cartridge contains liquid that is converted into vapor

Note: This liquid often comes in flavors that are appealing to youth like chocolate or mint

Atomizer creates vapor from the nicotine solution in the cartridge

Note: More recent designs have combined the atomizer and flavor cartridge

Battery is often rechargeable, typically lithium-ion

LED light comes on during inhalation to mimic the glow of a traditional tobacco product

Policy Rationales for Restricting the Availability & Use of Electronic Smoking Devices

Hazardous Contents

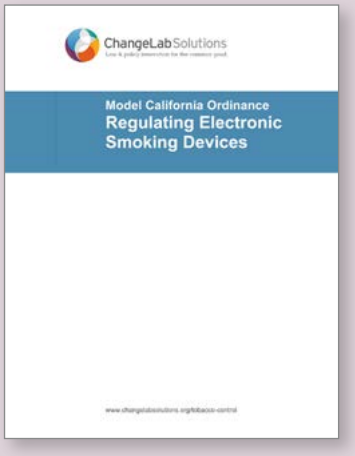
Liquid solutions have addictive levels of nicotine sometimes 20 mg or higher[3] and contain potentially life-threatening carcinogens and toxic chemicals.[4,5] More than one study, including one conducted by the U.S. Food and Drug Administration (FDA), have found that electronic smoking devices contain a number of dangerous substances including tobacco-specific nitrosamines, which are human carcinogens;[6] tobacco-specific impurities suspected of being harmful to humans like anabasine, myosmine, and ß-nicotyrine;[7, 8] and inconsistent labeling of nicotine levels in electronic smoking device products.[9,10] In one instance, diethylene glycol, an ingredient used in antifreeze and toxic to humans, was found.[11]

ChangeLab Solutions
Law & policy innovation for the common good.

Attachment D – Regulating Toxic Vapor, a fact sheet from ChangeLab Solutions.

This fact sheet includes information about model language ChangLab Solutions has developed to assist California cities and counties interested in regulating electronic smoking devices. ChangeLab Solutions' model ordinances offer a variety of policy options that can be tailored to the specific goals and needs of a particular community. For more information, please visit *www.changelabsolutions.org/landing-page/model-policies.*

While ChangeLab Solutions' *Model California Ordinance Regulating Electronic Smoking Devices* was designed for California communities, it can be adapted for use in other states. It is important to carefully review the existing law in your state, to understand the allowable regulations of other tobacco products, like electronic smoking devices. The best way to do this is to consult with an attorney licensed in your jurisdiction.



Exposure to Secondhand Vapor

The composition of the vapor emitted by an electronic smoking device has been found to contain several carcinogens, such as formaldehyde, acetaldehyde, lead, nickel, and chromium.[12,13,14] Additionally, electronic smoking devices have been found to contain other hazardous substances such as $PM_{2.5}$, acrolein, tin, toluene, and aluminum,[15,16,17] which are associated with a range of negative health effects such as skin, eye, and respiratory irritation,[18,19, 20,21] neurological effects,[22] damage to reproductive systems,[23] and even premature death from heart attacks and stroke.[24]

Though the quantity of these harmful compounds contained in the vapor emitted by electronic smoking devices is often less than what is found in traditional cigarette smoke,[25,26] at least sodium, iron, aluminum, and nickel have been found in *higher* concentrations in emitted vapor than in cigarette smoke.[27,28]

This is especially troubling given that more than one peer reviewed study has concluded that exposure to vapor from a electronic smoking devices may cause passive or secondhand vaping.[29, 30, 31]

Rapid Growth in Popularity

There are over 400 brands of electronic smoking devices on the market.[32] Awareness levels of electronic smoking device products among the general population has increased dramatically, from between 40.8 and 44.1 percent in 2010, to 60.9 percent in 2011.[33] Further, the number of current smokers who have ever used an electronic smoking device more than doubled between 2010 and 2011, with 21.2 percent of current smokers reporting they have tried electronic smoking devices in 2011.[34]

Youth Appeal

The increase in use of electronic smoking devices among youth grades 6 to 12 is troubling. In 2012, 6.8 percent of all youth between 6th and 12th grade reported trying electronic smoking devices and 10 percent of high school students have tried them.[35]

Between 2011 and 2012, the percentage of all youth in grades 6 to 12 who had tried electronic smoking devices doubled.[36]

The solutions used in electronic smoking devices are often made in tempting flavors like chocolate and mint and are promoted as being healthy and environmentally friendly,[37] making them especially alluring to youth.[38] Recent national analyses of electronic smoking device users have indicated that young adults tend to be more likely to have tried them,[39] and that the perception of electronic smoking devices among smokers is that they are a safe alternative to cigarettes.[40]

Some Electronic Smoking Devices Do Not Contain Tobacco

While many electronic smoking devices contain nicotine, some devices claim to be 100 percent nicotine and tobacco free.

Determining which electronic smoking devices are truly nicotine free may be difficult for local tobacco control enforcement, given that manufacturers are not required to disclose the ingredients that make up the liquid solution used in electronic smoking devices. Further, product testing has revealed that the information and ingredients listed on the packaging of electronic smoking devices can be misleading or incorrect.[41]

In some cases, vapor lounges or individuals create their own liquid solutions, and there is no way to be sure these homemade solutions are properly labeled or even safe for consumption. For these reasons, local jurisdictions may wish to regulate all electronic smoking devices, whether or not they contain nicotine. If so, communities will need to craft their policies carefully to ensure that all the products they wish to regulate are adequately covered (see the section, *Policy Options for Regulating the Use & Sale of Electronic Smoking Devices,* on page 5).

Renormalization of Tobacco Use

As electronic smoking devices are used in places where tobacco products' use has previously been prohibited, such as workplaces, restaurants, and bars, and as marketing of electronic smoking devices expands into outlets where other tobacco products are prohibited such as television commercials,[42] electronic smoking devices have the potential to renormalize tobacco use. By encouraging experimentation with tobacco, especially among youth, electronic smoking devices have the potential to increase nicotine addiction among young people[43] and serve as a gateway to other tobacco products.[44]

Lack of Regulations Ensuring Safety & Quality Control

Electronic smoking devices have often been represented as a safe alternative to cigarettes. However, there are significant concerns about the safety of these products. For example, the vapor inhaled by electronic smoking device users often contains nicotine levels that are inconsistent with their labeling. Two separate studies found that the nicotine levels of two individual products from different manufacturers were over 20 percent higher than what their labeling indicated.[45,46]

Additionally, some cartridges can be refilled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine.[47] A recent analysis of electronic smoking device refill liquids found that "[t]he bottles of e-liquid are dangerous as they contain up to 720 mg of nicotine," which is a potentially lethal amount of nicotine.[48]

Poisonings from electronic smoking devices have increased dramatically in the last three and half years from "one [a month] in September 2010 to 215 a month in February 2014."[49]

Analysis of reports of poisonings from electronic smoking devices finds that people are more likely to report adverse health effects when compared to traditional cigarettes.[50]

Clinical studies about the safety and efficacy of electronic smoking devices for their intended use have not been submitted to the FDA.[51] This means that consumers have no way of knowing whether electronic smoking devices are safe for their intended use, what types or concentrations of potentially harmful chemicals the products contain, and what dose of nicotine the products deliver.

Public Health Support for the Regulation of Electronic Smoking Devices

The World Health Organization has strongly advised consumers against the use of electronic smoking devices until they are "deemed safe and effective and of acceptable quality by a competent national regulatory body."[52] The World Medical Association has determined electronic smoking devices "are not comparable to scientifically-proven methods of smoking cessation" and that "neither their value as therapeutic aids for smoking cessation nor their safety as cigarette replacements is established.[53]

Moreover, the State of California's Tobacco Education and Research Oversight Committee (TEROC) "opposes the use of [electronic smoking devices] in all areas where other tobacco products are banned."[54]

The Legal & Regulatory Landscape

In many places, electronic smoking devices are completely unregulated. However, there is a growing patchwork of laws throughout the U.S. that regulate how electronic smoking devices are sold and, in some cases, where they are used. Here is an overview of the laws governing electronic smoking devices, as of May 2014. The current gaps in regulation are highlighted and the policy options available to local governments are explained.

At the Federal Level

As of February, 2014, the only existing federal restrictions on electronic smoking device use are as follows:

- The U.S. Department of Transportation interprets existing federal regulations against smoking on airplanes to apply to electronic smoking devices.[55]
- The U.S. Air Force and U.S. Navy have both stated that their existing regulations governing tobacco use will apply to electronic smoking devices.[56, 57]

The 2009 Family Smoking Prevention and Tobacco Control Act ("the Tobacco Control Act"), which regulates the manufacturing and marketing of tobacco products, does not apply to electronic smoking devices, nor are electronic smoking devices subject to federal taxes. Therefore, no federal regulations currently exist for electronic smoking devices. There are also no federal regulatory standards for safety or quality control for electronic smoking devices before they can be sold to consumers. Under federal law, it is entirely legal to sell electronic smoking devices to children. Electronic smoking device advertisements are routinely seen on television, where conventional tobacco advertisements have not been seen for decades, and electronic smoking device manufacturers may freely introduce new products that have not been evaluated for safety.

The FDA issues the "deeming rule"

On April 25, 2014, the FDA took a significant step toward regulating these products by releasing its proposed "deeming rule," which would extend the agency's regulatory authority to a variety of tobacco products, including electronic smoking devices.[58] Although the Tobacco Control Act does not explicitly list all tobacco products by name, Congress gave FDA authority to issue a regulation deeming that any or all tobacco products are covered by the Tobacco Control Act. If the proposed deeming rule is finalized, it would extend several provisions of the Tobacco Control Act to electronic smoking devices. These provisions include the federal prohibition on sales to minors, the federal prohibition on free sampling, federal warning label requirements, and the requirement that tobacco manufacturers register with the FDA and seek the agency's review of new tobacco products.

Until such time as the deeming rule is adopted, the FDA's Center for Tobacco Products does not have authority to regulate the sale or use of electronic smoking devices as tobacco products. The FDA Center for Drug Evaluation and Research has limited authority to regulate electronic smoking devices as drugs or devices, but only if they are marketed for therapeutic purposes.[59]

The popularity of electronic smoking devices has boomed, and calls to regulate them have increased at all jurisdictional levels.

The FDA's proposed deeming rule must go through a public notice and comment process before the agency can implement the rule, and the FDA will likely make changes to the rule in response to this process. Given the large volume of comments the agency has received, it will take at least a year, if not longer, for the FDA to implement the final rule. Thus, it is unclear when the FDA will release final regulations on electronic smoking devices.

The Deeming Rule & Preemption

Many jurisdictions have questions about whether the FDA deeming rule would affect state or local laws. The proposed deeming rule makes clear that state and local governments can continue to adopt and enforce laws relating to tobacco product sales, use, distribution, and advertising (within constitutional limitations). According to the deeming rule, these state and local laws can be "in addition to, or more stringent, than the requirements of the Tobacco Control Act and its implementing regulations."[60] For example, the deeming rule would not affect states' and localities' ability to pass laws regulating where electronic smoking devices can be used, taxing electronic smoking devices, or requiring retailers to obtain a local license to sell electronic smoking devices. The deeming rule does identify some areas where local and state action could be preempted if the rule is finalized as written, including laws relating to manufacturing standards and labeling.

At the State Level

In California, it is illegal to sell or otherwise furnish an electronic smoking device to a person under 18 years of age. For purposes of this state law, an electronic device is defined as a device that can deliver a dose of nicotine to the user through a vaporized solution.[61] Local law enforcement agencies have the general authority to enforce this law under California Penal Code Section 830.1. Violators are subject to a fine of up to $200 for a first violation; $500 for a second violation; and $1,000 for a third or subsequent violation.

The California smokefree workplace law, by contrast, does not expressly prohibit the use of electronic smoking devices in enclosed workplaces.[62]

Local Policy Options for Regulating the Use & Sale of Electronic Smoking Devices

Regulating Use

Because the California state smokefree workplace law does not expressly prohibit the use of electronic smoking devices in places covered by that law,[63] many California communities are interested in prohibiting electronic smoking device use wherever conventional smoking is already prohibited. As discussed, it has been found that electronic smoking device vapor contains a variety of substances that are known to be toxic or carcinogenic. When electronic smoking devices are used in public places, bystanders may be involuntarily exposed to those chemicals resulting from secondhand vapor.

There is also considerable concern that the use of electronic smoking devices in places that are covered by a smokefree air law hinders enforcement of those laws.[64] Certain types of electronic smoking devices are often hard to distinguish from conventional cigarettes, and the confusion that results from inconsistently allowing their use in places where smoking is prohibited could have a chilling effect on enforcement of those laws altogether.[65] Relaxed enforcement of smokefree air laws could open the door for people to smoke conventional tobacco products in violation of smokefree laws without fear of consequences. Allowing electronic smoking device use in places that are otherwise smokefree also bears the risk of "re-normalizing" tobacco use, giving the mistaken impression that electronic smoking devices are safe or healthy rather than simply "less dangerous" than conventional cigarettes.[66]

There are different ways for local governments to regulate electronic smoking device use. The most appropriate solution depends on whether there is an existing law in the jurisdiction that regulates smoking, and what the scope of any such law is.

The first step in regulating electronic smoking device use is therefore to review your local laws that govern smoking. In some cases, electronic smoking devices may actually be covered by an existing smokefree law.

To determine whether electronic smoking devices are covered by an existing smokefree law, look to see if the ordinances definition of "smoke" is broad enough to cover vapor or aerosol, or if the definition of "smoking" expressly includes the use of electronic smoking devices, electronic cigarettes, electronic nicotine delivery systems, personal vaporizers, etc.

If it is determined that a jurisdiction's existing smokefree air law already applies to electronic smoking devices, the next step is to determine if that law is being enforced. It's possible that law enforcement may not be aware that the law applies to electronic smoking devices.

Amending an existing smokefree air law

For California jurisdictions that already have a local smokefree air law, one way to address electronic smoking devices is to amend the definitions of "smoke" and "smoking" in the law to explicitly include "electronic smoking device vapor" and "electronic smoking device use." For model definitions of "smoke" and "smoking" that cover electronic smoking devices, see ChangeLab Solutions' *Model Comprehensive Smokefree Places Ordinance.*[70] Advocates who take this approach should be mindful of the fact that opening up any law to add an amendment gives potential opponents the opportunity to weaken it. For example, opponents might try to narrow the scope of places where smoking is prohibited.

More than one peer reviewed study has concluded that exposure to vapor from a electronic smoking devices may cause passive or secondhand vaping.[67,68,69]

In California, many cities and counties have smokefree air laws that cover some outdoor areas, but do not cover indoor workplaces, which are smokefree under state law. If one of these cities were to amend its ordinance to cover electronic smoking devices merely by updating its definitions of "smoke" and "smoking", it would still not cover electronic smoking device use in indoor workplaces because the change still only applies to those places covered by *local* law. For this reason, in addition to updating its definitions of "smoke" and "smoking," the jurisdiction would also need to amend its local smokefree air law to expressly prohibit the use of electronic cigarettes in those places of employment covered by the state smokefree workplace law.

Adopting a stand-alone law

Another option is to pass a stand-alone law specifically to prohibit electronic smoking device use in any place where smoking is prohibited by law. The advantage of this approach is that it provides a catch-all to regulate electronic smoking device use in exactly the same way as conventional tobacco use, regardless of whether existing smokefree air laws are local, state, or federal, and would apply prospectively to any future smokefree air laws passed in that jurisdiction. This approach does not require any existing law to be amended, reducing the likelihood that opponents could use the opportunity to weaken or repeal it. For model language prohibiting electronic smoking device use in places where smoking is prohibited, see ChangeLab Solutions' *Model California Ordinance Regulating Electronic Smoking Devices*.[71]

Adopting a new smokefree air law & working with private companies

Finally, there are some jurisdictions where there may not yet be a local smokefree air law. These jurisdictions are completely free to include electronic smoking devices in any smokefree air law drafted in the future.

It's important to remember that many locations are also subject to voluntary smokefree policies created by individual property owners/managers or businesses. For example, the Starbucks Coffee Company prohibits smoking in all outdoor seating areas in its cafes.[72] Many hotel chains, such as Marriot and Westin, have also adopted policies to prohibit smoking entirely on their premises.[73] Private entities have a free hand to prohibit electronic smoking device use, and communities can work with them to develop or enhance such policies.

To help determine the most appropriate solution for a specific community to address electronic smoking device use, ChangeLab Solutions has developed a visual flow chart, which is available on our website at: *www.changelabsolutions.org/publications/e-cig-ord.*

Regulating Sales

In California, localities can regulate how electronic smoking devices are sold in a variety of ways, up to and including prohibiting the sale of electronic smoking devices altogether. In practice, when deciding precisely how to regulate electronic smoking devices, many jurisdictions seek to achieve consistency with existing laws governing conventional cigarettes and other tobacco products. For example, jurisdictions may: prohibit the sale of electronic smoking devices to minors and require retailers to check ID; require retailers to keep electronic smoking device paraphernalia/accessories behind the counter; and prohibit the distribution of free samples of electronic smoking devices.

As of May 2014 "71 cities and counties in California [require] retailers to obtain a license to sell e-cigarettes."[74]

Any jurisdiction wishing to regulate sales of electronic smoking devices should first become familiar with the scope of existing laws regarding tobacco. It is possible that existing laws regulating tobacco sales (e.g. a local tobacco retailer licensing law) already apply to electronic smoking devices. To determine whether an existing sales restriction applies to electronic smoking devices, look to the definitions in the law ("tobacco," "tobacco product," etc.). In many cases, a law has a very inclusive definition of tobacco that includes all products that contain nicotine (and would therefore apply to electronic smoking devices that contain nicotine, or that are packaged with cartridges or e-liquid containing nicotine). In other cases, electronic smoking devices may be mentioned directly. If it is determined that existing tobacco laws in a jurisdiction already apply to electronic smoking devices, the next step is to determine if those laws are being enforced. It's possible that law enforcement may not be aware that the law(s) apply to electronic smoking devices.

Amending an existing tobacco retailer licensing law

In cases where a local jurisdiction has an existing law governing tobacco sales that does not apply to electronic smoking devices, it is possible to amend that law to cover those products. One way to do this is to broaden the definitions of "tobacco product" and "tobacco paraphernalia," to cover electronic smoking devices and their associated products, such as e-liquid. This can be done simply by referencing these products by name in the definitions.

For model definitions that cover electronic smoking devices in this way, contact ChangeLab Solutions for assistance.*
The advantage of this approach is that it is a simple way to uniformly and consistently apply a variety of tobacco laws to electronic smoking devices.

However, there are some reasons to be cautious with this approach. For example, opening up an existing law to the amendment process creates an opportunity for opponents of the law to limit the law's scope to (for instance) exempt certain types of products from the definition of "tobacco product" like new dissolvable tobacco or nicotine lozenges. This approach is also problematic in that it only affects the laws of the specific jurisdiction. If a city or county has a law prohibiting tobacco vending machines, and they amend the definition of "tobacco product" in their municipal code so that it includes electronic smoking devices, it would not address regulatory gaps at the state level, e.g. a state law like California's which prohibits self-service displays of tobacco products but does not prohibit self-service displays of electronic smoking devices.

Adopting a stand-alone law

In lieu of amending an existing tobacco retailer licensing law, a jurisdiction can adopt a stand-alone ordinance that regulates electronic smoking device in all the same ways that conventional tobacco products are regulated. For example, local governments can require retailers to check the ID of people who purchase electronic smoking device, prohibit self-service displays of electronic smoking devices, and prohibit retailers from giving out free samples to the public. Several states including California[75] have passed stand-alone laws that prohibit the sale of electronic smoking devices to minors. Many local governments in jurisdictions around the country have passed similar laws.[76] For communities that are interested in stand-alone laws such as these, see ChangeLab Solutions' *Model California Ordinance Regulating Electronic Smoking Devices* as a reference.[77]

Adopting a new tobacco retailer licensing (TRL) law

Local jurisdictions that don't already have a tobacco retailer licensing law might consider adopting one that covers both traditional tobacco products and electronic smoking devices and the various liquids sold with them as tobacco products and tobacco or smoking paraphernalia. Tobacco retailer licensing laws require retailers to abide by all applicable local, state and federal tobacco laws in order to maintain their license, and can contain a wide variety of additional conditions. For example, a TRL law may require retailers to agree not to sell electronic smoking devices to minors, to keep all electronic smoking devices behind the counter, or to agree not to give out electronic smoking device samples to prospective customers.

The advantage of including electronic smoking devices in a TRL law is that the requirements for tobacco retailing can be consistently applied to electronic smoking devices and other tobacco products in a uniform way, simplifying and streamlining enforcement. There are numerous city and county governments which have enacted TRL laws that apply to electronic smoking devices along with all other tobacco products.[78] For more information about tobacco retailer licensing, see *License to Kill? Tobacco Retailer Licensing as an Effective Enforcement Tool*, as well as ChangeLab Solutions' *Model Tobacco Retailer Licensing Ordinance*.[79]

* *Note, in some cases a jurisdiction may wish to regulate only those electronic smoking devices that contain nicotine or that can be used to deliver nicotine. This can be done by amending the definition of "tobacco product" to include all products containing nicotine that is either derived from tobacco or synthetically produced, and by changing the definition of tobacco or smoking-related "paraphernalia" to include devices that can be used to deliver a tobacco or nicotine product. For more on this approach, see ChangeLab Solutions' Model Tobacco Retailer Licensing Ordinance at: www.changelabsolutions.org/publications/model-TRL-Ordinance*

Attachment D – Regulating Toxic Vapor, a fact sheet from ChangeLab Solutions.

Taxing Electronic Smoking Devices

Finally, it may be possible for state and/or local governments to levy taxes on electronic smoking devices. In most jurisdictions, electronic smoking devices are currently not taxed the way that cigarettes and other tobacco products are, and federal law does not preempt state or local governments from taxing electronic smoking devices.

Numerous studies have shown that one of the most clearly effective ways of reducing tobacco use, particularly among minors, is to increase the price of those products.[80] Not only do higher excise taxes on tobacco products lower rates of use, but they also create a source of revenue that can be used to offset health costs related to tobacco and to fund public health efforts.[81]

If there is not an existing state or local law that levies a tax on electronic smoking devices, it may be possible to enact one in order to bring taxes on these products more in line with the taxes on conventional cigarettes and/or other tobacco products. Policy questions that may arise include how to set the taxation rate given the many different forms in which electronic smoking devices and their components are sold, and whether the taxation rate should be lower than the rate for conventional tobacco products. Minnesota is the first state in the country to tax electronic smoking devices as a tobacco product. Although the law itself does not explicitly mention electronic smoking devices, the definition of "tobacco products" is broad enough to cover any product that contains or is derived from tobacco.[82] The Minnesota Department of Revenue has issued a notice clarifying that in its opinion the tobacco products tax applies to electronic smoking devices.[83] As of January 2014, several other states are considering this strategy, for example Delaware, Maine, Massachusetts, New Mexico, Oklahoma, and Utah.[84]

Electronic Smoking Devices & the Minnesota Department of Revenue

In October, 2012, the Minnesota Department of Revenue clarified its position that the state's tobacco products tax applies to electronic smoking devices. More specifically, the notice states that electronic smoking devices (or any components thereof) that contain nicotine constitute tobacco products under the assumption that all nicotine is derived from tobacco. Products containing nicotine that are not derived from tobacco are exempt from the tax; however, the burden is on the taxpayer to prove this to the department. Furthermore, the sales price of an entire electronic smoking device "kit" or package is subject to the tax unless a wholesaler sells the nicotine-containing component (such as a cartridge or liquid bottle) separately and can isolate the cost of the product.

How We Can Help

Additional materials related to electronic smoking devices are available on our *website* including our *Model California Ordinance Regulating Electronic Smoking Devices.*

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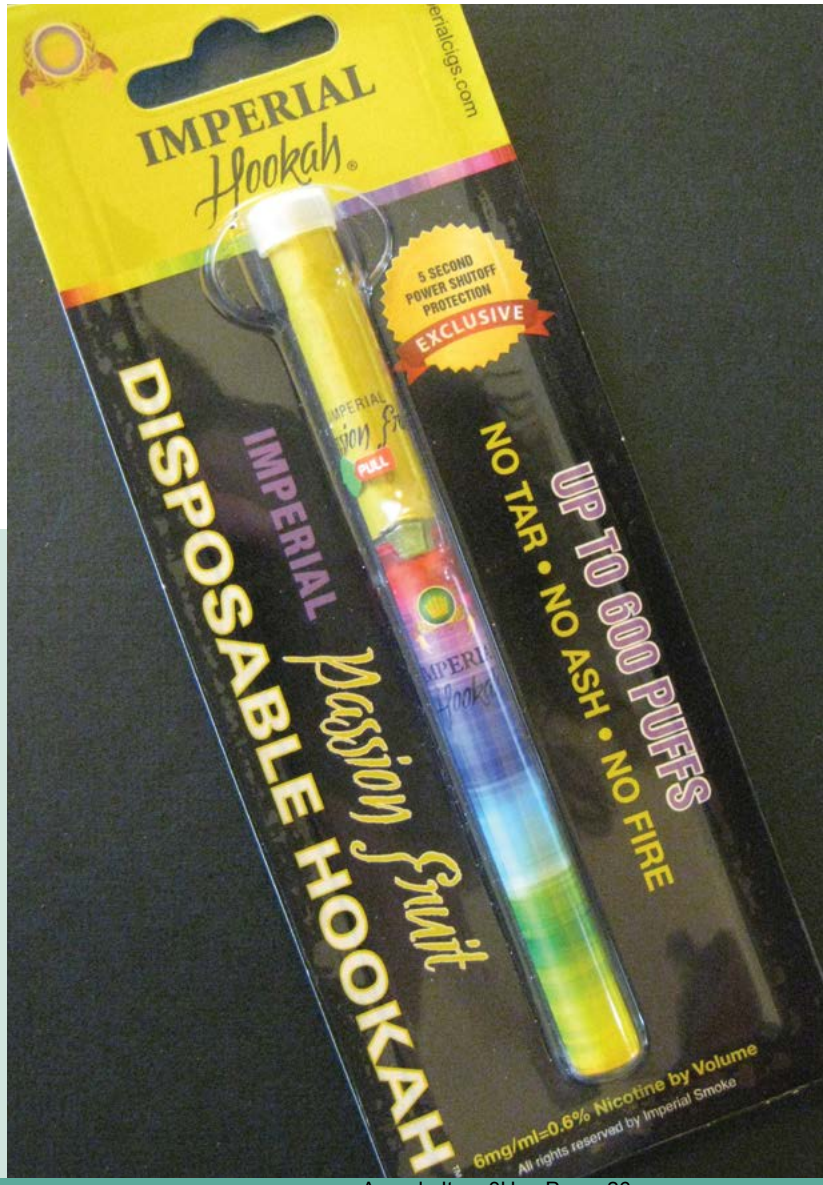

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[72] *See* Starbucks Coffee Company. (2013). "Policies." Available at: *www.starbucks.com/responsibility/learn-more/policies*. *See also* Americans for Nonsmokers' Rights. "Corporate Smokefree Policies." Available at: *www.no-smoke.org/goingsmokefree.php?id=452*

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[76] For more information about jurisdictions that have regulated the use and/or sale of electronic smoking devices, *See* New Jersey GASP. (2014). "Electronic Smoking Devices." Available at: *www.njgasp.org/E-Cigs_White_Paper.pdf*; *See also* The Center for Tobacco Policy & Organizing. (2013). "Local Policies on the Use of Electronic Cigarettes." Available at: *http://center4tobaccopolicy.org/wp-content/uploads/2013/11/Local-Policies-on-Use-of-E-Cigs-Nov-2013.pdf*

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[82] Minn. Laws § 297F.1.

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[84] *See, e.g.,* Minn. Laws § 305.2.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: November 18, 2014

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only, Ordinance No. 8016 amending Chapter 4-11, "Mall Permits and Leases," Sections 4-1-9 "Authority to Deny Issuance of Licenses," 4-20-11 "Mall License and Permit Fees," and 8-6-6 "Requirements for Revocable Permits, Short-term Leases and Long-term Leases," B.R.C. 1981, to update the code to be consistent with current mall practices and needs, and setting forth related details.

PRESENTER/S
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
David Driskell, Executive Director, Community Planning and Sustainability
Molly M. Winter, Director, Downtown & University Hill Management Division/Parking Services
Sandra Llanes, Senior Assistant City Attorney
Lane Landrith, Business Coordinator, Downtown & University Hill Management Division/Parking Services
Ashlee Herring, Communications and Special Events Oversight Coordinator, Downtown & University Hill Management Division/Parking Services
Sloane Walbert, Planner 1, Planning and Development Services

EXECUTIVE SUMMARY
The purpose of this council agenda item is to propose amendments to the code related to Pearl Street Mall permits. (**Attachment A - ordinance**). These amendments are necessary to align with current mall permit procedures, guidelines, and practices; to accommodate additional community requests for more events on the mall; to adapt to physical changes to the mall; to increase diligence on maintaining an overall benefit to the community; and to clarify circumstances under which permits can be denied.

Section 4-11-1 "Legislative Intent" of Chapter 4-11 "Mall Permits and Leases" B.R.C. 1981 provides this informational summary:

The purpose of this chapter is to promote the public interest by enhancing the attractiveness of the mall environment; providing opportunities for creative, colorful, pedestrian-focused commercial activities on a day/night, year-round and seasonal basis; encouraging commercial activity and entertainment that adds charm, vitality, diversity, and good design to the mall area; encouraging the upgrading of storefronts and the development of compatible and well-designed improvements; providing revenue to offset in part the cost of maintaining the mall area; providing reasonable time, place, and manner restrictions on constitutionally protected activities so that they may flourish without detracting from the purpose of the mall as a commercial forum and a means of access to businesses on the mall; and limiting private development on the mall to those proposals of the highest quality that advance these purposes.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff requests council consideration of this matter and action in the form of the following motion:
Motion to introduce on first reading and order published by title only, an ordinance amending Chapter 4-11, Mall Permits and Leases," Sections 4-1-9 "Authority to Deny Issuance of Licenses," 4-20-11 "Mall License and Permit Fees," and 8-6-6 "Requirements for Revocable Permits, Short-term Leases and Long-term Leases," B.R.C. 1981, to update the code to be consistent with current mall practices and needs.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Special events collect and remit sales tax and bring visitors and vitality to downtown.
- Environmental: The Pearl Street Mall provides zero waste receptacles and strongly encourages special events to adhere to a zero waste event. Best practices for waste water disposal are also used with each event permit.
- Social: The Pearl Street Mall provides a unique gathering space for cultural, musical, artistic, and educational events at no charge to the public.

OTHER IMPACTS

Fiscal - City staff time for review and oversight of all special event permit applications and events.

BOARD AND COMMISSION FEEDBACK

- Downtown Management Commission (DMC) reviewed the proposed mall code changes and recommended the changes (4-0) at their November 3rd meeting, and offered that Mall Entertainment permits not become too restrictive as to limit the types and number of potential performers. It is worth mentioning that the only proposed code change to Entertainment permits is to increase the term of the permit from three days to one month.
- Downtown Boulder, Inc. (DBI) supported the staff recommendation to amend the city code as prop**o**sed.

- Downtown Boulder Business Improvement District Board (BID) supported the staff recommendation to amend the city code as proposed.

ANALYSIS
In addition to city code requirements, guidelines are applied to special event applications to ensure the safety of the public, to balance the number of community events with the needs of the downtown businesses, and to facilitate good customer service and clarity with event producers. (**Attachment C**).

Based on experience over the years and feedback from mall businesses, staff currently operates under the guideline of scheduling special events every other weekend during peak months, primarily from May through October. This creates the balance of providing activities for the public and maintaining access to retail businesses during the busy summer and fall seasons.

Proposed Code Changes
The code sections addressing the Pearl Street Mall permits have not been updated for many years. These proposed code changes are needed to bring the code in alignment with current procedural practices, to accommodate additional community request for more events on the Pearl Street Mall, to increase diligence on maintaining an overall benefit to the community, to adapt to physical changes to the mall, and to address circumstances under which permits can be denied.

Listed below is a summary and rationale for proposed mall code section changes. Please see **Attachment B** for additional information on the proposed amendments.

4-11-7 & 4-11-8 "Permits for patios and building encroachments": Currently any encroachments proposed for the mall are reviewed as a revocable permit or lease under Chapter 8-6 which is administered by Community Planning and Sustainability. The change in Section 4 reflects this existing practice.

4-11-2 "Definitions"; Definition of "special activity": The changes proposed include, 1) change the terminology to reflect the more common practice of using the term "special event" rather than "special activity"; 2) designating the city manager (staff) as responsible for scheduling events rather than DMC; 3) removing specific requirements for sales conducted as a fundraising activity by a nonprofit group; and, 4) and finally adding "artist using non-airborne mediums" to the Ambulatory vendor permit definition to control the location due to health risks with spray paint.

4-11-4 "Uses prohibited without a permit": Amended section (c) proposes to allow amplified music on the mall only as part of an approved special event permit. Acoustic music is allowed without the need for any permit.

4-11-12 "Mobile Vending Cart Permit": Under section (b), changed maximum number of carts allowed on mall from 14 to 13. The mall's capacity is at 13 carts due to Mall renovations and added amenities in 2000. Section (i) establishes a more user-friendly

process of renewing Mobile Vending Cart permits that are in good standing rather than having to reapply as a new vendor.

4-11-16 "Special Event Permit": Section (b) is amended to reflect the current practice of approving more than six days per year to the same organization during a calendar year. Over the course of the last 30 years, the Mall has evolved into a popular event venue. The Business Improvement District, formed in 1999, created the mechanism for producing more festivals, art fairs, parades, music series and special events that have enhanced the vitality of downtown Boulder.

4-11-18 "General Permit and Lease Requirements": Reaffirmed in section (c) that the provisions of 4-1-9 "Authority to Deny Issuance of Permits and Licenses" are applicable to the mall, giving staff the ability to deny or revoke a permit where the specified conditions have been violated.

4-11-19 "Application Procedures": Includes monthly mall permits in the list of permits that the DMC does not approve. The standard practice of staff reviewing and approving permit and is now being reflected in the code.

4-11-22 "Termination of Permits": Amended section (c) provides staff with discretion to deny a permit for 3 years subsequent to being revoked, pending due process and a formal review.

4-1-9 "Authority to Deny Issuance of Permits and Licenses";
This proposed amendment provides staff with additional criteria for denial of permit:

- Providing false information or misrepresenting a material fact on application;
- The applicant has within the past three years, from application date, violated a law or condition in a permit governing the activities permitted by the permit;
- The applicant has previously unlawfully conducted activities that require a permit without obtaining such permission in advance;
- The applicant had a city issued permit revoked within the past three years.

Please refer to **Attachment B** for a complete listing of the proposed Mall ordinance updates.

RECOMMENDATION
Staff recommends the changes to the Section 4-11 of the Boulder Revised Code (**Attachment A).** These proposed changes more accurately reflect the physical modifications in Mall infrastructure, and the current operational standards set forth for safety and enjoyment of all when balancing the diverse needs of our nationally recognized downtown mall.

ATTACHMENTS

A: Mall B.R.C. Ordinance with Amendments
B: Mall Ordinance Updates – Summary of Amendments
C: Mall Event Guidelines

ORDINANCE NO. ____

AN ORDINANCE AMENDING CHAPTER 4-11, "MALL PERMITS AND LEASES," SECTIONS 4-1-9 "AUTHORITY TO DENY ISSUANCE OF LICENSES," 4-20-11 "MALL LICENSE AND PERMIT FEES," AND 8-6-6 "REQUIREMENTS FOR REVOCABLE PERMITS, SHORT-TERM LEASES AND LONG-TERM LEASES," B.R.C. 1981, TO UPDATE THE CODE TO BE CONSISTENT WITH CURRENT MALL PRACTICES AND NEEDS, AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Chapter 4-11, B.R.C. 1981, is amended to read:

….

4-11-2. Definitions.

The following terms used in this chapter have the following meanings, unless the context clearly indicates otherwise:

"Advocacy adjunct" means lightweight tables, chairs, and signs capable of being moved easily in case of emergency which are entirely within an advocacy area and do not exceed six feet in height.

"Advocacy area" means those designated areas of the mall where tables, chairs, and signs otherwise prohibited may be employed pursuant to the provisions of this chapter as an adjunct to political advocacy, noncommercial fundraising, and petitioning the government.

"Ambulatory vendor" means a portrait, caricature or landscape artist using non-airborne mediums, or any person who engages in the business of selling balloons, balloon sculptures, flowers or shoe shines.

~~"Building extension" means any structure that is an extension of an existing building front or basement adjacent to the mall and that encroaches upon the mall.~~

~~"Building ornament" means any awning, sign, planter box, or other ornament on a building adjacent to the mall that encroaches upon the air space above the mall.~~

"Encroachment" means a private improvement, structure or obstruction extending into or located within, upon, above or under any public right of way or public easement.

"DMC" means the Downtown Management Commission established by section 2-3-5, "Downtown Management Commission," B.R.C. 1981.

"Educational activity" means all noncommercial activity of any person or group directed at informing or persuading the public which is consistent with the provisions of this code and the laws of the state and the United States, and specifically includes the passage of petitions and the advocacy of candidates and issues in any election.

"Entertainment" means a performance or show designed to entertain the public but excludes services provided on a one to one basis.

"Entertainment vending" means the sale of a recorded performance of an entertainer by that entertainer while that entertainer is performing.

~~"Festive activity" means a cultural event of community-wide interest, including, without limitation, events involving sales, the primary purpose of which is not for profit, which is consistent with the legislative intent of this chapter, and which is scheduled by the DMC and approved by the city manager.~~

"Kiosk" means a freestanding structure erected by the City within a pedestrian circulation area and used for the posting of notices or advertisements. It also means a small building located in Mall Zone 3 and operated under lease for the sale of food, flowers, newspapers, or other goods approved by the ~~-~~city manager~~DMC~~.

"Mall" means the Boulder downtown pedestrian mall established by Ordinance No. 4022, adopted February 18, 1975.

"Noncommercial" means that which does not involve the sale of real or personal property or a service.

"Nonprofit group" means an entity which has received a tax status determination by the United States Internal Revenue Service as a section 501 tax exempt organization, or which is incorporated as a nonprofit corporation under the laws of the state of Colorado, or which is incorporated as a nonprofit corporation under the laws of another state and has been issued a certificate of authority by the secretary of state for Colorado to conduct affairs in Colorado.

"Personal services vendor" means any person providing personal services on a one on one basis which does not involve the sale of goods.

"Sale" or "sell" means the exchange of goods or services for money or other consideration, and includes the offering of goods or services for a donation except when a writing is offered for a donation to express bona fide religious, social, political, or other ideological views, and the writing is carried by the person offering it and not set on the ground or any structure.

"Special ~~activity~~Event" means an educational or cultural event of community-wide interest, including, without limitation, events involving sales, the primary purpose of which is not for profit, which is consistent with the legislative intent of this chapter, and which is scheduled and approved by the city manager,~~festive activity,~~ ~~-~~or an activity not involving sales and sponsored by a nonprofit group, that involves the use of a booth, blanket, table, structure, cart, or other

equipment on the mall. It also means sales conducted as a fundraising activity by a nonprofit group. ~~if:~~

~~(a) The group has volunteer members actively engaged in carrying out the objects of the entity;~~

~~(b) The sales on the mall are made only by the group's volunteer members;~~

~~(c) Such volunteer members receive no remuneration, direct or indirect, from the sales or sales activities; and~~

~~(d) Any goods sold either bear conspicuously on their exterior the name of the group or its registered trademark, or such goods are unique to the group and are not readily available through retail stores in the City.~~

"Special entertainment" means any activity which involves the juggling, casting, throwing or propelling of a knife or burning projectile on the mall, or involves the use of equipment on the mall which is more than six feet above the surface of the mall when at rest or when bearing a load while being used in the act.

4-11-4. Uses Prohibited Without Permit.

(a) (1) No person shall sell, display for sale, or advertise for sale any goods or services to the public on the mall without a valid permit or lease therefor issued under this chapter. This subsection does not apply to a sign, including, without limitation, a sandwich board, carried by a person and not set on or affixed to the ground.

….

(c) No person shall install or construct ~~a building extension, building ornament~~ an encroachment, or kiosk on the mall without a valid permit or lease therefor issued under this chapter and/or Chapter 8-6, "Public Right of Way and Easement Encroachments, Revocable Permits, Leases, and Vacations" B.R.C. 1981.

(d) No person shall use amplified sound on the mall ~~without obtaining~~unless it is part of an approved ~~special activity~~Special Event permit issued under this chapter allowing such amplified sound~~n amplified sound permit~~.

….

4-11-4.5. Advocacy Area Permit.

(a) The city manager shall designate four areas per block within Zones 3 or 4 in the 1100, 1200, and 1400 blocks, and ten areas within the 1300 block as advocacy areas. Each area shall be five feet by six feet.

….

(e) If a ~~special activity~~Special Event permit is issued for an arts related event and covering every block of the mall, the manager shall designate and provide alternative locations within the same block if feasible, or elsewhere on the mall if feasible, and otherwise as close to the mall as practicable to all applicants, not exceeding twenty-two, who qualify for advocacy area permits. The manager may so displace users of advocacy areas for only one such ~~special activity~~Special Event permit in any calendar year.

….

(h) Sales of goods or services for any purpose are permitted under an advocacy area permit only if the permittee also has a ~~special activity~~Special Event permit, but a permittee may solicit donations so long as no portion of the donation goes to the financial benefit of any natural person who is soliciting the donation. If the permittee is soliciting donations and is also giving out goods or services related to the advocacy, such goods or services must not be given on condition that a donation is made, and must be available free to anyone requesting such goods or services, although the permittee may limit the number any one person may receive so long as such limit is not conditioned upon the donation.

….

4-11-5. Ambulatory Vending Permit.

(a) Ambulatory vending is permitted only in Zones 1, 2, and 3. An applicant for an ambulatory vending permit, any of which is to be used in Zone 1, shall first obtain the written consent of the tenant occupying the building in front of which the applicant desires to locate.

….

(f) Sales shall be limited to items created at point of sale.

4-11-6. ~~Amplified Sound Permit.~~ Repealed

~~(a) Amplified sound permits may be issued for all zones. An applicant for an amplified sound permit which is to include any part of Zone 1 shall obtain the written consent of the tenant occupying the building in front of which the applicant desires to locate.~~

~~(b) The city manager may permit the use of amplified sound only if the amplified sound is essential to the exercise of a use allowed under this chapter and will benefit the public or enhance the ambiance of the mall. Every use of amplified sound shall comply with section 5-9-3, "Exceeding Decibel Sound Levels Prohibited," B.R.C. 1981. The manager may attach such other reasonable conditions on the use of an amplified sound permit as may reduce friction among competing uses of the mall or serve the purposes of this subsection.~~

~~(c) An amplified sound permit is valid only for the period and location specified in the permit. No applicant may be issued more than one permit for a day. No fee will be charged for issuance of an amplified sound permit.~~

4-11-7. ~~Building Extension Permit or Lease.~~ Repealed

~~(a) Building extensions are permitted only in Zone 1.~~

~~(b) A person who wishes to construct a permanent building extension on mall property shall obtain a lease from the City in accordance with section 2-2-8, "Conveyance of City Real Property Interests," B.R.C. 1981. The lease may be renewed and shall contain provisions for the eventual acquisition of title to the permanent building extension by the City or for the removal of such construction at the owner's expense along with restoration of the mall to its original condition at the termination or expiration of the lease.~~

~~(c) Every lease also shall provide that if the city requires the use of the leased property before expiration of the lease period, it may terminate the lease upon reasonable notice to the owner and reasonable compensation for the expenses of removing the building extension.~~

~~(d) Each application for a lease shall be reviewed by the DMC, which shall recommend to the city manager for approval, approval with conditions to be incorporated in the lease agreement, or denial of the application. If granted, tThe manager then will decide whether to grant the lease application and prescribe the lease terms.~~

~~(e) The city will not issue a lease for a basement-level building extension, except those approved prior to September 15, 1981.~~

~~(f) A permanent building extension shall remain open to the public during the minimum number of retail business hours specified in the lease agreement.~~

~~(g) A building extension permit or lease may be issued only if:~~

~~(1) The existing building front conforms, or is improved so as to conform, to the City of Boulder Downtown Boulder Private Development Guidelines for Architecture and Signs, June 1976; and~~

~~(2) The proposed building extension will benefit the public or enhance the ambiance of the mall.~~

~~(h) The construction of a building extension shall be completed within the time period established in the permit or lease, which shall in no event exceed one year, or the permit or lease will automatically expire.~~

~~(i) All building extensions, including, without limitation, basement stairwells, shall be illuminated as necessary to ensure public safety during hours of operation and non-operation from dusk until 3:00 a.m.~~

~~(j) A building extension permit is valid for the period of May 1 to April 30 of the following year, upon payment of the fee prescribed by section 4-20-11, "Mall License and Permit Fees," B.R.C. 1981. For the first year of the permit, this fee will be prorated for the balance of the permit period. A building extension permit is renewable automatically every year upon~~

~~payment of the applicable fee, unless terminated or revoked in accordance with section 4-11-22, "Termination of Permits," B.R.C. 1981.~~

~~(k) The holder of a building extension permit or lease shall indemnify and hold harmless the city, its officers, employees, and agents against any and all claims arising from any occurrence occasioned by the permitted use, and shall maintain during the period of the permit or lease comprehensive general public liability and property damage insurance, as prescribed by section 4-1-8, "Insurance Required," B.R.C. 1981, naming the city, its officers, employees, and agents as insureds; providing that the insurance is primary insurance and that no other insurance maintained by the city will be called upon to contribute to a loss covered by the policy; and providing for thirty days' notice of cancellation or material change to the city.~~

4-11-8. ~~Building Ornament Permit.~~ Repealed

~~(a) Building ornaments are permitted only in Zone 1.~~

~~(b) A building ornament permit may be issued only if:~~

~~(1) The existing building front conforms, or is improved so as to conform, to the City of Boulder Downtown Boulder Private Development Guidelines for Architecture and Signs, June 1976; and~~

~~(2) The proposed building ornament will benefit the public or enhance the ambiance of the mall.~~

~~(c) No fee will be charged for the issuance of a building ornament permit, whose term is perpetual.~~

4-11-9. Entertainment Vending Permit.

