

CITY OF BOULDER
CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Boulder, Colorado 80302
Tuesday, April 5, 2016
6 p.m.

AGENDA

- 1. CALL TO ORDER AND ROLL CALL**
 - A. Earth Week Declaration**
 - B. Update on Boulder Small Business Development Center (SBDC)**
- 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.
 - A. Motion to approve the February 2, 2016 Regular Meeting Minutes**
 - B. Consideration of a motion to accept the January 26, 2016 Study Session Summary on Cooperative Housing**
 - C. Consideration of a motion to accept the February 9, 2016 Study Session Summary on the Neighborhood Parking Permit Program**
 - D. Consideration of a motion to accept the February 23, 2016 Study Session Summary regarding the Hillard Heintze Report on the Analysis of Police Data and Review of Complaint Processes**
 - E. Consideration of a motion to approve an Intergovernmental Agreement between the City of Boulder and Boulder County for the Sustainability Matching Grant funding**
 - F. Consideration of a motion to authorize the City Manager to enter into an Agreement for Delegation of Activities regarding Community Development Block Grant - Disaster Recovery (CDBG-DR) funding with the City of Longmont for the Wonderland Creek Greenways Improvement Project**
 - G. Consideration of a motion authorizing the City Manager to enter into a settlement agreement in the litigation brought against the city by William and Ellen Habay and the Estate of Michael Habay**

- H. Consideration of a motion to **authorize the City Manager to dispose of the property located at 3289 Airport Road, Boulder** (subdivided from Boulder Municipal Airport)
- I. Consideration of a motion to **approve Resolution No. 1182** supporting a **federal grant application by Jefferson County to fund planning, design and construction of up to two underpasses and trail segments to connect Rocky Flats National Wildlife Refuge** with adjacent City of Boulder and Boulder County trails north of State Highway 128 and approving the accompanying response guidelines
- J. **Second reading** and consideration of a motion to **adopt Ordinance No. 8109 approving supplemental appropriations** to the 2016 Budget **covering the second year of the three-year sales and use tax for capital projects** that was approved by the voters in **November 2014**
- K. **Introduction, first reading** and consideration of a motion to order published by title only **Ordinance No. 8111** amending Title 9, “Land Use Code,” B.R.C. 1981, to **allow for changes to the city’s sign code related to lettering heights in the Boulder Valley Regional Center and compliance** with a recent United States Supreme Court ruling regarding content based **signage regulations** and setting forth related details
- L. **Introduction, first reading** and consideration of a motion to order published by title only **Ordinance No. 8112 amending Chapter 10-7.7, “Commercial and Industrial Energy Efficiency,”** to clarify **regulation of large industrial campuses related to reporting energy usage**, and setting forth related details
- M. **Introduction, first reading** and consideration of a motion to publish by title only **Ordinance No 8113 to adopt amendments to 13-1, “Elections,”** B.R.C. 1981, to **Change from the Uniform Election Code to the Municipal Election Code** to Streamline the Process **for Municipal Non-Partisan Elections**, and Setting Forth Related Details
- N. **Introduction, First Reading** and Consideration of a Motion to **Approve an Ordinance Amending Chapter 13-2, “Campaign Financing Disclosure,”** B.R.C. 1981; **Chapter 13-3, “Campaign Activities,”** B.R.C. 1981; **And Chapter 13-4, “Complaints Related to Election Procedures And Regulations,”** B.R.C. 1981, To Make Changes to Conform to Recent Supreme Court Cases and Changes to State Law, Change the Campaign Limits for Matching Funds from Formulas to Dollars, Clarify Issues; And Setting Forth Related Details
- O. Consideration of a motion to call a **Special City Council meeting on April 7, 2016**, for the purpose of holding an **Executive Session to receive legal advice and discussion regarding Municipalization Strategy**

4. POTENTIAL CALL-UP CHECK IN

Opportunity for Council to indicate possible interest in the call-up of an item listed under 8A. No Action will be taken by Council at this time.