(a) Entertainment vending permits may be issued for all zones. An applicant for an entertainment vending permit which is to include any part of Zone 1 shall obtain the written consent of the tenant occupying the building in front of which the applicant desires to locate.

….

(d) A musical entertainment vending permit is valid for ~~three continuous days or~~up to one month upon payment of the fee prescribed by section 4-20-11, "Mall License and Permit Fees," B.R.C. 1981.

….

4-11-12. Mobile Vending Cart Permit.

(a) Mobile vending carts are allowed only in Zones ~~1,~~ 2, and 3. ~~An applicant for a mobile vending cart permit which is to include any part of Zone 1 shall obtain the written consent of the tenant occupying the building in front of which the applicant desires to locate.~~

(b) The city manager may issue as many mobile vending cart permits as the manager deems appropriate, but the manager shall not permit the operation of more than ~~fourteen~~ thirteen mobile vending carts on the mall at the same time.

….

(f) No operator of a mobile vending cart shall conduct the operator's primary trade at locations other than those authorized in the permit. But the operator may sell goods in transit upon request. If an authorized location conflicts with a ~~special activity~~Special Event, the city manager may temporarily relocate the vendor. The city manager may also approve permanent changes of location as other locations become available, if two permittees agree in writing to exchange locations or temporarily on a month to month basis during September through May if the city manager has reason to believe that the regular vendor will not be using the location.

….

(i) A mobile vending cart permit is valid for a one year period, beginning April 1 and ending March 31, with two options to renew for additional one year periods, upon timely payment of the fee prescribed by section 4-20-11, "Mall License and Permit Fees," B.R.C. 1981. A mobile vending cart permit is not automatically renewable thereafter. A permittee who wishes to continue operating after the expiration of the permit shall follow the application procedures required of a continuing vendor as established by city manager rule in accordance with section 4-11-19, "Application Procedures," B.R.C. 1981.~~new applicant~~.

….

(k) Each cart shall display a sign at least one foot by one foot visible to the public which contains the required dates and hours of operation, the items for sale, and the prices of the items. The sign shall be presented to the city manager for approval before it is used. All items ~~and their prices~~ must be approved by the city manager as part of the application process. The city manager may approve item changes or substitutions upon receiving written application for such change.

(l) No person shall fail to maintain, and provide proof when requested, of the permit authorizing such use.

….

4-11-15. Sidewalk Sales Permits.

(a) The city manager may, ~~after receiving the advice of the DMC,~~ issue a mall sidewalk sale permit to any nonprofit organization whose principal purpose is the advancement of the cultural or economic interests of the downtown area of the City and which has a demonstrated history of at least three years of substantial, active efforts advancing those goals.

….

~~(d) The applicant may condition individual sub-permit eligibility only on the assent of individual owners to the sharing of the reasonable promotional costs of the applicant for the sale event on a flat rate, per participant basis, not to exceed $50.00 for each day per sub-permit, and the payment of such amount to the applicant. The applicant shall specify such amount on the application, and the city manager shall issue the permit only if the amount is reasonable.~~

4-11-16. ~~Special Activity~~Special Event Permit.

(a) ~~Special activity~~Special Event permits may be issued for all zones. An applicant for a ~~special activity~~Special Event permit which is to include any part of Zone 1 shall obtain the written consent of the tenant occupying the building in front of which the applicant desires to locate.

(b) A ~~special activity~~Special Event permit is valid for ~~one to six days per year~~the approved number of days upon payment of the fee prescribed by section 4-20-11, "Mall License and Permit Fees," B.R.C. 1981. ~~No more than six days total may be permitted to the same person during a calendar year.~~

(c) A ~~special activity~~Special Event permit issued to a government is valid for one to ten days per year without a fee.

(d) The city manager may, by contract, provide for one or more series of artistic performances for the entertainment of the mall public, which series shall involve regularly scheduled performances over four weeks, with a minimum number of performances of once per week, with each performance lasting a minimum of one hour and a maximum of four hours. Such a contract shall serve as a ~~special activity~~Special Event permit, allowing the use of a stage or other equipment, and amplified sound, as specified in the contract.

(e) The city manager may only permit the use of amplified sound in connection with a Special Event, and only if the amplified sound is essential to the exercise of a use allowed under this chapter, and will benefit the public or enhance the ambiance of the mall. Every use of amplified sound will comply with Chapter -5-9, “Noise,” B.R.C. 1981. The manager may attach such other reasonable conditions on the use of amplified sound as may reduce friction among competing uses of the mall or serve the purposes of this chapter.

4-11-17. Special Entertainment Permit.

(a) Special entertainment permits may be issued only for Zones 1, 2, and 4. An applicant for a special entertainment permit which is to include any part of Zone 1 shall obtain the written consent of the tenant occupying the building in front of which the applicant desires to locate.

….

(c) A special entertainment permit is valid for the period and the hours specified in the permit, which shall be for reasonable hours and a reasonable period no greater than ~~three~~ one month~~s~~

per permit; no fee will be charged for its issuance. Such a permit is not an exclusive license for use of the area of the mall designated therein. The manager may attach such other reasonable conditions on the use of a special entertainment permit as may reduce friction among competing uses of the mall or serve the purposes of this subsection.

….

4-11-18. General Permit and Lease Requirements.

(a) The city manager shall not approve a permit or lease application pursuant to this chapter unless it complies with the following general design requirements:

(1) The proposed design conforms with every applicable city code; and

(2) The proposed design conforms with the applicable design criteria in the City of Boulder Downtown Boulder Private Development Guidelines for Architecture and Signs, June, 1976.

(b) ~~A lessee or permittee is responsible for~~No person shall fail to maintain~~ing~~ the area within and in proximity to the location of the leased premises or permitted location in a neat, clean, and hazard-free condition, including, without limitation, disposing of all trash off-site.

(c) The provisions of Section 4-1-9, "Authority to Deny Issuance of Permits and Licenses," B.R.C. 1981, shall be applicable to this chapter. In addition, t~~T~~he city manager may deny a permit, except for a newspaper vending machine permit, if the application does not meet the purposes and requirements of this chapter; would violate any law; or the proposed use would constitute a physical hazard to the public health, safety, or welfare~~, or would violate any law~~.

4-11-19. Application Procedures.

(a) The DMC shall review each mobile vending cart application for a permit ~~or lease~~ in accordance with the purposes and requirements of this chapter and recommend to the city manager approval, approval with conditions, or denial of the application. ~~This subsection does not apply to newspaper vending machine permit applications or applications for daily permits other than special activity permits, or applications for advocacy area permits, or to any class of permit which the DMC has, by resolution, determined not to review.~~

(b) The city manager, after receiving a completed application and if applicable, a recommendation from the DMC as provided in subsection (a) of this section, shall determine whether each application for a permit or lease meets the purposes and requirements of this chapter and approve, approve with conditions, ~~-~~or ~~disapprove~~ deny the application.

(c) The city manager may require reasonable proof of authority from any person purporting to sign an application for the use of any person or entity other than the signator.

(d) The city manager may adopt rules and regulations establishing the process for accepting, reviewing, and approving all permit and lease applications submitted pursuant to this chapter,

including the contents of such applications and the specific criteria that will be considered in the review process. Each applicant shall comply with such requirements.

(e) Each applicant for a permit or lease shall obtain all required building, health, sales tax, or other permits or licenses from all applicable government departments.

(f) The permittee shall prominently display the permit.

(g) Whenever any permittee desires to change the use or the location of the activity authorized by the permit, the permittee shall follow the review and approval process required of a new applicant.

(h) Applications for mobile vending cart permits shall be submitted to the city manager no later than the fifteenth of December in the year preceding the permit year. Applications for permits issued on a monthly basis shall be submitted to the city manager between the first and the twenty-fifth day of the preceding month. Applications for daily permits shall be submitted no more than seven days in advance of the day for which they are to be exercised. No person shall be issued more than three permits of the same type in any seven day period. The provisions of this subsection do not apply to advocacy area permits.

(i) Permit applications shall be made on the form provided by the city manager for the permit sought, and shall contain all the information required by the form, including any required attachments or exhibits. The manager may reject incomplete applications.

4-11-22. Termination of Permits.

(a) Any permit issued hereunder may be revoked by the city manager ~~under the procedures~~as prescribed by section 4-1-10, "Revocation of Licenses," B.R.C. 1981, for any violation of ~~this chapter~~law, or ~~a~~ breach of a condition in the permit.

(b) Upon revocation or expiration of any permit, the permittee shall immediately remove all structures or improvements from the permit area and restore the area to its condition existing prior to issuance of the permit.

(c) If a permit is revoked, the permittee may not be approved~~apply~~ for the same type of permit for three~~one~~ years after the effective date of the revocation. Approval of applications submitted subsequent to the three year ban are discretionary and subject to the applicant's ability to demonstrate rehabilitation and the likelihood of future permit compliance.

4-11-23. Amendments.

The DMC may recommend amendments to this chapter to the city council.

Section 2. Section 4-1-9, B.R.C. 1981, is amended to read:

4-1-9. Authority to Deny Issuance of Permits and Licenses.

(a) The city manager may deny an application for a permit or license under this title upon a determination that:

(1) The applicant has failed to supply any of the information required on the application;

(2) The applicant has provided false information or misrepresented a material fact in connection with an application;

(3~~2~~) The applicant has failed to obtain required insurance;

(4~~3~~) The applicant has failed to pay the required license fee;

(5) The applicant has within the past three years, from application date, violated a law or condition in a license governing the activities permitted by the license;

(6) The applicant has previously unlawfully conducted activities that require a permit or license without obtaining such permission in advance;

(7) The applicant had a city issued license revoked within the past three years;

(8~~4~~) The applicant is not qualified by experience, training, or education to engage in the activity authorized by the license; or~~; or~~

(9~~5~~) The applicant has been finally convicted of an offense and would create danger to the public health, safety, or welfare if the applicant were to engage in such offensive conduct after the license were issued.

….

Section 3. Section 4-20-11, B.R.C. 1981, is amended to read:

4-20-11. Mall License and Permit Fees.

The following fees shall be paid before issuance of a mall ~~building extension,~~ kiosk, mobile vending cart, ambulatory vendor, entertainment vending, personal services vending, or animal permit, ~~or special activity permit,~~ and rental of advertising space on informational kiosks:

~~(a) For building extension permits, an annual fee of $15.50 per square foot of occupied space;~~

(b) For kiosk permits, an annual fee to be negotiated by contract with the city manager;

…..

Section 4. Section 8-6-6, B.R.C. 1981, is amended to read:

8-6-6. Requirements for Revocable Permits, Short-Term Leases and Long-Term Leases.

(a) Purpose and Scope: Public rights-of-way and public easements are held by the City in trust for public use to ensure the health, safety and welfare of the residents of the City. The city council intends that all decisions regarding the granting of permission to place an encroachment into public right-of-way or public easements are legislative in nature. The City may determine from time to time at its discretion to issue a revocable permit, short-term lease or long-term lease subject to the requirements set forth in this section for certain encroachments into public rights-of-way and public easements that do not adversely affect its present or future use.

….

~~(k) Mall Permit Required: Nothing in this section shall be deemed to waive or supersede the requirement to obtain a license or permit to place structures on the Downtown Boulder Mall, as required by chapter 4-11, "Mall Permits and Leases," B.R.C. 1981.~~

Section 5. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 6. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of November, 2014.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

K:\DMAD\o-Mall Permits and Leases-1st Reading-1880.docx

4-11-7 & 4-11-8 "Permits for patio's and building encroachments"	– moved from Chapter 4-11 "Mall Permits and Leases" to 8-6-6 "Requirements for Revocable Permits, Short-Term Leases and Long-Term Leases" - From P&DS: After doing some research I would recommend removing all sections related to "Building Extensions" or "Building Ornaments" in Title 4. In 1997 Ordinance 5919 created Chapter 8-6 and defined the use of revocable permits and leases to manage any encroachments in the public right-of-way. It appears this ordinance also moved the authority to review and approve encroachments from the DMC to Public Works. As far as I am aware we have not approved a Building Extension or Building Ornament (as defined in Title 4) on the mall since this ordinance was adopted. Currently any encroachments proposed for the mall would be reviewed as a revocable permit or lease under Chapter 8-6. See BRC 8-6-3 and 8-6-6. Directing all proposed encroachments on the mall to the criteria in Chapter 8-6 would consolidate and codify the policies and practices for managing encroachments into the right-of-way, which was the objective of Ordinance 5919.
4-11-2 "Definitions"	- The definition of "special activity" was changed to reflect the more common practice of using the term "special event". This change was implemented throughout the chapter. Other changes to the term "special event" include providing that the city manager (staff) schedule events rather than DMC and removing specific requirements for sales conducted as a fundraising activity by a nonprofit group. "Festive activity" was removed and combined with "special event". - Removal of "building extension" and "building ornament" because no longer applicable to this chapter. - added "artist using non-airborne mediums" to Ambulatory vendor due to health risks with spray paint. - Added the term, "encroachment" as referenced in 4-11-4(c).

4-11-4 "Uses prohibited without a permit"	– amended section (c) to only allow amplified music on the mall as part of an approved special event permit. - Repealed 4-11-6 "Amplified Sound Permit" to be consistent with the amended section above (allowing amplified sound permits only as part of a special event).
4-11-9 "Entertainment Vending Permit"	– amended section (d) to allow approval of permit for up to one month rather than "3 continuous days or one month". - From a consistency perspective all permits are only approved for one month.
4-11-12 "Mobile Vending Cart Permit"	– Removed ability to locate carts in zone 1. There has never been an approval for a cart in zone 1. Zone 1 is right up against a store front and requires written consent from tenant. - Under section (b), changed maximum number of carts allowed on mall from 14 to 13. The Mall's capacity is at 13. This is due to Mall renovations in 2000. - Under section (i), established a more user friendly process of renewing vending cart permits rather than having to reapply as a new vendor. - Under section (l), added a requirement that permittee provide proof when requested of permit. This will be helpful to enforcement.
4-11-15 "Sidewalk Sales Permits"	– removed section (d) which provided details about how the applicant could determine sub permit eligibility based on cost sharing with other permitees and city manager made final determination on whether the amount was reasonable. Staff does not want to be involved in making these business type decisions for permittee.
4-11-16 "Special Event Permit"	– amended section (c) to reflect the current practice of approving permits for one month rather than three months per permit. -amended section (b) to reflect the current practice of approving more than six days per year to the same person during a calendar year.
4-11-18 "General Permit and Lease requirements"	– clarified in section (c) that the provisions of 4-1-9 "Authority to Deny Issuance of Permits and Licenses" is applicable to the

	Mall.
4-11-19 “Application Procedures”	- included monthly permits to the list of permits that DMC does not approve. This has been the standard practice and is now being reflected in the code.
4-11-22 “Termination of Permits”	– Amended section (c) to provide staff with discretion to deny a permit for 3 years subsequent to being revoked.
4-1-9 “Authority to Deny Issuance of Permits and Licenses”	– amended code to provide additional basis for denial of permit to include: - Providing false information or misrepresenting a material fact on application; - The applicant has within the past three years, from application date, violated a law or condition in a license governing the activities permitted by the license; - The applicant has previously unlawfully conducted activities that require a permit or license without obtaining such permission in advance; - The applicant had a city issued license revoked within the past three years.

City of Boulder

PEARL STREET MALL EVENT REGULATIONS

These regulations govern the process for accepting, reviewing, and approving Mall Special Event permit applications. The authority for these regulations is contained in Subsection 4-11-19(d), B.R.C. 1981.

Pearl Street Mall Special Event Permits are limited to allow a minimum 10 days of non-event activity between permit dates. During the summer and early fall, staff follows the guideline of permitting events every other weekend to maintain a balance between providing events for the public and maintaining access to retail businesses. Required attachments for Application**:**	**Small Event Less than 100 people**	**Large Event Over 100 people**
Proof of non-profit status 501© letter from IRS OR State articles of incorporation	yes	yes
Map indicating: *Location of tents/tables/chairs, stage, trash/electrical cords *Rally route (if applicable) *Base maps are available at our office. *Booths must be open on all sides	yes	yes
Damage Deposits	Up to $500 may be required	$500
Insurance Certificate naming the City of Boulder, its employees and elected officials, as additional insured. A general liability insurance policy with a combined single limit of $1 million per occurrence, and $2 million aggregate. Separate alcohol service liability riders may be required. **The following verbiage must be in the description area of the insurance rider: "The City of Boulder, its employees and elected officials, are named as an additional insured on general liability for (name the event, the date, location)." The City will not accept insurance riders if this language does not appear.**	yes	yes
Performers Schedule Name of group (s) Approximate Performance Times	yes	yes
Music or other amplified sound will not commence before 7:00 a.m. or continue after 12:00 a.m. Amplified sound may be limited to a specific time. Compliance with the city's noise regulations as described in city code Chapter 5-9, "Noise" B.R.C. 1981. A copy of the law may be obtained from the City of Boulder website at www.bouldercolorado.gov, under Codes and Regulations. If a complaint is received, the Boulder Police Department may respond and a warning and/or summons may be issued to the Event Organizer resulting in a requirement that all music, bands and amplification be turned down or turned off immediately.		
If Electrical is needed (optional) (all electrical cords must be taped down during event). No plug strips allowed; Planter/pole outlets = 8 amps or 1000 watt limit. **110 OUTLETS ONLY** Key deposit (optional). Daily rate is set yearly in annual city budget.	$18.00/day in 2014 $200	$18.00/day in 2014 $200

City of Boulder

PEARL STREET MALL EVENT REGULATIONS

These regulations govern the process for accepting, reviewing, and approving Mall Special Event permit applications. The authority for these regulations is contained in Subsection 4-11-19(d), B.R.C. 1981.

Other Information A to Z

Amplified Sound Hours:	Pearl Street Mall, CAGID and DBBID: Amplified sound permitted between the hours of 7:00am to 12:00am midnight. The use of amplified sound may be restricted on a case by case basis pursuant to the discretion allowed in City Code Chapter 4-11: Mall Permits and Leases, BRC.
Banners and Signs:	May not be placed across streets intersecting the Mall. **No A-Frame Signs. No chalking or painting on city property, including the bricks on the Pearl Street Mall.**
Courthouse Lawn:	Apply to Boulder County: Sheree Stroud – 303-441-4571; sstroud@bouldercounty.org
Damages:	Provided full cleaning and maintenance are completed to return the permitted area to its original state, event deposit will be returned.
Deposits:	Deposits will be cashed by the city upon approval of the application. Deposits will be refunded by check 10 days after the event. Any deductions due to failure to comply with these requirements will be noted.
Electricity:	Only 110 outlets are available on the Pearl Street Mall. Cost is per day, set annually by the Boulder City Council. **No power strips allowed**. Electrical key must be returned to Boulder Parking Services front desk within 48 hours after the completion of the event.
Food:	If food is served, approval is required from the Boulder County Health Department: 303-441-1150.
Flyers:	Events will be required to flyer stores/restaurants one week before date of event with all pertinent information, including food and merchandise sales. Event organizer must get city staff approval of vendor information that will be sent out, prior to releasing it to the public.
Mobile Carts:	Do not set up within 10 feet of mobile vending carts. Mobile Vending Carts must be accommodated and notified of the event's location in writing a minimum of 7 days prior to your event permit date.
No Gaming Activities:	No raffle tickets, games of chance, etc. are allowed on the Mall.
Public Restroom Cleaning:	Additional Mall restroom cleanings during a Special Event are required. The current contractual service provider must be hired for a fee of $60 per visit, payable to CITY OF BOULDER. Regularly scheduled restroom cleanings will take place at 1:00, 5:00, and 9:00 PM, and Special Events must pay for additional cleanings at 3:00 PM and 7:00 PM, depending upon the event ending time.

City of Boulder

PEARL STREET MALL EVENT REGULATIONS

These regulations govern the process for accepting, reviewing, and approving Mall Special Event permit applications. The authority for these regulations is contained in Subsection 4-11-19(d), B.R.C. 1981.

Parking: No cars/trucks are allowed on the Pearl Street Mall after 10:00 a.m. Park only in the fire lanes for loading/unloading (herringbone pattern on the brick).

Parking Procedures for Special Events

Each special events organization that requires street closure and parking restrictions shall enter into a contract with Downtown University Hill Management Division/Parking Services, for the overtime hiring of parking officers.

Requests for parking service officers must be made 30 days in advance of the scheduled date of the event. The contract shall be completed and returned 2 weeks prior the scheduled date of the event along with the required fees.

Without a valid contract in place prior to the scheduled event, DUHMD/PS will not respond to or provide services related to the relocation of vehicles located within the closed street.

An event coordinator, who has been approved to hold an event, requiring street closure and parking restrictions, will be contacted by Parking Services for the completion of the contract for parking officers. It is the discretion of the Assistant Parking Manager to determine the number of parking officers assigned to work such an event.

Organizations who sponsor an event shall comply with the specification outlined in the City of Boulder Downtown & University Hill Event & Street Closure Application and the Request for Parking Service Officer Contract.

Contract specifications for the use of Parking Service Officers:

- It is the responsibility of the event coordinator to post the required signs at least 72 hours in advance in a metered or pay station area. Additionally, other areas require signs to be posted at least 72 hours in advance.
- Each city block shall have no less than six no parking signs and shall be affixed so the sign is visible from a parked position. Two of the signs shall be posted at each end of the respective block. The signs shall be attached to either permanent posts, (meter posts or sign posts) or removable posts such as wooden or metal stakes or similar material. No signs shall be located or attached to pay station kiosk or traffic control device. Signs shall be affixed to their respective posts by plastic ties or wire. No signs shall be taped to any object.
- Once posted it is the responsibility of the event staff to maintain the signage. (DUHMD/PS recommends that the event staff check signage at least twice each day and if possible, take photos or video of the posted signs.)
- All vehicles that remain in a closed area after the required signs have been posted will be relocated. Costs associated with the relocation of vehicles are the responsibility of the event coordinator. Relocation fees are determined by the tow company at the rate of $70.00 for a single axle and $110.00 for dollied vehicle.
- The assigned parking service officer and/or the tow company will provide the event coordinator with a list of vehicles relocated and there location.
- Parking service officers are only hired to issue citations for parking violations and coordinate the relocation of vehicles.
- Costs associated for the use of Parking Services are based on budgetary considerations, which are evaluated annually. Current charges are $50.00 per hour at a minimum of three hours for each parking officer hired. Additionally costs include a vehicle fee of $20.00 and a 10% administrative fee. Events occurring on a recognized holiday will be charged at the rate of $100.00 per hour at a minimum of three hours for each parking officer hired along with the vehicle fee and administrative fee.
- Cancellation of a contract with less than 72 hours notice will result in an additional cost of 10% of the total amount due. Cancellation of a contract with less than 24 hours notice will result in an additional cost of 100% of the total amount due.

City of Boulder

PEARL STREET MALL EVENT REGULATIONS

These regulations govern the process for accepting, reviewing, and approving Mall Special Event permit applications. The authority for these regulations is contained in Subsection 4-11-19(d), B.R.C. 1981.

Porta-Lets:	If event attendance is over 1000 people per day, and/or alcohol service has been permitted, porta-lets will be required.
Sales Tax:	Call the City of Boulder Sales Tax Office to determine these requirements. 303-441-3050. **Sales and Admissions Tax Licenses** Any charges for entrance into events are subject to the City's admissions tax and any sale of tangible personal property is subject to the City's sales tax. The event organizer is responsible for the collection of sales and admissions tax even if the tax is collected by vendors unless the tax department authorizes self-pay by a licensed vendor. Call the City's Tax Department (303-441-4026) for licensing information and procedures for collection and remittance of tax. **Promoters must be in good standing with City Sales Tax prior to approval of this permit application.**
Teardown & Trash Removal:	Must be completed by midnight of the final day of the event. Organizer is responsible for removing ALL event trash/recycling/compost from the area or fees will be assessed to the security deposit.
Tents & Fire Code Compliance:	A permit is required to erect and use a tent in excess of 20 Ft. x 20 Ft. feet or a canopy in excess of 400 square feet or a canopy in excess of 400 square feet if the perimeter is open for at least 75%. A canopy with 100% of the perimeter open requires a permit in excess of 700' square feet. Please contact Planning and Development Services, located at 1739 Broadway on the third floor for a permit application. A representative from the Boulder Fire Department will conduct the physical inspection of the tent/canopy prior to use. Should you have any questions, please contact Boulder Fire Department special events chief @ 303.441.4356. Use sand bags to tie down tents; water-filled barrels must not be emptied onto the Mall or adjacent streets; use a sewer drain only. Vendor inventory must be stored under tables, not behind tents. Tents must be open on all sides, especially on the south side of the mall to allow Mall merchants to be accessible through vendor tents.
Trash and Recycling: **City trash cans are not to be covered during events**.	You are required to recycle during your event. Zero waste events are strongly encouraged. Call the Local Environmental Action Division at 303-441-1878 if you have additional questions. Events will not be approved if an authorized recycling plan is not attached to this permit application. **Attach a copy of the approved plan to this application.**

City of Boulder

PEARL STREET MALL EVENT REGULATIONS

These regulations govern the process for accepting, reviewing, and approving Mall Special Event permit applications. The authority for these regulations is contained in Subsection 4-11-19(d), B.R.C. 1981.

You will also be required to comply with Boulder County's Storm water Best Practices http://www.bouldercounty.org/env/water/pages/stormwater.aspx

By county ordinance, it is a crime to place any foreign substance whether solid or liquid into any body of water or watercourse.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: NOVEMBER 18, 2014

AGENDA TITLE: Second Reading Council consideration of Ordinance No. 8007 to extend the pilot project allowing e-bike use on certain multi-use paths by removing the expiration date

PRESENTER/S
Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
Tracy Winfree, Director of Public Works for Transportation
Michael Gardner-Sweeney, Transportation Planning and Operations Coordinator
Kathleen Bracke, GO Boulder Program Manager
Jeff Haley, Parks Planner, Parks and Recreation Department
Jim Reeder, Land and Facilities Division Manager, Open Space and Mountain Parks
Kurt Weiler, Traffic Commander, Boulder Police Department
Molly Winter, Executive Director of Downtown, University Hill and Parking Services
Marni Ratzel, Senior Transportation Planner

EXECUTIVE SUMMARY

On Feb. 7, 2014, the city began a pilot project to allow and test electric-assisted bicycle (e-bike) use on hard-surface multi-use paths, not including paths on Open Space and Mountain Parks (OSMP) lands. The pilot project was authorized by an ordinance adopted by council in November 2013 that established a pilot project sunset date of Dec. 31, 2014.

A staff evaluation of multi-use path users during the pilot project showed that e-bikes make up a very small proportion of path users. During a seven-hour multi-use path observation, 1,000 bikes were counted and only three of those were e-bikes. Since the pilot project began, there have been no reported traffic collisions or close calls involving e-bikes. In addition, intercept surveys of other path users show that the majority of path users have not interacted with e-bikes and support their use on multi-use paths. This qualitative and quantitative data suggests that e-bikes can continue to coexist with current users on multi-use paths.

The proposed ordinance to remove the sunset provision is provided in **Attachment A**. The Oct. 21, 2014 first reading packet is provided as **Attachment B**.

FIRST READING QUESTIONS

City Council members provided several questions during the first reading, which staff has addressed below.

1. *How is electric-assisted bicycle use on open space lands being addressed?*

The proposed ordinance will only remove the sunset date, leaving the restriction on electric-assisted bicycle use on OSMP lands in place. The potential transfer/disposal of OSMP land to Transportation Division management for embedded elements in the hard-surface path system not core to the OSMP system will be presented to the Open Space Board of Trustees and City Council as a separate item at a future date.

2. *What control mechanisms are permissible? Throttle- or pedal-engaged? How do we regulate? Should we consider changing to the European definition?*

The Boulder Revised Code (B.R.C.) defines an electric-assisted bicycle as "a vehicle having two tandem wheels or two parallel wheels and one forward wheel, fully operable pedals, an electric motor not exceeding 750 watts of power rating, and a top motor-powered speed of twenty miles per hour." This definition was modified as part of the pilot to be consistent with the State of Colorado definition.

European Union (EU) directive 2002/24/EC exempts vehicles with the following definition from type approval: "Cycles with pedal assistance which are equipped with an auxiliary electric motor having a maximum continuous rated power of 0.25 kW, of which the output is progressively reduced and finally cut off as the vehicle reaches a speed of 25 km/h or if the cyclist stops pedaling." This is the de facto definition of an electrically assisted pedal cycle in the EU. As with all EU directives, individual member countries of the EU are left to implement the requirements in national legislation.

The European standards for low-speed electric bicycles are much more stringent than the U.S. Consumer Product Safety Commission standards, limiting the maximum assisted speed to 15 mph and requiring the user to pedal at all times in order to obtain assistance. The EU does not allow the "throttle" type of e-bike.

Staff recommends no changes in the definition at this time to remain consistent with state standards, with continued monitoring to determine whether variance from state standards would be advantageous in the future.

3. *Should we do additional outreach and education on the operation of electric-assisted bicycles? The operation of an electric-assisted bicycle is likely intimidating for potential new users because of its speed and weight. It was suggested that staff*

consider working with Community Cycles to provide training for people interested in using an electric-assisted bicycle.

The idea of providing public exposure and training on the use of electric-assisted bicycles is excellent. As part of the pilot program consideration, staff did demonstrations and allowed people to use electric-assisted bicycles. As the pilot transitions to an ongoing transportation option, continued outreach and education will be advantageous. Staff will explore options for providing this outreach, including working with Community Cycles.

STAFF RECOMMENDATION
Based on the technical evaluation and community input, staff recommends that e-bike use be continued as allowed today and that Ordinance 7941 be amended to remove the sunset provision.

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt Ordinance No. 8007, removing the sunset provision of Ordinance 7941 allowing e-bike use on certain multi-use paths.

ATTACHMENTS
Attachment A: Ordinance 8007
Attachment B: Oct. 21, 2014 First Reading Packet Item

ORDINANCE NO. 8007

AN ORDINANCE TO REMOVE THE SUNSET PROVISION OF ORDINANCE 7941, AND TO CONTINUE ALLOWING E-BIKE USE ON CERTAIN MULTI-USE PATHS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. The first sentence of Section 8 of Ordinance 7941 is repealed. This sentence provided that Ordinance 7941 would no longer be effective after December 31, 2014. All other provisions of Ordinance 7941 shall remain in full force and effect including the remaining provisions of Section 8.

Section 2. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 3. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of October, 2014.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of November, 2014.

_____
Mayor

Attest:

_____
City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: OCTOBER 21, 2014

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published, by title only, an ordinance to remove the sunset provision to Ordinance 7491, and continue allowing e-bike use on certain multi-use paths.

PRESENTER/S
Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
Tracy Winfree, Director of Public Works for Transportation
Michael Gardner-Sweeney, Transportation Planning and Operations Coordinator
Kathleen Bracke, GO Boulder Program Manager
Jeff Haley, Parks Planner, Parks and Recreation Department
Jim Reeder, Land and Facilities Division Manager, Open Space and Mountain Parks
Kurt Weiler, Traffic Commander, Boulder Police Department
Molly Winter, Executive Director of Downtown, University Hill and Parking Services
Marni Ratzel, Senior Transportation Planner

EXECUTIVE SUMMARY
On Feb. 7, 2014, the city began a pilot project to allow and test electric-assisted bicycle (e-bike) use on hard-surface multi-use paths, not including paths on Open Space and Mountain Parks (OSMP) lands. The pilot project was authorized by an ordinance adopted by council in November 2013 that established a pilot project sunset date of Dec. 31, 2014.

A staff evaluation of multi-use path users during the pilot project showed that e-bikes make up a very small proportion of path users. During a seven-hour multi-use path observation, 1,000 bikes were counted and only three of those were e-bikes. Since the pilot project began, there have been no reported traffic collisions or close calls involving e-bikes. In addition, intercept surveys of other path users show the majority of path users have not interacted with e-bikes and support their use on multi-use paths. This qualitative

and quantitative data suggests that e-bikes can continue to coexist with current users on multi-use paths.

This item introduces an ordinance to remove the sunset provision of Ordinance 7491(**Attachment B**), which allows e-bikes on certain multi-use paths, excluding paths on OSMP-managed lands. The draft ordinance is included as **Attachment A**. It enables the City Manager, under rulemaking authority, to regulate the hard-surface paths where a person may activate the electric-assisted motor of an e-bike. The current regulation establishes a Map of Multi-Use Paths That Allow E-Bike Use (**Attachment C**) and allows the pilot project to continue until Dec. 31, 2014. A new rule to remove the sunset date would be published approximately 30 days after council approval of the ordinance and enacted approximately two weeks thereafter, on or about Jan. 2, 2015.

Consistent with the current ordinance, the new ordinance would not include use on facilities that are pedestrian-only or intended to preserve the natural environment. Specifically, the proposed ordinance states that e-bike use would continue to be prohibited on sidewalks, paths and soft-surface trails in the OSMP system surrounding Boulder.

STAFF RECOMMENDATION

Based on the technical evaluation and community input detailed in subsequent sections of this memo, staff recommends that e-bike use be continued as allowed today and that Ordinance 7941 be amended to remove the sunset provision.

Suggested Motion Language:

Staff requests council consideration of this matter and action in the form of the following motion:

Motion to introduce and order published, by title only, an ordinance removing the sunset provision of Ordinance 7941.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic**: Bicyclists tend to shop locally and invest in the local economy. A local survey estimates the direct economic benefit of the bicycling industry in Boulder to be $52 million in 2010. E-bikes support local trips to shopping and employment for people of all ages and abilities.

- **Environmental:** E-bikes are an efficient, zero-emission transportation option, reducing greenhouse gases and vehicle miles traveled. An estimated 40 percent of all car trips are less than two miles away. Reducing the number of trips made by cars reduces congestion and frees up road space for essential motor vehicle trips. E-bikes expand the distance a bicyclist is willing and able to ride, which increases the potential to shift some single-occupant vehicle trips to e-bike trips.

- **Social:** Allowing the use of e-bikes on multi-use paths supports a complete transportation system. E-bikes expand travel options and help aging generations stay active and healthy. Biking is an active form of transportation that helps address health problems related to sedentary behavior.

OTHER IMPACTS

- **Fiscal –** There are no budgetary impacts associated with this work.
- **Staff time –** No additional staffing or staff time is expected as a result of these proposed changes.

BOARD AND COMMISSION FEEDBACK

On Oct. 13, 2014, the Transportation Advisory Board (TAB) held a public hearing to consider the staff recommendation to remove the sunset provision and continue to allow electric-assisted bicycle use on certain multi-use paths, excluding paths on OSMP-managed land. The board unanimously passed a motion in support of a recommendation to City Council to remove the sunset provision from Ordinance 7941.

TAB members are supportive of removing the sunset provision and continuing e-bike use on multi-use paths as a means to increase mobility and bicycle mode share. TAB members expressed a desire for staff to continue monitoring the use of e-bikes on multi-use paths and to revisit the issue should a problem arise in the future. At least one board member felt that the low percentage of e-bike users observed on multi-use paths and relatively low response rate from the survey demonstrates that there was not adequate data to make an educated long-term policy decision regarding e-bike use on multi-use paths.

Other affected boards include the Downtown Management Commission (DMC), Open Space Board of Trustees (OSBT), University Hill Commercial Area Management Commission (UHCAMC), and Parks and Recreation Advisory Board (PRAB). These boards received the TAB packet materials for this topic as an information item in advance of the City Council meeting.

PUBLIC FEEDBACK

There was an extensive public engagement process that preceded the board and council consideration of the e-bikes pilot project. Throughout the pilot project, Inspire Boulder offered a digital forum for community input and dialog. Stakeholders from that process who expressed interest in updates about the city's policy regarding the use of e-bikes have been informed of the staff recommendation and the TAB and council meeting schedule to consider the proposed ordinance, and have been provided with links to the TAB and council materials.

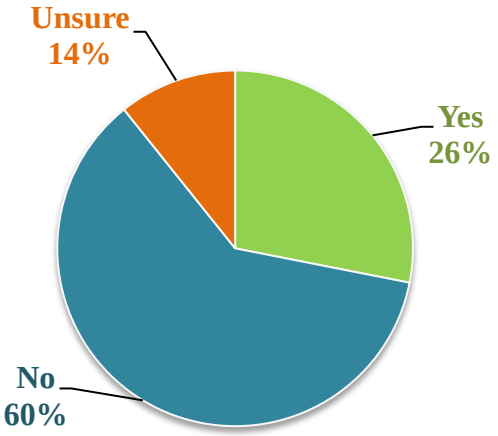
An intercept survey of multi-use path users was conducted during the week of Sept. 6, 2014. Four locations along the paths were selected to intercept path users: Boulder Creek multi-use path at Boulder High School; Elmer's Twomile Creek multi-use path at Goose

Creek multi-use path; Arapahoe Avenue multi-use path at 48th Street/Boulder Community Health; and South Boulder Creek path south of Baseline Road.

A total of 126 respondents answered two questions about e-bikes included on the survey. These questions and a breakdown of responses are detailed below.

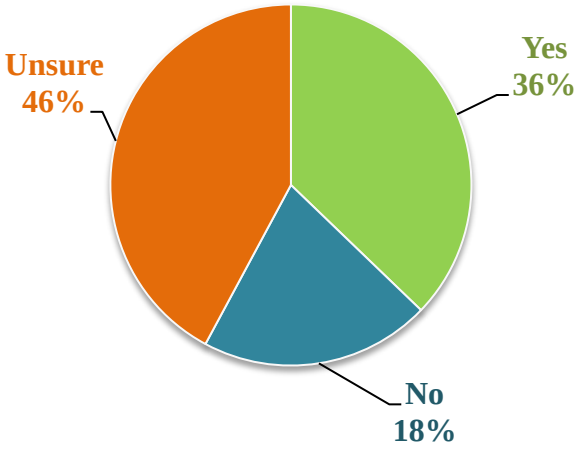
Have you encountered an electric-assisted bicycle on multi-use paths in Boulder?

- **Yes:** 34
- **No:** 74
- **Unsure:** 13



Do you support the use of electric-assisted bicycles on Boulder's multi-use paths?

- **Yes:** 45
- **No:** 25
- **Unsure:** 51



Two community members attended the Transportation Advisory Board meeting on Oct. 13, 2014, to provide testimony during the public hearing. Both community members expressed support for continuing to allow e-bike use on multi-use paths. Additionally, Community Cycles provided written comment in support of continuing to allow e-bike use on multi-use paths.

BACKGROUND

One objective of the updated Transportation Master Plan (TMP) is achieving an increase in bicycle mode share from 10 to 15 percent by 2020 and ultimately to 30 percent by 2035. In support of this objective, staff is focusing its efforts on attracting and better accommodating "interested but concerned cyclists" and especially increasing trips by older adults, women and families with young children – accommodating bicyclists from eight to 80 years old. Engineering improvements, coupled with strategies to encourage,

educate, enforce, and evaluate, are the five "E's" that comprise this comprehensive approach to increasing bike mode share in Boulder.

As part of the 2014 TMP update, the city introduced a Living Laboratory to test a variety of new bicycle facilities and programs and evaluate their long-term application in Boulder. These bicycle pilot projects include innovative treatments that offer the opportunity to experiment with enhancements to the existing system and aim to encourage bicycle use by all types of people for a variety of trip purposes.

In February 2014, the city began the pilot program to test the use of e-bikes on certain hard-surfaced multi-use paths, not including paths on OSMP lands or sidewalks (except those designated as multi-use paths). Staff conducted a qualitative and quantitative evaluation of the e-bike pilot project that is detailed in the "Analysis" below.

ANALYSIS

In order to assess whether the use of e-bikes as an alternate mode of transportation is safe, prudent, and in the best interest of all users of the city's hard-surfaced, multi-use path system, city staff evaluated the factors and data on an ongoing basis. Since the inception of the pilot project, the findings are as follows:

1. There have been no reported traffic collisions involving e-bikes on hard-surfaced, multi-use paths;

2. There have been no reported close call incidents involving e-bikes on hard-surfaced, multi-use paths;

3. There have been no reported or observed unsafe behaviors by e-bike users, including speeding and/or other safety concerns, along the hard-surfaced, multi-use paths; and

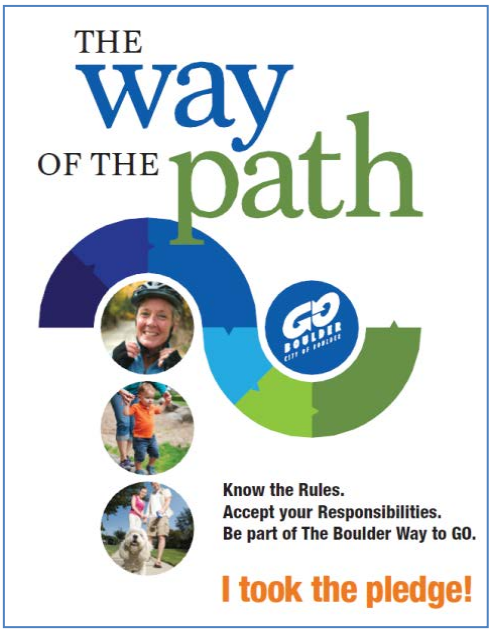
4. There has not been a need for Boulder Police officers to issue any warnings or citations involving e-bikes along the hard-surfaced, multi-use path system, or for officers to increase enforcement at a particular location. Enforcement efforts were only to be considered if a problem location was identified.

Staff conducted field surveys in August 2014 and key findings indicate that allowing e-bikes to ride on multi-use paths has not resulted in large numbers of e-bikes using the trail system and that 82 percent of all bicycles (e-bikes and "regular" bikes) are traveling at or below the posted 15 mph speed limit on multi-use paths.

Key findings from approximately seven hours of observing 1,000 traveling bicycles at four multi-use path locations included the following:

- Three e-bikes were observed (out of 1,000 bikes);
- 82 percent of cyclists were traveling at or below the 15 mph speed limit;
- Less than 1 percent of cyclists experienced near-miss conflicts;
- 67 percent of all cyclists observed were male;

- 33 percent of all cyclists observed were female;
- 10 percent of cyclists observed wore a “full lycra cycling kit;” and
- 7 percent of cyclists observed were children.



The city launched The Way of the Path courtesy campaign this fall to encourage safe behaviors for all path users, with an emphasis during the back-to-school timeframe. This campaign is part of the community outreach initiated with the e-bikes pilot program as part of the Living Lab, though it is designed to be universal in communicating safety and etiquette messages. The Way of the Path campaign features messaging about eight rules designed to encourage proper etiquette and safety for all path users. It is supported by a project Web page and social media, as well as a team of Bicycle Ambassadors.

In partnership with Community Cycles, Bicycle Ambassadors staffed a table at the Wednesday Boulder Farmers’ Markets and at spot locations along the multi-use paths throughout September to raise awareness about the rules and ask community members to pledge their commitment to make paths more safe and enjoyable. Those who signed the pledge receive weekly blog posts and surveys on the rules of the path. As of the seventh week of the campaign, more than 330 people have pledged to follow The Way of the Path, several of whom are completing weekly surveys to share their perspective and experience as path users.

Some highlights from the surveys so far include:

- More than 80 percent of respondents knew the 15 mph speed limit on Boulder's multi-use paths;
- The top three reasons for using Boulder's multi-use paths were recreational/social, exercise, and shopping/errands; and
- A total of 21 people completed the weekly blog survey asking two questions about e-bikes. Of these respondents, 17 expressed support for e-bike use on multi-use paths, four were unsure and none were in opposition. In answer to the question of whether they have encountered an e-bike on multi-use paths, four said yes, four responded that they were unsure and 13 answered no.

The Way of the Path campaign will continue on an ongoing basis throughout 2014 and 2015, regardless of whether e-bike use on multi-use paths continues or not.

PROPOSED ORDINANCE REVISION
The City Attorney's Office has drafted a proposed ordinance for City Council consideration that would remove the sunset provision (Section 8) of Ordinance 7491 **(Attachment B)** and continue to allow e-bike use on hard-surface, multi-use paths, excluding paths on OSMP. This proposed ordinance is included as **Attachment A**.

Based on the pilot project technical analysis and community feedback, staff recommends that the use of e-bikes on the hard-surface multi-use paths is working well and recommends that council remove of the sunset date provision of Dec. 31, 2014 to allow e-bikes on certain multi-use paths in 2015 and beyond.

NEXT STEPS
If the proposed ordinance to remove the sunset provision is approved by City Council, staff will proceed with amending the current rule to continue to allow e-bike use on specific hard-surface multi-use paths in Boulder.

Visit www.goboulder.net for more information about e-bikes and multi-use paths.

ATTACHMENTS
Attachment A: Ordinance 8007
Attachment B: Ordinance 7491
Attachment C: Map of Multi-Use Paths That Allow E-Bike Use

ORDINANCE NO. 8007

AN ORDINANCE TO REMOVE THE SUNSET PROVISION OF ORDINANCE 7941, AND TO CONTINUE ALLOWING E-BIKE USE ON CERTAIN MULTI-USE PATHS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. The first sentence of Section 8 of Ordinance 7941 is repealed. This sentence provided that Ordinance 7941 would no longer be effective after December 31, 2014. All other provisions of Ordinance 7941 shall remain in full force and effect including the remaining provisions of Section 8.

Section 2. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 3. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of October, 2014.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____, 2014.

_____
Mayor

Attest:

_____
City Clerk

ORDINANCE NO. 7941

AN ORDINANCE CREATING A PILOT PROJECT ALLOWING ELECTRIC ASSISTED BICYCLES ON CERTAIN HARD-SURFACED, MULTI-USE PATHS BUT EXCLUDING THOSE ON OPEN SPACE AND MOUNTAIN PARK PROPERTY BY AMENDING DEFINITIONS IN SECTIONS 1-2-1 AND 7-1-1; AMENDING SECTIONS 7-4-16, 7-5-5, AND 7-5-9 TO SPECIFY SAFETY STANDARDS THAT WILL APPLY TO ELECTRIC ASSISTED BICYCLES; ADDING A NEW SECTION 7-5-26 AUTHORIZING ELECTRIC ASSISTED BICYCLES WHERE PERMITTED BY A RULE ADOPTED BY THE CITY MANAGER; ESTABLISHING A SUNSET DATE OF DECEMBER 31, 2014; AND SETTING FORTH RELATED DETAILS.

WHEREAS, THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THE FOLLOWING:

A. The 2013 Transportation Master Plan (TMP) update builds on a strong foundation of success through policy refinement, using a collaborative approach and addressing the current and future transportation needs of the community while integrating with the city's broader sustainability planning initiatives.

B. As part of the TMP update, the Transportation Division is introducing new strategies to increase bicycle and pedestrian mode share. It includes a "Complete Streets Bike and Pedestrian Living Laboratory" that provide test facilities and pilot programs to better understand the community's transportation choices and identify potential opportunities, barriers, and ultimately strategies to encourage more people to walk and bike.

C. The purpose of this ordinance is to establish a one-year electric assisted bicycle demonstration Pilot Project (the "Pilot Project"), which would allow and test use of electric assisted bicycles on off-street, hard-surfaced, multi-use path system within the City of Boulder limits.

D. The Pilot Project is focused on the urban service area where there is a network of hard-surfaced, off-street, multi-use paths maintained to a transportation standard.

E. The Pilot Project would not include use on facilities that are pedestrian only or intended to preserve the natural environment. Specifically, electric assisted bicycle use would continue to be prohibited on sidewalks and on the Open Space and Mountain Park (OSMP) trail system surrounding Boulder.

F. The Pilot Project will evaluate behavior of electric assisted bicycle users to determine whether these vehicles can co-exist with current uses on these multi-use paths.

G. The Pilot Project is part of a Living Laboratory being implemented to introduce new strategies to increase bicycle mode share and encourage more people to complete trips by bicycle.

H. The city's ordinances do not permit any self-propelled vehicle to be driven on any paths.

I. In order to provide assurance that the use of electric assisted bicycles as an alternate mode of transportation contemplated by this program is safe, prudent, and in the best interest of all users of the city's hard-surfaced, multi-use path system, city staff will evaluate the following factors and data on an ongoing basis:

1. The number of reported traffic collisions involving electric assisted bicycles occurring on hard-surfaced, multi-use paths that result in severe injury or fatality;
2. The number of reported close call incidents involving electric assisted bicycles occurring on hard-surfaced, multi-use paths;
3. Reported and observed unsafe behavior including speeding and other safety concerns along the hard-surfaced, multi-use path system by various users including electric assisted bicyclists, regular bicyclists, pedestrians and other users;

4. The time spent by Boulder Police officers conducting enforcement activities along the hard-surfaced, multi-use path system and the number of warnings and citations issued involving electric assisted bicycles.

J. The greater Boulder community and affected Advisory Boards considered options and provided input to guide a staff recommendation on the Pilot Project.

K. On September 23, 2013, the Transportation Advisory Board held a public hearing to consider the staff recommendation on the Pilot Project and make a formal recommendation to City Council.

L. This program will sunset and be of no further force and effect after December 31, 2014, unless extended by affirmative council action.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Section 1-2-1, B.R.C. 1981, is amended to read:

1-2-1 Definitions.

. . .

"Motor vehicle" means any self-propelled vehicle other than a moped, electric assisted bicycle or motorized wheelchair.

Section 2. Section 7-1-1, B.R.C. 1981, is amended to read:

7-1-1 Definitions.

. . .

"Electric assisted bicycle" means a ~~bicycle~~ vehicle having two tandem wheels or two parallel wheels and one forward wheel, fully operable pedals, an ~~with a battery-powered~~ electric motor not exceeding ~~with a capacity of no more than four~~seven hundred-fifty watts of ~~continuous input~~ power rating, ~~which assists the person pedaling and which is not capable of propelling the bicycle~~ and a top motor-powered speed of ~~rider at more than~~ twenty miles per hour ~~on level pavement~~.

"Motor vehicle" means any self-propelled vehicle other than a moped, electric assisted bicycle or motorized wheelchair.

Section 3. Section 7-4-16, B.R.C. 1981, is amended to read:

7-4-16 Yield Required Before Entering or Leaving Street.

(a) A driver entering a street at any place other than an intersection shall yield the right-of-way to any pedestrian or bicycle approaching on a sidewalk or path, to any electric assisted bicycle approaching on a multi-use path where such vehicles are permitted, and to any vehicle approaching on a roadway of the street.

(b) A driver leaving a street at any place other than an intersection shall yield the right-of-way to any pedestrian or bicycle approaching on a sidewalk or path, and to any electric assisted bicycle approaching in a multi-use path where such vehicles are permitted.

Section 4. Section 7-5-5, B.R.C. 1981, is amended to read:

7-5-5 Use of Crosswalk.

(a) No person shall immediately approach, enter or traverse a crosswalk which spans a roadway at a speed greater than eight miles per hour.

(b) Persons driving bicycles across a roadway upon and along a crosswalk from a sidewalk or path, and persons driving electric assisted bicycles across a roadway upon and along a crosswalk from a multi-use path where such vehicles are permitted, shall have all the duties applicable to pedestrians under the same circumstances.

(c) Such persons similarly have the rights of a pedestrian, but only if the bicyclist was entitled to use the sidewalk or path, and the approach, entry and traversal of the crosswalk are made at a speed no greater than a reasonable crossing speed so that other drivers may anticipate the necessity to yield when required.

Section 5. Section 7-5-9, B.R.C. 1981, is amended to read:

7-5-9 Bicycle Must Yield Right-of-Way and Obey Traffic Control Devices on Sidewalk, Crosswalk, or Path.

(a) A person driving a bicycle on a sidewalk, a crosswalk, or a path, and any person driving an electric assisted bicycle on a multi-use path, shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian.

(b) If any traffic control device is in place alongside of or on a sidewalk or a path, no driver of a bicycle or pedestrian, and no driver of an electric assisted bicycle on a multi-use path where such vehicles are permitted, shall fail to obey the requirements of the device.

Section 6. Chapter 7-5, "Pedestrian, Bicycle and Animal Traffic," B.R.C. 1981, is amended by the addition of a new section to read:

7-5-26 Electric Assisted Bicycles.

No person shall activate the motor of an electric assisted bicycle on any bike or pedestrian path or on a recreational trail except where permitted by a rule adopted by the city manager in accordance with Chapter 1-4, "Rulemaking," B.R.C. 1981. Such rule adopted by the city manager shall not include paths or trails on open space land as defined in the City Charter Section 170.

Section 7. The city manager shall report to the City Council at least quarterly, and shall present a program evaluation after the program concludes.

Section 8. This ordinance shall be effective until December 31, 2014. The City Council suspends the prohibition against operating a motorized vehicle on hard-surfaced, multi-use paths until that time for the limited purpose of implementing the Pilot Project described by this ordinance, except that the use of electric assisted bicycles, whether the motor is activated or not, is prohibited on sidewalks and on open space land, as defined in the City Charter Section 170. For all other purposes, the regulations governing electric assisted bicycles remain in full force and effect.

Section 9. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 10. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 1st day of October 2013.

Mayor

Attest:

City Clerk

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 29th day of October 2013.

Mayor

Attest:

City Clerk

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 12th day of November, 2013.

Mayor

Attest:

City Clerk

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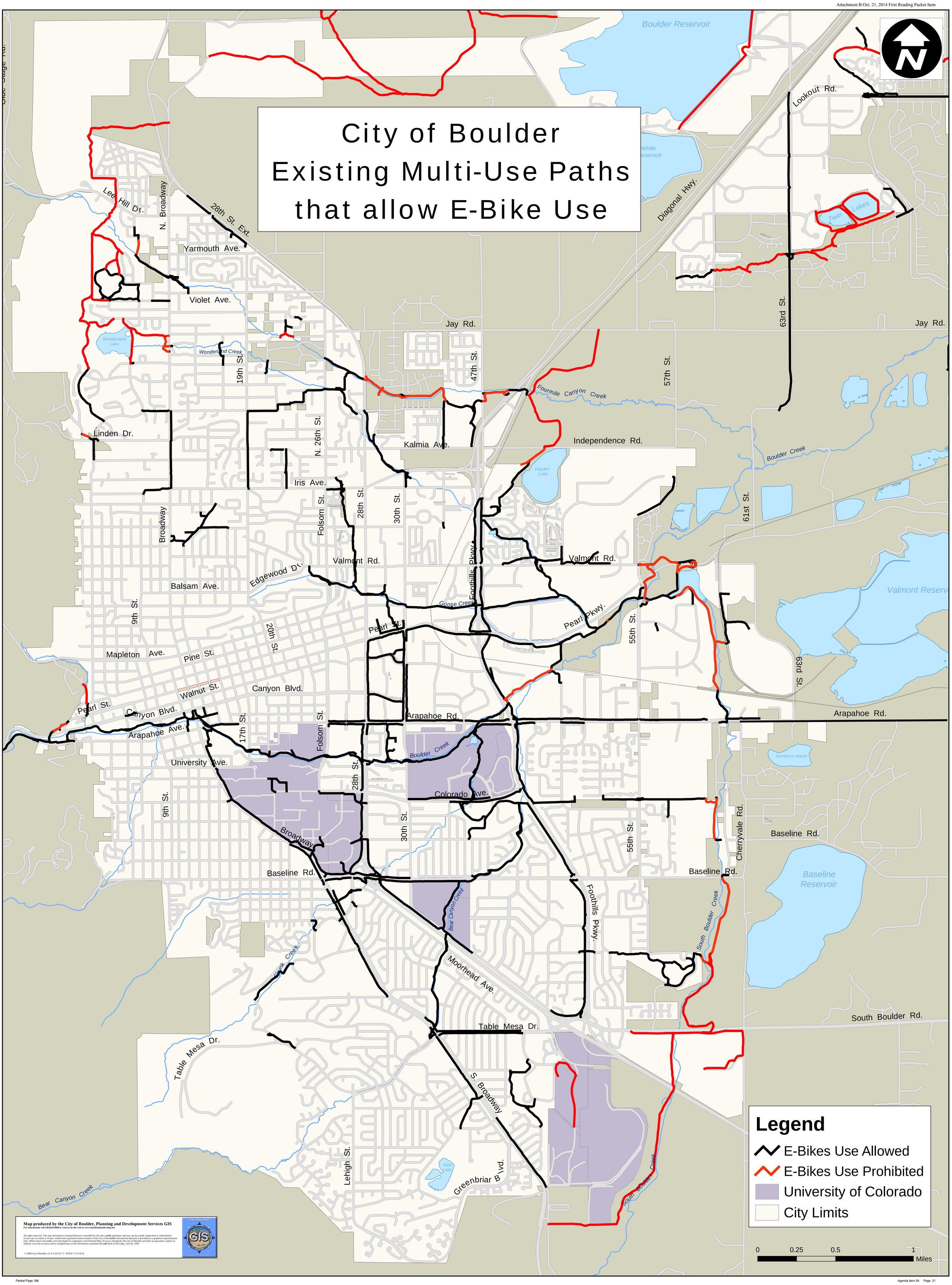
City of Boulder Existing Multi-Use Paths that allow E-Bike Use



CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: November 18, 2014

AGENDA TITLE: Continued Second Reading and consideration of a motion to 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.

PRESENTERS:
Tom Carr, City Attorney
David Gehr, Deputy City Attorney

EXECUTIVE SUMMARY

On January 21, 2014, council considered and passed on first reading extensive proposed changes to the city's code of conduct. These changes were developed based on council direction given at study sessions on October 9 and October 23, 2012. Council made no changes on first reading. After first reading, Council Members Matthew Appelbaum and Macon Cowles posted questions on the council hotline. The second reading memorandum addressed those questions (Attachment B). On February 18, 2014, Council considered the proposed ordinance on second reading. Staff requested Council direction on thirteen questions. Council provided direction on each issue and directed staff to modify the ordinance and bring a proposed revised ordinance back for a continued second reading. The questions and council direction were recorded in the council minutes.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff requests Council consideration of this matter and action in the form of the following motion:

Motion to approve on second reading Ordinance No. 7957 amending Title 2, "Government Administration," Chapter 7, "Code Of Conduct," B.R.C. 1981.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic:
  None identified.
- Environmental:
  None identified
- Social:
  Boulder's community values support an honest, ethical and transparent local government. The intent of the proposed ordinance is to revise the city's ethics code to be more accessible through clarity. The proposed ordinance would strengthen the sanctions for dishonest behavior, while at the same time clarifying what is acceptable and appropriate behavior for city elected officials, employees and appointed volunteers.

OTHER IMPACTS

- Fiscal:
  None identified.
- Staff Time:
  None identified.

BACKGROUND

At the February 18, 2014 council meeting staff posed thirteen questions to council. Council provided feedback on each of the questions as well as other issues identified by council members. The proposed ordinance includes changes to address feedback from council. The following section includes each question, a summary of Council's direction and the proposed ordinance language.[1]

ANALYSIS

1. Should discounts be included expressly as gifts?

The code does not currently expressly include a discount as a gift. Council members agreed that discounts should be included. The proposed change in Section 2-7-4(a) is as follows:

(a) Gifts Prohibited: No public official or public employee or relative of such employee or official shall accept anything of value including, without limitation, a gift, a favor, <u>a discount</u> or a promise of future employment if:

2. Should Council be informed before a member takes paid travel?

Council members supported a provision requiring council members to inform the Council before the member accepts paid travel. This change allows for additional

[1] The quotations included in this memorandum include only the changes made on continued second reading. The proposed ordinance includes all changes from the existing code.

transparency in light of another proposed change to remove the restriction that previously allowed travel to be paid only by governments or governmentally related organizations. The purpose of the disclosure would be to allow the Council to identify potential issues associated with certain paid travel. The Council recognized, however, that it is not always practical for a member to provide notification before travelling, because many trips are arranged with relatively short notice. Council also recognized that this information could be provided to other members outside of a scheduled meeting, by posting a message on the council "hotline." This requirement also applies to members of boards and commissions. The provision requires only that the member "inform" the council. There is no requirement that council approve the travel, which would require a council meeting.

3. Should city officials be permitted to accept paid travel from for-profit corporations?

Staff's original recommendation was to expand paid travel only to include travel paid for by not-for-profit corporations. Council recognized, however, that the tax status of a corporation was not necessarily related to whether it would be appropriate for the organization to pay for travel. The proposed ordinance instead includes other practical restrictions on travel that do not relate to the benefactor's tax status. The travel provision, revised to reflect Council direction in response to questions two and three is in Section 2-7-4(b)(5) as follows:

(5) Reasonable expenses ~~paid for by other governments or governmentally related organizations~~ for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate in a panel, or represent the city provided that if travel expenses are paid:

(A) The travel is for a legitimate city purpose;

(B) The travel arrangements are appropriate to that purpose;

(C) The expenses paid are for a time period that is no longer than reasonably necessary to accomplish the business that is its purpose;

(D) The public official or public employee who will be traveling is not currently, was not in the recent past, and will not in the reasonably foreseeable future, be in a position to take direct official action with respect to the donor;

(E) Prior to travelling, if practicable, the public official informs the city council or the employee informs the city manager of the name of the party paying for the travel expenses and the reason for the travel; and

(F) After completing the travel, the public official reports compliance of the first four conditions to the city council and the public employee reports compliance with the first four conditions to the city manager.

4. Should there be a time limitation on the exclusion from future employment because a council member or staff member took "official action" relating to the potential employer.

Council members expressed concern that an action taken many years previously could preclude a person from accepting employment. There also was concern that the term "official action" is vague and could be read to encompass a broad range of activities that should not bar future employment. Council directed staff to propose time limits both associated with how long an action should disqualify a person from seeking employment and how long after leaving the city a person should be disqualified.

5. Should the prohibition on employment be longer than six months?

Council members did not express support for extending the prohibition on future employment beyond six months. Council also directed staff to limit the scope of the activities that would result in a prohibition on future employment to areas in which the official or employee exercised some level of discretion.

The proposed revised language addressing Council's responses to questions four and five is in Section 2-7-5(d) as follows:

(d) Activities That Occur After Termination of Employment or Office: No former public official or public employee shall seek or obtain employment concerning matters upon which he or she took any ~~official~~ action during his or her service with the city for six months following termination of office or employment if such action, occurred less than four years prior to seeking or obtaining employment, involved an exercise of discretion by the public official or public employee and provided direct benefit to the employer, including but not limited to a contract, lease, employment or regulatory approval. This provision may be waived by the city council or the city manager.

6. Should the prohibition on suing the city exclude certain types of litigation?

Council members expressed concern that the provision prohibited a council member or member of a board or commission from suing the city as a party to litigation. Council directed staff to remove that prohibition, but to retain the prohibition on acting as an attorney suing the city. The revised provision is in section 2-7-7(g) as follows:

(g) Consent to Sue: No public official shall ~~be a party or~~ by himself or herself or as an affiliate of a firm appear on behalf of a party in a civil law suit in which the city is an adverse party, unless the public official first obtains the consent of the city council.

7. Should the code clarify the meaning of direct and indirect benefits?

Council members expressed concern that the term "indirect benefit" was too amorphous to allow for clear decision-making. Council directed staff to redraft Section 2-7-8(e)(8) to clarify the requirement. Staff proposes simplifying the proposed section to clarify that a person must disclose any benefit that he or she will receive from a matter requiring the exercise of his or her discretion. Staff also proposes that the code include a definition of "benefit." The proposed redrafted Section 2-7-8(e)(8) and the new Section 2-7-14, which includes definitions of "benefit" and related terms are as follows:

(8) Disclose any ~~direct or indirect~~ ~~financial or material~~ benefit ~~to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest in~~ he or she will receive from any matter requiring the exercise of discretion by the officer or employee.

* * *

"Benefit" shall mean anything of value accruing to an official or employee. A benefit shall not include any situation in which the official or employee has only a remote interest. An official or employee is deemed to have received a benefit if any of the following receive a benefit:

(1) A Family Member;

(2) Any person or business entity with whom a contractual relationship exists with the official or employee;

(3) Any business entity in which the official or employee is an officer or director; or

(4) Any business entity in which the official or employee has a stock, legal ownership, or beneficial ownership of at least five (5) percent of the total stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the official or employee.

"Family Member" shall mean a spouse, domestic partner, partner in a civil union, child, and whether related through adoption or marriage, a parent, brother or sister.

"Public Official" shall mean any elected or appointed city official, including city council members and members of boards and commissions.

"Remote Interest" shall mean any interest which is incidental to the contract or transaction and shall include:

(1) A position as a non-salaried director, officer or employee of a non-profit corporation or organization;

(2) Less than five (5) percent of the total stock or total legal and beneficial ownership in a business entity;

(3) A position of employment held by a family member which is not a director, officer, manager or supervisor in a business entity;

(4) A position of employment held by a family member which does not directly exercise decision making authority affecting the contract or transaction; or

(5) A position in a representative capacity such as a receiver, trustee or administrator.

8. Should the code include a prohibition on solicitation of employment?

The original proposed provision required disclosure of solicitation or acceptance of employment and approval by Council or the City Manager. Council expressed concern that a person might not be comfortable with disclosing the fact that he or she is looking for employment. Staff recommends, based on Council's discussion that the provision requiring approval be deleted. An individual would be required to withdraw from any activity relating to the potential employer. The proposed language in Section 2-7-8(f)(12) is as follows:

(12) Solicit or accept employment from anyone doing business with the city, unless the official or employee completely withdraws from city activity regarding the party offering employment ~~and the withdrawal is approved by the city council for members of the council, boards or commissions and by the city manager for employees~~.

9. Should the code discourage rudeness to constituents?

Council expressed concern that that example involving rudeness was vague and could lead to potential city liability. Staff agrees and proposes eliminating this example, which was found in section 2-7-15(c). In addition, Council noted the scope of the civil remedies in section 2-7-11(d). Staff recommends that civil remedies be limited to individuals who have suffered actual monetary damages as a result of either a prohibited act or the release of confidential information. The proposed revisions to sections 2-7-11(d) are as follows:

(d) Civil Remedies: Any person <u>incurring actual monetary damage as a direct and proximate result of a violation of section 2-7-2, "Prohibited Acts," B.R.C. 1981 or section 2-7-3, "Duty to Maintain the Confidentiality of Privileged Information," B.R.C. 1981</u> ~~affected by a city transaction may~~ commence a civil action in the District Court in and for the County of Boulder for equitable relief to enforce the provisions of this chapter upon a showing of willful violation of any provision of this chapter. Before filing such an action, the person shall present the claim to the city attorney to investigate in accordance with subsection 2-7-11(c),

B.R.C. 1981. The city attorney or appointed special council shall have sixty days to act thereon. No civil action in district court pursuant to this subsection may be commenced later than twelve months after a violation of this chapter is alleged to have occurred.

10. Should the code prohibit the use of a city cell phone for campaign activities?

City policy and state law prohibits the use of a city cell phone for campaign purposes. Staff recommends no change to section 2-7-15(g).

11. Is buying an expensive dinner using city funds for personal benefit?

Council members noted that the term "expensive" is very subjective and that the city has per diem limits that regulate effectively spending on travel. Staff recommends deletion of section 2-7-15(k)

12. Should the code exempt certain meals from the gift prohibition?

Council members expressed concern about the requirement in Section 2-7-4(b)(7) that an event be "open to the public" to qualify for the $150 exemption. Council noted that there are meetings, that are important for council members to attend, that are not open to the public. Staff recommends deleting the "open to the public" requirement. Council also supported an exemption to allow council members to accept a single ticket to a sporting event, concert or other event to promote the relationship between the city and the organization hosting the event. The proposed revisions to Sections 2-7-4(b)(7) and (8) are as follows:

(7) A single unsolicited ticket given to a city council member and valued at not in excess of $150.00 to attend events ~~open to the public~~ on behalf of the city, such as awards dinners, nonprofit organization banquets and seminars, provided that:

(A) The ticket is offered only to the council member and has no resale value; and

(B) The ticket is not offered by a commercial vendor who sells or wishes to sell services or products to the city; and

~~*(C) The ticket is not for a sporting event.*~~

(8) A single unsolicited ticket given to a council member and valued at not in excess of $150.00 in each calendar year to attend a sporting event, concert or other event provided by a governmental entity or nonprofit organization, if the event is sponsored by the governmental entity or nonprofit organization, and the purpose of attending the event is to promote the relationship between the city and the other governmental entity or nonprofit organization.

13. Should board or commission members be permitted to use their title in endorsements?

Council directed that this prohibition be removed to allow members of boards and commissions to identify themselves and their title in supporting or opposing candidates or ballot measures. This also requires the deletion of the example in Section 2-7-15(w). The revised section 2-7-8(f)(16) is as follows:

(16) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests or implies that the city supports or opposes a candidate or ballot measure, except that ~~council members~~ public officials may identify themselves and their position as ~~individual council members~~ public officials supporting or opposing candidates or ballot measures.

Attachments

Attachment A - Proposed Ordinance
Attachment B - Second Reading Packet for February 18, 2014 Meeting

ORDINANCE NO. 7957

AN ORDINANCE AMENDING TITLE 2, "GOVERNMENT ADMINISTRATION," CHAPTER 7, "CODE OF CONDUCT," B.R.C. 1981, INCLUDING EXPANDING THE LEGISLATIVE PURPOSE, CLARIFYING THE PROHIBITIONS ON ACCEPTING GIFTS, AMENDING THE RESTRICTIONS ON APPEARING BEFORE CITY BODIES, SETTING FORTH PROHIBITED ACTS, ESTABLISHING EXPECTATIONS FOR PUBLIC OFFICIALS AND PUBLIC OFFICERS, SETTING FORTH EXAMPLES OF VIOLATIONS AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Title 2, Chapter 7 of the Boulder Revised Code, 1981 is amended as follows:

2-7-1 Purpose, Legislative Intent and Findings.

(a) Purpose: The purpose of this chapter is to protect the integrity of city government by:

(1) Defining and forbidding certain activities including bribery and profiteering from public office~~conflicts of interest that if left unchecked tend to compromise the ability of elected and appointed public officials and public employees to perform their duties without improper financial influence~~.

(2) Establishing high standards of conduct for elected officials, appointed board and commission members and city employees by setting forth certain expectations of behavior that all such individuals shall maintain while elected, appointed or employed by the City of Boulder. ~~Defining and discouraging certain actions that may create an appearance of impropriety that undermines public trust in the accountability and loyalty of elected and appointed public officials and employees.~~

~~(3)~~ ~~Protecting the integrity of city government by providing standards of conduct and guidelines for elected and appointed public officials and public employees to follow when their private interests as residents conflict with their public duties.~~

(34) Fostering public trust by defining standards of honest government and prohibiting the use of public office for private gain.

(b) Legislative Intent: It is the intent of the city council to:

(1) Establish rules of conduct that meet or exceed the rules established by the Colorado State Constitution and the Colorado Revised Code. ~~Prohibit public~~

~~officials and public employees from acting on any matter in which he or she may have a conflict of interest.~~

(2) Establish expectations~~aspirational guidelines~~ to encourage public officials and public employees to maintain the highest standard of conduct to justify the public trust that they enjoy.~~avoid any appearance of impropriety.~~

(3) ~~Require adherence to any provision of state or federal law that imposes a higher standard of conduct than this chapter.~~ Exercise the City of Boulder's right to develop laws related to ethics in local government and appropriate standards of local conduct as matters of local concern as established by the Colorado State Constitution in Article XX recognized by Article XXIX, § 3(6).

(c) Findings: The city council finds and determines that this chapter is necessary to protect the public health, safety, and welfare of the residents of Boulder and is a matter of local concern.

2-7-2 ~~Conflicts of Interest~~ Prohibited Acts.

(a) Personal Benefit~~Conflicts~~ Prohibited: No public official or public employee shall solicit, receive or accept anything of value in exchange for performing or refraining from performing any act associated with the official or employee's position with the city. ~~make or participate in the making of any official action in which he or she knows or should have known that he or she would have a conflict of interest.~~

~~(b) Disclosure Required: Each public official or public employee shall disclose any conflict of interest and disqualify him or herself from participating in the relevant action as provided in section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981.~~

~~2-7-3 Use of Public Office or Confidential Information for Financial Gain.~~

(b~~a~~) Use of Position for Gain Prohibited: No public official or public employee ~~city council member, employee, or appointee to a city board, commission, task force or similar body~~ shall use his or her public office or position for financial gain.

(c~~b~~) Use of Confidential Information for Financial Gain Prohibited: No public official or public employee ~~city council member, employee, or appointee to a city board, commission, task force or similar body~~ shall use or disclose confidential information obtained as a result of holding his or her public office or position, to obtain financial gain, whether for personal gain; gain for his or her relative; gain of any property or entity in which the official or employee has a substantial interest; or gain for any person or for any entity with whom the official or employee is negotiating for or has any arrangement concerning prospective employment.

2-7-3~~4~~ Duty to Maintain the Confidentiality of Privileged Information.

(a) Duty of a Public Official~~Member Of City Council, Board, Commission, Task Force Or Similar Body~~: No public official ~~city council member or appointee to a city board, commission, task force or similar body~~ shall disclose privileged or confidential information without a public majority vote granting the permission of the council or similar body that holds the privilege. The sanction for a member of the city council, board, commission, task force or similar body shall be censure of the body, reached by a majority vote of the body, not including the member charged with disclosing such confidential information.

(b) Duty of a Public~~City~~ Employee: No ~~city~~public employee shall disclose privileged or confidential information, obtained as a result of holding his or her public office or position, unless the employee has first received approval by the city manager acting upon the advice of the city attorney.

2-7-4~~5~~ Gifts to Public Officials and Public Employees.

(a) Gifts Prohibited: No ~~city council member or appointee to a city board, commission, task force or similar body, or city employee,~~public official or public employee or relative of such employee or official shall accept anything of value including, without limitation, a gift, a favor, a discount or a promise of future employment if:

(1) The official or employee is in a position to take official action with regard to the donor; or

(2) The city has or is known to be likely to have a transactional, business, or regulatory relationship with the donor.

(b) Exceptions and Items not Considered Gifts: The following shall not be considered gifts for purposes of this section, and it shall not be a violation of this chapter for a person to accept the same:

(1) Campaign contributions as permitted by law;

(2) An unsolicited, occasional non-pecuniary gift of a maximum amount of $53~~0~~.00 or less in value. The maximum amount will be equal to the amount established by the state of Colorado pursuant to Colorado Constitution Article XXIX, Section 6. ~~adjusted on January 1, 2006, and annually thereafter to reflect changes in the United States Bureau of Labor Statistics Consumer Price Index for the Denver-Boulder Consolidated Metropolitan Statistical Area for all Urban Consumers, All Goods, or its successor index~~;

(3) A gift from a relative;

(4) An award, publicly presented, in recognition of public service;

(5) Reasonable expenses ~~paid by other governments or governmentally related organizations~~ for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate in a panel, or represent the city provided that if travel expenses are paid:

(A) The travel is for a legitimate city purpose;

(B) The travel arrangements are appropriate to that purpose;

(C) The expenses paid are for a time period that is no longer than reasonably necessary to accomplish the business that is its purpose;

(D) The public official or public employee who will be traveling is not currently, was not in the recent past, and will not in the reasonably foreseeable future, be in a position to take direct official action with respect to the donor;

(E) Prior to travelling, the public official informs the city council or the employee informs the city manager of the name of the party paying for the travel expenses and the reason for the travel; and

(F) After completing the travel, the public official reports compliance of the first four conditions to the city council and the public employee reports compliance with the first four conditions to the city manager.

(6) Items which are similarly available to all employees of the city or to the general public on the same terms and conditions; and

(7) A single unsolicited ticket given to a city council member and valued at not in excess of $150.00 to attend events ~~open to the public~~ on behalf of the city, such as awards dinners, nonprofit organization banquets and seminars, provided that:

(A) The ticket is offered only to the council member and has no resale value; and

(B) The ticket is not offered by a commercial vendor who sells or wishes to sell services or products to the city; and

~~(C) The ticket is not for a sporting event~~

(8) A single unsolicited ticket given to a council member and valued at not in excess of $150.00 in each calendar year to attend a sporting event, concert or other event provided by a governmental entity or nonprofit organization, if the event is sponsored by the governmental entity or nonprofit organization, and the purpose

of attending the event is to promote the relationship between the city and the other governmental entity or nonprofit organization.

2-7-~~6~~5 Prior Employment, Outside Employment, and Subsequent Employment.

(a) Prior Employment: No person shall be disqualified from service with the city as a~~n~~ public official or public employee solely because of his or her prior employment. Public ~~O~~officials and public employees shall not take ~~official~~any action with respect to their former employers for a period of six months from the date of termination of the prior employment if such action involves an exercise of discretion by the public official or public employee and provides direct benefit to the prior employer, including but not limited to a contract, lease, employment or regulatory approval .

(b) Disclosure of Employment and Other Business Activities: All ~~officials and~~ public employees, ~~other than elected officials~~, shall report existing or proposed outside employment or other outside business interests that may affect their responsibilities to the city in writing to their appointing authorities prior to being appointed or hired. After being appointed or hired, all such people shall report any changes of employment or changes to outside business interests that may affect the person's responsibilities to the city, within thirty days after accepting the same. An employee that has received permission from the city manager may engage in outside employment or outside business interests.

(c) Disclosure by Public Officials ~~City Council Members~~: Public Officials ~~Members of the city council~~ shall report any change in their employment status that could give rise to a conflict of interest under this chapter.

(d) Activities That Occur After Termination of Employment or Office: No former public official or public employee shall seek or obtain employment concerning matters upon which he or she took any~~official~~ action during his or her service with the city for six months following termination of office or employment if such action, occurred less than four years prior to seeking or obtaining employment, involved an exercise of discretion by the public official or public employee and provided direct benefit to the employer, including but not limited to a contract, lease, employment or regulatory approval. This provision may be waived by the city council or the city manager.

(e) Participation of Former Officials or Employees: No former public official or public employee shall appear before, or participate in, a city board, commission, task force or similar body on which he or she was a member or served directly as an employee concerning any matter or on which he or she took official action during his or her service with the city for twelve months following termination of office or employment. This prohibition may be waived by the city council by appointment or vote. This prohibition shall not apply to persons who appear before the city in their capacity as an elected official following termination of their office or employment with the city.

(f) Participation in Litigation After Termination: No former public official shall engage in any action or litigation in which the city is involved on behalf of any other person or entity, if the action or litigation involves a matter upon which the person took official action during his or her service with the city for twelve months following termination of service with the city.

2-7-~~7~~6 Employment of Relatives.

(a) No public official or public employee shall appoint, hire, or advocate the appointment or hiring by the city any person who is his or her relative. In the event that an employee is concerned that the employee's decision to appoint, hire or advocate the appointment or hiring by the city a person who is the employee's relative may cause an appearance of violating this section, the employee may request that the city manager make such decision on the employee's behalf. Council-appointed officers may request the city council to make such an appointment or hiring decision on their behalf.

(b) The city may enter into transactions with companies, corporations or other business organizations that employ a relative of a city public official or public employee~~,~~ provided that:

(1) The public official or public employee does not participate in the decision making that leads to hiring the company, corporation, or other business organization that employs his or her relative; or

(2) The business organization is a publicly-traded corporation that provides its services or products to the city on nondiscriminatory terms justified by the market facts and circumstances of each transaction; or

(3) The company, corporation, or business organization has been doing business with the city for at least one year prior to the date the city official's or employee's relative became employed by the company, corporation or other business organization, and the city official's or employee's relative is not directly employed upon matters involving the city and does not have his or her compensation tied in any manner to the success of the company, corporation, or other business organization, or its ability to obtain business or earn compensation from the city.

2-7-~~8~~7 Representing Others Before the City Prohibited.

(a) City Council Members Barred From Representing Others: No city council member shall appear on behalf of himself or herself, or another person, before the city council or any city board, commission, task force or similar body. A city council member may be affiliated with a firm appearing on behalf of or employed by another person concerning any transaction with the city before such a body if the council member discloses the situation and recuses himself or herself pursuant to section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981. This prohibition shall not apply when a city council

member is appointed by a majority vote of the council to represent the council before a board or commission.

(b) Board, Commission or Task Force Members Barred From Representing Others: An appointee to a city board, commission, task force or similar body may appear or be affiliated with a firm appearing concerning any transaction with the city under the following circumstances:

(1) An appointee may appear on his or her own behalf before the body of which he or she is a member to represent his or her personal interests, if the appointee discloses the situation and recuses himself or herself pursuant to section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981, or before the city council;

(2) An appointee may appear on behalf of another person before any city body except the ~~city council or the~~ body of which the appointee is a member, except with respect to a matter that has or may come before the board or commission on which he or she serves;

(3) A firm with which an appointee is affiliated may not appear on behalf of or be employed by another person concerning any transaction before the body of which the appointee is a member unless the appointee discloses the situation and recuses himself or herself pursuant to Section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981.

(c) ~~City~~ Public Employees Barred From Representing Others: No public~~city~~ employee shall appear on behalf of or be employed by another person concerning any transaction with the city or before the city council or any city board, commission, task force or similar body. A~~n~~ public employee may appear before such a body on his or her own behalf or on behalf of such employee's spouse, parent, or child. Nothing in this chapter shall be deemed to prohibit the city manager from establishing additional policies and regulations to prevent conflicts of interest between ~~city~~ public employees and the city.

(d) City Council Members and Municipal Court: No city council member who is an attorney shall appear on behalf of or be employed by another person or be affiliated with a firm appearing on behalf of or employed by another person concerning any matter before the municipal court.

(e) ~~City~~Public Employees and Municipal Court: No ~~city~~public employee who is an attorney shall appear on behalf of or be employed by another person or be affiliated with a firm that appears on behalf of or is employed by another person concerning any matter before the municipal court. A non-attorney employee may appear before the municipal court on his or her own behalf, and an employee other than a municipal court judge may appear on behalf of such employee's spouse, parent, or child to the extent otherwise allowed by law. This authority is intended to allow employees to assist family members in matters before the municipal court to the extent permitted by law but not to promote the unauthorized practice of law.

(f) Board, Commission, or Task Force Member and Municipal Court: An appointee to a city board, commission, task force or similar body may appear before the municipal court and may be affiliated with a firm appearing before the municipal court.

(g) Consent to Sue: No public official~~city council member or appointee to any city board, commission, task force or similar body~~ shall ~~be a party or~~ by himself or herself or as an affiliate of a firm appear on behalf of a party in a civil law suit in which the city is an adverse party, unless the public official~~member or appointee~~ first obtains the consent of the city council.

2-7-~~9~~8 ~~Appearances of Impropriety Discouraged~~Expectations.

(a) These expectations~~guidelines~~ are intended to establish ethical standards~~goals and principles~~ to guide~~help~~ public officials and public employees~~city council members, employees, and appointees to a city board, commission, task force or similar body~~ in the execution of their offices in a manner that will reflect well on the city and promote ~~to determine if their actions may cause an appearance of impropriety that will undermine~~ the public's trust in local government.

(b) ~~Violations of this section shall not constitute a violation of this chapter.~~ Compliance with this section will not constitute a defense for violation of another subsection or section of this chapter. Violation of this section may be considered as the basis for censure of a public official, or in the most serious cases, removal of a board or commission member. Violation of this section may be the basis of disciplinary action, or in the most serious cases, termination of a public employee.

(c) A public official~~city council member, employee, or appointee to a city board, commission, task force or similar body~~ who determines that his or her actions may be considered to be in violation of this section~~cause an appearance of impropriety~~ should consider disclosure and discussion of the potential violation in a public meeting before the council, board, commission, task force or similar body on which the person serves.

(d) A public official whose participation in a matter would violate this section shall ~~, but is not required to, disclose and~~ recuse herself or himself as prescribed by section 2-7-9~~10~~, "Disclosure and Recusal Procedure," B.R.C. 1981., ~~in the following circumstances:~~

~~(1) If the person is an employee of a state or federal government entity with a substantial interest in any transaction with the city;~~

~~(2) If the person has a close friend with a substantial interest in any transaction with the city, and the council member, appointee, or employee believes that the friendship would prevent such person from acting impartially with regard to the particular transaction;~~

~~(3) If the person has an interest in any transaction with the city that is personal or private in nature that would cause a reasonable person in the community to question the objectivity of the city council member, employee, or appointee to a city board, or commission;~~

~~(4) If the person is called upon to act in a quasi-judicial capacity in a decision regarding any of the situations described in paragraphs (c)(1), (c)(2), and (c)(3) of this section; or~~

~~(5) If the person owns or leases real property within six hundred feet from a parcel of property that is the subject of a transaction with the City upon which he or she must make a decision, and is not required to receive official notice of a quasi-judicial action of the City.~~

(e) A public official or public employee shall:

(1) Strive at all times to serve the best interests of the city regardless of his or her personal interest.

(2) Perform duties with honesty, care, diligence, professionalism, impartiality and integrity.

(3) Strive for the highest ethical standards to sustain the trust and confidence of the public they serve, not just the minimum required to meet legal or procedural requirements.

(4) Use sound judgment to make the best possible decisions for the city, taking into consideration all available information, circumstances and resources.

(5) Act within the boundaries of his or her authority as defined by the city charter and code.

(6) Treat colleagues and members of the public professionally and with courtesy.

(7) Disclose personal or professional relationships with any company or individual who has or is seeking to have a business relationship with the city.

(8) Disclose any ***~~direct or indirect~~ ~~financial or material~~*** benefit ***~~to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest in~~ he or she will receive from*** any matter requiring the exercise of discretion by the officer or employee.

(9) Use city resources, facilities and equipment only for city purposes, except for reasonable incidental personal use that does not interfere with city business.

(10) Disclose waste, fraud, abuse and corruption to appropriate authorities.

(f) A public official or public employee shall not:

(1) Advocate or support any action or activity that violates a law or regulatory requirement.

(2) Use his or her position or decision-making authority for ***his or her benefit.*** ~~***personal gain or to seek personal advantage.***~~

(3) Expend city funds for his or her personal use or benefit.

(4) Misrepresent known facts in any issue involving city business.

(5) Exercise authority or discretion in any matter in which he or she will benefit ~~***directly***~~ as a result of that exercise of authority or discretion.

(6) Use city resources, facilities or equipment for personal profit, for outside business interests or to access any inappropriate material, except if viewing such material is a necessary and proper part of their duties.

(7) Participate in any decision to appoint, hire, promote, discipline or discharge a relative for any position with the city.

(8) Supervise a relative in the performance of the relative's official powers or duties.

(9) Compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

(10) Act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any employee, or an applicant for a position, including appointment to a board or commission, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

(11) Solicit or accept anything of value from anyone doing business with the city.

(12) Solicit or accept employment from anyone doing business with the city, unless the official or employee completely withdraws from city activity regarding the party offering employment ~~and the withdrawal is approved by the city council for members of the council, boards or commissions and by the city manager for employees~~.

(13) Use his or her public position to obtain ***a*** benefit for the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship.

(14) Vote, authorize, recommend, or in any other way use his or her position to secure approval of a contract (including employment or personal services) in which the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship, has an interest.

(15) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests impropriety, favoritism, or bias by the city or the official or employee.

(16) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests or implies that the city supports or opposes a candidate or ballot measure, except that public officials may identify themselves and their position as public officials supporting or opposing candidates or ballot measures.

(17) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in for personal profit or advantage.

(18) Use city resources, facilities or equipment to support or oppose any political candidate or ballot measure.

2-7-9~~10~~ Disclosure and Recusal Procedure.