8A. Potential Call-Ups

ORDER OF BUSINESS

5. PUBLIC HEARINGS

A. Consideration of a motion to approve the Boulder Arts Commission recommendations for 2016 Operating Grants for Large Organizations

6. MATTERS FROM THE CITY MANAGER

A. Quarterly Municipal Court Update regarding discussion of data on camping ordinance tickets

B. Civic Area Long Term Planning Update

C. Update on the implementation of the Black Bear Protection Ordinance No. 7962

7. MATTERS FROM THE CITY ATTORNEY

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups

B. Portland/Eugene Trip

9. PUBLIC COMMENT ON MATTERS

Public comment on any motions made under Matters

10. FINAL DECISIONS ON MATTERS

Action on motions made under Matters

11. DEBRIEF

Opportunity for Council to discuss how the meeting was conducted

12. ADJOURNMENT

This agenda and the meeting can be viewed at www.bouldercolorado.gov /City Council. Meetings are aired live on Municipal Channel 8 and the city's Web site and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting.

Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk's Office at 303-441-4222, 8 a.m. – 5 p.m. Monday through Friday. The Council Chambers is equipped with a T-Coil assisted listening loop and portable assisted listening devices. Individuals with hearing or speech loss may contact us using Relay Colorado 711 (711) or 1-(800)-

659-3656. Please request special packet preparation no later than 48 hours prior to the meeting.

If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. Si usted necesita interpretación o cualquier otra ayuda con relación al idioma para esta junta, por favor comuníquese al (303) 441-1905 por lo menos 3 negocios días antes de la junta.

Electronic presentations to City Council must be sent to City Clerk staff and will NOT be accepted after 2 p.m. the day of the meeting.



MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Mary Ann Weideman, Assistant City Manager
Molly Winter, Director of Community Vitality
Susan Connelly, Deputy Director of Community Vitality
Jennifer Pinsonneault, Business Liaison

Date: April 5, 2016

Subject: Update on Boulder Small Business Development Center (SBDC)

This memorandum provides an update on the Boulder Small Business Development Center (SBDC), one of the city's economic vitality partners and an important resource for local entrepreneurs and small business owners. A brief presentation will be made about the SBDC by the director, Sharon King, at the beginning of the City Council meeting on April 5, 2016.

To support the Boulder SBDC, the city provides funding and office space in the main branch of the Boulder Public Library. This collaboration has provided additional exposure of the library's programs to SBDC clients attending workshops and consulting sessions.

The **Boulder SBDC** provides direct assistance to a diverse mix of new and established businesses. Programs are customized to reflect the needs of Boulder's business community and include free consulting services, a wide range of workshops and events, multicultural programming, and referrals to financing and other resources.

The non-profit has a small staff which it leverages with a team of more than 50 specialized consultants, presenters and mentors who have extensive business experience and subject matter expertise. In 2015, Boulder SBDC programming reached:

- 1,154 individuals who attended 87 workshops and events
- 622 business owners who received 3,420 hours of free one-on-one consulting

2015 SBDC programs and events included:

- Customized, one-on-one consulting for startups and existing small businesses
- Business Essentials and specialized training workshops
- Bilingual business consulting, outreach, workshops and events

- Colorado Emerging Ventures programs for high market potential businesses
- Contract Opportunities Fair

In addition, the SBDC continued to provide assistance to Boulder area businesses impacted by the 2013 floods and worked with the city to develop programs to help build economic resilience.

Small businesses assisted by the SBDC in 2015:

- Received over \$20 million in capital and nearly \$24 million in contract awards and innovation grants
- Created 236 new jobs and retained 327.5 existing jobs
- Achieved over \$9.5 million in sales increases

Attachment A: Boulder SBDC 2015 End-of-Year Report to City of Boulder

Attachment A: Boulder SBDC 2015 End-of-Year Report to City of Boulder



Boulder SBDC 2015 End-of-Year Report to City of Boulder

Thank you to the City of Boulder for your strong support for small business and the Boulder SBDC during 2015. The Center's 2015 relocation to Boulder Public Library's Main Branch has been a successful transition and strong collaboration, with SBDC bringing small business owners and entrepreneurs in to experience the new library when attending workshops and one-on-one consulting meetings.