(a) Disclosure and Recusal: No person with an ~~conflict of~~ interest prohibited pursuant to ~~sub~~section 2-7-2~~(a)~~, B.R.C. 1981, and no person described in subsection 2-7-7~~8~~(a) or (b), B.R.C. 1981, shall fail to give written notice of the interest described in such section or subsection to the city council or the city board, commission, task force or similar body of which the person is a member and the city manager as soon as reasonably possible after the interest has arisen. However, no written notice is required if such person discloses the conflict of interest on the record of a public meeting of the city council or the city board, commission, task force or similar body of which the person is a member. The interested council member, employee, or appointee shall thereafter:

…

2-7-10~~1~~ Enforcement.

…

2-7-11~~2~~ Sanctions and Remedies for Violation.

…

(c) Sanction Recommendations: If the party conducting an investigation pursuant to section 2-7-10~~1~~, "Enforcement," B.R.C. 1981, finds that a city council member or an appointee to a city board, commission, task force or similar body, or employee has violated any provision of this chapter, the investigator shall provide its findings and recommendations to the city manager or city council, as appropriate, who or which in turn may take any of the following actions:

(1) In the case of a city council member, a motion of censure;

(2) In the case of a ~~city~~ public employee, a motion for censure or a recommendation that the employee's appointing authority consider disciplining or discharging the employee;

(3) In the case of a member of a board or commission r~~R~~emoval as provided in subsection (b) of this section; or

(4) As an alternative or in addition to the sanctions imposed herein, the city council may resolve that any person or entity causing, inducing, or soliciting a public official or public employee to violate this chapter may not be involved in any transaction with the City, including but not limited to the award of any city contract, grant, loan or any other thing of value for a period of twelve months or that any such contract, grant, loan or thing of value be terminated, repaid or forfeited.

(d) Civil Remedies: Any person incurring actual monetary damage as a direct and proximate result of a violation of section 2-7-2, "Prohibited Acts," B.R.C. 1981 or section 2-7-3, "Duty to Maintain the Confidentiality of Privileged Information," B.R.C. 1981 ~~affected by a city transaction~~ may commence a civil action in the District Court in and for the County of Boulder for equitable relief to enforce the provisions of this chapter upon a showing of willful violation of any provision of this chapter. Before filing such an action, the person shall present the claim to the city attorney to investigate in accordance with subsection 2-7-11(c), B.R.C. 1981. The city attorney or appointed special council shall have sixty days to act thereon. No civil action in district court pursuant to this subsection may be commenced later than twelve months after a violation of this chapter is alleged to have occurred.

(e) Criminal Sanctions: The city attorney, or special counsel authorized to act on behalf of the city attorney, acting on behalf of the people of the City, may prosecute any violation of section 2-7-2, "Prohibited Acts," B.R.C. 1981 or section 2-7-3, "Duty to Maintain the Confidentiality of Privileged Information," B.R.C. 1981 ~~this chapter~~ in municipal court in the same manner that other municipal offenses are prosecuted.

~~(f) Defense: It shall be a defense to any charge of a violation of this chapter if the city council member, employee, or appointee to a city board, commission, task force or similar body obtained an advisory opinion pursuant to section 2-7-13, "Advisory~~

~~Opinions and Outside Counsel Appointment," B.R.C. 1981, and was acting in accordance with the advice provided thereby.~~

2-7-13~~3~~2 ~~Advisory Opinions and Outside Counsel Appointment~~Role of the City Attorney.

(a) ~~City Attorney to Provide Advisory Opinions:~~ Any city council member, employee, or appointee to a city board, commission, task force or similar body may request an advisory opinion of the city attorney whenever a question arises as to the applicability of this chapter to a particular situation.

~~The city attorney's advisory opinion may provide a specific defense from prosecution as set forth in section 2-7-12, "Sanctions And Remedies For Violation," B.R.C. 1981.~~

(b) Appointment of Outside Counsel: If a the city attorney has a conflict of interest or a matter arise in which the city attorney believes that a reasonable person would question his or her objectivity~~significant controversy arises under this chapter~~, the city attorney shall~~may~~ appoint a neutral outside counsel to ~~assist in resolving~~investigate the issue and make a recommendation.

2-7-14~~3~~ Exemptions From Chapter.

…

2-7-14 Definitions

"Benefit" shall mean anything of value accruing to an official or employee. A benefit shall not include any situation in which the official or employee has only a remote interest. An official or employee is deemed to have received a benefit if any of the following receive a benefit:

(1) A Family Member;

(2) Any person or business entity with whom a contractual relationship exists with the official or employee;

(3) Any business entity in which the official or employee is an officer or director; or

(4) Any business entity in which the official or employee has a stock, legal ownership, or beneficial ownership of at least five (5) percent of the total stock or total legal and beneficial ownership, or which is controlled or owned directly or indirectly by the official or employee.

"Family Member" shall mean a spouse, domestic partner, partner in a civil union, child, and whether related through adoption or marriage, a parent, brother or sister.

"Public Official" shall mean any elected or appointed city official, including city council members and members of boards and commissions.

"Remote Interest" shall mean any interest which is incidental to the contract or transaction and shall include:

(1) A position as a non-salaried director, officer or employee of a non-profit corporation or organization;

(2) Less than five (5) percent of the total stock or total legal and beneficial ownership in a business entity;

(3) A position of employment held by a family member which is not a director, officer, manager or supervisor in a business entity;

(4) A position of employment held by a family member which does not directly exercise decision making authority affecting the contract or transaction; or

(5) A position in a representative capacity such as a receiver, trustee or administrator.

2-7-15 ~~Definitions.~~ Examples of Violations

The examples in this paragraph are intended to provide guidance for the implementation of these rules. These are examples only; behavior not listed here also can violate these rules.

The following acts would constitute a violation of this chapter:

(a) A person lies to a constituent in violation of paragraph 2-7-8(f)(4), B.R.C. 1981.

(b) A person favors a personal friend when awarding a city contract in violation of paragraph 2-7-8(f)(13), B.R.C. 1981.

~~(c) A person is rude to a constituent in violation of paragraph 2-7-8(e)(2), B.R.C. 1981.~~

(c) A person fails to disclose a professional relationship with a firm seeking to do business with the city in violation of paragraph 2-7-8(e)(7), B.R.C. 1981.

(d) A person fails to disclose owning stock in a company involved in a matter that requires the exercise of discretion by the person in violation of paragraph 2-7-8(e)(8), B.R.C. 1981.

(e) A person uses a city computer to operate a personal business in violation of paragraph 2-7-8(e)(11), B.R.C. 1981.

(f) A person uses a city phone for a political campaign in violation of paragraph 2-7-8(f)(18), B.R.C. 1981.

(g) A person fails to disclose fraud by a public employee in violation of paragraph 2-7-8(e)(10), B.R.C. 1981.

(h) A person arranges a repaving project that benefits his or her neighborhood in violation of paragraph 2-7-8(f)(2), B.R.C. 1981.

(i) A council member participates in a decision that affects the value of his or her real property in violation of paragraph 2-7-8(f)(2), B.R.C. 1981.

(j) A person uses city photocopies machines to make 100 flyers to advertise a personal business paragraph 2-7-8(f)(3), B.R.C. 1981.

~~(k) A person travelling on business uses city funds to purchase an expensive dinner in violation of paragraph 2-7-8(f)(3), B.R.C. 1981.~~

(k) A person makes verbal attacks against someone who contacted the city for information in violation of paragraph 2-7-8(e)(2), B.R.C. 1981.

(l) A person recommends that his or her department hire his or her niece in violation of paragraph 2-7-8(f)(7), B.R.C. 1981.

(m) A person supervises his or her spouse in violation of paragraph 2-7-8(f)(8), B.R.C. 1981.

(n) A council member seeks a campaign contribution from a public employee in violation of paragraph 2-7-8(f)(9), B.R.C. 1981 .

(o) A supervisor encourages employees to attend a campaign fundraiser for a council member in violation of paragraph 2-7-8(f)(9), B.R.C. 1981.

(p) A supervisor implicitly requires an employee to make a campaign contribution as a condition of receiving a positive evaluation in violation of paragraph 2-7-8(f)(9), B.R.C. 1981.

(q) A person accepts a lunch from a person seeking to do business with the city in violation of paragraph 2-7-8(f)(11), B.R.C. 1981.

(r) A person seeks employment with a contractor whom the person previously hired to work for the city in violation of paragraph 2-7-8(f)(12), B.R.C. 1981.

(s) A person obtains an internship for his or her son with a company doing business with the city in violation of paragraph 2-7-8(f)(13), B.R.C. 1981.

(t) A board member who is an architect participates in a decision in which his or her firm represents the applicant in violation of paragraph 2-7-8(f)(5), B.R.C. 1981.

(u) A board member who is an attorney participates in a decision in which his or her firm represents a party to the transaction being considered in violation of paragraph 2-7-8(f)(5), B.R.C. 1981.

(v) A person endorses a business using his or her city title in violation of paragraph 2-7-8(f)(15), B.R.C. 1981.

~~(w) A board member allows his or her name and title to be used in campaign literature supporting a candidate in violation of paragraph 2-7-8(f)(16), B.R.C. 1981.~~

(w) A person solicits work for his or her off-duty business, by advertising his or her work as a city of Boulder employee in violation of paragraph 2-7-8(f)(20), B.R.C. 1981.

(x) A council member solicits business by relying upon his or her position as a city council member in violation of paragraph 2-7-8(f)(20), B.R.C. 1981.

2-7-15 Definitions.

…

~~"Conflict of interest" shall mean any situation in which a city council member, an appointee to a city board, commission, task force or similar body, or a city employee:~~

~~(a) Has a substantial interest in any transaction with the City;~~

~~(b) Has a relative with a substantial interest in any transaction with the City;~~

~~(c) Has a substantial interest as an affiliate of a firm with a substantial interest in any transaction with the City;~~

~~(d) Has a substantial interest as an affiliate of a firm appearing on behalf of or employed by a person with a substantial interest in any transaction with the City;~~

~~(e) Is an officer of an organization that has taken an official position on any transaction with the City, unless service on the board of the organization is required by city code, rule or contract;~~

~~(f) Is on the board of directors of an organization that is substantially affected by a transaction with the City, unless service on the board of the organization is required by city code, rule or contract;~~

~~(g) Is affiliated with a law, accounting, planning, or other professional firm that has substantial interest in any transaction with the City; or~~

~~(h) Is required to receive official notice of a quasi-judicial action from the City.~~

…

~~"Substantial interest" means a situation, including, without limitation, a financial stake in the outcome of a decision in which, considering all of the circumstances, would tend to influence the decision of a reasonable person faced with making the same decision.~~

~~"Transaction" means a contract of any kind; any sale or lease of any interest in land, material, supplies, or services; or any granting of a development right, any planning, zoning or land use or review process that may precede granting of a development right, license, permit, or application. A transaction does not include any decision which is legislative in nature that affects the entire membership of a class or a significant segment of the community in the same manner as the affected official or employee.~~

Section 2. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 3. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of January, 2014.

.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of November, 2014.

.

_____
Mayor

Attest:

_____
City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: February 18, 2014

AGENDA TITLE: Second Reading and consideration of a motion to adopt Ordinance No. 7957 amending Title 2, "Government Administration," Chapter 7, "Code Of Conduct," B.R.C. 1981 and setting forth related details.

PRESENTERS:
Tom Carr, City Attorney
David Gehr, Deputy City Attorney

EXECUTIVE SUMMARY:

On January 21, 2014, council considered and passed on first reading extensive proposed changes to the city's code of conduct. These changes were developed based on council direction given at study sessions on October 9 and October 23, 2012. Council made no changes on first reading. Council members Matthew Appelbaum and Macon Cowles posted questions on the council hotline. This memorandum addresses those questions. The first reading memorandum can be found at the following link:

https://documents.bouldercolorado.gov/weblink8/0/doc/124466/Electronic.aspx

STAFF RECOMMENDATION:

Suggested Motion Language:
Staff requests council consideration of this matter and action in the form of the following motion:

Motion to adopt on second reading Ordinance No. 7957 amending Title 2, "Government Administration," Chapter 7, "Code Of Conduct," B.R.C. 1981.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic:
  None identified.
- Environmental:
  None identified
- Social:
  Boulder's community values support an honest, ethical and transparent local government. The intent of the proposed ordinance is to revise the city's ethics code

to be more accessible through clarity. The proposed ordinance would strengthen the sanctions for dishonest behavior, while at the same time clarifying what is acceptable and appropriate behavior for city elected officials, employees and appointed volunteers.

OTHER IMPACTS

- Fiscal:
  None identified.
- Staff Time:
  None identified.

RESPONSES TO FIRST READING QUESTIONS:

The following issues were raised at first reading:

Regarding section 2-7-4(a):

1. *I would think that discounts off prices available to the public should also be prohibited.*

Discounts would be included in the current language as "anything of value." Discounts could be added as one of the examples explicitly included if council sought to make the prohibition more clear.

Regarding section 2-7-4 (b):

2. *Should this section include a requirement that council be informed if a member accepts paid travel?*

The section requires that the council member certify compliance with the code provisions after travel. The challenge with this section is to strike a balance that does not deter members from taking opportunities for education and enrichment that could improve their performance as council members and benefit the city.

3. *Would there be cases where a for-profit organization (that also isn't "governmentally-related," a rather broad description) might invite us to speak at an event that would be beneficial to attend, and pay our way? That seems to be prohibited here, even if council approved.*

The section as drafted only applies if travel expenses are paid by one of the identified third parties. If the city or the council member pays the travel expenses there is no restriction.

If council wants to broaden the third parties that could pay for travel expenses to include for-profit organizations as well, council should provide staff with direction as to which

organizations would be allowed to pay and the conditions under which the public official could accept payment for travel expense.

If council wishes to remove the limitation for reimbursement for governmental or non-profit organizations, it could remove the phrase "paid by a non-profit organization, government or governmentally related organization" from section 2-7-4(b)(5).

Council could also consider an approval process to allow for the payment of travel expenses by other persons or organizations that are not non-profits, governments, or governmentally related organizations. For example, a new subsection could be added to section 2-7-4(b)(5) to read:

> (F) If a public official wishes to have reasonable expenses paid by any person or organization that is not a nonprofit organization, government, or governmentally related organization, the public official shall request and receive the prior approval of the of the City Council before attending such convention, fact-finding mission or trip, or other meeting. The public official shall be required to comply with all of the requirements of this section.

Regarding section 2-7-5 (d), (e), and (f):

4. *As written, these seem to mean that the "official action" could have taken place at any time, including many, many years ago (say, in my case, in a previous term, 25 years ago); should there be a time limit of some sort, as there is in some other sections, of perhaps one year?*

The time limit in subsections (d), (e) and (f) is calculated from the date on which the official leaves office. Subsection (d) is a six month restriction and subsections (e) and (f) impose a twelve month restriction.

The policy reason for not participating in activities for which the public official has taken "official action" is to avoid the appearance of impropriety.

The time periods for the break from being a public official or public employee are relatively short. It is possible to consider limitations on time periods for how far back the city employee or official has to look for an applicable "official action." As this is a matter of policy and the existing code represents the city's long standing policy, staff would appreciate further direction.

5. *Six months is a very short time. I would think that one year would be more in line with other restrictions we have, such as the period of time that must pass after retirement before a former Council member can address the City Council.*

This is a policy choice that council can consider on second reading.

6. *What is the meaning of the last sentence of subparagraph (e) which reads "This prohibition shall not apply to persons who appear before the city in their capacity*

as an elected official following termination of their office or employment with the city."

This language is in the existing code. It would appear to contemplate a situation in which a city official is elected to other office, such as the county commission or the state legislature. This section would permit such an individual to appear before their former colleagues.

Regarding section 2-7-6:

7. *These subparagraphs prohibit a public employee from participating in the decision to hire relatives for any City position. But this invites a broader question: What is the nepotism rule in the City? How many instances, and in what departments, do we have people working where there is a relative who also is employed by the City?*

A complete copy of the city's nepotism policy is attachment B. The policy summary is as follows:

> It is the City of Boulder's policy to limit the hiring and supervision of relatives and partners by city employees and to prevent disparate and inequitable treatment, potential abuse in hiring, or abuse in supervisory authority, or the appearance thereof. Further, employees are held to the code of conduct as addressed in the Boulder Revised Code chapter 2, or any successor ordinance.

The city enforces its nepotism policy. The city does not track situations in which employee relationships do not violate the police, for example when employees work in different departments with unrelated duties.

Regarding section 2-7-7(g):

8. *Does this really mean that if a city vehicle hit me I couldn't sue unless the council agreed to it?*

That is the intent of this section.

9. *I agree with Matt's statement that no consent of the council should be required for a public official to sue the City for a number of things: tort, breach of contract, etc. But I believe that to the extent consent is required, the requirement should apply to spouses and domestic partners of public officials as well.*

This is a policy choice that council can consider on second reading.

Regarding section 2-7-8(e)(8):

10. *This is written very broadly, as perhaps it should be, although taken literally (how else would one take it?) I think we'd need to disclose potential, indirect benefit on much of what we do. As an example, some of us own rental properties Fair enough that we should disclose that – as we always do, I think – but as discussed at the retreat, our handling of rental properties almost certainly "indirectly" affects the value of nearby properties, so that pretty much all residential property is affected. That is of course true of many other actions we take. While disclosure is not a particular problem, it becomes almost meaningless in this interpretation.*

One of the philosophical changes in this revision is to limit criminal penalties to violations of section 2-7-3. Other violations have lesser sanctions identified in section 2-7-11. This allows for the code to establish higher standards. Accordingly, these sections are written purposely broad.

In the present code of conduct, a person would not be required to disclose what is referred to as an "indirect financial or material benefit." It would be treated as a matter that is "personal or private in nature" in the appearance of impropriety section of the code. As such the decision as to whether to disclose such matters is left to the discretion of the public official or public employee.

Additionally, section 2-7-8 replaces the "appearance of impropriety" section of the code. In the existing code of conduct, that section provides a basis for public officials to recuse themselves on matters that could lead one to conclude that participation in a matter would "lead to an appearance of impropriety." All of the discretion is presently with the public official. In the proposed revision more objective standards are set for conduct. The sanctions for violating these standards are not criminal in nature and are less than the serious violations in section 2-7-3.

Options to address this issue could include the following:

1. Remove the requirement of disclosing matters that could result in an "indirect financial or material benefit."
2. Change from a mandatory disclosure requirement to a principle that encourages disclosure of matters that could result in an "indirect financial or material benefit."
3. Further define what constitutes a "direct benefit" and / or "indirect benefit" for the purpose of making a clear distinction between the two for the purpose of complying the code of conduct.

Regarding section 2-7-8(f)(5):

11. *This is the critical implementing section of (e)(8) above. It specifies only "direct" benefit, not "indirect," although I think that differentiation is more than a bit fuzzy. Let's use the rental property example again. As written, this would*

appear to prevent anyone who owns such property from voting on rental issues – unless you think that any potential benefit is "indirect" since our action doesn't specify specific properties; if that's our interpretation, that's fine, but if not then remember that nearby properties (which is Boulder is just about every property) could have similar benefit. Properties of course can benefit from all sorts of public infrastructure improvements – parks, libraries, roads, transit, etc. – but so long as these are not considered "direct" benefits then we don't all need to recuse ourselves. So, is a "direct" benefit limited to actions that are specifically about an individual property, or a property that is in a certain location, or a "class" of properties, or what?

(Yes, I realize this doesn't relate only to property, but that's the simplest example.) We've generally been OK when an action refers to a "big enough class" of property; is that still the case?

Again, these sections are intended as guidance. As a prohibition, the intent is that city officials not take actions that benefit themselves. As noted in the question above, a direct benefit applies to actions that are specifically about an individual property, or a property that is in a certain location. If an action applied to a broad class of properties, and a public official owned such a property in the broad class of properties, it would be an "indirect" benefit .

"Direct" benefits tend to be about an individual property or individual benefit or advantage a public official or employee may own or realize from a relationship or an investment. It typically includes a financial stake in the outcome of the official action. If the official action is a decision which is legislative in nature that affects the entire membership of a class or a significant segment of the community in the same manner as the affected official, then the official would "indirectly benefit" from the situation. Under the new code, the official is required to disclose indirect benefits, but it does not necessarily disqualify the person from taking an official action.

Regarding section 2-7-8(f)(12)

12. *I get the rationale, but it could make it even harder for someone who actually works for a living to serve on council/board. For example, as soon as someone "solicits" employment with a company that does business with the city, even if the job is a long-shot or needs to be kept quiet for obvious reasons, it would need to be made public.*

This section also requires some level of balance. This limitation does not currently appear in the code. It is intended to prevent individuals from benefiting financially from their city position. Council will need to balance the constraint identified in the question with the benefit of having such a limitation.

Regarding Section 2-7-14(c):

13. *How will rude be defined?*

14. *While rudeness should be discouraged, and is never helpful, and usually just pours fuel on the fire, should that be a punishable offense?*

Sanctions under this section would not be criminal. Staff believes that it is important that city employees not be rude to constituents. Ideally, punishment would be appropriate to the level of offense. That is, for an employee it could range from counseling to discharge depending upon the circumstances.

Section 2-7-14 establishes examples that council requested be included in the ordinance. It is important that the examples comport with council's policy guidance.

Regarding Section 2-7-14(g):

15. *We've agreed that we can have a single cell phone and use it for personal and city use so long as it is mostly used for city use; that's what I do, but it is very likely that, therefore, during the campaign, that city phone was used in a quite minimal way for campaign activities. If that is really not allowed, everyone will be forced to have two cell phones (I suspect that many/most do have two cell phones, but one is for business purposes; for those of us without visible means of support, a single cell phone really makes way more sense).*

Use of a city phone in support of the election of a candidate could be a violation of the Colorado Fair Campaign Practices Act. C.R.S. §1-45-117(1)(a)(I).

Regarding section 2-7-14(k):

16. *I have no idea what "expensive" means, since that by itself is not a violation of 2-7-8(f)(3). So long as an expense is within our standards, it's OK; although council members probably don't know it, and I don't use it, we can in theory get per diem based on federal rates, so it doesn't matter if one outing is "expensive" or not. Maybe 2-7-8(f)(3) is too broad – or I'm misinterpreting it – since I would consider eating or accommodation to be "personal use," but obviously OK when done on city business and following city rules.*

This is intended as guidance for employees using city funds.

Regarding section 2-7-14(r):

17. *Yes, but…we get invited to the CVB lunch and they pay since it would be very difficult to figure an individual price – and the CVB does business with the city. There are other, similar examples, of course – at certain events there is food available that can't easily, if at all, be paid for. Now these all may be covered by the gift provision in 2-7-4(b)(7), although these events are not always actually "open to the public."*

If the lunch is "open to the public," then it is eligible under the provisions of section 2-7-4(b)(7) as an event that is exempt from the gift prohibition. "Open to the public" has been interpreted to mean that a person from the public who wanted to attend could do so, even if he or she would be required to purchase a ticket for entrance.

The lunch could be exempt under the 'less than $53" provision of section 2-7-4(b)(2)

Another option that council could consider is to draft another specific exemption for events such as those described above. The provisions of section 2-7-4(b)(2) for items of small value are intended to address this type of situation.

Regarding section 2-7-14(w)

18. *I cannot find such a section in the Code, or in the proposed amendment. What is the correct reference?*

The correct reference is to new section 2-7-8(f)(15), which formerly was section 2-7-9(15)

Regarding section 2-7-14(x)

I'm not sure why this is in the original code: if I endorse someone then my name and title can be shown, but if, say, a planning board member endorses someone because of that candidate's planning knowledge, the PB member's title can't be used? What are we protecting here?

The code recognizes the difference between council members who stand for election and board members who do not. It is a policy choice, which can be altered by council.

Attachments

Proposed Ordinance – Attachment A
City of Boulder Nepotism Policy– Attachment B

ORDINANCE NO. 7957

AN ORDINANCE AMENDING TITLE 2, "GOVERNMENT ADMINISTRATION," CHAPTER 7, "CODE OF CONDUCT," B.R.C. 1981, INCLUDING EXPANDING THE LEGISLATIVE PURPOSE, CLARIFYING THE PROHIBITIONS ON ACCEPTING GIFTS, AMENDING THE RESTRICTIONS ON APPEARING BEFORE CITY BODIES, SETTING FORTH PROHIBITED ACTS, ESTABLISHING EXPECTATIONS FOR PUBLIC OFFICIALS AND PUBLIC OFFICERS, SETTING FORTH EXAMPLES OF VIOLATIONS AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. Title 2, Chapter 7 of the Boulder Revised Code, 1981 is amended as follows:

2-7-1 Purpose, Legislative Intent and Findings.

(a) Purpose: The purpose of this chapter is to protect the integrity of city government by:

(1) Defining and forbidding certain activities including bribery and profiteering from public office~~conflicts of interest that if left unchecked tend to compromise the ability of elected and appointed public officials and public employees to perform their duties without improper financial influence~~.

(2) Establishing high standards of conduct for elected officials, appointed board and commission members and city employees by setting forth certain expectations of behavior that all such individuals shall maintain while elected, appointed or employed by the City of Boulder. ~~Defining and discouraging certain actions that may create an appearance of impropriety that undermines public trust in the accountability and loyalty of elected and appointed public officials and employees.~~

~~(3) Protecting the integrity of city government by providing standards of conduct and guidelines for elected and appointed public officials and public employees to follow when their private interests as residents conflict with their public duties.~~

(34) Fostering public trust by defining standards of honest government and prohibiting the use of public office for private gain.

(b) Legislative Intent: It is the intent of the city council to:

(1) Establish rules of conduct that meet or exceed the rules established by the Colorado State Constitution and the Colorado Revised Code. ~~Prohibit public~~

~~officials and public employees from acting on any matter in which he or she may have a conflict of interest.~~

(2) Establish expectations~~aspirational guidelines~~ to encourage public officials and public employees to maintain the highest standard of conduct to justify the public trust that they enjoy.~~avoid any appearance of impropriety.~~

(3) ~~Require adherence to any provision of state or federal law that imposes a higher standard of conduct than this chapter.~~ Exercise the City of Boulder's right to develop laws related to ethics in local government and appropriate standards of local conduct as matters of local concern as established by the Colorado State Constitution in Article XX recognized by Article XXIX, § 3(6).

(c) Findings: The city council finds and determines that this chapter is necessary to protect the public health, safety, and welfare of the residents of Boulder and is a matter of local concern.

2-7-2 ~~Conflicts of Interest~~ Prohibited Acts.

(a) Personal Benefit~~Conflicts~~ Prohibited: No public official or public employee shall solicit, receive or accept anything of value in exchange for performing or refraining from performing any act associated with the official or employee's position with the city. ~~make or participate in the making of any official action in which he or she knows or should have known that he or she would have a conflict of interest.~~

~~(b) Disclosure Required: Each public official or public employee shall disclose any conflict of interest and disqualify him or herself from participating in the relevant action as provided in section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981.~~

~~2-7-3 Use of Public Office or Confidential Information for Financial Gain.~~

(b~~a~~) Use of Position for Gain Prohibited: No public official or public employee ~~city council member, employee, or appointee to a city board, commission, task force or similar body~~ shall use his or her public office or position for financial gain.

(c~~b~~) Use of Confidential Information for Financial Gain Prohibited: No public official or public employee ~~city council member, employee, or appointee to a city board, commission, task force or similar body~~ shall use or disclose confidential information obtained as a result of holding his or her public office or position, to obtain financial gain, whether for personal gain; gain for his or her relative; gain of any property or entity in which the official or employee has a substantial interest; or gain for any person or for any entity with whom the official or employee is negotiating for or has any arrangement concerning prospective employment.

2-7-3~~4~~ Duty to Maintain the Confidentiality of Privileged Information.

(a) Duty of a Public Official~~Member Of City Council, Board, Commission, Task Force Or Similar Body~~: No public official ~~city council member or appointee to a city board, commission, task force or similar body~~ shall disclose privileged or confidential information without a public majority vote granting the permission of the council or similar body that holds the privilege. The sanction for a member of the city council, board, commission, task force or similar body shall be censure of the body, reached by a majority vote of the body, not including the member charged with disclosing such confidential information.

(b) Duty of a Public~~City~~ Employee: No ~~city~~public employee shall disclose privileged or confidential information, obtained as a result of holding his or her public office or position, unless the employee has first received approval by the city manager acting upon the advice of the city attorney.

2-7-4~~5~~ Gifts to Public Officials and Public Employees.

(a) Gifts Prohibited: No ~~city council member or appointee to a city board, commission, task force or similar body, or city employee,~~public official or public employee or relative of such employee or official shall accept anything of value including, without limitation, a gift, a favor, or a promise of future employment if:

(1) The official or employee is in a position to take official action with regard to the donor; or

(2) The city has or is known to be likely to have a transactional, business, or regulatory relationship with the donor.

(b) Exceptions and Items not Considered Gifts: The following shall not be considered gifts for purposes of this section, and it shall not be a violation of this chapter for a person to accept the same:

(1) Campaign contributions as permitted by law;

(2) An unsolicited, occasional non-pecuniary gift of a maximum amount of $53~~0~~.00 or less in value. The maximum amount will be equal to the amount established by the state of Colorado pursuant to Colorado Constitution Article XXIX, Section 6. ~~adjusted on January 1, 2006, and annually thereafter to reflect changes in the United States Bureau of Labor Statistics Consumer Price Index for the Denver-Boulder Consolidated Metropolitan Statistical Area for all Urban Consumers, All Goods, or its successor index~~;

(3) A gift from a relative;

(4) An award, publicly presented, in recognition of public service;

(5) Reasonable expenses paid by a nonprofit organization,~~other~~ government~~s~~ or governmentally-~~-~~related organization~~s~~ for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate in a panel, or represent the city provided that if travel expenses are paid:

(A) The travel is for a legitimate city purpose;

(B) The travel arrangements are appropriate to that purpose;

(C) The expenses paid are for a time period that is no longer than reasonably necessary to accomplish the business that is its purpose;

(D) The public official or public employee who will be traveling is not currently, was not in the recent past, and will not in the reasonably foreseeable future, be in a position to take direct official action with respect to the donor; and

(E) The public official reports compliance of the first four conditions to the city council and the public employee reports compliance with the first four conditions to the city manager.

(6) Items which are similarly available to all employees of the city or to the general public on the same terms and conditions; and

(7) A single unsolicited ticket given to a city council member and valued at not in excess of $150.00 to attend events open to the public on behalf of the city, such as awards dinners, nonprofit organization banquets and seminars, provided that:

(A) The ticket is offered only to the council member and has no resale value; and

(B) The ticket is not offered by a commercial vendor who sells or wishes to sell services or products to the city; and

~~(C) The ticket is not for a sporting event~~

(8) A single unsolicited ticket given to a council member and valued at not in excess of $150.00 in each calendar year to attend a sporting event, concert or other event provided by a governmental entity or non profit organization, if the event is sponsored by the governmental entity or non profit organization, and the purpose of attending the event is to promote the relationship between the city and the other governmental entity or non profit organization.

2-7-~~6~~5 Prior Employment, Outside Employment, and Subsequent Employment.

(a) Prior Employment: No person shall be disqualified from service with the city as a~~n~~ public official or public employee solely because of his or her prior employment. Public ~~O~~officials and public employees shall not take official action with respect to their former employers for a period of six months from the date of termination of the prior employment.

(b) Disclosure of Employment and Other Business Activities: All public officials and public employees, other than city council members~~elected officials~~, shall report existing or proposed outside employment or other outside business interests that may affect their responsibilities to the city in writing to their appointing authorities prior to being appointed or hired. After being appointed or hired, all such people shall report any changes of employment or changes to outside business interests that may affect the person's responsibilities to the city, within thirty days after accepting the same. An employee that has received permission from the city manager may engage in outside employment or outside business interests.

(c) Disclosure by City Council Members: Members of the city council shall report any change in their employment status that could give rise to a conflict of interest under this chapter.

(d) Activities That Occur After Termination of Employment or Office: No former public official or public employee shall seek or obtain employment concerning matters upon which he or she took official action during his or her service with the city for six months following termination of office or employment. This provision may be waived by the city council or the city manager.

(e) Participation of Former Officials or Employees: No former public official or public employee shall appear before, or participate in, a city board, commission, task force or similar body on which he or she was a member or served directly as an employee concerning any matter or on which he or she took official action during his or her service with the city for twelve months following termination of office or employment. This prohibition may be waived by the city council by appointment or vote. This prohibition shall not apply to persons who appear before the city in their capacity as an elected official following termination of their office or employment with the city.

(f) Participation in Litigation After Termination: No former public official shall engage in any action or litigation in which the city is involved on behalf of any other person or entity, if the action or litigation involves a matter upon which the person took official action during his or her service with the city for twelve months following termination of service with the city.

2-7-~~7~~6 Employment of Relatives.

(a) No public official or public employee shall appoint, hire, or advocate the appointment or hiring by the city any person who is his or her relative. In the event that an employee is concerned that the employee's decision to appoint, hire or advocate the appointment or hiring by the city a person who is the employee's relative may cause an appearance of violating this section, the employee may request that the city manager make such decision on the employee's behalf. Council-appointed officers may request the city council to make such an appointment or hiring decision on their behalf.

(b) The city may enter into transactions with companies, corporations or other business organizations that employ a relative of a city public official or public employee~~,~~ provided that:

(1) The public official or public employee does not participate in the decision making that leads to hiring the company, corporation, or other business organization that employs his or her relative; or

(2) The business organization is a publicly-traded corporation that provides its services or products to the city on nondiscriminatory terms justified by the market facts and circumstances of each transaction; or

(3) The company, corporation, or business organization has been doing business with the city for at least one year prior to the date the city official's or employee's relative became employed by the company, corporation or other business organization, and the city official's or employee's relative is not directly employed upon matters involving the city and does not have his or her compensation tied in any manner to the success of the company, corporation, or other business organization, or its ability to obtain business or earn compensation from the city.

2-7-~~8~~7 Representing Others Before the City Prohibited.

(a) City Council Members Barred From Representing Others: No city council member shall appear on behalf of himself or herself, or another person, before the city council or any city board, commission, task force or similar body. A city council member may be affiliated with a firm appearing on behalf of or employed by another person concerning any transaction with the city before such a body if the council member discloses the situation and recuses himself or herself pursuant to section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981. This prohibition shall not apply when a city council member is appointed by a majority vote of the council to represent the council before a board or commission.

(b) Board, Commission or Task Force Members Barred From Representing Others: An appointee to a city board, commission, task force or similar body may appear or be affiliated with a firm appearing concerning any transaction with the city under the following circumstances:

(1) An appointee may appear on his or her own behalf before the body of which he or she is a member to represent his or her personal interests, if the appointee discloses the situation and recuses himself or herself pursuant to section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981, or before the city council;

(2) An appointee may appear on behalf of another person before any city body except the ~~city council or the~~ body of which the appointee is a member, except with respect to a matter that has or may come before the board or commission on which he or she serves;

(3) A firm with which an appointee is affiliated may not appear on behalf of or be employed by another person concerning any transaction before the body of which the appointee is a member unless the appointee discloses the situation and recuses himself or herself pursuant to Section 2-7-10, "Disclosure and Recusal Procedure," B.R.C. 1981.

(c) ~~City~~ Public Employees Barred From Representing Others: No public~~city~~ employee shall appear on behalf of or be employed by another person concerning any transaction with the city or before the city council or any city board, commission, task force or similar body. A~~n~~ public employee may appear before such a body on his or her own behalf or on behalf of such employee's spouse, parent, or child. Nothing in this chapter shall be deemed to prohibit the city manager from establishing additional policies and regulations to prevent conflicts of interest between ~~city~~ public employees and the city.

(d) City Council Members and Municipal Court: No city council member who is an attorney shall appear on behalf of or be employed by another person or be affiliated with a firm appearing on behalf of or employed by another person concerning any matter before the municipal court.

(e) ~~City~~Public Employees and Municipal Court: No ~~city~~public employee who is an attorney shall appear on behalf of or be employed by another person or be affiliated with a firm that appears on behalf of or is employed by another person concerning any matter before the municipal court. A non-attorney employee may appear before the municipal court on his or her own behalf, and an employee other than a municipal court judge may appear on behalf of such employee's spouse, parent, or child to the extent otherwise allowed by law. This authority is intended to allow employees to assist family members in matters before the municipal court to the extent permitted by law but not to promote the unauthorized practice of law.

(f) Board, Commission, or Task Force Member and Municipal Court: An appointee to a city board, commission, task force or similar body may appear before the municipal court and may be affiliated with a firm appearing before the municipal court.

(g) Consent to Sue: No public official~~city council member or appointee to any city board, commission, task force or similar body~~ shall be a party or by himself or herself or as an

affiliate of a firm appear on behalf of a party in a civil law suit in which the city is an adverse party, unless the public official~~member or appointee~~ first obtains the consent of the city council.

2-7-~~9~~8 ~~Appearances of Impropriety Discouraged~~Expectations.

(a) These expectations~~guidelines~~ are intended to establish ethical standards~~goals and principles~~ to guide~~help~~ public officials and public employees~~city council members, employees, and appointees to a city board, commission, task force or similar body~~ in the execution of their offices in a manner that will reflect well on the city and promote ~~to determine if their actions may cause an appearance of impropriety that will undermine~~ the public's trust in local government.

(b) ~~Violations of this section shall not constitute a violation of this chapter.~~ Compliance with this section will not constitute a defense for violation of another subsection or section of this chapter. Violation of this section may be considered as the basis for censure, or in the most serious cases, removal of a public official. Violation of this section may be the basis of disciplinary action, or in the most serious cases, termination of a public employee.

(c) A public official~~city council member, employee, or appointee to a city board, commission, task force or similar body~~ who determines that his or her actions may be considered to be in violation of this section~~cause an appearance of impropriety~~ should consider disclosure and discussion of the potential violation in a public meeting before the council, board, commission, task force or similar body on which the person serves.

(d) A public official whose participation in a matter would violate this section shall ~~, but is not required to, disclose and~~ recuse herself or himself as prescribed by section 2-7-9~~10~~, "Disclosure and Recusal Procedure," B.R.C. 1981., ~~in the following circumstances:~~

~~(1) If the person is an employee of a state or federal government entity with a substantial interest in any transaction with the city;~~

~~(2) If the person has a close friend with a substantial interest in any transaction with the city, and the council member, appointee, or employee believes that the friendship would prevent such person from acting impartially with regard to the particular transaction;~~

~~(3) If the person has an interest in any transaction with the city that is personal or private in nature that would cause a reasonable person in the community to question the objectivity of the city council member, employee, or appointee to a city board, or commission;~~

~~(4) If the person is called upon to act in a quasi-judicial capacity in a decision regarding any of the situations described in paragraphs (c)(1), (c)(2), and (c)(3) of this section; or~~

~~(5) If the person owns or leases real property within six hundred feet from a parcel of property that is the subject of a transaction with the City upon which he or she must make a decision, and is not required to receive official notice of a quasi-judicial action of the City.~~

(e) A public official or public employee shall:

(1) Strive at all times to serve the best interests of the city regardless of his or her personal interest.

(2) Perform duties with honesty, care, diligence, professionalism, impartiality and integrity.

(3) Strive for the highest ethical standards to sustain the trust and confidence of the public they serve, not just the minimum required to meet legal or procedural requirements.

(4) Use sound judgment to make the best possible decisions for the city, taking into consideration all available information, circumstances and resources.

(5) Act within the boundaries of his or her authority as defined by the city charter and code.

(6) Treat colleagues and members of the public professionally and with courtesy.

(7) Disclose personal or professional relationships with any company or individual who has or is seeking to have a business relationship with the city.

(8) Disclose any direct or indirect financial or material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest in any matter requiring the exercise of discretion by the officer or employee.

(9) Use city resources, facilities and equipment only for city purposes, except for reasonable incidental personal use that does not interfere with city business.

(10) Disclose waste, fraud, abuse and corruption to appropriate authorities.

(f) A public official or public employee shall not:

(1) Advocate or support any action or activity that violates a law or regulatory requirement.

(2) Use his or her position or decision-making authority for personal gain or to seek personal advantage.

(3) Expend city funds for his or her personal use or benefit.

(4) Misrepresent known facts in any issue involving city business.

(5) Exercise authority or discretion in any matter in which he or she will benefit directly as a result of that exercise of authority or discretion.

(6) Use city resources, facilities or equipment for personal profit, for outside business interests or to access any inappropriate material, except if viewing such material is a necessary and proper part of their duties.

(7) Participate in any decision to appoint, hire, promote, discipline or discharge a relative for any position with the city.

(8) Supervise a relative in the performance of the relative's official powers or duties.

(9) Compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

(10) Act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any employee, or an applicant for a position, including appointment to a board or commission, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

(11) Solicit or accept anything of value from anyone doing business with the city.

(12) Solicit or accept employment from anyone doing business with the city, unless the official or employee completely withdraws from city activity regarding the party offering employment, and the withdrawal is approved by the city council for members of the council, boards or commissions and by the city manager for employees.

(13) Use his or her public position to obtain benefits for the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship.

(14) Vote, authorize, recommend, or in any other way use his or her position to secure approval of a contract (including employment or personal services) in which the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship, has an interest.

(15) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests impropriety, favoritism, or bias by the city or the official or employee.

(16) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in a manner that suggests or implies that the city supports or opposes a candidate or ballot measure, except that council members may identify themselves and their position as individual council members supporting or opposing candidates or ballot measures. This section does not apply to ballot measures that the city council has voted to support.

(17) Use, or authorize the use of, his or her title, the name "City of Boulder," or the city's logo in for personal profit or advantage.

(18) Use city resources, facilities or equipment to support or oppose any political candidate or ballot measure.

2-7-9~~10~~ Disclosure and Recusal Procedure.

(a) Disclosure and Recusal: No person with an ~~conflict of~~ interest prohibited pursuant to ~~sub~~section 2-7-2~~(a)~~, B.R.C. 1981, and no person described in subsection 2-7-7~~8~~(a) or (b), B.R.C. 1981, shall fail to give written notice of the interest described in such section or subsection to the city council or the city board, commission, task force or similar body of which the person is a member and the city manager as soon as reasonably possible after the interest has arisen. However, no written notice is required if such person discloses the conflict of interest on the record of a public meeting of the city council or the city board, commission, task force or similar body of which the person is a member. The interested council member, employee, or appointee shall thereafter:

…

2-7-10~~1~~ Enforcement.

…

2-7-11~~2~~ Sanctions and Remedies for Violation.

…

(c) Sanction Recommendations: If the party conducting an investigation pursuant to section 2-7-10~~1~~, "Enforcement," B.R.C. 1981, finds that a city council member or an appointee to a city board, commission, task force or similar body, or employee has violated any provision of this chapter, the investigator shall provide its findings and recommendations to the city manager or city council, as appropriate, who or which in turn may take any of the following actions:

(1) In the case of a city council member, a motion of censure;

(2) In the case of a ~~city~~ public employee, a motion for censure or a recommendation that the employee's appointing authority consider disciplining or discharging the employee;

(3) Removal as provided in subsection (b) of this section; or

(4) As an alternative or in addition to the sanctions imposed herein, the city council may resolve that any person or entity causing, inducing, or soliciting a public official or public employee to violate this chapter may not be involved in any transaction with the City, including but not limited to the award of any city contract, grant, loan or any other thing of value for a period of twelve months or that any such contract, grant, loan or thing of value be terminated, repaid or forfeited.

(d) Civil Remedies: Any person affected by a city transaction may commence a civil action in the District Court in and for the County of Boulder for equitable relief to enforce the provisions of this chapter upon a showing of willful violation of any provision of this chapter. Before filing such an action, the person shall present the claim to the city attorney to investigate in accordance with subsection 2-7-11(c), B.R.C. 1981. The city attorney or appointed special council shall have sixty days to act thereon. No civil action in district court pursuant to this subsection may be commenced later than twelve months after a violation of this chapter is alleged to have occurred.

(e) Criminal Sanctions: The city attorney, or special counsel authorized to act on behalf of the city attorney, acting on behalf of the people of the City, may prosecute any violation of section 2-7-3, "Prohibited Acts," B.R.C. 1981 ~~this chapter~~ in municipal court in the same manner that other municipal offenses are prosecuted.

~~(f) Defense: It shall be a defense to any charge of a violation of this chapter if the city council member, employee, or appointee to a city board, commission, task force or similar body obtained an advisory opinion pursuant to section 2-7-13, "Advisory Opinions and Outside Counsel Appointment," B.R.C. 1981, and was acting in accordance with the advice provided thereby.~~

2-7-13~~2~~ ~~Advisory Opinions and Outside Counsel Appointment~~Role of the City Attorney.

(a) ~~City Attorney to Provide Advisory Opinions:~~ Any city council member, employee, or appointee to a city board, commission, task force or similar body may request an advisory opinion of the city attorney whenever a question arises as to the applicability of this chapter to a particular situation.

~~The city attorney's advisory opinion may provide a specific defense from prosecution as set forth in section 2-7-12, "Sanctions And Remedies For Violation," B.R.C. 1981.~~

(b) Appointment of Outside Counsel: If a significant controversy arises under this chapter, the city attorney may appoint a neutral outside counsel to assist in resolving the issue.

2-7-1~~4~~3 Exemptions From Chapter.

…

2-7-1~~5~~4 ~~Definitions.~~ Examples of Violations

The examples in this paragraph are intended to provide guidance for the implementation of these rules. These are examples only; behavior not listed here also can violate these rules.

The following acts would constitute a violation of this chapter:

(a) A person lies to a constituent in violation of paragraph 2-7-8(f)(4), B.R.C. 1981.

(b) A person favors a personal friend when awarding a city contract in violation of paragraph 2-7-8(f)(13), B.R.C. 1981.

(c) A person is rude to a constituent in violation of paragraph 2-7-8(e)(2), B.R.C. 1981.

(d) A person fails to disclose a professional relationship with a firm seeking to do business with the city in violation of paragraph 2-7-8(e)(7), B.R.C. 1981.

(e) A person fails to disclose owning stock in a company involved in a matter that requires the exercise of discretion by the person in violation of paragraph 2-7-8(e)(8), B.R.C. 1981.

(f) A person uses a city computer to operate a personal business in violation of paragraph 2-7-8(e)(11), B.R.C. 1981.

(g) A person uses a city phone for a political campaign in violation of paragraph 2-7-8(f)(18), B.R.C. 1981.

(h) A person fails to disclose fraud by a public employee in violation of paragraph 2-7-8(e)(10), B.R.C. 1981.

(i) A person arranges a repaving project that benefits his or her neighborhood in violation of paragraph 2-7-8(f)(2), B.R.C. 1981.

(j) A council member participates in a decision that affects the value of his or her real property in violation of paragraph 2-7-8(f)(2), B.R.C. 1981.

(k) A person travelling on business uses city funds to purchase an expensive dinner in violation of paragraph 2-7-8(f)(3), B.R.C. 1981.

(l) A person makes verbal attacks against someone who contacted the city for information in violation of paragraph 2-7-8(e)(2), B.R.C. 1981.

(m) A person recommends that his or her department hire his or her niece in violation of paragraph 2-7-8(f)(7), B.R.C. 1981.

(n) A person supervises his or her spouse in violation of paragraph 2-7-8(f)(8), B.R.C. 1981.

(o) A council member seeks a campaign contribution from a public employee in violation of paragraph 2-7-8(f)(9), B.R.C. 1981 .

(p) A supervisor encourages employees to attend a campaign fundraiser for a council member in violation of paragraph 2-7-8(f)(9), B.R.C. 1981.

(q) A supervisor implicitly requires an employee to make a campaign contribution as a condition of receiving a positive evaluation in violation of paragraph 2-7-8(f)(9), B.R.C. 1981.

(r) A person accepts a lunch from a person seeking to do business with the city in violation of paragraph 2-7-8(f)(11), B.R.C. 1981.

(s) A person seeks employment with a contractor whom the person previously hired to work for the city in violation of paragraph 2-7-8(f)(12), B.R.C. 1981.

(t) A person obtains an internship for his or her son with a company doing business with the city in violation of paragraph 2-7-8(f)(13), B.R.C. 1981.

(u) A board member who is an architect participates in a decision in which his or her firm represents the applicant in violation of paragraph 2-7-8(f)(5), B.R.C. 1981.

(v) A board member who is an attorney participates in a decision in which his or her firm represents a party to the transaction being considered in violation of paragraph 2-7-8(f)(5), B.R.C. 1981.

(w) A person endorses a business using his or her city title in violation of paragraph 2-7-8(f)(15), B.R.C. 1981.

(x) A board member allows his or her name and title to be used in campaign literature supporting a candidate in violation of paragraph 2-7-8(f)(16), B.R.C. 1981.

(y) A person solicits work for his or her off-duty business, by advertising his or her work as a city of Boulder employee in violation of paragraph 2-7-8(f)(20), B.R.C. 1981.

(z) A council member solicits business by relying upon his or her position as a city council member in violation of paragraph 2-7-8(f)(20), B.R.C. 1981.

2-7-15 Definitions.

…

~~"Conflict of interest" shall mean any situation in which a city council member, an appointee to a city board, commission, task force or similar body, or a city employee:~~

~~(a) Has a substantial interest in any transaction with the City;~~

~~(b) Has a relative with a substantial interest in any transaction with the City;~~

~~(c) Has a substantial interest as an affiliate of a firm with a substantial interest in any transaction with the City;~~

~~(d) Has a substantial interest as an affiliate of a firm appearing on behalf of or employed by a person with a substantial interest in any transaction with the City;~~

~~(e) Is an officer of an organization that has taken an official position on any transaction with the City, unless service on the board of the organization is required by city code, rule or contract;~~

~~(f) Is on the board of directors of an organization that is substantially affected by a transaction with the City, unless service on the board of the organization is required by city code, rule or contract;~~

~~(g) Is affiliated with a law, accounting, planning, or other professional firm that has substantial interest in any transaction with the City; or~~

~~(h) Is required to receive official notice of a quasi-judicial action from the City.~~

…

~~"Substantial interest" means a situation, including, without limitation, a financial stake in the outcome of a decision in which, considering all of the circumstances, would tend to influence the decision of a reasonable person faced with making the same decision.~~

~~"Transaction" means a contract of any kind; any sale or lease of any interest in land, material, supplies, or services; or any granting of a development right, any planning, zoning or land use or review process that may precede granting of a development right, license, permit, or application. A transaction does not include any decision which is legislative in nature that affects the entire membership of a class or a significant segment of the community in the same manner as the affected official or employee.~~

Section 2. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 3. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of January, 2014.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of February, 2014.

_____
Mayor

Attest:

_____
City Clerk

CITY OF BOULDER
***
POLICIES AND PROCEDURES

Nepotism Policy

Effective Date: 3/1/92
Revised Date: 8/31/09

Jane S. Brautigam

Jane S. Brautigam, City Manager

I. POLICY

It is the City of Boulder's policy to limit the hiring and supervision of relatives and partners by city employees and to prevent disparate and inequitable treatment, potential abuse in hiring, or abuse in supervisory authority, or the appearance thereof. Further, employees are held to the code of conduct as addressed in the Boulder Revised Code chapter 2, or any successor ordinance.

II. POSITION STATEMENT

The employment of relatives and partners increases the complexities of day-to-day supervision and compounds decision making in connection with selection, work assignment, evaluation, discipline and termination. It can create misunderstanding and resentment, give rise to the appearance of favoritism in the treatment of applicants, employees, and contractors, and lead to suspicion on the part of the public that the city may not be safeguarding the taxpayers' interests in a strictly impartial and objective manner. Also, actual or perceived disparate and inequitable treatment can adversely impact employee morale.

In addition, dating or intimate relationships between supervisors and their employees can be disruptive to the work environment, create a conflict of interest or the appearance of a conflict of interest, and lead to complaints of favoritism, discrimination, or sexual harassment.

Employees who engage in dating or intimate relationships with other employees in the same department must maintain proper office decorum and a level of professionalism expected of all employees.

III. SCOPE

This policy applies to the hiring and supervision of contractors and employees, new hire, transfer and promotion/demotion situations, and includes standard (including fixed-term), temporary and seasonal positions. This policy also applies to employment situations that develop between existing employees because of marriage or intended marriage, a common law relationship, being partners, dating or being in an intimate relationship. (Note: See also the Boulder Revised Code Chapter 2-7 or any successor ordinance, and the bargaining group contracts. In the case where the code or the bargaining group contract is more restrictive, the code or agreement governs.)

IV. DEFINITIONS

The following are definitions for purposes of this policy.

Dating or Intimate Relationship — A city employee involved in a romantic or intimate relationship with another city employee.

Department — A collection of employees, workgroups, or divisions headed-up by either a department head or an employee that reports to City Council.

Partner — One of two persons who are in an intimate relationship similar to that of a marriage or domestic partnership. (Also, see the definition of "relative.")

Relative — (Includes any of the following related by blood, marriage, domestic partnership or adoption.)

- spouse, including common-law,
- partner,
- parents, including in-laws,
- children (including step-children) and their spouses,
- sisters, brothers, including in-laws,
- grandparents,
- grandchildren,
- aunts, uncles,
- first cousins, and
- nieces, nephews.

A separation between spouses shall not be deemed to terminate relationships described above which exist only because of marriage.

Workgroup — Any formal workgroup within a department.

V. POLICY APPLICATION

A. Employment – Prohibited Situations

(Note: See the BMEA contract for information regarding situations where a BMEA employee would work in a department where a relative or partner is employed in a Management/Non-union position.)

1. All Employees

An employee cannot be in any of the following situations with a relative or partner (or intended spouse or partner), or another individual with whom the employee is in a dating or intimate relationship:

- Be in a position to exercise authority or participate in the decision-making to hire, appoint, discipline or fire the other person.
- Be in a position to exercise authority or participate in the decision-making for the city to hire a business organization that employs the other person.
- To advocate for the appointment or hiring of the other person.
- To audit, verify, receive, or be entrusted with money handled by the other person.
- To have access to the other person's confidential information including payroll and personnel records.

2. Supervisors

A supervisor cannot be in any of the following situations:

- Supervise, either directly or indirectly, a relative or partner, or an intended spouse or partner.

- Supervise an individual with whom the supervisor is in a dating or intimate relationship.

B. Employee Notification Requirements

In any of the situations listed in section A, the employee affected must notify the Department Head, or designee, who will notify the Human Resources Manager assigned to that department. The Human Resources Director and the employee's Department Head, in consultation with the City Attorney's Office will review proposed alternatives on a case-by-case basis.

The city reserves the right to choose an action that serves the city's business needs.

Some actions include, but are not limited to:

- removal from the decision-making process or relevant action,
- requesting the City Manager to make the appointment or hiring decision,
- voluntary transfer,
- involuntary transfer,
- reassignment,
- demotion, or
- termination.

An employee who does not notify his/her Department Head, or designee, of being involved in any of the situations listed in section A may be subject to discipline, up to and including termination.

C. Independent Contractors

No independent contractor will be eligible for a contract with a department in which a relative or partner would supervise the contractor. In addition, a city employee who is a relative or partner of an employee of the contractor may not participate in the decision-making to hire the contractor.

VI. INTERPRETATION AND APPLICATION

Employees who have questions concerning the interpretation or application of this policy should contact the Human Resources Department.

VII. DISCIPLINARY ACTION

Disciplinary action may be imposed on any employee who violates this policy.

Violation of this policy will be grounds for disciplinary action, up to and including termination of employment.

Please note that civil remedies and criminal sanctions also may be imposed under the Boulder Revised Code.

VIII. EXCEPTIONS/CHANGE

This policy supersedes all previous policies covering the same or similar topics. Any exception to this policy that would not violate the Boulder Revised Code, may be granted only by the Human Resources Director or the City Manager. This policy may be reviewed and changed at any time. This document is not intended to be an employment contract.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: November 18, 2014

AGENDA TITLE:

Request for Council Direction Regarding the City's Participation in the Securities Exchange Commission Municipal Bond Compliance Initiative

PRESENTERS
Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Bob Eichem, Chief Financial Officer

EXECUTIVE SUMMARY

The Municipalities Continuing Disclosure Cooperation Initiative (MCDC) is a program of the Securities and Exchange Commission. Pursuant to SEC Rule 15c2-12, the SEC requires an underwriter to obtain a written commitment from an issuer that the issuer will make continuing disclosures on at least an annual basis about its finances and other events. Many such issuers have ignored or been very inconsistent in fulfilling this responsibility. Accordingly, in March 2014, the SEC announced the MCDC, which provided a promise of limited amnesty for issuers who report any material failures to disclose before December 1, 2014.

Staff has discovered four potential failures to disclose. Neither staff nor outside counsel believe that any of these omissions are material. Accordingly, staff recommends that the city not report under the MCDC. The purpose of this agenda item is to obtain council direction regarding reporting under the MCDC.

BACKGROUND

The SEC announced the MCDC on March 10, 2014. The initiative is intended to discover the extent of compliance with SEC Rule 15c2-12 by issuers of municipal bonds. Under

the MCDC, the SEC agrees not to seek monetary penalties against any issuer that voluntarily reports a failure to comply. In return, the issuer must agree, in advance, to a cease and desist order. As part of the cease and desist order the issuer is required to disclose in a clear and conspicuous fashion the settlement terms in any final official statement for any future bond offering within five years. The issuer must also catch up any aspects of past delinquent filings, adopt policies and procedures regarding how filings will be documented and completed correctly in the future, and provide ongoing training for staff to prevent future omissions.

The agreement with the SEC would not limit personal liability. All members of the entity agree to cooperate with the SEC and testify in any SEC investigation, and must consent in advance to all settlement terms. In return for reporting, the issuer is guaranteed that the SEC will not issue monetary penalties against the issuer. If an issuer does not participate in MCDC and the SEC later brings an enforcement action against the issuer, the SEC may seek monetary penalties against the issuer.

There are approximately 55,000 issuers of what are called municipal bonds. Any of them that have issued bonds in the past five years must conduct the same review and make the same decision regarding this SEC initiative.

Staff has reviewed all of the city's bond offerings for the past 5 years and its continuing disclosure filings for the last ten years. In each Official Statement for city bond issues during the last 5 years, the city has disclosed to investors that "The City is not currently in default on any previous undertaking for disclosure." Staff has identified three circumstances which could be considered a failure to comply with its disclosure obligations, none of which staff believes are material.

1. On two occasions the city's bond rating was increased and the city did not report the improved bond rating.

2. The city is required to update annually a table of tax revenue from trash haulers and a table of ten largest customers and base rate history for the Stormwater Utility. These tables were not updated annually. In August, staff discovered this omission and corrected the tables.

3. The ratings for various insurers of city bonds were downgraded. The city decided not to report these changes, because these rating downgrades occurred when insurance companies failed during the great recession. The downgrades were common knowledge in the investment community.

As part of the MCDC, the SEC allowed underwriters to self-report by September 9, 2014, any material misstatement by any issuer of which the underwriter was aware. The City has used seven underwriters during the relevant period. Six of the underwriters found no material misstatement and did not report the city. However, TD Securities informed the city that it reported the city's failure to disclose the improved bond rating in its filing with the SEC.

The primary difficulty with the SEC initiative is SEC staff has refused to provide any guidance about what is material. By contrast, each year the city has an annual audit that is required by state law and the charter. It must be conducted by an independent audit firm. If there is ever a question of materiality the audit firm must determine whether it is material. The guideline used, is if this is not corrected will it misstate the financial statements to a degree that it is will mislead the person using the financial statements. There are free flowing discussion between the auditors and city staff so both understand the issues and conclusions reached.

The SEC has provided no such opportunity for discussion and dialogue. The issuer has to guess at what is material and then hope that the SEC agrees. The SEC will be the sole determinate of whether it is or not. This one size fits all definition makes it very difficult to determine what may be material. Therefore, staff must determine what is material based on industry practices in both the legal and financial professions.

City staff and counsel have spent many hours researching and analyzing past continuing disclosure filings by the city. This has consisted of reviewing hundreds of documents. One of the most challenging aspects of this review is the system for making these filings. The current system is the Electronic Municipal Market Access system (EMMA), which is a comprehensive, one stop shop for filings. Before the creation of EMMA, there were a group of companies that served as repositories for filing documentation. After the great recession of 2008 started, some of those companies failed or merged with other companies. Their performance was inconsistent. There were times when staff found e-mails documenting an action would be done and it was only partially done or not done at all by the company. This was not just a problem at the City of Boulder. This inconsistency was found by many issuers and the SEC was asked to consider filings only from the time EMMA started. The SEC declined to alter the time period.

The city has been and continues to be committed to ensuring that all material items are reported and will do its utmost best to comply with all reporting requirements. This commitment is memorialized in the 2015 budget in the financial policies Section 6 Debt Policies bullet three: The City will follow all continuing disclosure requirements for debt issuance. This will include the procedural requirements any entity must enact if they enter into an agreement with the SEC. The city has either implemented or is in the process of finalizing all of these requirements and will continue to update and refine them as additional best practices evolve in the future. The major requirements consist of:

1. Formally document and implement appropriate policies and procedures and ongoing training regarding all continuing disclosure obligations and requirements.

2. Comply with existing continuing disclosure undertakings, including updating past delinquent filings (this has already been completed for the few items that were missing).

Staff is currently reviewing how to dedicate more staff time to these ongoing zero tolerance requirements, and if necessary changes, will be made in current resource allocations to meet the needs of these requirements. The designated staff members at the City of Boulder responsible for ensuring compliance is implemented and completed correctly are the Chief Financial Officer and the Director of Finance.

TO: Members of Council
FROM: Mary Moline, City Clerk's Office
DATE: November 18, 2014
SUBJECT: Information Packet

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1. **CALL UPS**
   - **A.** 711 Pine
   - **B.** 2250 6th Street
   - **C.** 3000 Pearl
   - **D.** Union Pacific

2. **INFORMATION ITEMS**
   - **A.** Boulder's Energy Future Budget Updates

3. **BOARDS AND COMMISSIONS**
   - **A.** Human Relations Commission – October 20, 2014
   - **B.** Landmarks – October 1, 2014
   - **C.** Landmarks – November 5, 2014
   - **D.** Library Commission – September 3, 2014
   - **E.** Parks & Recreation Advisory Board – August 25, 2014
   - **F.** Parks & Recreation Advisory Board – September 22, 2014

4. **DECLARATIONS**
   None

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Debra Kalish, Senior Assistant City Attorney
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

Date: November 18, 2014

Call-up Item: Landmark Alteration Certificate to construct a 1,282 sq. ft. addition to the main house, to relocate an existing garage on the property, and to construct a 330 sq. ft. one-car garage at 711 Pine St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00172). This Landmark Alteration Certificate is subject to City Council call-up no later than **November 18, 2014**.

Executive Summary
The proposal to construct a 1,282 sq. ft. addition to the main house, to relocate an existing garage on the property, and to construct a 330 sq. ft. one-car garage at 711 Pine St., ensuring that the development shall be constructed in compliance with approved plans dated 09/22/14, was approved with conditions by the Landmarks Board (5-0) at the November 5, 2014 meeting. The decision was based upon the board's consideration that the proposed construction meets the requirements in Section 9-11-18, B.R.C. 1981.

The board's approval is subject to a 30-day call-up period by City Council. The approval of this Landmark Alteration Certificate is subject to City Council call-up no later than **November 18, 2014.**

ATTACHMENTS:
A. Notice of Disposition dated November 18, 2014
B. Photographs and Drawings of 711 Pine St.

Notice of Disposition

You are hereby advised that on November 5, 2014 the following action was taken:

ACTION: Approved by a vote of 5-0

APPLICATION: Public hearing and consideration of a Landmark Alteration Certificate to construct a 1,459 sq. ft. addition to the main house, to relocate an existing garage on the property, and to construct a 330 sq. ft. one-car garage at 711 Pine St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00172).

LOCATION: 711 Pine St.

ZONING: RL-1 (Residential Low-1)

APPLICANT/OWNER: David Waugh / Kevin Deighan

This decision was arrived at based on the purposes and intent of the Historic Preservation Code as set forth in 9-11-18, B.R.C., 1981, as applied to the Landmark Alteration Certificate application.

Public Hearing
Abby Daniels, Historic Boulder, 1123 Spruce Street, spoke in support of the Landmark Alteration Certificate application.

Motion:
On a motion by **M. Gerwing**, seconded by **K. Remley**, the Landmarks Board approved (5-0) the staff memorandum dated Nov. 5, 2014, as the findings of the board and approve a Landmark Alteration Certificate for the proposed construction and relocation shown on plans dated Sept. 22, 2014, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL

1. The applicant shall be responsible for constructing the house, relocating the garage and constructing a new one-car garage in compliance with the approved plans dated Sept. 22, 2014, except as modified by these conditions of approval.

2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall provide details on the rehabilitation of the existing house including, but not limited to, removal of vinyl siding and shutters, as well as details on the move and rehabilitation of the existing garage. Additionally, revised plans shall show the elimination of the coplanar condition of the roof and west wall at the connector.

3. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to the final review and approval of the Landmarks design review committee: window and door details, wall material details, siding material details, paint colors, roofing material, exterior lighting and details regarding any hardscaping on the property to ensure that the approval is consistent with the General Design Guidelines and the Mapleton Hill Historic District Guidelines and the intent of this approval**.**

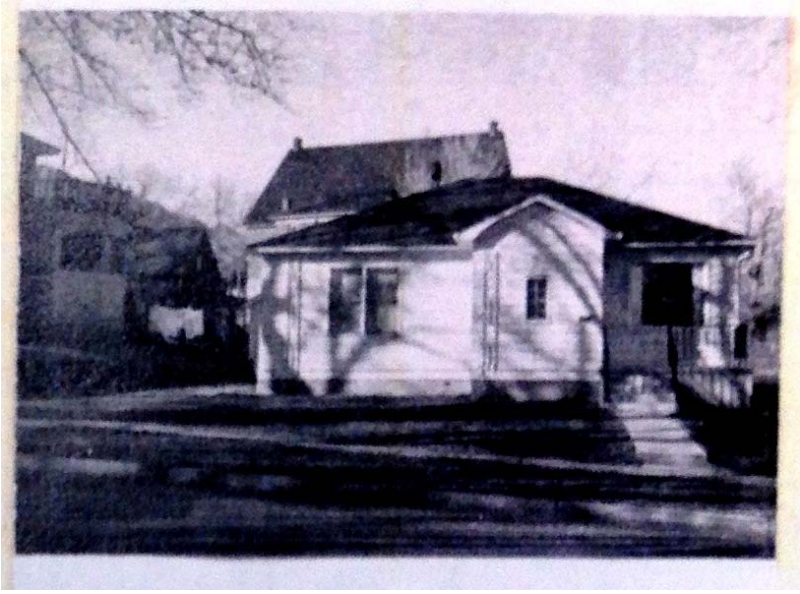

Figure 1. 711 Pine St. Tax Assessor Card photograph 1952.
Photograph Courtesy the Carnegie Branch Library for Local History.

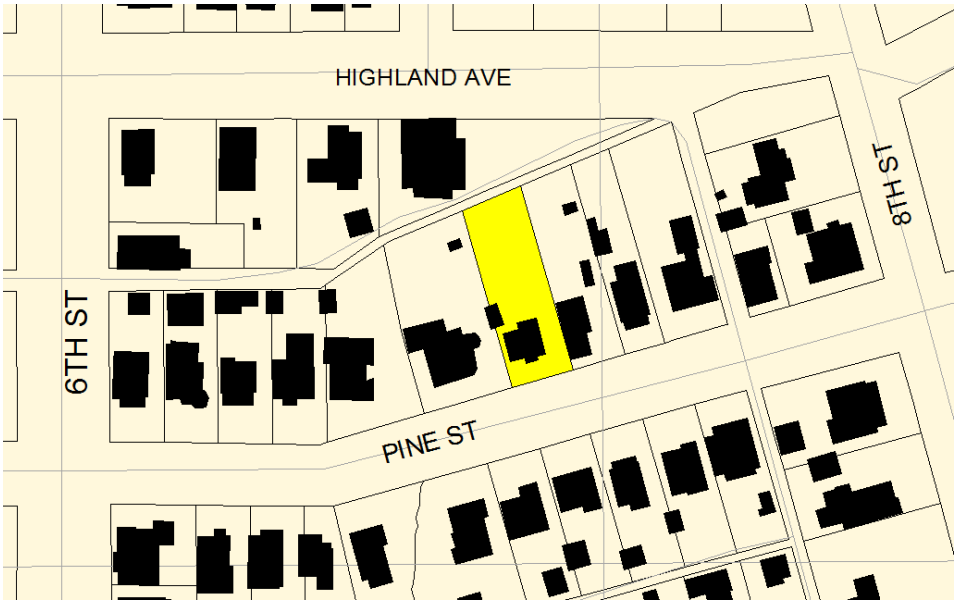

Figure 2. Location Map, 711 Pine St.

Figure 3. South (front) elevation of 711 Pine St., 2014.

Figure 4. West elevation of 711 Pine St., 2014.

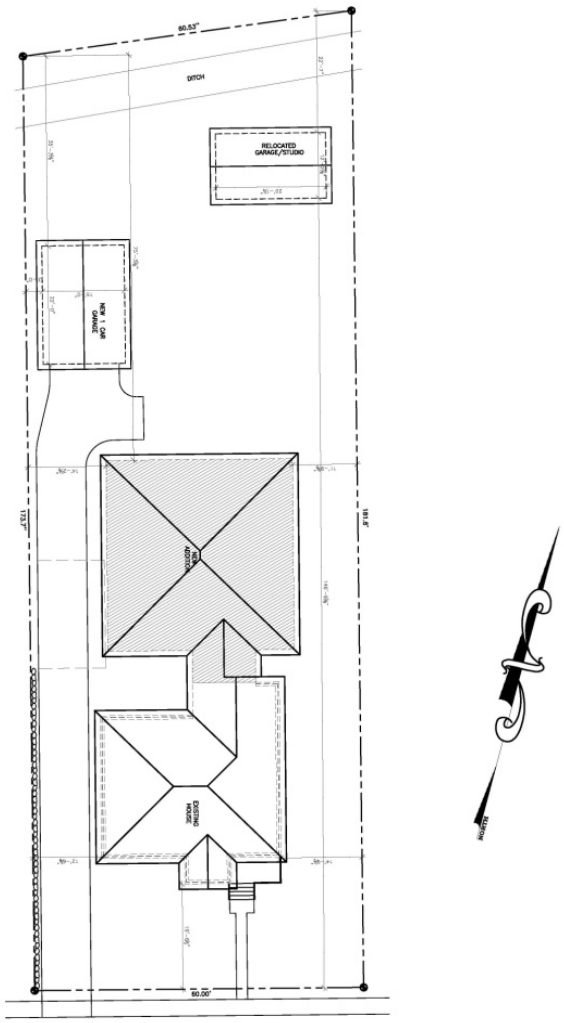

Figure 5. Proposed Site Plan. Not to scale.

Figure 6. Existing South Elevation (façade)

Figure 7. Existing East Elevation

Figure 8. Proposed East Elevation

Figure 9. Existing(left) and Proposed (right) North Elevations (Rear).

Figure 10. Existing West Elevation

Figure 11. Proposed West Elevation

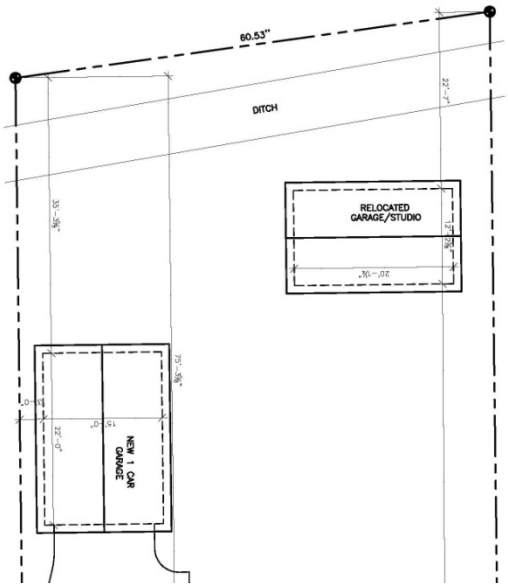

Figure 12. Proposed new garage and relocated garage/studio.

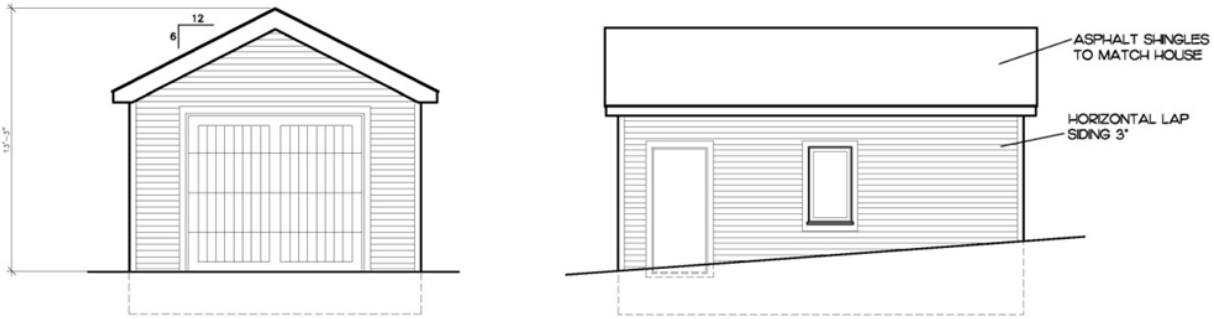

Figure 13. South and East Elevations of proposed garage.

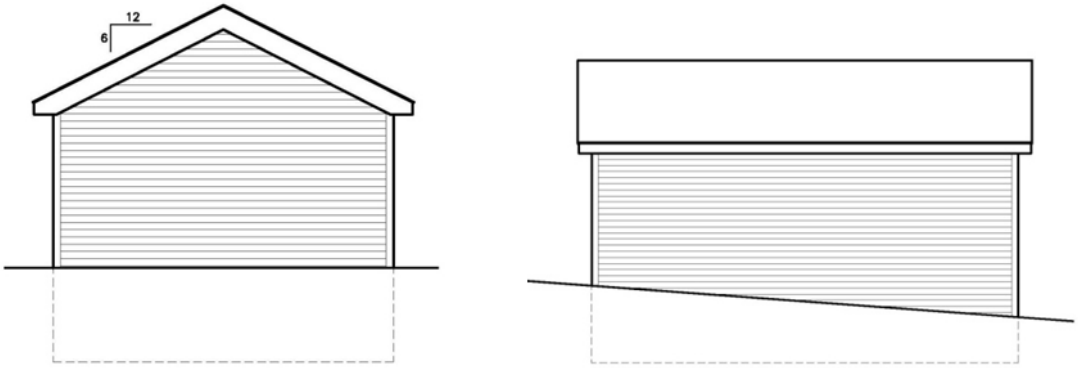

Figure 14: North and West Elevations of proposed garage.

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Debra Kalish, Senior Assistant City Attorney
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

Date: November 18, 2014

Call-up Item: Landmark Alteration Certificate to construct a 308 sq. ft. garage at 2250 6th St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00309). This Landmark Alteration Certificate is subject to City Council call-up no later than **November 18, 2014**.

Executive Summary
The proposal to construct a 308 sq. ft. detached garage at 2250 6th St. was approved with conditions by the Landmarks Board (4-0, M. Schreiner recused) at the November 5, 2014 meeting. The decision was based upon the board's consideration that the proposed construction meets the requirements in Section 9-11-18, B.R.C. 1981.

The board's approval is subject to a 30-day call-up period by City Council. The approval of this Landmark Alteration Certificate is subject to City Council call-up no later than **November 18, 2014.**

ATTACHMENTS:
A. Notice of Disposition dated November 18, 2014
B. Photographs and Drawings of 2250 6th St.

Notice of Disposition

You are hereby advised that on November 5, 2014 the following action was taken:

ACTION: Approved by a vote of 4-0, M. Schreiner recused

APPLICATION: Public hearing and consideration of a Landmark Alteration Certificate to construct a 308 sq. ft. detached garage at 2250 6th St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code (HIS2014-00309). Applicant: David Waugh. Owner: Bud and Chris Willis.

LOCATION: 2250 6th St.

ZONING: RL-1 (Residential Low-1)

APPLICANT/OWNER: David Waugh / Bud and Chris Willis

This decision was arrived at based on the purposes and intent of the Historic Preservation Code as set forth in 9-11-18, B.R.C., 1981, as applied to the Landmark Alteration Certificate application.

Public Hearing
Abby Daniels, Historic Boulder, 1123 Spruce Street, spoke in support of the Landmark Alteration Certificate application.

Motion:
On a motion by **K. Remley**, seconded by **M. Gerwing**, the Landmarks Board approved (4-0, **M. Schreiner** recused) the staff memorandum dated November 5, 2014, as the findings of the board and approved a Landmark Alteration Certificate for the proposed construction of a garage as shown on plans dated July 11, 2014, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL

1. The applicant shall be responsible for ensuring that the development is constructed in compliance with approved plans dated July 11, 2014 on file in the City of Boulder Community Planning and Sustainability Department, except as modified by these conditions of approval.
2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to the final review and approval of the Landmarks design review committee: final details regarding roofing, exterior lighting, windows and pedestrian and garage door details, and greater compatibility with the existing house. These design details shall be reviewed and approved by the Landmarks design review committee prior to the issuance of a building permit. The applicant shall demonstrate that the design details are in compliance with the intent of this approval and the General Design Guidelines and the Mapleton Hill Historic District Design Guidelines.

Figure 1. Location Map, 2250 6th St.

Figure 2. Tax Assessor Photograph, 2250 6th St., c.1949.

Figure 3. Close up of façade, 2250 6th St., 2014

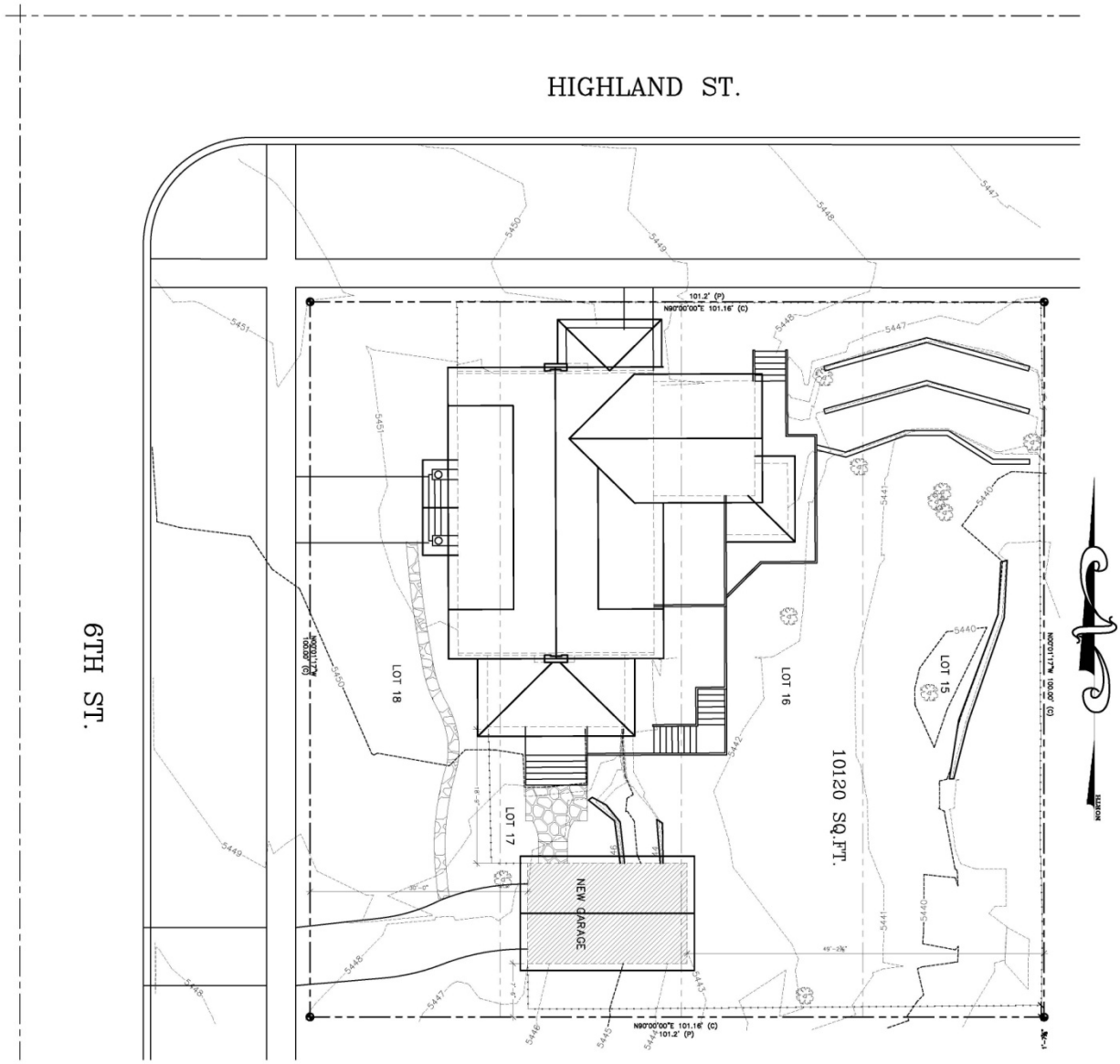

Figure 4. Proposed site plan, 2250 6th St.

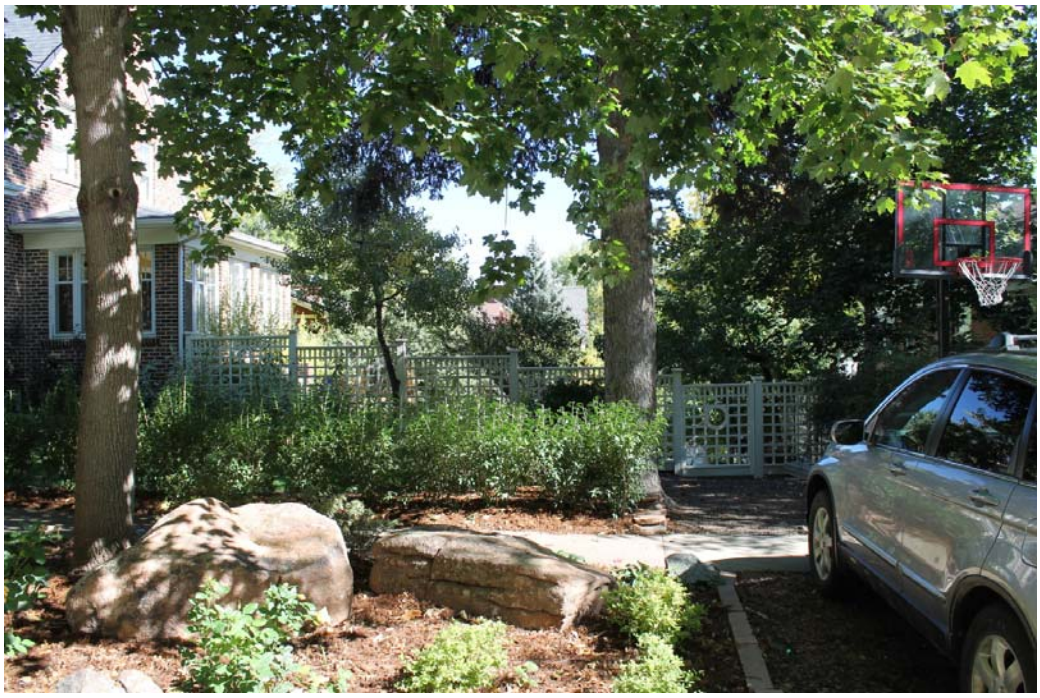

Figure 5. Driveway and fenced in yard at south of property, 2250 6th St., 2014.

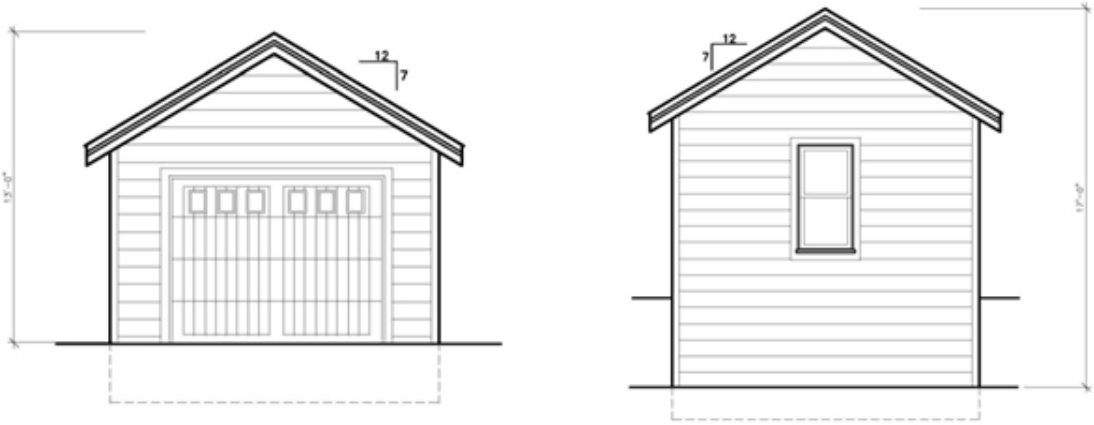

Figure 6. Proposed west elevation (left, facing 6th St.) and east elevation (right, interior lot)

Figure 7. Proposed north (left, facing house) and south (right) elevations.

Figure 8. Proposed garage (right) in context with the primary house (right), west facades.

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning + Sustainability
Susan Richstone, Deputy Director of Community Planning + Sustainability
Charles Ferro, Development Review Manager
Elaine McLaughlin, Senior Planner

Date: Nov. 12, 2014

Subject: Call-Up Item: Concept Plan Review 3000 Pearl Street (LUR2014-00076)

EXECUTIVE SUMMARY

On Oct. 30, 2014, the Planning Board reviewed and commented on the above-referenced application. Subsequently, on Nov. 6, 2014, the City Council adopted emergency Ordinance No. 7992 amending Section 9-2-13, "Concept Plan Review and Comment," B.R.C. 1981, to add a process for review of concept plans by City Council. The amended code section 9-2-13(a)(2), B.R.C. 1981 provides an opportunity for the City Council to vote to review and comment on the concept plan as follows,

> *(2) City Council Call-Up: The city council may call up a concept plan application within thirty days of the board's review. The city manager may extend the call-up period until the council's next regular meeting, if the manager finds in writing within the original call-up period that the council will not receive notice of the application in time to enable it to call up the application. Any application that it calls up, the city council will review at a public meeting within sixty days of the call-up vote or within such other time as the manager or council and the applicant mutually agree.*

Therefore, City Council may vote to call-up the Concept Plan to review and discuss within 30 days of the Planning Board hearing. The call up period concludes on Nov. 30, 2014. There is one City Council meeting within this time period for call-up consideration on Nov. 18, 2014. The staff memorandum to Planning Board, minutes, meeting audio, and other related background materials are available on the city website for Planning Board, follow the links: *www.bouldercolorado.gov ➔ A to Z ➔Planning Board➔search for past meeting materials planning board➔2014➔10.30.2014 PB Packet.*

This was the second Concept Plan review of the proposed project; the first Concept Plan was reviewed by the Planning Board on June 5, 2014 and the applicant was provided a number of comments to respond to, along with a recommendation for submittal of a second Concept plan review. The staff memorandum to Planning Board from the June 5, 2014 Concept Plan, minutes, meeting audio, and other related background materials are available on the city website for Planning Board, follow the links: at *www.bouldercolorado.gov ➔ A to Z ➔Planning Board➔search for past meeting materials planning board➔2014➔6.5.2014 PB Packet.* The final minutes of the June 5, 2014 Concept Plan hearing are provided in Attachment A, and the draft minutes of the Oct. 30, 2014 Concept Plan hearing are provided in Attachment B.

Consistent with recently amended land use code section 9-2-13(a)(2), B.R.C. 1981 City Council shall vote to call up the application to review and comment on the concept plan within a 30-day call up period which expires on Nov. 30, 2014, and with one City Council meeting during that time, it may consider this application for call-up at its **Nov. 18, 2014** public meeting.

ATTACHMENT

A. Final minutes Planning Board hearing of June 5, 2014
B. Draft minutes of Planning Board hearing of Oct. 30, 2014

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
June 5, 2014
1777 Broadway, Council Chambers

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: http://www.bouldercolorado.gov/

PLANNING BOARD MEMBERS PRESENT:
Aaron Brockett
Crystal Gray
John Gerstle
Liz Payton
John Putnam
Leonard May

PLANNING BOARD MEMBERS ABSENT:
Bryan Bowen

STAFF PRESENT:
David Driskell, Director of Planning and Development Services
David Gehr, Assistant City Attorney
Susan Meissner, Administrative Assistant III
Charles Ferro, Development Review Manager for CP&S
Karl Guiler, Senior Planner/Code Amendment Specialist
Elaine McLaughlin, Senior Planner
Molly Winter, Director of Downtown and University Hill Management Division & Parking Services
Kathleen Bracke, Senior Transportation Planner
Chris Hagelin, Senior Transportation Planner
Lesli Ellis, Comprehensive Planning Manager

1. **CALL TO ORDER**
   Chair, **A. Brockett**, declared a quorum at 6:03 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**

On a motion by **C. Gray** and seconded by **L. Payton** the Planning Board approved 5-0 (**B. Bowen** and **J. Putnam** absent) the May 1, 2014 minutes.