Mission and Scope

The mission of the Boulder SBDC is to help existing and new small businesses to overcome hurdles so they can grow and prosper. To achieve that, the SBDC provides a wide range of workshops and events, free one-on-one consulting and connection to resources (such as financing resources, templates/tools/links for online assistance and connection to strategic partners.)

Boulder SBDC assists a broad range of businesses – from “Mom & Pop” and “Main Street” businesses through Advanced Industries (scalable manufacturing and science & technology companies.) The Center is able to support this range of business types by building a team of specialized, high-caliber consultants, presenters and mentors that provide both targeted programming and customized consulting.

2015 Program and Services - Reach

In 2015, Boulder SBDC produced a total of 87 workshops and events, with 1,154 attendees. The Center provided 622 businesses with 3,420 hours of free, one-on-one consulting assistance.

Economic Impact in 2015

As in prior years, Boulder SBDC far exceeded the economic impact goals set for the Center by the Small Business Administration and Colorado Office of Economic Development & International Trade.

The small businesses assisted by the SBDC (through customized consulting) reported through written surveys that they accomplished these measures of success.

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- Created 236 jobs
 - Retained 327.5 jobs
 - Formulated over \$20 million in capital (loans, self-funding, outside equity infusions, disaster loans and grants)
 - Achieved over \$9.5 million in sales increases
 - Received almost \$24 million in contract awards and innovation grants
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Value of Boulder SBDC to the Small Business Community and the City of Boulder

The Center provides small businesses with high-caliber, custom-fit business consulting that they would not otherwise be able to afford. Workshops, events and program formats are specifically developed to match the needs of our business community. The SBDC receives over 90% ratings in written surveys

from clients and attendees. Boulder SBDC is part of a nationally-accredited network, following Baldrige principles for continuous improvement and recognition of the performance excellence.

Throughout 2015, Boulder SBDC recognized the City of Boulder as its Economic Sustainability Partner and Sponsor -- during one-on-one consulting meetings with business owners, in introductions at workshops and events and in communications (email, signage, flyers, website, social media.) It is with the City's critical financial support that the SBDC was able to keep its main location in Boulder at the Boulder Public Library. It allowed the Center to develop and produce the business education programs, as well as to provide the one-on-one consulting that follows most programs and provides customized assistance to our small businesses.

2015 SBDC Programs and Events

Boulder SBDC is able to provide targeted, highly-rated programming to match the needs requested by our business community. As mentioned above, that is possible with a small core staff due to the gracious assistance and contributions of over 50 business specialists, consultants and mentors from our community.

SBDC Core Programs for Small Business

- **Business Consulting** – The City of Boulder is recognized as a key Economic Sustainability Sponsor, enabling the SBDC to provide business consulting and outreach to existing and startup businesses. Over 35 specialist consultants provide expertise, guidance and tools to assist small businesses. Specialist areas include developing a business plan, feasibility and growth planning, building financial projections, analyzing financial statements for decision-making, QuickBooks and accounting, HR issues, marketing planning and initiatives (including website, SEO, social media, sales,) exporting, government contracting, winning SBIR grants and contracts and more. The Boulder SBDC provides connections to financing sources as well as assistance in preparing loan packages and equity presentations and technical assistance for disaster grants and loans. Each week, Boulder SBDC consultants are joined by representatives of Colorado Enterprise Fund to help businesses understand their financing options, including the Boulder Loan Fund.
- **Understanding Where You Stand: A Simple Guide to Your Financial Statements**
The City of Boulder is a Presenting Sponsor of this publication, used in our financial and business planning workshops, and provided to clients in consulting sessions.