3. **PUBLIC PARTICIPATION**
   1. **Raymond Bridge,** spoke on behalf of PLAN Boulder in opposition to the Planning Board's ROW Code change recommendation to City Council. He asked that it be revisited and vetted through a greater public process.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/CONTINUATIONS

There were no items for call up.

5. PUBLIC HEARING ITEMS

A. CONCEPT PLAN REVIEW AND COMMENT: Request for public and Planning Board comment on a proposal for the redevelopment of properties located at the southeast corner of Pearl Parkway and 30th Street, including the addresses 3000 Pearl Street; 2170, 2100 30th Street and 2120 32nd Place that currently include an office building and auto dealerships. Proposal is for the redevelopment of the property with four residential buildings of four to five stories along with a corner office building with ground floor retail and restaurant.

Applicant: Vince Porreca
Property Owners: Bridge Partners IV, Hollister Property, and Alan Baker

Staff Presentation:
C. Ferro introduced the item.
E. McLaughlin presented the item to the board.

Applicant Presentation:

Shane White, the applicant from Southern Land Company,
Tim Downy, the owner of Southern Land Company,

Board Questions:
E. McLaughlin answered questions from the board.

Public Hearing:

1. **Ernesto Ortiz, 788 S. Chambers Road, Aurora,** works in construction and asked that Great Western Erectors not be permitted to build this project as they mistreat their workers.
2. **Lou DellaCava, 2595 Canyon Blvd., Boulder,** spoke in support of the project and did not think that this project should be required to address all of the Comprehensive Housing Strategy goals for accommodating families. There are no solutions, only compromises, to sustainable housing strategies.

Board Comments:
Site Plan and Design
C. Gray encouraged the applicant to explore more opportunities with the ditch; it could be a great amenity as it relates to the residential units. Consider providing ground floor access for families, possibly on the eastern side. She liked the idea of including restaurant space with outdoor eating. Design the site to maximize southern exposure and storage, especially for smaller and micro units. Bike storage and repair spaces will make the project attractive. Avoid a

monolithic 55 the foot height and embed the mechanical systems within the envelope. She liked the applicant's idea to hold a public charette.

L. Payton thought it could be difficult to make this a cohesive community because it will be a rental property. Determine how to make this a functional and successful neighborhood. Consider incorporating amenities to attract families. Forty-one percent of Boulder's incommuters have children and many would consider living in duplex, triplex and fourplex units. The Quonset hut could be kept as amenity; it would provide authenticity and anchor to Boulder's heritage. She suggested varying the building heights.

L. May looked at TVAP and the Urban Center guidelines. They aim to increase the density and mixture of uses, and recommend a balanced mix of 2-5 stories. He did not think that the accommodation of housing warranted higher buildings. TVAP takes housing goals into account.

J. Gerstle spoke about Open Space. He recommended diminishing the amount of active driveway by getting cars underground as quickly as possible. Dedicate open space to creating a neighborhood; he strongly encouraged including playgrounds and more open space. The ratio of building mass to land seemed excessive, especially with regard to the height of the building.

J. Putnam generally liked the site layout. He agreed with **J. Gerstle** that it would be best to get cars underground as quickly as possible. He liked the permeability of the site and recommended that they create more friendly bike and pedestrian access, especially on the north/south axis. He clarified that the proposed connection to 32nd Street that would displace the Quonset hut was a response to city transportation plan requirements. He thought that the site's proximity to transportation and retail centers warranted a high density but he cautioned against a monolithic height. He liked the more organic layout and suggested adding more eddies and alcoves to create more opportunities for neighborhood. The applicant's choice of amenities will determine the resident population and will be critical to understanding the public benefit.

A. Brockett thought retail around the perimeter of the plaza and on the corner of 30th and Pearl would help to mitigate the monolithic feel of the buildings. Connect the buildings to provide shelter from the busy street; instead open them toward the ditch and mountains. Create pedestrian interest around the ditch and consider adding a cafe. Live-work units could help to activate pedestrian activity. He was interested in seeing a variety of housing types and thought they could be embedded within larger buildings. Pay more attention to the connectivity. He liked the idea of getting the cars underground quickly. The fire access could be a woonerf to allow for more active and functional open space. Knit the two halves of the project together from a biking and pedestrian experience; the bridge could be bike and pedestrian only. High quality bike parking will be critical.

C. Gray asked the applicant to address the Junction Place connection and bridge completion.

Proposed Zoning and BVCP Land Use Designations Changes

L. May thought the northwest corner would comply with TVAP if residential units were stacked above the retail. Ground floor retail with high ceilings along 30th Street would activate and tie the space together; he did not want to recreate 29 North's treatment of the street condition. The rezoning the southern portion of the site would depend upon other plans. He generally liked the direction of the development with the exception of height and scale issues.

J. Putnam questioned whether residential would work on the northwest corner. This is an odd parcel in a transitional location between TVAP and the core Boulder area. Solana is heavily weighted toward residential so it may be okay to have a more commercially-oriented building in this location. He would like to look at the area as a larger ecosystem.

A. Brockett was fine with rezoning on the north side to make it compatible with the transit village but would prefer that this project move forward without changing the land use map for the southern portion. The site is blighted and underused right now. He was excited to see a project like this on the site. He thought retail on the northwest corner made sense but would like to see residential units added to it. He liked the live-work on the southern side.

C. Gray agreed with previous comments. She recommended that the PB have a study session about what has been happening in the TVAP areas to get overall larger perspective.

J. Gerstle agreed with **C. Gray**. He thought that the existing land use maps make sense but was open to changes if appropriate.

L. Payton agreed with the previous comments. She thought the northern piece made sense but would like to keep the land use for the southern portion as is until the board has a chance to look at more housing issues.

Building Mass and Scale

L. May referenced TVAP guidelines regarding the appropriate height, character and values for the site. He thought some 55 foot buildings could make sense, but a uniform 55 foot height would contradict the goals and values. Consider higher buildings in the middle and lower buildings on the perimeter, as well as size, bulk, community character and preservation of views.

A. Brockett would like to see some height variation but was not as concerned as **L. May**. He liked the idea of positioning taller buildings in the center with shorter buildings along the street.

J. Putnam noted that TVAP does not cover the southern portion of the site. He thought that portion of the site needed a vision and questioned whether it should be an extension of TVAP or part of the regional center. Some aspects of the two plans overlap but the allowed number of stories differ. The Pearl District calls for 3-5 stories.

C. Gray did not want the facades along 30th Street behind the 29th Street Mall to be replicated. Strive for a better pedestrian and vehicular experience. The proposed work-live units along 30th Street would be helpful for activating the street. She cautioned that trying to squeeze five stories into 55 feet could lead to some unsuccessful design solutions.

L. Payton supported a variety of heights as long as the applicant was mindful not to cause too much shading. Assure that there are human scale elements at the pedestrian level.

J. Putnam noted that if the creek will not be an amenity if it is shaded.

BVRC and TVAP Guidelines

L. May recommended that the residential units be moved above the retail on the northwest corner to comply with the BR-1 zone.

A. Brockett agreed with **L. May**. Swapping the uses would be more consistent with the plans. He recommended orienting younger people's housing along the street and family oriented housing internally.

Consistency with TVAP Transportation Connections Plan
J. Gerstal thought that it was consistent with the TVAP Transportation Connections Plan.

A. Brockett thought that completing the connection with Junction Place should be a condition of approval. He liked **L. Payton's** suggestion to salvage the Quonset hut if possible.

J. Putnam suggested that the connection with Junction Place be more woonderf-like. Make wider sidewalks and a place for people to sit along the ditch. Think about how to attract people and provide amenities.

L. May would like for the portion of the project that is larger than by-right to be net zero.

A. Brockett disagreed with **L. May**.

J. Putnam thought that net zero was a good aspiration but that it would not put all of the weight on that focus. He thought that housing and other benefits would apply toward a variance as well.

L. Payton agreed with **L. May** and would like more information about the character of the development in Site Review.

C. Gray agreed with **L. May** that any development over the allowed size should be net zero. She thought that the board should discuss this further and recommended that the Hella resend a previous memo on the topic.

A. Brockett thought that the applicant would need to be innovative and work to meet city goals in order to warrant the zoning change on the southern portion of the site.

L. May supported the idea of investigating the possibility of salvaging the Quonset hut.

Summary:

- There was interest in seeing the ditch function as an amenity for residents and retail spaces
- Include family friendly and other unit types
- Consider including family friendly amenities such as playgrounds and daycare.
- There was general interest in varying the heights of buildings. They should not be monolithic.
- Improve bike and pedestrian access through the site.
- Get cars below ground as quickly as possible.
- Create pedestrian interest along 30th Street and activate the streetscape.
- Provide quality bike parking.

- Maintain a sense of some openness and solar access.
- There was some willingness to consider land use change but it is not a given. There is a question whether a land use change would be made through Comp Plan change.
- Include residential over retail on the northwest corner to improve compatibility with city guidelines.
- The proposal generally meets the TVAP and BVRC but a monolithic height would not be acceptable.
- Consider keeping the Quonset hut as a possible amenity.

5. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Request for Feedback regarding AMPS Near Term Strategies and new TDM Toolkit
M. Winter and **K. Bracke** presented to the board.

L. Payton felt that it would be important to have a means to measure the effectiveness of current programs and targets for the future. She did not think that the graphic provided in he packet was particularly helpful.

A. Brockett and **L. May** agreed with **L. Payton**.

C. Gray would like to include neighborhood liveability under goals and would also like to engage neighborhoods in the process. The community parking program is an important component from the standpoint of encouraging non-neighbors to find alternate modes of transportation. Remind people about safety in flood events to refrain from driving. She was glad that they were looking at some partnerships, especially on the Hill.

A. Brockett that that the scope of work was impressive.

J. Gerstle suggested asking businesses to require that employees pay for parking.

M. Winter explained that staff is looking at best practices in comparable communities including a cash out for employees that do not drive.

J. Putnam was glad that this was being investigated. He stressed the importance of determining reasonable electric vehicle charger use and needs, due to the importance of switching fuel use to meeting GHG goals. This is a difficult area to predict, though.

B. Parking Code Change Update
K. Guiler presented the item.

A. Brockett was glad to see shared parking maximums and parking between buildings. He did not think that our current parking regulations are progressive enough.

C. Gray would like to see a map showing the areas under discussion at the next update.

A. May 27th City Council Study Session Recap and Update on Upcoming Code Changes

D. Driskell presented the item.

L. Payton did not feel that the summary of the Planning Board's comments that went to City Council in the memo accurately summarized that board's feedback. She suggested that the board see the staff summary of the Planning Board's comments before they go to Council.

S. Meissner assured her that the May 15th Minutes will be approved by the Planning Board before the next Council meeting on the topic in August.

C. Gray thought this should be tackled by different neighborhoods and recommended that they include other boards in their discussions.

B. Discussion regarding Right of Way Density Code Changes

L. May felt that there was a lack of clarity on the topic at the last meeting. He suggested that the board revisit the proposed changes to see if there were areas that the Planning Board might revise or bring up with Council.

A. Brockett expressed concern about revisiting the topic and previous decision. It was a thorny and complex issue.

L. May agreed that it should not be reopened, but thought that some items should be clarified to Council.

C. Gray said that she made the motion but would also like to revisit it if possible. She saw **J. Sugnet's** presentation to Council about the ROW Code Changes as they were related to the Comprehensive Housing Strategy. She did not feel that the Planning Board was able to comment on the tie to the Comprehensive Housing Strategy. She was surprised that it was not brought up in the Planning Board memo.

D. Gehr explained that the board could make a motion asking the Planning Director to revisit the topic.

A. Brockett thought that the board and City Council would benefit from a more detailed analysis showing how the proposed changes would play out in a variety of scenarios. He recommended that the board pass a motion requesting that staff compile a more detailed analysis and present it to Council.

J. Putnam noted that the board already had a three hour discussion about the topic and did not think that the motion should be revisited as a matter of process. It was already noticed to the public and he did not think another discussion would make much of a difference. If it is reopened, he wanted to assure that it would be a rare occurrence.

L. May did not feel that he was equipped to make the decision at the last meeting. He thought the board should either request more detailed information and discuss it at a future meeting, or make a list of questions and issues for Council. Ask Council to keep Planning Board in the loop.

J. Gerstle still felt that the board did not have enough information. He thought that it would behoove the board to revisit the item.

J. Putnam felt that the board needed to be disciplined in making decisions. The item should have been tabled or sent back if they did not feel comfortable making a decision at the time.

L. Payton agreed with **J. Putnam** but was afraid that there could be a bad and unintended consequence to the proposed changes.

C. Gray felt uncomfortable with her decision. She would like to discuss it again and provide additional information to Council.

On a motion by **C. Gray**, seconded by **J. Gerstle** the Planning Board voted 4-2 (**A. Brockett** and **J. Putnam** in opposition, **B. Bowen** absent) to ask the Planning Director bring the ROW ordinance back to the board prior to any further readings by City Council.

C. **L. May** asked whether there might be a mechanism to negotiate with the applicant during the Site Review process to assure that the board gets what it wants. He would like for the process to be more collaborative and without a rigid set of confining regulations.

J. Putnam was not interested in introducing horse trading into the Site Review process.He recommended that the board members think about what areas aren't working.

D. Gehr recommended that the board look at how it can get what it needs more quickly and efficiently. It can take too long to perfect an idea.

C. Gray expressed concern about horse trading. She would rather have regulatory benchmarks.

D. Driskell recommended that the board have a study session to discuss this further.

D. **C. Gray** requested that someone follow up with the man who presented about the Great Western Erectors. Let them know that they can come before the Human Rights Commission. **S. Meissner** will follow up.

6. DEBRIEF MEETING/CALENDAR CHECK

7. ADJOURNMENT

The Planning Board adjourned the meeting at 10:58 p.m.

APPROVED BY

Board Chair 7/17/14

DATE

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
October 30, 2014
1777 Broadway, Council Chambers

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: http://www.bouldercolorado.gov/

PLANNING BOARD MEMBERS PRESENT:
Aaron Brockett, Chair
Bryan Bowen
Crystal Gray
John Gerstle
Leonard May
Liz Payton
John Putnam

PLANNING BOARD MEMBERS ABSENT:

STAFF PRESENT:
David Driskell, Executive Director for CP&S
Charles Ferro, Development Review Manager for CP&S
Elaine McLaughlin, Senior Planner
Sam Assefa, Senior Urban Designer
Edward Stafford, Engineering Review Manager for CP&S
Susan Meissner, Administrative Assistant III
David Thompson, Transportation Engineer II
Heidi Hansen, Engineer II

1. CALL TO ORDER

Chair, **A. Brockett**, declared a quorum at 6:02 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

A. The September 4, 2014 Planning Board meeting minutes are scheduled for approval.

J. Gerstle noted that he was absent for the Sept. 4th meeting and asked that **L. Payton** be marked present.

On a motion by **J. Putnam**, seconded by **L. Payton**, the Planning Board voted 6-0 (J. Gerstle abstained) to approve the September 4, 2014 Planning board minutes.

B. PUBLIC PARTICIPATION

1. **Laura Hullinghurst**, grew up in Boulder and had general comments about development

in Boulder. Loves the idea of density and ability to bike, make biking easier. Traffic is a growing problem. Need to add at infrastructure to support development before adding more density. Lobby RTD to increase regional bus service and bike storage on busses. State laws are prohibiting

2. **Steven Haydell, 1935 Grove Street,** was co-chair of Goss Grove neighborhood. Unhappy with the Boulder Junction and Canyon developments. Goss Grove neighborhood was not notified about the James Travel site. He has concerns about the overflow parking moving into Goss Grove. Concerns about overflow parking in Boulder Junction. Boulder Junction was initially supposed to have light and heavy rail but now it will not and

C. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/CONTINUATIONS

A. Call Up Item: 1345 Mariposa Ave Flood Recovery Floodplain Development Permit (LUR2014-00078). Expires: November 5, 2014.
B. Call Up Item: CU Water Quality Pond Floodplain Development Permit (LUR2014-00077). Expires: November 5, 2014.
C. Call Up Item: NIST Multi-Use Path Reconstruction Floodplain Development Permit (LUR2014-00083). Expires: November 7, 2014.
D. Call Up Item: Multi-Use Path Modifications at the Boulder Slough Floodplain Development Permit (LUR2014-00086). Expires: November 7, 2014.

5. PUBLIC HEARING ITEMS

A. CONCEPT PLAN REVIEW AND COMMENT: Request for public and Planning Board comment on a proposal for a redevelopment that includes a mix of uses including office, retail, restaurant, and multi-family residential apartments. The site is comprised of several properties located at the southeast corner of 30th & Pearl Streets (on the north and south sides of the North Boulder Farmer's Ditch). Proposed are approximately 103,000 square feet of office, 12,000 square feet of retail/office "flex" space, 12,000 sf of retail/restaurant, and 242 residential units comprised of studio, one, two and three bedroom units along with live/work units. The development proposed would require a rezoning for the two areas of the property. This is the second Concept Plan review submitted for this project.

Applicant: Danica Powell
Owner: Bridge Commercial Partners IV, LLC

Staff Presentation:
C. Ferro introduced the item
E. McLaughlin presented the item

Board Questions:
E. McLaughlin answered questions from the board.

E. Stafford answered questions from the board.
C. Ferro answered questions from the board.

Applicant Presentation:
Shane White, a representative from Southern Land Company, presented to the board.
Danica Powell, the applicant, presented to the board.

Board Questions:
Shane White and **Danica Powell** answered questions from the board.

Board Disclosures:
J. Putnam disclosed that the owner of Ras Kassa's is on the board of his charity.

L. May disclosed that one of the architects for the project has been his client. He did not feel that this would impede his ability to be objective. The hearing adjourned briefly so that the City Attorney could discuss with **L. May** his involvement with the architects. After reopening the hearing, **L. May** indicated that because this is a Concept Review, he will not recuse himself. The situation will be reassessed at the time of Site Review.

Public Hearing:

1. **Derek Empey,** 444 S. Cerdos, Solana Beach, CA, developed the Solana apartments and spoke in support of the project.
2. **Claire Egan,** 3060 Pearl Parkway, a resident from the Solana apartments, thought the they would benefit from the retail and restaurant opportunities afforded by the proposed development.
3. **Stephen Haydel,** 1935 Grove Street, noted that the ditch often does not run and that it could flood. He also thought that traffic could pose a challenge in the area and that all of the buildings are exceptions to the 35 foot allowance by code.
4. **Ruth Blackmore,** 705 S. 41st Street, would like to have more information about the number of occupants as opposed to a unit count.

Board Comments:
The board recommended that the applicant look at Growing Up Boulder's report. It has good ideas as to how to accommodate families and children in urban areas.

Site Plan

- Members thanked the applicant for returning for a second Concept Review and for taking the board's initial comments into account.

- The ditch is a central feature to the site and must work well for the development to be successful. Determine whether the ditch is suited for the use as specified in the proposal with the ditch company sooner rather than later. Members would like to more information about how the ditch could be affected by flooding.

- Some members raised concern over using the ditch as an amenity while others thought it would provide a positive amenity to residents and the community.

- **J. Putnam** appreciated the creative treatment of stormwater and encouraged the applicant to utilize permeable surfaces wherever possible.

- Specify the number of bedrooms as opposed to the number of units to provide a sense of the overall proposed population of the development.

- Provide more information about the affordable housing at Site Review.

- Many members thought that this was an appropriate development for Boulder Junction.

- Board members noted that the mixture of office and residential is specified and by-right for the zone. They generally liked that the applicant traded office space for residential and that affordable housing will be integral to the project.

- **C. Gray** asked to see more information regarding the project's plans for energy efficiency and renewable energy.

- The board liked the organization of the buildings around programmed outdoor spaces.

- **A. Brockett** felt that the promenade, plaza, cafés and patios will provide a public experience that would be a net benefit to the city.

- Board members cautioned that the applicant be careful in the implementation of the shared promenade between cars, bikes and pedestrians. Consider using the south side for casual strolling and kids' areas instead.

- The board agreed that this could be an attractive development for families looking for more urban amenities and liked the precedent images of the various open spaces.

- Board members generally liked the ground floor, exterior entrances to dwelling units and embedded townhouses. The activity in the plazas will add vibrancy and interaction among neighbors.

- The current townhouses adjacent to the garage entrance might be better suited elsewhere. Consider adding the embedded townhouses to the buildings to the south.

- **B. Bowen** would prefer to see a 2.0 FAR and four story buildings. The massing would allow for more open space.

- Employ the best possible peacemaking and landscaping strategies.

- Consider making the entire mixed use courtyard on the southern end of the site residential to add vibrancy.

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- Consider adding a daycare center to the building program; it would attract families.

- **L. Payton** cautioned against making bicycles superior to pedestrians on the multi-use path.

Urban Design

- Board members had differing views on the appropriateness of the proposed heights.

- Some members felt that the buildings seemed too monolithic and should be more varied in height. Consider adding setbacks for the higher stories to assure that it will be pedestrian friendly and not feel too enclosed.

- Other members were comfortable with the height and massing as proposed given the proximity to services and the transit center.

- Some members recommended that the buildings along Pearl and 30th Streets be lower while the internal buildings be taller to afford views to the internal buildings.

- Encourage people to cross plazas to get to their offices and homes; it creates vibrancy.

- Consider what "urban" means to Boulder and use precedents that are fitting as opposed to foreign to Boulder's context.

- Get an overall sense of future adjacent developments and street sections along 30th Street, Pearl and the street between this development and Solana. Try to avoid creating canyon-like street conditions and consider future connections.

- Pay special attention to the building at the corner of 30th and Pearl. It will sit at the gateway to the Transit Village and should be as pedestrian friendly as possible.

- There was disagreement as to whether a restaurant on Pearl, at the corner of 30th, would be successful. Consider measures to enliven the area and help to soften the streetscape.

- Consider stepping the buildings back along the central promenade to provide a more pedestrian friendly environment.

Building Design

- Board members generally liked the building design and varied architecture because it makes the site feel as if it had developed over time.

- **B. Bowen** cautioned against breaking up the building massing to pretend that these are not big buildings; the buildings as proposed are legible and appropriate. He liked the southern elevation of the building along 30th Street; it is simple, well proportioned and unapologetic about its size.

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- Some members recommended that the taller buildings step back in certain locations. Use lighter materials for the setback portions make them feel less impactful.

- Design simple building faces with less complexity and less material variation.

- **L. Payton** would like to see a logical fenestration pattern and a simple material palette. She appreciated the the applicant proposed to save the Quonset hut.

- Members cautioned against using 29 North or Solana as precedents for design. The generally liked the precedent images submitted by the applicant.

Circulation
Consider connections to south and east in the future. 32nd street will become very important once it is connected.

The board liked the incorporation of bike repair and storage facilities.

A. Brockett thought the application met the requirements of connections plan and had handled connections skillfully.

Summary
Site Plan:
- It is important to evaluate the feasibility of the ditch as amenity; safety will be important.
- Tally the total number of people that the development will house and employ.
- Provide family friendly amenities and unit designs.
- The board appreciated the open space.
- Keep going in family friendly direction.

Height
- There were clear differences in opinion.
- Some looked for varied approach and would like to see the massing broken up; avoid a jumbled approach.
- Avoid monoliths or undulations in the building facade.
- Design simple, clean buildings.
- Buildings should be of high quality materials and design.
- Consider the connections to other adjacent sites.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

S. Assefa updated that board about Victor Dover's visit. There will be a joint Planning Board and BDAB meeting on Monday, December 8, and other events on the 9th and 10th.

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S. Assefa gave a summary of City Council's discussion of Envision East Arapahoe.

Public Notice
L. Payton would like to expand the public noticing to include the current resident at the addresses.

D. Driskell noted that in addition to creating a new Neighborhood Liaison position, the city is developing an engagement platform to provide information and opportunities to facilitate more dialog online about planning efforts.

Letter to City Council
L. May made and later withdrew a motion to schedule three meetings between now and the end of December to discuss items from the City Council Study Session agenda. Instead, they will rediscussed at the November 6th, November 20th and December 18th regularly scheduled Planning Board meetings under matters.

A. Brockett asked that each member think about their priorities to bring to the table at the next meeting.

The board agreed to 5pm starts on Dec 6 and Jan 8

7. **DEBRIEF MEETING/CALENDAR CHECK**

8. **ADJOURNMENT**

The Planning Board adjourned the meeting at 11:17 p.m.

APPROVED BY

_____
Board Chair

_____
DATE

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INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Deb Kalish, Senior Assistant City Attorney
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

Date: November 18, 2014

Call-up Item: Landmark Alteration Certificate to construct a 300 sq. ft. addition and 150 sq. ft. screened-in mechanical area at the Union Pacific Depot at 30th and Pearl St., and individual landmark, per section 9-11-18 of the Boulder Revised Code (HIS2014-00299). This Landmark Alteration Certificate is subject to City Council call-up no later than **November 18, 2014**.

Executive Summary
The proposal to construct a 300 sq. ft. addition and 150 sq. ft. screened-in mechanical area at the Union Pacific Depot at 30th and Pearl St., ensuring that the development shall be constructed in compliance with approved plans dated 10/10/14, was approved with conditions by the Landmarks Board (4-1), **D. Yin** opposed, at the November 5, 2014 meeting. The decision was based upon the board's consideration that the proposed construction meets the requirements in Section 9-11-18, B.R.C. 1981.

The board's approval is subject to a 30-day call-up period by City Council. The approval of this Landmark Alteration Certificate is subject to City Council call-up no later than **November 18, 2014.**

ATTACHMENTS:
A. Notice of Disposition dated November 18, 2014
B. Photographs and Drawings of the Union Pacific Depot at 30th and Pearl St.

Notice of Disposition

You are hereby advised that on November 5, 2014 the following action was taken:

ACTION: Approved by a vote of 4-1 (D. Yin opposed)

APPLICATION: Public hearing and consideration of a Landmark Alteration Certificate to construct a 300 sq. ft. addition and 150 sq. ft. screened-in mechanical area at the Union Pacific Depot at 30th and Pearl St., and individual landmark, per section 9-11-18 of the Boulder Revised Code (HIS2014-00299).

LOCATION: Northeast of 30th St. and Pearl Pkwy

ZONING: MU-4

APPLICANT/OWNER: James Bray, Bray Architecture, Inc.

This decision was arrived at based on the purposes and intent of the Historic Preservation Code as set forth in 9-11-18, B.R.C., 1981, as applied to the Landmark Alteration Certificate application.

Public Hearing
Jim Bray, 1300 Yellow Pine Ave., architect, spoke in support of the Landmark Alteration Certificate application.
Abby Daniels, Historic Boulder, 1123 Spruce Street, spoke in support of the Landmark Alteration Certificate application but voiced concern about the height of the screen on the trackside (east) elevation and questioned whether the amount of mechanical space could be reduced.
Scott Pederson, developer of Depot Square, 2008 18th St., spoke in support of the Landmark Alteration Certificate application.
John Ship, 2008 18th St., restaurateur, spoke in support of the Landmark Alteration Certificate application.

Motion:
On a motion by **M. Gerwing**, seconded by **M. Schreiner**, the Landmarks Board approved (4-1, **D. Yin** opposed) the staff memorandum dated November 5, 2014 in matter 5C (HIS2014-00299) as the findings of the board and approves the construction of a 300 sq. ft. addition and 150 sq. ft. screened-in mechanical area at the north and east elevations of the Union Pacific Depot as shown on plans dated 10/10/2014, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL

1. The applicant shall be responsible for constructing the addition and reconstruction of the alcoves in compliance with the approved plans dated 10.10.2014, except as modified by these conditions of approval.

2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit revised drawings for review and approval by the Ldrc that show the trackside arch walls inset to a minimum depth of approximately 2’ from the exterior wall, and fenestration inside the arched openings to more closely match that shown in historic drawings and an alternate to the concrete stair enclosure.

3. Final details showing door and window details, roofing materials, wall materials and proposed colors. These design details shall be reviewed and approved by the Landmarks design review committee, prior to the issuance of a building permit. The applicant shall demonstrate that the design details are in compliance with the intent of this approval and the General Design Guidelines.

D. Yin did not support the proposal because she considers that the proposed work should reflect a more modern design to meet guideline 4.2, which speaks to distinction and compatibility.

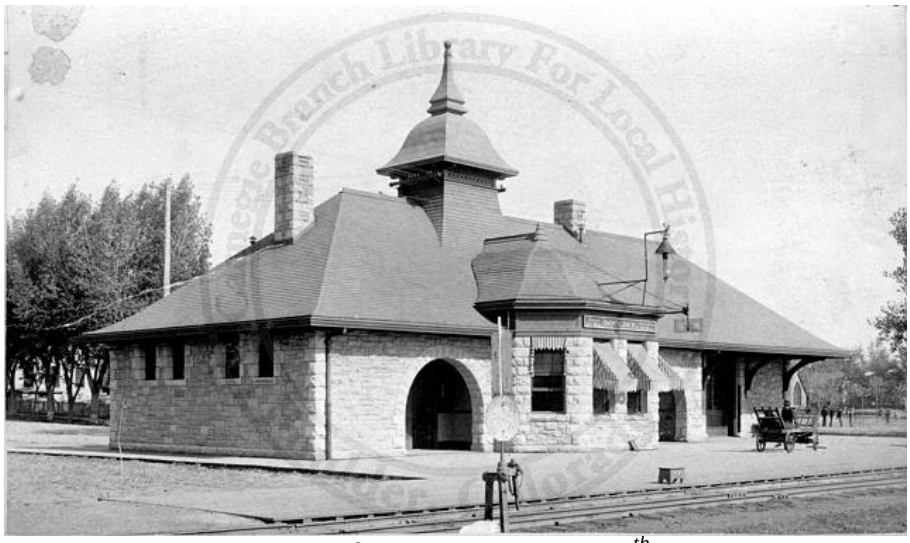


Figure 1: Boulder Depot shortly after construction at 14th and Canyon Blvd., c.1890.

Figures 2. The depot being transported in two pieces to its new location, at 2275 30th St., 1973.

Figure 3. 2007 view of the Depot while located at 2275 30th St.

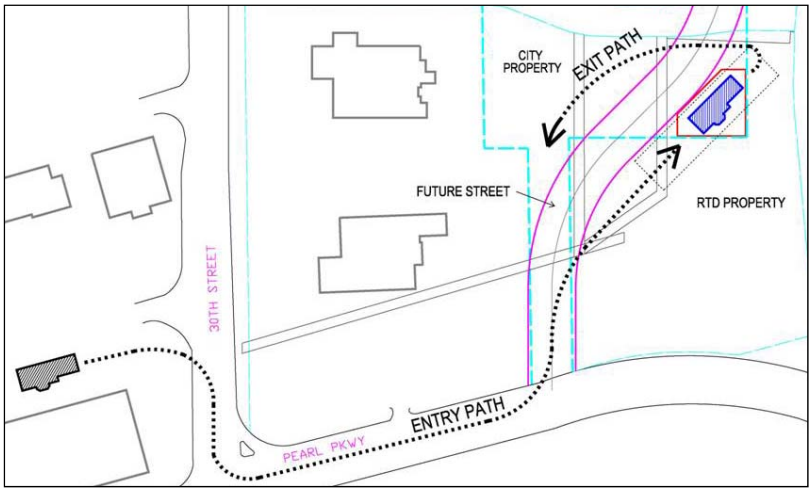


Figure 4. Map of Depot's second relocation, 2007.

Figure 5. The Depot at its 3rd and current location northeast of 30th and Pearl, 2014.

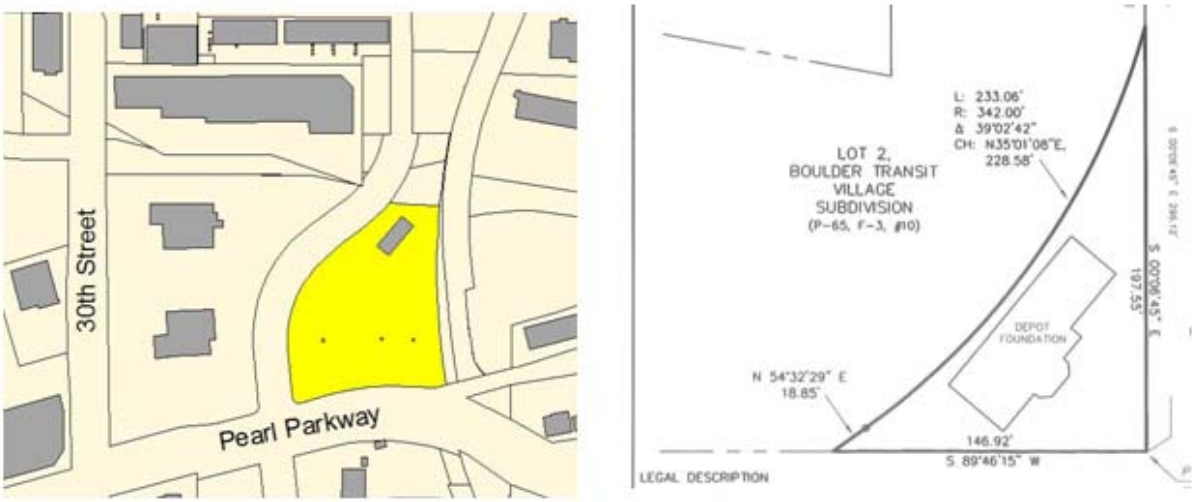


Figure 6: Location Map (left) and Landmark Boundary (right).

Figure 7. Detail of window (non-historic) and stone surround, 2006.

Figure 8. Detail of bay window, 2006.

Figure 9. View of the interior of the depot,2013.

Figure 10. Detail of quoins, overhanging roof, and brackets, 2008.

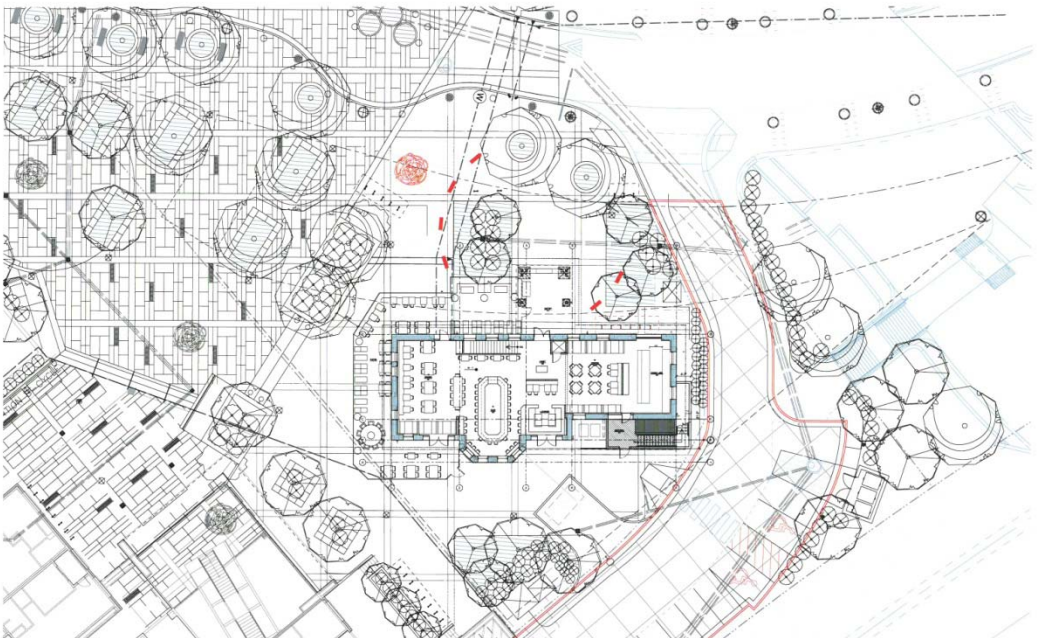


Figure 11. Proposed Site Plan, 2014.

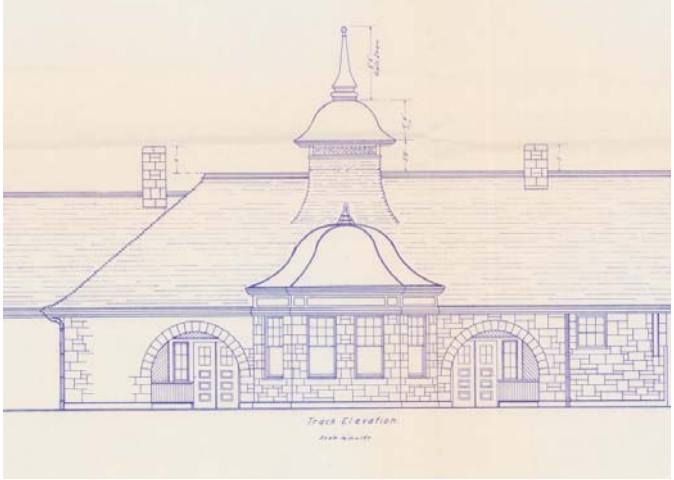


Figure 12. Portion of the original 1890 trackside elevation for the Depot

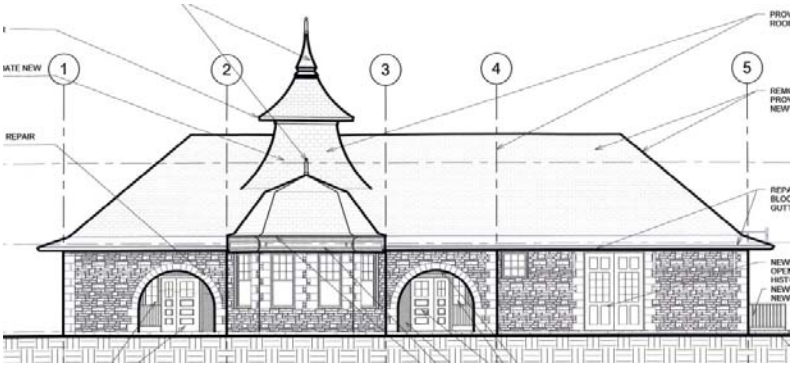


Figure 13. Approved 2011 LAC drawings, trackside

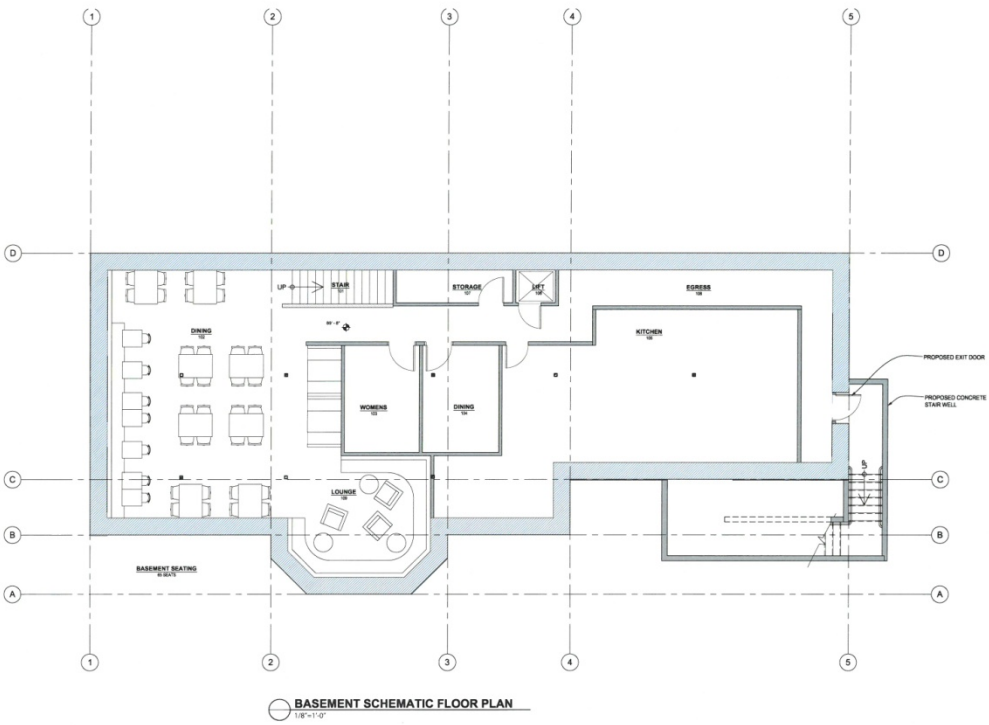


Figure 14. Basement floor plan showing proposed service area, 2014.

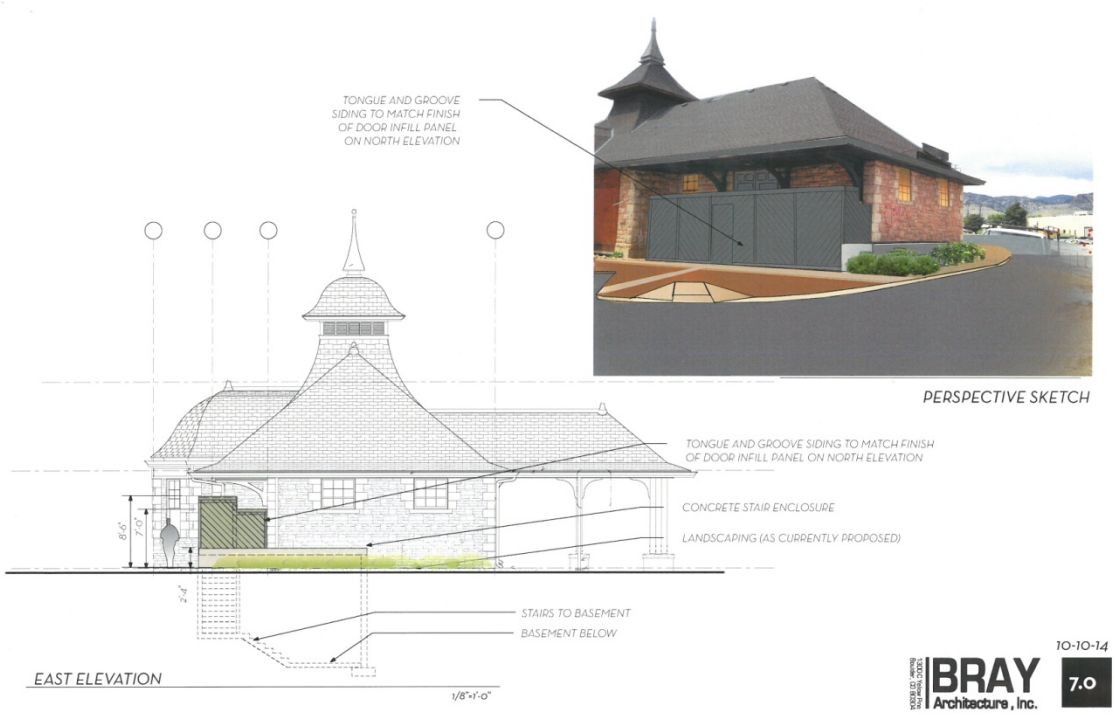


Figure 15. Proposed East Elevation and Perspective Sketch, 2014.

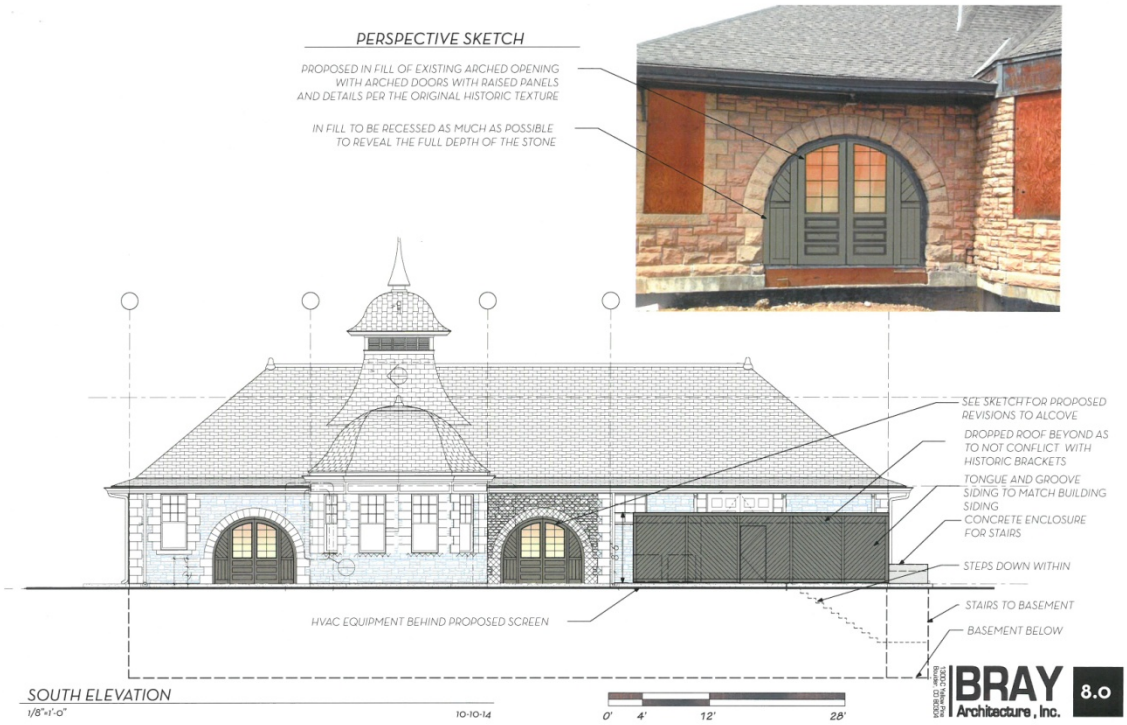


Figure 16. Current proposal South Elevation and Perspective Sketch, 2014.

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development

Date: November 18, 2014

Subject: Information Item: Boulder's Energy Future Budget Update

Budget Update
The municipalization exploration work plan represents a significant undertaking. In particular, the legal and technical work necessary to determine the final costs for potential acquisition of the local distribution system and launch of a municipal utility will be a considerable investment. Recognizing this, in 2011, city voters approved an increase to the Utility Occupation Tax in the amount of $1.9 million a year. The use of this tax revenue has been allocated to the following categories:

- Legal services (condemnation and FERC Counsel)
- Consulting services related to possible municipalization and separation of Xcel Energy's (Xcel) system (engineering and appraisal services)
- Salary and benefits (executive director of Energy Strategy and Electric Utility Development)
- Purchased services and supplies (office space and supplies)

Following voter approval in November 2011, the city has focused its "energy future" work efforts on exploring municipalization. This memo is intended to provide a program and budget update for June through September 2014. Previous budget updates have been provided to council in information packets and can be found online here. Work plan items completed since the last budget update to council include:

- Implementation of the Energy Future Transition Work Plan
    - Customer Experience
        - Assessing capability of current billing system to handle electric billing
    - Financing, Accounting and Rates
        - Began working to identify insurance and financing needs
        - Began refining rate forecasts and identifying phased rate design and outreach process

- Planning and Engineering
    - Drafting an Open Access Transmission Tariff
- Construction, Operations and Maintenance
    - Preparing to develop an outsourcing RFQ
- Resource Acquisition
    - Initiating discussion on power supply with providers
- Support Services
    - Preparing a Request for Proposal for Electric Utility Automation Consulting Services
    - Working with other utilities to identify detail system operation and maintenance needs and identifying best practices

- Established process for the formation of new working groups and developed an on-line application
- Prepared for a community visioning session to be held in November
- Participated in a number of regional, national and international collaborations in support of the Boulder community's climate and energy goals (**Attachment A**). In response to direction from council at their 2014 planning retreat, a report of these activities will continue to be provided in the quarterly budget updates to council.

<u>2014 Budget</u>
The 2014 total budget of $2,879,544 is funded from the Utility Occupation Tax ($1.9 million, plus a three percent tax increase approved by council on Oct. 25, 2013, pursuant to the original ordinance); a one-time general fund request of $355,000 allocated to support salaries and benefits for high-priority staffing needs in support of this project; and a $567,544 prior year encumbrance carryover from 2013. The carryover reflects a delay in spending for consulting fees to negotiate the purchase of the system and engineering fees to assess and determine the technical capabilities of the system. Expenditures for 2014, (January through September) total $1,446,138 and are within the limitations of this budget.

Other staff resources assigned to this effort have been allocated within existing budgets and are separate from the $2,879,544 budget. This is in alignment with the overall priority of this effort and existing roles, responsibilities and funding, as well as the approach historically taken with other significant and cross-departmental city projects. As a reminder, an organizational chart showing those assigned to this project and their areas of focus is included as **Attachment B**. A list that includes staff working on this effort, the percentage of time spent in 2014 on the project and associated budget allocation is provided in **Attachment C**.

Attachments:
Attachment A: Regional, National and International Collaboration
Attachment B: Organizational Chart
Attachment C: Staffing Resources

ATTACHMENT A

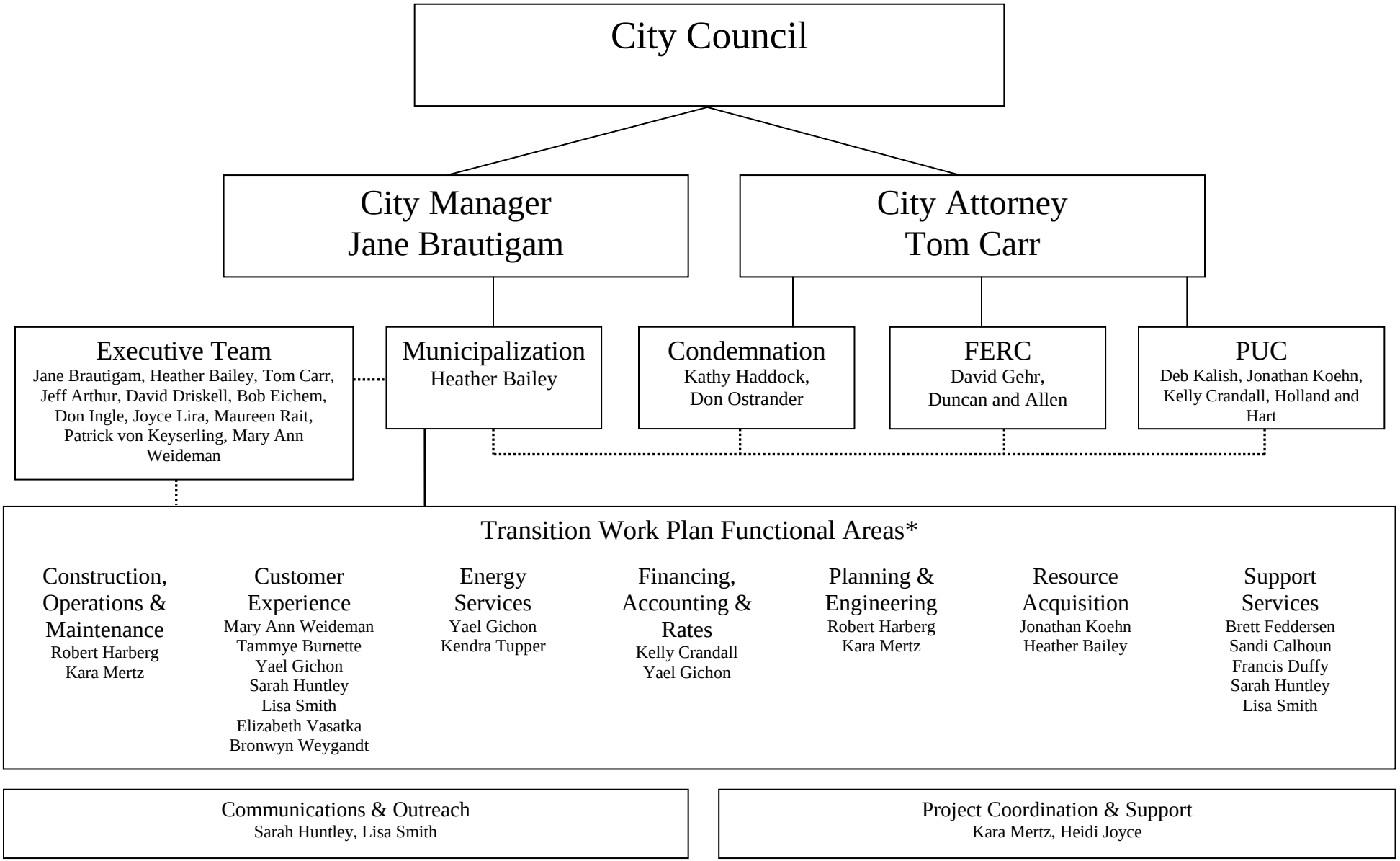
Regional, National and International Collaboration

Detailed description of initiatives, may be found in the April 29 City Council Study Session Memorandum, Attachment C

Area of Collaboration	Relevant Activities in 2014 (Q2-Q4)
Legislative & Regulatory	• **National Association of Clean Air Agencies (NACAA) Steering Committee**—City provided comments to NACAA's testimony on the EPA Clean Power Plan draft rules 111(d). • **EPA Clean Power Plan 111(d) draft rulemaking process**—City provided testimony in draft rule making. Staff is collaborating with several members from peer communities to file joint written comments to the final rule in Dec 2014. • **Colorado Public Utilities Commission (PUC) Proceeding No. 14R-0394EG (Rulemaking on Energy Data Access and Privacy Rules)**—Created a coalition of eight local governments to recommend rule changes to facilitate climate action planning; current redline of rules requires utilities to make available standard annual community energy reports for local governments; receiving assistance from the Energy Information Administration on statistical best practices for providing aggregated data.
Regional Technical and Outreach Working Groups	• **Colorado Climate Networking Steering Committee**—The Colorado Climate Network and the Colorado Municipal League are convening a statewide Local Resilience Project to help improve the resilience of Colorado local governments and local resources to possible climate change impacts. As of September 10, 2014, 39 jurisdictions with close to 100 representatives have signed on to participate in the project. • **Local Government Working Group on Public Utilities Commission Issues**—Developed strawman community energy report and participated in meetings with Xcel Energy technical staff to refine list of energy consumption and programmatic metrics that will be provided to local governments for climate and energy planning. • **Boulder Sustainability Alliance**—Representatives from CU Boulder, BVSD, Boulder County and the city have continued to meet to discuss sustainability related issues; particularly issues associated with energy. • **Colorado Clean Energy Cluster**—Colorado Clean Energy Cluster (CCEC) is a project-driven, nonprofit economic development organization aimed at growing primary jobs in Colorado in the area of clean energy through formal partnerships between clean energy companies, the public sector and higher education. The board is made up of cities, businesses and universities – the city's membership includes board seats for the city, Boulder Chamber, and the University of Colorado Boulder. The city is collaborating with CCEC on the following efforts: • Organizing and tracking the local clean tech energy sector

	• Identifying and developing high profile/high impact pilot projects that engages our local clean energy companies • Ensuring the success of the Boulder Energy Challenge grant recipients • Identify ways that the city can help our local clean tech innovators effectively network and export their products and services to larger regional/national/international markets.
National Technical and Outreach Working Groups	• **American Council for an Energy Efficient Economy (ACEEE) Local Energy Efficiency Self-Scoring Tool**—Provided ACEEE with 2013 update of new activities, programs and policies the city engaged in beyond those previously submitted for 2012 and the beta release of the tool. • **iUrban Smart City Advisory Group**—Participated in three surveys and collaborative webinars with international advisory group members. • **USDN Utility-Data User Group**—Participated in bi-monthly webinars on topics from EPA Portfolio Manager to an overview of ACEEE tools and resources.
Conferences & Presentations	• **May 6 American Antitrust Institute 14th Annual Energy Roundtable** • **May 21-23 Next Generation (NG) Utilities Summit** • **June 10 Presentation to Pakistani Group** • **June 13 Presentation to PLAN-Boulder County** • **June 13-18 American Public Power Association (APPA) National Conference** - June 16 Utility Leaders' Luncheon - June 17 APPA Presentation - June 18 Breakfast Discussion of the U.S. Environmental Protection Agency Clean Power Plan • **June 16 American Geophysics Union Science Policy Conference**—Presented on issues related to climate preparedness and local energy policy. • **June 19 Mutual Aid Panel Presentation in Boulder** • **July 31 New Carbon Rules and the Impact on Credit**—Webinar Presentation • **August 21 Presentation to the Colorado Clean Energy Cluster** • **August 27 Governing Future Structure Summit**—Presented on the city's municipalization effort and future energy transition issues. • **September 5 Presentation to the National League of Cities**—Presented on climate mitigation, climate adaption and community resilience • **September 9 Presentation to Sociology of Climate Change CU Class** • **September 14 Boulder Green Streets, Ciclovia** • **September 19 Presentation to City of Pueblo** • **September 30 Presentation to Empower Our Future**

ATTACHMENT B
Organizational Chart



*Note: Since the last transition work plan update to council, three functional areas have been renamed as follows: customer service has been changed to customer experience, finance and accounting has been changed to financing, accounting and rates and power supply and delivery has been changed to resource acquisition.

ATTACHMENT C

Boulder's Municipalization Exploration Project

2014 Staffing Resources

January - September, 2014

Executive Director	**Source of Funding**	**% of Time**
Heather Bailey	Utility Occupation Tax	100
		$233,789 Utility Occupation Tax

Executive Team	**Source of Funding**	**% of Time**
Jeff Arthur	PW Utilities	2 (Beg. June)
Jane Brautigam	CMO Budget	6
Tom Carr	CAO Budget	16
David Driskell	CP&S Budget	5
Bob Eichem	Finance Budget	5
Don Ingle	IT Budget	10 (Beg. June)
Joyce Lira	HR Budget	5 (Beg. June)
Maureen Rait	PW Budget	5
Patrick von Keyserling	Communications Budget	2
Mary Ann Weideman	CMO Budget	9 (Beg. June)
		$85,124 Estimated Cost

Project Team	**Source of Funding**	**% of Time**
Sandi Calhoun	HR Budget	7 (Beg. June)
Carl Castillo	CMO Budget	3
Kelly Crandall	CAP Budget	80
Francis Duffy	IT Budget	1 (Beg. June)
Brett Feddersen	IT Budget	17(Beg. June)
David Gehr (Backfill)	General Fund (One-time GF Request)	100
Yael Gichon	CAP Budget	100
Kathy Haddock	CAO Budget	68
Robert Harberg	PW Budget	13
Sarah Huntley	Communications Budget	60
Heidi Joyce	General Fund (One-time GF Request)	100
Deb Kalish	CAO Budget	54
Jonathan Koehn	CP&S Budget	82
Kara Mertz	CP&S Budget	50
Cheryl Pattelli	Finance Budget	2
Lisa Smith	General Fund (One-time GF Request)	100
		$662,825 Estimated Cost

Support	**Source of Funding**	**% of Time**
Tammye Burnette	HR Budget	1 (Beg. Aug.)
Daniel Fairchild	IT Budget	2 (Beg. June)
Brett Hill	PW Budget	1
Elesha Johnson	CMO Budget	5 (Beg. June)
Sandra Llanes	CAO Budget	10
Sean Metrick	PW/CP&S Budget	4
John Miller	General Fund (One-time GF Request)	80 (Beg. June)
Laurie Nading	CAO Budget	25 (Beg. June)
Joanna Paradiso	P&DS Budget	5
Penn Richman	IT Budget	31 (Beg. July)
Kendra Tupper	CAP Budget	20 (Beg. July)
Elizabeth Vasatka	CAP Budget	6 (Beg. Aug.)
Bronwyn Weygandt	PW Budget	4 (Beg. Aug.)
		$44,499 Estimated Cost

Total:

$233,789 Utility Occupation Tax

$179,758 One-time GF Request

$612,690 Other Funding Sources

City of Boulder
BOARDS AND COMMISSIONS MEETING SUMMARY FORM

NAME OF BOARD/COMMISSION: Human Relations Commission

DATE OF MEETING: Oct. 20, 2014

NAME/TELEPHONE OF PERSON PREPARING SUMMARY: Robin Pennington 303-441-1912

NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:
Commissioners – Amy Zuckerman, Emilia Pollauf, Nikhil Mankekar, José Beteta
Staff – Carmen Atilano, Robin Pennington
Commissioners absent - Shirly White

WHAT TYPE OF MEETING (CIRCLE ONE) **[REGULAR]** [SPECIAL] [QUASI-JUDICIAL]

AGENDA ITEM 1 - CALL TO ORDER – The Oct. 20, 2014 HRC meeting was called to order at 6 p.m. by **A. Zuckerman.**

AGENDA ITEM 2 – AGENDA ADJUSTMENTS – None.

AGENDA ITEM 3 – APPROVAL OF MINUTES – N. Mankekar moved to conditionally accept the Sept. 15, 2014 minutes with changes**. E. Pollauf seconded** the motion. **Motion carries 4-0.**

AGENDA ITEM 4 – COMMUNITY PARTICIPATION (non-agenda action items) – Tamil Maldonado spoke about the problems that people without a social security number face finding housing in Boulder, even in cases where one family member does have the required documentation, and requested that the HRC look into revision of the **Human Rights Ordinance** to address potential discrimination**.**

AGENDA ITEM 5 – ACTION ITEMS

A. 2014 Community Impact Fund Reports

1. **Veterans Helping Veterans Now -** Trisha Dittrick, Executive Director, gave a report on the Veterans Awareness Series. Acceptance of the report was tabled for November pending receipt of the 2014 budget.

B. 2014 Community Event Reports

1. **Boulder Asian Pacific Alliance** – Brenda Pearson, Chair of the Boulder Asian Festival, gave a report on the Aug. 9 and 10 Boulder Asian Festival held on the Pearl Street Mall. **J. Beteta moved** to approve**. E. Pollauf seconded. Motion carries 4-0.**
2. **Boulder Dance Coalition (formerly Village Arts Coalition) -** Jim Schwartzkopff gave a report on the Village Arts Coalition International Festival, held on June 20, 21 and 22 on the Pearl Street Mall. **E. Pollauf moved** to approve. **N. Mankekar seconded. Motion carries 4-0.**
3. **Dental Aid –** Elva Quintana gave a report on the Community BBQ and Children's Dental Health Screening held at the Dental Aid office on Aug. 2. **J. Beteta moved** to approve. **E. Pollauf seconded. Motion carries 4-0.**

AGENDA ITEM 6 – DISCUSSION/INFORMATIONAL ITEMS

A. 2015 Community Event Applications

1. **Veterans Helping Veterans Now -** Trisha Dittrick, Executive Director and Hilary Johnson, co-Executive Director, presented the proposal for the 2015 Veterans Awareness Series.
2. **Boulder Asian Pacific Alliance** – Brenda Pearson presented the proposal for the 2015 Boulder Asian Festival.

3. **Boulder Dance Coalition (formerly Village Arts Coalition) -** Jim Schwartzkopff presented the 2015 Village Arts Coalition International Festival proposal.
4. **Intercambio Uniting Communities –** Lee Shanis, Executive Director, Alison Rhodes, District Services Manager from the City of Boulder Parks and Recreation, and a representative from Logo Ligi spoke about the proposal for Building Community and Health Through African Dance, a collaborative event with Boulder Parks and Recreation and Logo Ligi.

B. Work Plan Update

1. **Resolution on Unaccompanied Immigrant Children** – **C. Atilano** reported that the resolution was passed by council.
2. **Marriage Equality – A. Zuckerman** gave a summary of the recent U.S. Supreme Court decision and its impact in Colorado and Boulder County.
3. **Living Wage Issue –** Staff and commissioners discussed alternative dates in November and December for the public forum on the Living Wage Issue. **S. White** has been invited to participate on a panel at the CU Summit on Diversity and Inclusivity.

C. Bolder Boulder – A. Zuckerman reported on the status of recent discussions between Out Boulder, Bolder Boulder and the community regarding the issue of gender shaming and the slogan "Sea Level is for Sissies" on the Bolder Boulder t-shirt.

D. Event Reports – N. Mankekar attended the reception for Fulbright Dr. Maphosa at CU. **J. Beteta** reported on receiving the Immigrant Heritage Proclamation from council and **J. Beteta** and **N. Mankekar** attended several events during Immigrant Heritage Week. **A. Zuckerman** spoke about the recent PrideFest event and gave an update on the reading session of the proposed extension of the smoking ban.

E. Follow Up Tasks – Revise the September minutes, bring background information on the housing and social security issue to the HRC at the November meeting, obtain 2014 budget from Veterans Helping Veterans Now, confirm Dec. 7 with Sacred Heart Church and continue to look into dates and locations for a second bilingual public hearing on Living Wage Issue, invite Out Boulder to attend the November meeting and communicate with **S. White** and CU about her role at the summit, and follow-up with the commissioners on an invitation they received for mediation training.

AGENDA ITEM 7 – IMMEDIATE ACTION ITEMS – None.

AGENDA ITEM 8 – Adjournment – **J. Beteta moved** to adjourn the Oct. 20, 2014 meeting. **E. Pollauf seconded** the motion. **Motion carries 4-0.** The meeting was adjourned at 8:45 p.m.

TIME AND LOCATION OF ANY FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS: The next regular meeting of the HRC will be Nov. 17, 2014 at 6:00 p.m. at 1777 West Conference Room, Municipal Building, 1777 Broadway St.

CITY OF BOULDER
LANDMARKS BOARD
October 1, 2014
1777 Broadway, Council Chambers Room
6 p.m.

The following are the action minutes of the October 1, 2014 City of Boulder Landmarks Board meeting. A digital recording and a permanent set of these minutes (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). You may also listen to the recording on-line at: www.boulderplandevelop.net.

BOARD MEMBERS:
Mark Gerwing, Chair
Kate Remley
Mike Schreiner
Fran Sheets
Deborah Yin
*Crystal Gray *Planning Board representative without a vote*

STAFF MEMBERS:
Debra Kalish, Senior Assistant City Attorney
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner
Lesli Ellis, Comprehensive Planning Manager
Angela Smelker, Historic Preservation Intern

1. **CALL TO ORDER**
   The roll having been called, Chair **M. Gerwing** declared a quorum at 6:00 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**
   On a motion by **M. Gerwing**, seconded by **K. Remley**, the Landmarks Board approved (5-0) the minutes as amended of the September 3rd, 2014 board meeting.

3. **PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA**

4. **DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION APPLICATIONS ISSUED AND PENDING**
   - 747 12th St. – Stay-of-Demolition expires Oct. 20, 2014
   - 445 College Ave. – Stay-of-Demolition expires Oct. 25, 2014
   - 405 Valley View Dr. – Stay-of-Demolition expires Nov. 23, 2014
   - Statistical Report

5. **ACTION ITEMS**

A. **Public hearing and consideration of a motion to adopt a resolution to initiate the process for the designation of the property at 445 College Ave. (on which a stay-of-demolition was imposed on June 4, 2014), as an individual landmark pursuant to Section 9-11-3, B.R.C. 1981; or alternatively, to issue a demolition permit pursuant to Section 9-11-23(g) of the Boulder Revised Code 1981 (HIS2014-00085). Owner: George Stark. Applicant: Stephen Sparn.**

All board members visited the site.

Staff Presentation

M. Cameron presented to the Board with a recommendation that it direct staff to issue a demolition permit for the property once documentation of the house is completed and reviewed by staff.

Applicant's Presentation

George Stark, 1225 Marshall Street, Boulder, CO, owner, spoke in support of issuance of a demolition permit for the property.

Public Hearing

Eileen Kintsch, 435 College Avenue, Boulder, Co., neighbor, spoke in support of the demolition of this building.

Motion

On a motion by **M. Schreiner,** seconded **F. Sheets,** the Landmarks Board voted to initiate individual Landmark designation for the property (3-2, **M. Gerwing** and **K. Remley** opposed) finding that it meets the criteria for such initiation pursuant to 9-11-3 "Initiation of Designation for Individual Landmarks and Historic Districts" of the Boulder Revised Code 1981, and in balance is consistent with the goals and policies of Section 2.33 of the Boulder Valley Comprehensive Plan.

M. Gerwing opposed the motion upon his consideration that landmark designation of this property does not meet the balance between private property rights and the public good. **K. Remley** stated she voted against the motion as she does not find the property to be of exceptional significance and, as such, should not be designated a landmark over the owner's objection.

B. **Public hearing and consideration of an application to designate a new historic district located at the 700 Block of 12th St. as a local historic district per Section 9-11-5 of the Boulder Revised Code, 1981 (HIS2014-00268). Applicant: Ann Scarboro.**

All board members visited the site.

Staff Presentation

M. Cameron made a presentation to the board with a recommendation that it initiate the application to designate the 700 block of 12th Street as a local landmark historic district.

Applicant's Presentation
Ann Scarboro, 735 12th Street, spoke in favor of the historic district and stated she has spoken with three property on the block who did not sign the application who are interested in finding out more about the possibility of historic district designation.

Public Hearing
Martha Campbell, 750 12th Street, neighbor and resident of proposed district, spoke in support of landmark designation.
Jotysna Raj, 14th Street, owner and resident of the University Place Historic District spoke in support of designation.
Don Reichart, 740 12th Street, owner and resident of the University Place Historic District spoke in support of designation.
Abby Daniels, 1123 Spruce Street, Executive Director of Historic Boulder, spoke on behalf of Historic Boulder's board expressing great support of the 12th Street Historic District.
Jim Young, 728 12th Street, spoke in opposition to the proposed historic district and expressed his understanding that many on the block oppose district designation.
Eric Johnson, owner of 747 12th Street, spoke in opposition to the area being designated a historic district.
John Volkmar, 607 Forest Avenue, prospective owner of 747 12th Street, spoke in opposition to designation of the 700 block of 12th Street.
Christina Dickenson, 848 14th Street, resident of the University Place Historic District spoke of her experience living in a historic district and her support of the proposed 12th Street district.

Motion
On a motion by **K. Remley,** seconded by **M. Gerwing,** the Landmarks Board initiate **(5-0)** historic district designation for the 700 block of 12th St., finding that it meets the criteria for such initiation pursuant to 9-11-3 "Initiation of Designation for Individual Landmarks and Historic Districts" of the Boulder Revised Code 1981, and in balance is consistent with the goals and policies of Section 2.33 of the Boulder Valley Comprehensive Plan.

C. Public hearing and consideration of whether to initiate individual landmark designation for the property located at 747 12th St., per Section 9-11-3 of the Boulder Revised Code, 1981 (HIS2014-00070). Owner: 747 Twelfth Street, LLC.

All board members visited the site. **M. Schreiner** and **M. Gerwing** attended a meeting with the applicants to discuss alternatives to demolition.

Staff Presentation
J. Hewat made a presentation to the board with a recommendation that it initiate the application to designate 747 12th Street as an individual landmark.

Public Hearing
Martha Campbell, 750 12th St, spoke in support of landmark designation.
Ann Scarboro, 735 12th St., spoke in support of landmark designation and clarified that her previous comments from her neighbors at 1160 Cascade Ave., 770 12th St., and 715 12th St. are

interested about what would be put in place if it were demolished were in reference to this case, not the district.
Abby Daniels, 1123 Spruce Street, Executive Director of Historic Boulder, spoke on behalf of Historic Boulder's board expressing support for landmark designation.
Eric Johnson, owner of 747 12th St., spoke in opposition to landmark designation.
Kristin Lopez, owner of 747 12th St., spoke in opposition to landmark designation.
John Volkmar, 607 Forest Avenue, prospective owner of 747 12th Street, spoke in opposition to landmark designation.

Motion
On a motion by **M. Schreiner,** seconded by **D. Yin ,** the Landmarks Board initiate **(5-0)** a landmark designation for the property located at 747 12th St., finding that it meets the criteria for such a hearing per 9-11-3 "Initiation of Designation for Individual Landmarks and Historic Districts" of the Boulder Revised Code, is consistent with the purpose and intent of 9-11-23 "Review of Permits for Demolition", and in balance is consistent with the goals and policies of Section 2.33 of the Boulder Valley Comprehensive Plan and adopt a resolution as contained in attachment 3 of the staff memorandum.

6. MATTERS FROM THE LANDMARKS BOARD, PLANNING DEPARTMENT AND CITY ATTORNEY

A. Update Memo
B. Subcommittee Update

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The meeting adjourned at 9:34 p.m.

Approved on November 5, 2014

Respectfully submitted,

Chairperson

CITY OF BOULDER
LANDMARKS BOARD
November 5, 2014
1777 Broadway, Council Chambers Room
6 p.m.

The following are the *"unapproved and unsigned"* action minutes of the November 5, 2014 City of Boulder Landmarks Board meeting. A digital recording and a permanent set of these minutes (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). You may also listen to the recording on-line at: www.boulderplandevelop.net.

BOARD MEMBERS:
Mark Gerwing, Chair
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Fran Sheets
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*Crystal Gray **Planning Board representative without a vote*

STAFF MEMBERS:
Debra Kalish, Senior Assistant City Attorney
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner
Lesli Ellis, Comprehensive Planning Manager
Angela Smelker, Historic Preservation Intern

1. **CALL TO ORDER**
   The roll having been called, Chair **M. Gerwing** declared a quorum at 6:02 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**
   On a motion by **M. Gerwing**, seconded by **M. Schreiner**, the Landmarks Board approved (5-0) the minutes of the October 1, 2014 board meeting.

3. **PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA**
   George Stark, 1321 Marshall St., spoke in opposition of landmark designation of 445 College Ave.
   Stephanie Stark, 1321 Marshall St., spoke in opposition of landmark designation of 445 College Ave.

4. **DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION APPLICATIONS ISSUED AND PENDING**
   - **405 Valley View Dr. – Stay-of-Demolition expires Nov. 23, 2014**
   - **Statistical Report**

5. ACTION ITEMS

A. Continuation of a public hearing and consideration of an application for a Landmark Alteration Certificate to construct a 1,459 sq. ft. addition to the main house, to relocate an existing garage on the property, and to construct a 330 sq. ft. one-car garage at 711 Pine St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00172). Applicant: David Waugh. Owner: Kevin Deighan.

Motion

On a motion by **M. Gerwing**, seconded by **K. Remley**, the Landmarks Board approved (5-0) the staff memorandum dated Nov. 5, 2014, as the findings of the board and approve a Landmark Alteration Certificate for the proposed construction and relocation shown on plans dated Sept. 22, 2014, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL

1. The applicant shall be responsible for constructing the house, relocating the garage and constructing a new one-car garage in compliance with the approved plans dated Sept. 22, 2014, except as modified by these conditions of approval.

2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall provide details on the rehabilitation of the existing house including, but not limited to, removal of vinyl siding and shutters, as well as details on the move and rehabilitation of the existing garage. And the elimination of the coplanar condition of the roof and west wall at the connector.

3. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to the final review and approval of the Landmarks design review committee: window and door details, wall material details, siding material details, paint colors, roofing material, exterior lighting and details regarding any hardscaping on the property to ensure that the approval is consistent with the General Design Guidelines and the Mapleton Hill Historic District Guidelines and the intent of this approval**.**

B. Public hearing and consideration of a Landmark Alteration Certificate to construct a 308 sq. ft. detached garage at 2250 6th St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code (HIS2014-00309). Applicant: David Waugh. Owner: Bud and Chris Willis.

Motion

On a motion by **K. Remley**, seconded by **M. Gerwing**, the Landmarks Board approved (4-0, **M. Schreiner** recused himself) the staff memorandum dated November 5, 2014, as the findings of the board and approve a Landmark Alteration Certificate for the proposed construction of a

garage as shown on plans dated July 11, 2014 , finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL:

1. The applicant shall be responsible for ensuring that the development is constructed in compliance with approved plans dated July 11, 2014 on file in the City of Boulder Community Planning and Sustainability Department, except as modified by these conditions of approval.

2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit the following, which shall be subject to the final review and approval of the Landmarks design review committee: final details regarding roofing, windows and pedestrian and garage door details. These design details shall be reviewed and approved by the Landmarks design review committee prior to the issuance of a building permit. The applicant shall demonstrate that the design details are in compliance with the intent of this approval and the General Design Guidelines and the Mapleton Hill Historic District Design Guidelines.

C. Public hearing and consideration of a Landmark Alteration Certificate to construct a 300 sq. ft. addition and 150 sq. ft. screened-in mechanical area at the Union Pacific Depot at 30th and Pearl St., and individual landmark, per section 9-11-18 of the Boulder Revised Code (HIS2014-00299). Applicant: James Bray.

Motion

On a motion by **M. Gerwing**, seconded by **M. Schreiner**, the Landmarks Board approved (4-1, **D. Yin** opposed) the staff memorandum dated November 5, 2014 in matter 5C (HIS2014-00299) as the findings of the board and approves the construction of a 300 sq. ft. addition and 150 sq. ft. screened-in mechanical area at the north and east elevations of the Union Pacific Depot as shown on plans dated 10/10/2014, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL:

1. The applicant shall be responsible for constructing the addition and reconstruction of the alcoves in compliance with the approved plans dated 10.10.2014, except as modified by these conditions of approval.

2. Prior to submitting a building permit application and final issuance of the Landmark Alteration Certificate, the applicant shall submit revised drawings for review and approval by the Ldrc that show the trackside arch walls inset to a minimum depth of approximately 2’ from the exterior wall, and fenestration

inside the arched openings to more closely match that shown in historic drawings and an alternate to the concrete stair enclosure.

3. Final details showing door and window details, roofing materials, wall materials and proposed colors. These design details shall be reviewed and approved by the Landmarks design review committee, prior to the issuance of a building permit. The applicant shall demonstrate that the design details are in compliance with the intent of this approval and the General Design Guidelines.

D. Yin did not support the proposal because she considers that the proposed work should reflect current day 4.2 distinction and compatibility.

D. Public hearing and consideration of whether to initiate individual landmark designation for the property located at 405 Valley View Dr., per Section 9-11-3 of the Boulder Revised Code, 1981 (HIS2014-00169). Owner: Samuel Slattery.

Motion

On a motion by **M. Schreiner**, seconded by **M. Gerwing**, the Landmarks Board approved (5-0) the staff memorandum dated November 5, 2014, as the findings of the board and approve to lift the stay of demolition and directed staff to issue the demolition permit.

6. MATTERS FROM THE LANDMARKS BOARD, PLANNING DEPARTMENT AND CITY ATTORNEY

A. Update Memo
B. Subcommittee Update
   1) Demolition Ordinance
   2) Outreach
   3) Potential Historic Districts and Landmarks
   4) Design Guidelines

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The meeting adjourned at 11:05 p.m.

CITY OF BOULDER
LANDMARKS BOARD
November 5, 2014
1777 Broadway, Council Chambers Room
6 p.m.

The following are the *"unapproved and unsigned"* action minutes of the November 5, 2014 City of Boulder Landmarks Board meeting. A digital recording and a permanent set of these minutes (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). You may also listen to the recording on-line at: www.boulderplandevelop.net.

BOARD MEMBERS:
Mark Gerwing, Chair
Kate Remley
Mike Schreiner
Fran Sheets
Deborah Yin
*Crystal Gray **Planning Board representative without a vote*

STAFF MEMBERS:
Debra Kalish, Senior Assistant City Attorney
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner
Lesli Ellis, Comprehensive Planning Manager
Angela Smelker, Historic Preservation Intern

1. **CALL TO ORDER**
   The roll having been called, Chair **M. Gerwing** declared a quorum at 6:02 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**
   On a motion by **M. Gerwing**, seconded by **M. Schreiner**, the Landmarks Board approved (5-0) the minutes of the October 1, 2014 board meeting.

3. **PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA**
   George Stark, 1321 Marshall St., spoke in opposition of landmark designation of 445 College Ave.
   Stephanie Stark, 1321 Marshall St., spoke in opposition of landmark designation of 445 College Ave.

4. **DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION APPLICATIONS ISSUED AND PENDING**
   - **405 Valley View Dr. – Stay-of-Demolition expires Nov. 23, 2014**
   - **Statistical Report**

5. ACTION ITEMS

A. Continuation of a public hearing and consideration of an application for a Landmark Alteration Certificate to construct a 1,459 sq. ft. addition to the main house, to relocate an existing garage on the property, and to construct a 330 sq. ft. one-car garage at 711 Pine St. in the Mapleton Hill Historic District, per section 9-11-18 of the Boulder Revised Code 1981 (HIS2014-00172). Applicant: David Waugh. Owner: Kevin Deighan.

Motion

On a motion by **M. Gerwing**, seconded by **K. Remley**, the Landmarks Board approved (5-0) the staff memorandum dated Nov. 5, 2014, as the findings of the board and approve a Landmark Alteration Certificate for the proposed construction and relocation shown on plans dated Sept. 22, 2014, finding that they generally meet the standards for issuance of a Landmark Alteration Certificate in Chapter 9-11-18, B.R.C. 1981, subject to the following conditions:

CONDITIONS OF APPROVAL

1. The applicant shall be responsible for constructing the house, relocating the garage and constructing a new one-car garage in compliance with the approved plans dated Sept. 22, 2014, except as modified by these conditions of approval.

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inside the arched openings to more closely match that shown in historic drawings and an alternate to the concrete stair enclosure.

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D. Yin did not support the proposal because she considers that the proposed work should reflect current day 4.2 distinction and compatibility.

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6. MATTERS FROM THE LANDMARKS BOARD, PLANNING DEPARTMENT AND CITY ATTORNEY

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   3) Potential Historic Districts and Landmarks
   4) Design Guidelines

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The meeting adjourned at 11:05 p.m.

CITY OF BOULDER
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING
MINUTES

Name of Board/ Commission: Library Commission

Date of Meeting: September 3, 2014 at the Main Library, 1001 Arapahoe Ave., Arapahoe Conference Room

Contact Information Preparing Summary: Carrie Mills, 303-441-3106

Commission Members Present: Paul Sutter, Donna O'Brien, Joni Teter, and Anna Lull (Arrived at 6:13 p.m.)
Commission Members Absent: Anne Sawyer

Library Staff Present:
David Farnan, Director of Library & Arts
Jennifer Miles, Deputy Library Director
Eileen McCluskey, Principal Librarian
Carrie Mills, Administrative Specialist II

City Staff Present:
Karen Rahn, Director of Human Services
Linda Cooke, Presiding Judge for the Boulder Municipal Court
Sandra Llanes, Assistant City Attorney
Devin Billingsley, Senior Budget Analyst
Glenn Magee, Facilities Design and Construction Manager

Public Present:
Peter Richards

Type of Meeting: Regular

Agenda Item 1: Call to Order and Approval of Agenda **[6:00 p.m., Audio 0:45 min]**

The meeting was called to order at 6:00 p.m. Commissioners approved the agenda.

Agenda Item 2: Public Participation **[6:01 p.m., Audio 1:19min]**

Peter Richards expressed concern over the number of periodicals available at the Main Library, and compared Boulder Public Library resources to the Longmont library. Richards prefers to go to the Longmont library, noting a nicer setting and down-home feel. Teter asked if Richards used print or electronic periodicals and Richards responded that he only uses print materials. Farnan commented that there are no changes since the renovation, solely a change in storage and explained that a number of periodicals are accessible online.

Agenda Item 3: Consent Agenda **[6:06 p.m., Audio 5:50 min]**

Item 3A, Approval of August 6, 2014 minutes (p. 3-6)

Prior to the meeting, Teter suggested changes to the August minutes via email, found here: http://boulderlibrary.org/pdfs/commission/2014/handouts/14SepHandouts.pdf O'Brien consulted the audio recording and recalled that she spoke at length during the website redesign discussion but did not see it reflected in the minutes. O'Brien submitted her comments to be added to the August minutes. Teter confirmed a change with Farnan to Agenda Item 6B. Farnan confirmed that he did not say that regulatory-type language is necessary in the Library Rules of Conduct. Teter motioned to approve the August minutes with the amendments submitted by O'Brien and Teter. O'Brien seconded. Approved 3-0.

Item 3B, Approval of July 26, 2014 retreat minutes (p. 7-11)

O'Brien recalled that at the August meeting, commissioners agreed that full minutes were not necessary as such detail is not needed for public purposes. Teter understood that the previous notes needed to be expanded upon. Farnan asked for guidance from the commission. Teter accepted the full minutes as the more complete descriptions will provide something more to share with the Library Foundation and Arts Commission. O'Brien feels that the full minutes are not necessary. Sutter stated that he is not opposed to having extensive minutes, but cautioned that this should not establish a precedent of lengthy retreat minutes as it limits commissioners from talking freely. Teter noticed the disadvantage to revising was waiting yet another month. O'Brien noted that it was a wonderfully positive retreat and fears that extensive minutes for retreats in the future may be a problem. Teter moved to state for the record that the format of the minutes from the July retreat are acceptable in this instance, but in future, the commission would prefer to see something that is more bullet-point summary of ideas. O'Brien seconded. Approved 4-0 (Lull arrived during this vote). Commission approved minutes with additions sent by Teter. Lull seconded. Approved 4-0.

Agenda Item 4: Introduction: Eileen McCluskey, Principal Librarian [6:16 p.m., Audio 16:01 min]
Sutter introduced Eileen McCluskey, the new principal librarian, to the commission and invited her to say a few words about herself. McCluskey spoke of her extensive experience in the High Plains Library District.

Agenda Item 5: Presentation on addressing Civic Area behaviors [6:17 p.m., Audio 17:14 min]
Karen Rahn discussed homelessness and the increase of transients/travelers in Boulder. [Slides begin on page 4 here: http://boulderlibrary.org/pdfs/commission/2014/handouts/14SepHandouts.pdf] Rahn emphasized that homelessness and criminal activity on the Municipal Campus are independent problems with limited overlap. Further, Rahn explained services are available to homeless in the county, including temporary shelters and permanent housing opportunities. She cited the best practice to reduce homelessness as providing permanent housing as quickly as possible. Rahn noted that providing subsidized housing is sensible when the city is often left paying to house the homeless in jails and hospitals. As this is a problem across the county, the city is looking to establish partnerships.

Linda Cooke explained plans and efforts to diminish noticeable homelessness and criminal activity on the Municipal Campus. First, the city is looking to collect data and understand the homeless population better. Probation officers in partnership with service providers have gone on "walk abouts" to survey the population along the campus, noting about 10-20% are previously known to the officers. Cooke warned that enforcement alone is not going to get the city out of this problem, as some are not breaking laws. Current methods to control the homeless problem in the municipal area include increased sentencing for crimes committed in the high impact area; all probation officers trained as homeless research officers; Bridge House resource center open two days a week; smoking ban enforced, no trespass orders given to major offenders; and utilization of Edge, a partnership between law enforcement and social workers. The city plans to pursue county partnerships to solve the problem further, including working on a solution to the housing voucher system.

Rahn is often asked why there are no occasional social workers in the library, responding that offering services makes the library a defacto service provider. The ideal is a more cohesive system with one central location for certain services. Rahn noted that outreach on the street is effective, and perhaps extending that outreach to the library may also be valuable.

Commission discussion, questions, and comments included:

- O'Brien asked for clarification on when the 10 Year Plan began. Rahn answered 2010.
- Teter responded to Cooke's suggestion that the library's rules of conduct mimic that of Bridge House or other city entities that deal with the homeless by inquiring as to whether or not these rules targeted the homeless. Rahn noted that the rules in Bridge House are rules of respect and appropriate behavior such that they can apply to all patrons.
- Sutter asked if transient populations would be targeted for housing and Rahn responded in the negative. Sutter further inquired what impact it has on resources when such a high population consists of transients. Rahn indicated that the city prioritizes resources for long-term homeless.
- O'Brien commented that the families are invisible, but the 20% of the homeless population with behavioral problems are visible. O'Brien stated that a huge portion of emails received by the commission are about the homeless problem and now, with this presentation, commissioners can be responding from an informed perspective.
- A member of the public, Richards, asked how officers identify the homeless. Cooke explained that if an individual does not have a license or passport, the jail fingerprints them. Officers on the street know who many of the repeat offenders are. Cooke affirmed that she is selective about offering services as she wants to reach out to those who have been around the longest.
- Lull asked about permanent housing solutions, specifically wondering if units will be available for families. Rahn explained that the city provides permanent housing support as well as transitional housing for families who need services for only a short span of time, reassuring that assessment is intended to match the needs with availability.
- Sutter asked Farnan and Miles to follow-up with Rahn and Cooke regarding the behavioral rules of Bridge House and to share them with the library staff.

Agenda Item 6: Discussion of changes to the Library Rules of Conduct [7:04 p.m., Audio 1:03:51 hr]
Changes were made to the proposed library rules of conduct after the creation of the packet. Those changes can be found on page 17 here: http://boulderlibrary.org/pdfs/commission/2014/handouts/14SepHandouts.pdf
Llanes joined the commission to discuss the proposed changes and expressed a concern over the word "system" in the first paragraph. Sutter had added the word for consistency as it appears elsewhere in the paragraph. Farnan called for the consistent term to be "Boulder Public Library." The commission agreed to strike both uses of "system."

Teter asked about remote users and asked if the policy applies to those accessing the system outside of the building.

Llanes responded that the real question is proving someone has entered the system from outside the building. Teter clarified that the question applied to hackers attempting to disrupt the system. Miles pointed out that such behavior is prohibited by law, and the library rules of conduct only address individuals inside of the buildings. Farnan suggested striking "in any library" from rule #2 to broaden the scope and prevent conflicts with an existing computer policy. Llanes warned that removing such would limit the violation to occurring on library property. Further, Teter asked if there are any problems for branches in a rented space. Llanes consulted the Meadows contract and found that the branch cannot enforce rules in the parking lot, but can within the building.

Lull asked for clarification on rule #7 which mandates no fundraisers in the library. Farnan confirmed that under the policy as written, fundraising is not allowed without the approval of the director. Teter questioned why the policy was so strict. Miles responded that the rule has existed for some time, but has not been strictly enforced. Farnan asked for guidelines around permitting fundraising, though expressed a preference for not allowing it at all. Farnan feared drawing lines between organizations and circumstances. Lull noted that it is counterintuitive for fundraising in the library as patrons expect free services.

Sutter proposed broadening "disruptive behavior" by expanding with "…of any kind…," a decision with which others agreed. Teter asked if, alongside "disruptive behavior," should there be a definition of intended use? Sutter feared that it unnecessarily limited the broadness and efficacy of "disruptive behavior." Llanes agreed that it was not necessary.

Llanes recommended amending rule #8 to switch out "facility" with "any library." Teter noticed other changes needed to be made to rule #8 to support noun/verb agreement. Lull questioned the meaning for a bag to be "a nuisance" and at what point a bag becomes a nuisance. Llanes explained libraries come with a heightened sense of public rights and a blanket statement against oversized bags is not acceptable. Teter and Lull wondered whether a bag left in a chair or in a corner counted as a nuisance, and Farnan responded that it is possible to argue in both circumstances that such situations are a nuisance. Miles noted that intended use would also cover these scenarios. Sutter noted that this language is trying to avoid a summary claim that this is discriminatory against the homeless.

Teter moved to approve the rules of conduct as amended at the meeting and to permit staff to move forward with the public comment period. Lull seconded. Approved 4-0.

Agenda Item 7: 2015 City Manager's Recommended Budget [7:31 p.m., Audio 1:31:05 hr]

Billingsley presented to the commission on the City Manager's Recommended Budget for the city and the library. The commission received three handouts with this presentation, which can be found here beginning on page 19: http://boulderlibrary.org/pdfs/commission/2014/handouts/14SepHandouts.pdf

Billingsley presented the content on the slide, but noted the recent personnel restructuring that sent one staff member from the library to IT Services, and thus moves the budget item, in addition to pointing out that a huge part of the administration budget goes to facilities management. Billingsley also noted an increase in the training budget.

Commission discussion, questions, and comments included:

- Teter noted that money from both the capital and general funds are going into the studies on the Canyon Theater, but asked what entity is overseeing these studies as the costs are not coming from the library budget. Farnan replied that it is coming from the Facilities and Asset Management (FAM) budget [Update correction: funding for these studies is in the Civic Area budget.] Teter supports the Canyon Theater analysis, but reminded staff that the Library Commission has a stake in the matter and needs to be included. Teter announced that on Sept. 22, there will be an informal meeting between the firms working on the landscape architecture and analyzing the theater as part of the Civic Area transformation.
- O'Brien expressed concern about the limited budget. Farnan noted that the library did not ask for more money, and would not ask for money, without a developed project in mind. Instead, Farnan plans to demonstrate that the library can sustain itself without a budget increase.
- O'Brien asked if the increased utilities costs are related to the renovations. Farnan felt the costs were high, but noted that there is a lot of space to cover.
- Farnan announced that sometime in 2015 all libraries will be open all days of the week with this budget, with the exception of the North Boulder Corner Library, and that the amount of money available for staff development has nearly doubled for the upcoming year.

Agenda Item 8: Main Library renovation project update [8:14 p.m., Audio 2:14:28 hr]

Item 8A: Construction schedule update

Magee confirmed that renovations are in the middle of Phase 3. The construction crew is currently starting drywall work on the discovery wall in the children's area. Magee anticipated a completion date of Oct. 1 for this phase. Magee considered that higher utility rates may stem from a new chiller installed in the HVAC system which seems to be working well. The crew has been working on windows and stonework as the new window replacements are set to begin

and the stone balconies are now caulked. Interlock Construction Corp. will do the demolition work on the old automated materials handling system (AMH) and a new system will be installed beginning Nov 3. Magee reported that the renovation is at about 39% of the budget, which matches the progress at this point.

Item 8B: Café schedule update
The packet included drawings of the café, which can be found on page 21 in the September packet here: http://boulderlibrary.org/pdfs/commission/2014/packet/14SeptPacket.pdf. Magee expressed concern over the café, noting that it is more of a facility than initially conceived. However, Magee stated that this means that the café is more than just a place to get coffee.

Commission discussion, questions, and comments included:

- Billingsley asked Magee if he believed that the bond money would be spent by March. Magee confirmed that some bills may spill over into February, but he anticipates spending the full bond by the March deadline.
- Teter requested clarification on the plans for a digital screen and the community bulletin board in the café. Miles confirmed that the digital screen and bulletin board were separate entities.
- Lull wondered if there were advertising opportunities at the Farmers' Market. Magee anticipates a collaborative approach that is still being planned out.

Agenda Item 9: Discussion of piloting community partnerships [8:26p.m., Audio 2:25:40 hr]
Farnan reiterated that the partnerships of interest are detailed in the director's report in the packet. The Small Business Development Center (SBDC) should move forward as soon as the city budget is approved. Partnership with the Farmers' Market is also moving forward as café construction begins. Farnan anticipates writing up a contract between the library and partners to outline expectations.

Agenda Item 10: Matters from the Department [8:27p.m., Audio 2:26:29 hr]
Item 10A: Library and Arts Director's report (p. 23-24)

- The library received positive feedback on the summer reading program.
- The Office of Arts and Culture received 16 public displays of affection proposals in the first wave of submissions. The first winner will be announced the following morning.
- The library is planning a staff in-service day to sharpen the customer service model. Farnan noted that the last staff in-service day was poorly received by the public. Miles plans to send information regarding date and content to the commission once it is established. Teter suggested that someone should speak with the Daily Camera ahead of time and volunteered herself.

Item 10B: Overview of 2014 Fall Boulder Library Foundation funding requests (p. 25-26)

- Farnan asked staff to focus requests on literacy activities or technology. Other funding requests include cultural programming and scholarships for financial literacy through SBDC.
- The library plans to distribute Early Literacy Take Home Tips during story time. These will be cards in English and Spanish. O'Brien asked for a sample for the foundation, so that they can see a prototype.
- Equipment for the Canyon Theater is intended to be portable so it can be repurposed in the future.

Item 10C: Gather commission input on draft meeting room policy structure and contents (p. 27-36)

- Farnan asked if the meeting rooms should still be limited to nonprofit organizations. Teter noted that there are socially conscious enterprises with a for-profit model such that the distinction is arbitrary. O'Brien saw these available spaces as opportunities to become entrepreneurial and maker spaces. Sutter believes removing the distinction makes it a true community space, but wants to ensure that the original intent of the nonprofit distinction is maintained. Teter suggested adding to the purpose statement a core idea of what the intended use of the meeting rooms is to curb inappropriate use.
- All commissioners were comfortable maintaining minimum occupancy in the meeting spaces at five people with reservations. Smaller groups are welcome to use the rooms when not in use.
- Currently, patrons cannot have more than two bookings scheduled at a time. The proposed policy would allow people to meet monthly at the library, but not more than that. Teter expressed that this space allows non-revenue-generating groups to have a space to stay free of charge, serving as a substantial benefit to the community. Farnan saw the goal as full occupancy.
- Sutter asked if there were any time limits on the rooms. Farnan responded that there are none at this time.
- In regards to selling naming rights to meeting rooms, Farnan noted that the city policy started in 2010 but has not yet been used. Farnan recommends limiting names to six years or if the facility is no longer useable. O'Brien asked if there is precedence for this in library systems. Farnan assured commissioners that this practice is used by Denver and Douglas County. O'Brien took an informal poll and found that the price was low. Lull asked if a bidding process would work. Farnan has considered the possibility. Farnan asked the

commissioners to support the decision following negative letters and press. Sutter, Teter, and Farnan agreed that the library will disclose what the funds will go towards when a company purchases a meeting room name. Lull suggested giving a room away to a part of the community that deserves recognition. Teter noted that the companies will not necessarily name the room for themselves. Largely in favor, but concerned about the process. Sutter and O'Brien confirmed that the commissioners are not ready to make a decision, especially without Sawyer present. There is a consensus of support, but the commissioners request more information before deciding. The commission is charged with submitting written comments.

- Teter asked that the policy identify the difference in the ways which staff use the space versus how patrons use the space unless all meeting room users are held to the same standard to prevent preemption.

Agenda Item 11: Matters from the Commission **[9:00 p.m., Audio 3:00:23 hr]**

Item 11A: Subcommittee reports

There were no subcommittee reports to present.

Item 11B: Library Commission update (from memo)

Due to time constraints, this item was not discussed. Please reference the commission memo for details.
Found here: http://boulderlibrary.org/pdfs/commission/2014/handouts/14SepHandouts.pdf (p. 140)

Item 11C: Civic Area Arts Working Group update

Due to time constraints, this item was not discussed. Please reference the commission memo for details.
Found here: http://boulderlibrary.org/pdfs/commission/2014/handouts/14SepHandouts.pdf (p. 141-142)

Agenda Item 12: Future Items/Scheduling **[9:01 p.m., Audio 3:01:02 hr]**

- Main Library renovation
- Update on 2015 library budget
- Virtual branch discussion
- City Charter recommended changes review
- Review foundation funding report
- Charter discussion

Lull announced her resignation from the Library Commission as she has accepted a position as an access services substitute. Lull read the following statement: "I am excited to announce my acceptance of employment at Boulder Public Library. Unfortunately, this job disqualifies me for continued service on the Library Commission. The position is formally entitled 'access services substitute,' which means I will be able to work at the main and branch libraries as a substitute librarian. It is a great fit for me and a wonderful opportunity for professional growth and experience. I truly value the time spent on the Library Commission and the knowledge I have gained here. Most of all I have enjoyed getting to know people from the community, the library staff and the city staff in the context of the library. Such a great organization brings together great people, and I'm looking forward to promoting the ideals and services of the library as an employee."

Agenda Item 13: Adjournment **[9:05 p.m., Audio 3:04:48 hr]**

There being no further business to come before the board at this time, the meeting was adjourned at 9:05 p.m.

Date, Time, and Location of Next Meeting:

The next Library Commission meeting will be at 6:00 p.m. on Wed., Oct. 7, 2014, at the Main Library in the North Meeting Room, 1001 Arapahoe Ave., Boulder, CO 80302.

Commissioner Sawyer approved these minutes on November 4, 2014; and Carrie Mills attested to this approval on November 4, 2014.

An audio recording of the full meeting for which these minutes are a summary, is available on the Library Commission web page at http://boulderlibrary.org/about/commission.html

CITY OF BOULDER
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING MINUTES

To listen to the Parks and Recreation Advisory Board meetings in their entirety, please go to the following link: www.boulderparks-rec.org

Name of Board/Commission: Parks and Recreation Advisory Board
Date of Meeting: August 25, 2014
Contact Information Preparing Summary: Sally Dieterich 303-413-7242
Board Members Present: Mike Conroy, Myriah Conroy, Kelly Wyatt, Mike Guzek, Marty Gorce, Tom Klenow **Board Members Absent:** Michelle Estrella
Staff Present: Yvette Bowden, Sally Dieterich, Jeff Haley, Abbie Poniatowski, Alison Rhodes, Doug Godfrey, Dean Rummel, Nancy Utterback
Guests Present: Rella Abernathy, City of Boulder Integrated Pest Management Coordinator
Type of Meeting: Advisory/Regular
Agenda Item 1: Call to Order The meeting was called to order at 6:00 p.m. and the agenda was approved.
Agenda Item 2: Future Board Items and Tours Future city council meeting – Pay As You Go short term sales tax discussion 9/23/14 city council study session – smoking ban
Agenda Item 3: Public Participation John Barkmeier, representing Boulder Rugby, spoke on a public/private partnership with the City of Boulder for practice field development at Tom Watson Park and a potential playing field in the future. Paul Rohr, representing Boulder Rugby, spoke in support of the rugby club and the need for more multi-purpose fields.
Agenda Item 4: Consent Agenda **A. Approval of minutes from July 28, 2014** Minutes from July 28, 2014 were approved as written. **B. Park Development Update** Written updates were provided to the board as part of the packet materials. These are items that require no board action or discussion.
Agenda Item 5: Public hearing and consideration of a motion to approve a 3 year Studio Arts Boulder lease and services agreement for the City of Boulder Pottery Lab. **Executive summary from packet materials:** The purpose of this item is for the Parks and Recreation Advisory Board (PRAB) to review and consider approval of a lease and services agreement for the City of Boulder Pottery Lab. A Pottery Lab Working group (PLWG) comprised of 12 members (community, staff and PRAB), was established in 2012 to make consensus recommendations to the city on ways to ensure sustainability of the pottery program. The PLWG recommended exploration of a nonprofit or public/private partnership. A Request for Proposal (RFP) for the management and operations of the Pottery Lab was issued in July 2013. One responsive proposal was submitted by Studio Arts Boulder (SAB). The city reviewed and accepted the proposal and began contract negotiations in January 2014.

PRAB ACTION REQUESTED:
Staff requests the PRAB's consideration of this matter and action in the form of the following motion: Motion to approve the lease and services agreement for the City of Boulder Pottery lab and authorize the city manager to make minor amendments prior to or during the term of this agreement in order to ensure that the Pottery Lab is properly maintained and operated in a manner that is consistent with applicable laws and the policies and regulations of the City of Boulder.

Public comment:

- Lolita Higbe, Executive Director, Studio Arts Boulder, thanked staff for their contributions and said she looks forward to moving ahead with the public/private partnership with the City of Boulder for the next three years.
- Paul Heffron, representing Studio Arts Boulder, spoke in support of the agreement and said he looks forward to the partnership with the city.
- Ellen Hardman, spoke in favor of keeping the Pottery Lab at the firehouse because it enriches the lives of many.

Board discussion and comments:

- The contract was well done.
- Is this a realistic plan? What is the renewal? What are the renewal terms? We need clarification. What is the intention of the city? To subsidize?
- 20 hours of IT support per week is not enough.
- Why are glazing recipes included in the contract? They are not proprietary. They are public domain.
- I've been involved with this process for 4 years. What happens after 3 years? Is this like BMoCA?
- I see no contract issues and it looks like we're moving in the right direction with this.
- I won't vote for the contract as is. We need more discussion.

Motion:
Motion to approve the lease and services agreement for the City of Boulder Pottery Lab and authorize the city manager to make minor amendments prior to or during the term of this agreement in order to ensure that the Pottery Lab is properly maintained and operated in the manner that is consistent with applicable laws and the policies and regulations of the City of Boulder.
Motion by: Wyatt Seconded by: Gorce

Vote: 5-1 (Estrella absent)

Agenda Item 6: Valmont City Park Planning Information Item
Doug Godfrey presented this item.

Executive Summary from packet Materials:
The Parks and Recreation Department is in the process of updating the 2008 concept plan for undeveloped portions of Valmont City Park (VCP).
The update process includes:

- Industry trend analysis
- Athletic field study
- Stakeholders meetings
- Statistically valid community survey

- Outreach sessions, community meetings
- Regular updates to PRAB and city council

The goal is to develop an updated concept plan for the undeveloped portion of the park.

Board discussion and comments:

- The park will be loved, great job, process moving along well, process seems fairly thorough and to be moving in the right direction
- We're not hearing from all user groups, but for the most part the process, the data and the consultants results are good
- We need to include things we don't have – we already have playgrounds, fields and dog parks
- The process has been outstanding
- We need to determine what we can afford and what we are missing
- How do we prioritize? What does Boulder really need in a new park?
- We don't see ball parks very high in the plan, but Boulder needs more ball parks
- Keep youth in mind
- We need balance and to look at what we don't have in the parks
- You have to have multi use paths, we need multi-purpose fields and passive recreation, but the adventure/nature play is not authentic and is a fad – kids need to play in real nature
- I'm not sure going for the high end athlete is a winning strategy
- Has a recreation center service analysis been done on that neighborhood? How are they being served by a recreation or aquatics center?
- We need to be aware of history – disc golf
- Aquatics and baseball groups need to come to the table – we need to think about the possible retirement of Scott Carpenter pool
- What about a recreation center with an outdoor pool?
- This park seems like more of an active recreation park as opposed to a passive, artsy park
- Need more open houses to reach out to more groups

Agenda Item 7: Matters from the Department

A. IPM Program Update: Achievements, Emerging Issues and Next Steps

Rella Abernathy presented this verbal update.

- Consultant hired to survey products currently being used by the city
- Staff working to phase out use of questionable products
- Staff has prepared memo to DORA (Department of Regulatory Agencies) requesting the state of Colorado to amend the law to provide baseline protections for pollinators and children, asking for the ability to regulate the use of pesticides and asking that the advisory board have non-agency members such as species and health experts

B. Service Analysis Update

Alison Rhodes and Dean Rummel presented this brief update.

- Work on this began in January 2014
- Fee based training kickoff with all coordinators
- Completed matrix team training for RPI – outcomes, measurements, ground rules, how we do a day to day program
- Alignments - specific workgroups completed scoring
- Scoring broken into three services: Community, Recreation and Exclusive
- An additional update will be provided at the September 22 PRAB meeting

C. South Boulder Creek Flood Mitigation Planning Study

Jeff Haley presented this brief update.

- To keep PRAB members updated on impacts to the Boulder Parks and Recreation Department lands and properties, this memo was included as an information update.

Agenda Item 8: Matters from Board Members Myriah Conroy congratulated Mike Conroy and Mike Guzek for an awesome finish in the Ironman competition.
Next Board Meeting: September 22, 2014
Adjourn: There being no further business to come before the board at this time; the meeting was adjourned at 8:25 p.m.

Approved by:

_____

Mike Conroy
Board Chair

Date _____

Attested:

_____

Sally Dieterich
Board Secretary

Date _____

CITY OF BOULDER
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING MINUTES

To listen to the Parks and Recreation Advisory Board meetings in their entirety, please go to the following link: www.boulderparks-rec.org

Name of Board/Commission: Parks and Recreation Advisory Board
Date of Meeting: September 22, 2014
Contact Information Preparing Summary: Sally Dieterich 303-413-7242
Board Members Present: Mike Conroy, Myriah Conroy, Kelly Wyatt, Michelle Estrella, Mike Guzek, Marty Gorce, Tom Klenow **Board Members Absent:** None
Staff Present: Jeff Dillon, Yvette Bowden, Sally Dieterich, Jeff Haley, Lisa Martin, Alison Rhodes, Teri Olander
Guests Present: None
Type of Meeting: Advisory/Regular
Agenda Item 1: Call to Order The meeting was called to order at 5:33 p.m. and the agenda was approved.
Agenda Item 2: Future Board Items and Tours Future items: Emerald Ash Borer (EAB) update Boulder Reservoir Site Management Plan update - 4th quarter 2014 Civic Area planning update – 4th quarter 2014 Asset management – 1st quarter 2014 Approval of Pay As You Go short term sales tax approved by City Council
Agenda Item 3: Public Participation Kent Dinkel, representing Diamond Baseball of Boulder, thanked Boulder Parks and Recreation (BPR) for working with Diamond Baseball the last ten years to support youth baseball. He expressed his optimism that the partnership will continue.
Agenda Item 4: Consent Agenda **A. Approval of minutes from August 25, 2014** Minutes from August 25, 2014 were approved as written. **B. Park Development Update** Written updates were provided to the board as part of the packet materials. These are items that require no board action or discussion.
Agenda Item 5: Items for Action There were No Items for Action.
Agenda Item 6: Items for Discussion/Information There were no Items for Discussion/Information. .
Agenda Item 7: Matters from the Department **A. Scott Carpenter Ball Field Agreement** Bowden said the Scott Carpenter ball field agreement item will be coming forward to PRAB next

month. The agreement will be a direct relationship between BPR and Diamond Baseball. It will have a shorter term and Boulder Valley School District (BVSD) will not be involved because the school district has decided not to have private, third party relationships. BPR has worked to find suitable language for what the city can accommodate and go forward with a non-profit agency.

B. Partnership Update

Bowden provided a short update on partnerships and the department commitment to move forward with public/public and public/private partnerships. PRAB feedback will be requested as the process progresses.

Agenda Item 8: Matters from Board Members

9/23/14 city council study session:

PRAB agreed to draft a letter to council stating their discomfort and concerns with the ordinance as it is proposed. The letter will be presented to council at the 9/23 study session on the smoking ban.

Chair Conroy reminded PRAB of these public meetings:

- Civic Area – 9/22 and 9/23
- Smoking ban council study session – 9/23
- Boulder Reservoir public meetings – 9/25 (North shore) and 10/1 (South shore).
- Valmont City Park public meeting – 10/2
- Bill Bower Park dedication – 10/9

Next Board Meeting: October 27, 2014

Adjourn: There being no further business to come before the board at this time; the meeting was adjourned at 6:20 p.m.

Approved by:

_____

Mike Conroy
Board Chair

Date _____

Attested:

_____

Sally Dieterich
Board Secretary

Date _____

Council Working Agreements

Council Process:

- The council will work on general discipline in being prepared to ask questions and make comments.
- The council asks the mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.
- During a council meeting, any form of electronic messages, including emails and texts, that relate to matters being considered and which arrived at any time during that meeting shall not be read by council members, nor shall any messages on matters under consideration be sent by council members.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously separate between members of boards and members of council, avoid expressing ideas to board members on things coming before the board, and carefully disclose or recuse themselves when there is involvement with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, through hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The council will find ways to support majority council decisions and adequately inform the public, through responsive letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

Council Committees:

- Council committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

Selection of Mayor and Mayor Pro Tem:

- Council members will make a good faith effort to the select the mayor and mayor pro tem in an open and transparent process.
- After the council election, members seeking election as mayor or mayor pro tem should:
  - make their interest in the positions known to their fellow members as soon as possible;
  - focus their communication with other council members on the positive attributes the member brings to the positions; and
  - refrain from any negative remarks about any person seeking election as mayor or mayor pro tem.
- Nominated individuals' presentations may include, but need not be limited to the following:
  - the skills and attributes the member would bring to the mayoral position;
  - the member's ability to efficiently run council meetings, respect the views of the minority while allowing the majority to rule, and perform other mayoral duties;
  - how the member would represent the city and city council and mayor position at gatherings outside of city council meetings
  - how the member would serve on and appoint other council members to regional and national boards and commissions; and
  - how the member would promote trust of the community and other council members.
- Council members should work to avoid divisiveness by being inclusive during the mayoral selection process.

Agreed: Members of the Boulder City Council

Approved by Council: January 21, 2014

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
HOUSING/LAND USE/PLANNING	Comprehensive Housing Strategy	Council	Briefing - with other related efforts, workplan	SS - objectives, recommended early action items	Briefing	Direction on policy options	Adopt strategy and action plan			
		Staff Activities	Housing choice analysis; needs assessment; best practices; trends data; workplan	Opportunity site inventory; potential tools with "bang for buck" analysis	Develop policy options and recommendations; stakeholder engagement					
	North Boulder	Council	IP - update and preliminary policy choices	Briefing - options and feedback	Update and direction					
		Staff Activities	Public meeting with options	Preferred options and refined action plan	Action plan					
	East Arapahoe/Sustainable Streets and Centers	Council		Briefing - issues, scope, and feedback	SS - preferred scenarios, draft plan, and action plan	Plan "Lite" - council action	Next Corridor - 30th St or Colorado			
		Staff Activities	Joint East Arapahoe workshop to "test" planning workshop	East Arapahoe scope of work, public workshop, scenario modeling, character definition	Scenario refinement ad recommendations	Develop East Arapahoe action plan				
	Resilience	Council		Briefing - scope agenda		SS - scoping session	SS	Direction or IP	Direction or IP	Direction or IP
		Staff Activities	Agenda setting workshop 4/28	Hire Asst. City Manager, begin strategy development	Scope strategy components	Scoping	Resilience work	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
	Boulder Valley Comprehensive Plan	Council				SS - scoping session	SS	Direction or IP	Direction or IP	Direction or IP
		Staff Activities				Scoping analysis and partner outreach	Issues identification	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
	Other	Council	Annexation Strategy - Direction (options and feedback)	Usable open space - Code Change	Economic Sustainability Strategy implementation - Code Change					
			Density/ROW Dedication Calculations - Code Change	Parking generation and reduction - Code Change						
			County Assessor valuations for landscape and lighting upgrades - Code Change	Renewable energy sources - Code Change						
		Staff Activities	Annexation Strategy - analyze costs and options	Planning Board for above code changes	Planning Board for above code changes					
			Planning Board for above code changes							

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
TRANSPORTATION	Transportation Master Plan	Council	IP (includes scope for AMPs)	SS (includes AMPS)	Acceptance - establish work program and coordination	Continue implementing pilots	Coordination with BVCP	Coordination with BVCP	Coordination with BVCP	Coordination with BVCP
		Staff Activities	Scenario and sensitivity analysis	Joint board workshop, TAB	Develop final update for board recommendation and council acceptance	Implement and coordination with BVCP and Resilience				
	Community EcoPass	Council	Feasibility Study - joint release with County	Rolls into TMP update						
		Staff Activities								
	Regional Transportation	Council	Briefing	Briefing		Briefing		Briefing		Briefing
		Staff Activities								
	Electric Vehicle Parking Ordinance/Energy Services	Council	Council agenda	SS			IP	IP	IP	IP
		Staff Activities								
	Access Management and Parking Strategies	Council	Scope	SS - Guiding principles, work program and process (includes TMP update)	Round 1 Code Changes - Auto and parking planning, zoning regs, EV charging stations	Update - Work plan and policy issues	Long Term Round 2 - Parking code changes and other policy issues	Council endorsement of ongoing work plan		
		Staff Activities	Finalize work program	Short term parking code regulation changes	Long term parking code changes	Long term parking code changes	Additional workplan items and public process tbd	Finalize document		
			TDM tool kit development for TMP integration	Long term parking code regulation changes	Additional workplan items tbd	Additional workplan items and public process tbd				
			Short term parking code ordinance changes	Public outreach and joint board meeting						
			Research/best practices	Additional workplan items tbd						
			Develop communications strategy							
ADD'L HOUS/PLAN/TRANS	Comp. Financial Strategy/Capital Bond	Council	Direction	SS	SS - finalize ballot?	Ballot?				
		Staff								
	Cap. Bond 1 Implement.	Staff		Construction			85% complete		100% Complete	
	Flood Recovery	Staff		Repairs and FEMA Reimbursement	FHWA/FEMA work	FHWA/FEMA work	Building Better Boulder		Building Better Boulder	
	Boulder Junction Phase 1 Implementation	Staff			South side of Pearl opens	Ongoing redevelopment coordination		Goose Creek Bridge opens		Depot Square opens
	Boulder Junction Phase 2 - City owned site	Staff		Coordination	Coordination		Coordination			
	Yards mobilized to move for Pollard option	Staff		Grading, prairie dogs, moving	Final prep			Yards moves continue		
	Safe Routes to School	Staff			Public process to prioritize projects		Application			
	Implement Transpo.Tax	Staff		Expand maintenance, hire						

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
LIVABILITY	Homelessness/Human Services	Council Items	Shelter/ Funding: Update on position and relationship with Boulder Shelter; Shelter funding and issues update and other funders.	SS - Human Services Strategy Update and Homeless Action Plan (including funding priorities and partnerships)	IP - Homelessness Issues	SS - Human Services Strategy Update and Homeless Action Plan (including funding and service priorities)				
					Regional Planning update/services and housing					
					2014 Point in Time Report					
					SS - Services and Regional coordination update	IP - Services and Regional coordination	IP - Services and Regional	SS - Services and Regional coordination	SS - Services and Regional	IP - Services and Regional
		Staff Activities	Facilitate monthly Boulder Homeless Planning Group re:	HS Strategy Update and Homeless Action Plan Update	HS Strategy Update and Homeless Action Plan -					
			Convene regional meeting with Denver/Boulder/MDHI							
			County Ten Year Plan meeting with focus on meeting housing	County Ten Year Plan meeting with focus on meeting housing						
	Neighborhood/Park Events and Other Events	Council Items	GOCO grant application		GOCO grant acceptance					
						SS - Special Events with Street Closures and Block Party Permitting				
		Staff Activities	Review current PR permits and developm pilot program	Conduct pilot neighborhood event (link with Hill and GOCO school yard grant)	Conduct pilot neighborhood event	Review neighborhood park planning and event pilot success and plan schedule for 2015	Finalize njeighborhood event schedule for 2015	Conduct neighborhood events	Conduct neighborhood events	Review pilot program and propose permit changes required to make improvements
			Link with park planning outreach	Summer recreation programs - arts, music, health, wellness	Continue summer art series and volunteer events					
			GOCO school yard grant	Submit GOCO grant	GOCO grant award - start civic area community park					
				Review and analysis of existing special event permitting	Develop recommendations					
	Arts	Council Items		SS - Library & Arts, including Community Cultural Plan				Adoption of Community Cultural Plan		
		Staff Activities		Work with new director						

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
LIVABILITY	Code Enforcement	Council Items	SS	SS (includes Social Issues Strategy information)						
		Staff Activities								
	University Hill	Council Items	IP - 14th St Public/Private Partnership	Update - 14th St Public/Private Partnership	Update - 14th St Public/Private Partnership					
			Bears/Trash							
				SS - Hill Reinvestment Strategy	Update - Hill Reinvestment Strategy					
		Staff Activities	14th St - Hill Alt. Mode survey	14th St - Finalize analysis and develop recommendation to proceed with the Global Agreement						
			14th St - Finalize LOI							
			14th St - Financial Analysis							
			14th St - Additional access analysis							
			14th St - Board outreach							
			Pilot Parklet Competition	Parklet Implementation						
			Outreach to CU and stakeholders for support of Reinvestment Strategy	Fox Theatre mural by CU students	start pilot RSD program (to run through 2016)					
			Recommendation for staffing Strategy implementation and prelim. analysis of future org structure options	Hire a fixed term Hill Coordinator						
	Civic Area	Council Items					SS - Park Program and Improvements			
		Staff Activities	Civic Activity Team established	Coordinate music in park series		Review summer series success and revise for 2015	Prepare first phase of park improvements for 2015	Conduct adult fitness and health classes	Conduct visitor event at civic area around art installations	
			Hire Civic Area staff for P&R	Add seasonal park staff for outdoor education and orientation		Expand Ready to Work crew	Revise summer programs and plan for 2015	Install temporary adult fitness playground	Coordinate horticulture gardens with Farmers' Market event	
			Prepare GOCO grant for nature play and park planning	Conduct volunteer event around upgrades to Peace Garden and edible plant exhibit		Complete park planning outreach	Conduct art competition for summer installation	Install south side nature play area		
			Work with Park Foundation to develop plan for art and entertainment	Coodinate with CU for partnership with GUB and Civic Area park plan		Develop 1% for Arts demonstration project in partnership with foundations and non-profits		Expand seasonal staffing and horticulture/edible garden displays		

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
LOCAL FOOD	Civic Area	Council Items	IP - update on implementation		SS - catalyst projects					
		Staff Activities								
	Ag Plan	Council Items	IP				Acceptance			
		Staff Activities								
	Other or not categorized	Council Items								
		Staff Activities	CU/BVSD partnerhip for neighborhood garden	Form cross-dept team	Develop work plan to achieve council vision					
			Burk Park/Horizon School playground	Housing links with YSI programs and local gardening pilot						
			Design guidelines for edible landscape in local parks							
CLIMATE AND ENERGY	Zero Waste Master Plan	Council Items	IP	SS - options and feedback		Acceptance and action plan		Implementation - commercial focus		
		Staff Activities	Stakeholder input on options and rulemaking on curbside compost		Public feedback on strategies	Draft plan and action plan for public review		Implementation - program enhancements and ordinance development		
	Municipalization	Council Items		SS - workplan	Briefing - energy services	Briefing - energy services	Update - energy services	Update - energy services	Update - energy services	Update - energy services
				SS - energy services						
		Staff Activities		Xcel/city task force; refine recommendations						
	Climate Commitment	Council Items		Briefing - framework, preliminary goals/targets, strategy development	SS - goals/targets, feedback on strategy scenarios, draft document	Approval				
		Staff Activities	Working groups meet	Scenario development; GHG inventory complete	Strategy formulation; city organization initiative launched		Launch action plan			
	Valmont Butte	Council Items			SS					
		Staff Activities								

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
OPEN SPACE	Charter Issues	Council Items			Address disposition process and use of Realization Point for pro bike race					
		Staff Activities								
	Highway 93 Underpass	Council Items								
		Staff Activities			In process					
	Eldo to Walker Ranch	Council Items								
		Staff Activities	City/County review of contractor proposals for potential mountain bike connection	Routes - weather dependent						
	IBM Connector	Council Items								
		Staff Activities		City/County requirement complete and await railroad to replace bridge						
	Trailhead as part of transportation system	Council Items								
		Staff Activities			status update					
	Other or not categorized	Council Items								
		Staff Activities			additional signage					

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
OTHER	Emerald Ash Borer (EAB)	Council	IP							
			Develop preliminary management plan	Implement pilot plan	Monitoring	Evaluate long term forest management plan and EAB strategy	Management plan and response	Response	EAB	EAB
	Civic Use Pad	Council	SS - Public/private partnership	Approval of MOU with St. Julien Partners	Update on negotiations with St. Julien Partners					
	Human Services Strategy	Council		SS		SS		Public hearing		
	Various	Council	IGA with CDOT/County for US 36 bikeway maintenance	Pilot dog waste composting project - Valmont and OSMP possible site	Transportation code changes for AMPS	Smoking ban - public hearing				
			IGA for bikeway maintenance/ US 36 enhancements	CEAP call up for Baseline Underpass east of Broadway	Comprehensive Annual Finanical Report					
			Old Pearl Street ROW vacation	DRCOG TIP Priorities for city applications	Appointment of independent auditor					
			Transportation code changes - bike parking, TDM, etc.	Mobile food vehicles - ordinance change to expand podding in downtown	Update on investment policies - action					
			NPP - zone expansions and removal		Modification of construction use tax filing - IP then action					
					Pearl Street Mall regulations - code changes					

COUNCIL MEMBERS

Matthew Appelbaum	Mayor
George Karakehian	Mayor Pro Tem
Macon Cowles	Council Member
Suzanne Jones	Council Member
Lisa Morzel	Council Member
Tim Plass	Council Member
Andrew Shoemaker	Council Member
Sam Weaver	Council Member
Mary Young	Council Member

COUNCIL EMPLOYEES

Thomas A. Carr	City Attorney
Jane S. Brautigam	City Manager
Linda P. Cooke	Municipal Judge

KEY STAFF

Mary Ann Weideman	Assistant City Manager
Bob Eichem	Chief Financial Officer
Alisa D. Lewis	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Executive Director of Community Planning and Sustainability and Acting Director of Housing
Molly Winter	Downtown, University Hill Management & Parking Services Director
Heather Bailey	Energy Strategy and Electric Utility Development Executive Director
Michael Calderazzo	Acting Fire Chief
Joyce Lira	Human Resources Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
Eileen Gomez	Labor Relations Director
David Farnan	Library and Arts Director
James Cho	Acting Municipal Court Administrator
Michael Patton	Open Space and Mountain Parks Director
Jeff Dillon	Acting Parks and Recreation Director
Greg Testa	Police Chief
Maureen Rait	Executive Director of Public Works
Cheryl Pattelli	Director of Fiscal Services
Tracy Winfree	Transportation Director
Jeff Arthur	Utilities Director

2013 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel, Plass (Castillo – staff alternate)
Boulder County Consortium of Cities	Morzel, Young
Colorado Municipal League (CML) – Policy Committee	Jones, Appelbaum (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Jones, Plass
Housing Authority (Boulder Housing Partners)	Shoemaker
Metro Mayors Caucus	Appelbaum
National League of Cities (NLC)	Appelbaum, Cowles
Resource Conservation Advisory Board	Morzel (at large seat), Plass
Rocky Flats Stewardship	Morzel, Plass (1st alternate), Castillo (2nd alternate)
University of Colorado (CU) / City Oversight	Cowles, Shoemaker, Weaver
US36 Mayors and Commission Coalition	Appelbaum
US36 Commuting Solutions	Karakehian, Morzel (alternate)
Urban Drainage and Flood Control District	Karakehian

LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Young
Boulder Convention and Visitors Bureau	Plass, Cowles (alternate)
Dairy Center for the Arts	Jones
Downtown Business Improvement District Board	Shoemaker, Weaver, Young

INTERNAL CITY COMMITTEES

Audit Committee	Cowles, Morzel, Shoemaker
Boards and Commissions Committee	Plass, Shoemaker
Boulder Urban Renewal Authority (BURA) Mayoral Appointment	Karakehian
Charter Committee	Karakehian, Morzel, Weaver
Civic Use Pad/ 9th and Canyon	Karakehian, Morzel, Young
Council Retreat Committee	Jones, Morzel
Evaluation Committee	Morzel, Plass
Legislative Committee	Jones, Karakehian, Weaver
School Issues Committee	Morzel, Plass, Shoemaker

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Jones
Kisumu, Kenya	Morzel
Llasa, Tibet	Shoemaker
Dushanbe, Tajikistan	Weaver
Yamagata, Japan	Plass
Mante, Mexico	Young
Yateras, Cuba	Karakehian
Sister City Sub-Committee	Morzel, Cowles, Karakehian

2014 Study Session Calendar				Televised?
Date	**Status**	**Topic**	**Time**	**Televised**
11/12/14	Approved	RECEPTION: Boulder's Energy Challenge	5-6 PM	NO
11/12/14	Approved	Climate Commitment Update and Update on Energy Services	6-9 PM	YES
11/25/14	N/A	**Tuesday Before Thanksgiving**		
12/09/14	Approved	Design Excellence with Victor Dover	6-9 PM	NO
12/23/14	N/A	**Week of Christmas**	N/A	N/A
12/30/14	N/A	**Tuesday before New Year's**	N/A	N/A

2014 INFORMATION PACKETS			
Date of Agenda Packet	**Due to Clerk's Office by NOON**	**Item Type**	**Topic**
11/18/14	11/12/14		
		Information Item	Boulder B-Cycle Update
		Call-up Item	Landmark Alteration Certificate to construct a 300 sq. ft. addition and 150 sq. ft. screened-in mechanical area at the Union Pacific Depot at 30th and Pearl St.
		Call-up Item	Landmark Alteration Certificate to construct a 1,459 sq. ft. addition to the main house, to relocate an existing garage on the property, and to construct a 330 sq. ft. one-car garage at 711 Pine St.
		Call-up Item	Landmark Alteration Certificate to construct a 308 sq. ft. detached garage at 2250 6th St.
		Call-up Item	Potential Call-up and Concept Plan Review application, No. LUR2014-00076, for the redevelopment a six acre site located at 3000 Pearl Parkway; 2100, 2170 30th and 2120 32nd Streets located within the Business Regional â (BR-1) and Industrial General (IG) zoning districts. Proposal to rezone the site consistent with the Boulder Valley Comprehensive Plan Land Use Designation of Mixed Use Business for a portion of the site. Proposed are approximately 103,000 square feet of office, 12,000 square feet of retail/office "flex" space, 12,000 sf of retail/restaurant, and 242 residential units comprised of studio, one, two and three bedroom units, and live/work units
		Information Item	Boulder's Energy Future Budget Update
12/02/14	11/26/14		
		Information Item	Update on implementation of ordinance to secure trash and curbside compost from bears
		Information Item	Updates on class attendance as part of the new Voice and Sight Tag Program requirements and final preparation for the Jan. 1 start date
12/16/14	12/10/14		
		Information Item	Flood Recovery
		Information Item	2015 Housing and Community Development Program Funding Allocations

November 18, 2014 Start Time: 5:30 PM Business Meeting Location: Council Chambers, 1777 Broadway		
Agenda Section	**Item Name**	**Time**
SPECIAL PRESENTATIONS:	Declaration - Colorado Companies to Watch	15 Minutes
OPEN COMMENT:		45 Minutes
CONSENT:	2014 Budget Second Adjustment to Base - 1st Reading	15 Minutes
	1st Reading Ordinance Smoking Ban on Selected City Properties	
	Lower Bear Floodplain Mapping Update	
	1st Reading - Title 4 -Pearl Street Mall Code Update	
	Minutes from October 21 Council Meeting (awaiting review by Alisa)	
	Study Session Summary for 10/14 BVCP	
	2nd Rdg Ordinance to Adopt State Records Retention Schedule	
	BRC Supplement 121 Emergency Ordinance	
	Consideration a motion to accept the September 30, 2014 Study Session Summary on Flood Management	
PUBLIC HEARINGS:		
	2nd Reading Council consideration of an ordinance to extend the pilot project allowing e-bike use on certain multi-use paths by removing the expiration date	45 Minutes
	Continued Second Reading Code of Conduct Changes	90 Minutes
MATTERS FROM CITY MANAGER:		
MATTERS FROM CITY ATTORNEY:	Security and Exchange Commission	**30 Minutes**
MATTERS FROM MAYOR AND MEMBERS:	Election of Mayor Pro Tem	30 Minutes
	Nod of Five declaration for Senator Mark Udall	
	Creation of subcommittee for Council employees salaries	
	General discussion regarding disposal of OSMP Property	30 Minutes
CALL-UPS:	**Total Estimated Meeting Time (Hours)**	**4.75**

December 2, 2014 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway		
Agenda Section	**Item Name**	**Time**
SPECIAL PRESENTATIONS:	Recognition of Mike Patton	15 Minutes
OPEN COMMENT:		45 Minutes
CONSENT:	2014 Second Adjustment to Base - 2nd Reading	
	First reading and consideration of a motion to adopt and ordinance extending Comcast of Colorado's right to to use public rights of way to provide cable television services and authorizing the city manager to execute a cable television franchise agreement	
	1st reading Valuation Land Use Code Change	
	1st reading Flood Related Annexations	
	IGA between the City of Boulder and Boulder County, and IGA between the City, Boulder County and CDOT for bikeway maintenance, and US36 Davidson Mesa Scenic Overlook IGA	
	Council consideration of a resolution approving and adopting amendments to the Beverage Licensing Authority Rules of Procedure	
PUBLIC HEARINGS:	2nd reading Ordinance Rezoning 5400 Spine Rd.	1 Hour
	Disposal of 11 small paved parcels to the Transportation Dept. (moving to 11/18 - need form)	1.5 Hour
MATTERS FROM CITY MANAGER:		
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:	Meeting Management	30 Minutes
	Report from Council Member Karakehian re Kauffman Foundation trip	
CALL-UPS:		
	Total Estimated Meeting Time (Hours)	**3.75**

December 16, 2014 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway		
Agenda Section	**Item Name**	**Time**
SPECIAL PRESENTATIONS:	Janet Driskell Turner Award	15 Minutes
OPEN COMMENT:		45 Minutes
CONSENT:	Study Session Summary for 11/12 Climate Commitment Update	15 Minutes
PUBLIC HEARINGS:	2nd reading and consideration of a motion to adopt and ordinance extending Comcast of Colorado's right to to use public rights of way to provide cable television services and authorizing the city manager to execute a cable television franchise agreement	30 Minutes
	2nd Reading Smoking Ban on Selected City Properties	1 Hour
	2nd reading Valuation Land Use Code Changes	45 Minutes
	2nd Reading, Authorization of Eminent Domain to Acquire Property for the Construction of the Wonderland Creek Greenways Improvement Project	45 Minutes
	2nd Reading - Title 4 - Pearl Street Mall Code Update - 2nd Reading	15 Minutes
MATTERS FROM CITY MANAGER:	Motion to Accept 2015 Human Services Fund Recommendations	15 Minutes
	BVCP 2015 Update	45 Minutes
MATTERS FROM CITY ATTORNEY:		
MATTERS FROM MAYOR AND MEMBERS:		
CALL-UPS:		
	Total Estimated Meeting Time (Hours)	**4.50**

January 6, 2015 - NO MEETING FIRST TUESDAY OF THE YEAR
Start Time: 6:00 PM Business Meeting (CANCELLED)
Location: Council Chambers, 1777 Broadway

January 20, 2015
Start Time: 6:00 PM Business Meeting
Location: Council Chambers, 1777 Broadway

Agenda Section	Item Name	Time	
SPECIAL PRESENTATIONS:			Minutes
OPEN COMMENT:		45	Minutes
CONSENT:	Consideration of a resolution allowing for continuation of the Rocky Flats Stewardship Council	15	Minutes
			Minutes
			Minutes
			Minutes
			Minutes
PUBLIC HEARINGS:	2nd Reading Flood Related Annexations	90	Minutes
			Minutes
MATTERS FROM CITY MANAGER:			Minutes
MATTERS FROM CITY ATTORNEY:			Minutes
MATTERS FROM MAYOR AND MEMBERS:			Minutes
CALL-UPS:			Minutes
	Total Estimated Meeting Time (Hours)	**2.50**	

January 23 & 24
2015 City Council Retreat