Workshops and Programs

- **Business Essentials Workshop Series** – The City of Boulder is a Contributing Sponsor for these basic business planning workshops that include Start-up Essentials - *monthly*, plus Marketing, QuickBooks, SEO and Social Media Essentials – *presented periodically throughout the year*.
 - **Specialized Workshop Topics and Programs** – The City of Boulder is a Contributing Sponsor for the SBDC’s specialized trainings that include How to Buy and Sell a Business, Hire Right the First Time, Systematic Selling Series, Government Contracting 101, Tax Issues for Small Business and other marketing, HR, finance and operations topics. Boulder SBDC joins the City of Boulder and other partners to present *Boulder Business Resources* monthly in 2015.
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Multicultural Business Programs

- **Bilingual Business Consulting and Outreach** – The City of Boulder is a Contributing Sponsor, enabling the SBDC to provide bilingual (Spanish/English) business consulting and outreach to current/potential businesses. Though in no way exclusive, the program is focused toward Latino-owned businesses due to increasing demographic trends. In Boulder County, these companies tend to be micro-businesses and (Core) “Lifestyle” businesses. The SBDC has been building relationships with the Latino business community for almost 10 years. Some of our clients are growing successful businesses and can now mentor the newer entrepreneurs.
- Boulder SBDC collaborates closely with the Latino Chamber of Boulder County (SBDC Executive Director is past Board Member and co-founder of Multicultural Business EXPO) and with Boulder County Community Action Program’s PIE Grant program.

Workshops and Programs

- **Bilingual Bootcamp - Business Planning Series** – The City of Boulder is a Contributing Sponsor for this eight-session, free series to help low to moderate income

entrepreneurs launch and grow their businesses. Completion of this program, an approved business plan and other criteria qualifies graduates for the Boulder County Community Action Programs PIE (Personal Investment Enterprise) Grant if they launch or grow a business. The series was produced twice at Boulder Public Library in 2015.

- **11th Annual Multicultural Business Resource EXPO** (renamed Latino Business Conference) – Boulder SBDC is founding partner and collaborated with the Latino Chamber and other partners on this annual event, providing workshops and consulting during the conference.
 - **How to Start a Restaurant** – Conducted in Spanish by Betty Artes, former 20-year co-owner of Casa Alvarez in Boulder, this pilot program was tested to help would-be restaurateurs be better prepared for success in their venture.
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Colorado Emerging Ventures (CEV): Programs for High Impact Businesses

- **Business Consulting** - The CEV program is focused on businesses with high market potential that may be -- or have the potential to become – primary employers. They are scalable businesses that may have national and international markets, the potential to create high economic impact, especially to create and retain jobs. These businesses may be existing or startup. Industry segments include biotech, aerospace, IT, clean tech, natural and outdoor products and other types of manufacturing. Boulder SBDC's advanced business and sector specialists provide extended one-on-one consulting to the entrepreneur founder and key management team members.

Workshops and Programs

- **Contract Opportunities Fair – February 14, 2015** – The City of Boulder was Presenting Sponsor for this full-day agenda at the UCAR Conference Center, providing small businesses with access to contracting representatives (exhibitor tables, one-on-one pre-scheduled meetings,) education (certification trainings, 12 breakout panels and workshops,) outreach and networking opportunities. In 2015, we had over 25 Federal, State, Local and Corporate organizations represented, with over 220 attendees.
- **TechVenture Series** – Also funded by a grant from JPMorgan Chase Foundation, in collaboration with CO-LABS, Boulder SBDC produced two series in 2015 (one 2nd stage, one early stage,) designed to help advanced industries ventures to overcome hurdles to growth. The City was a Contributing Sponsor for this series. Topics included Navigating the SBIR Process, Equity Funding, How to Build a Product Road Map, Using Market Research to Size Market Opportunities, SBIR Roundtables, Marketing to the Federal Government, Building Your Business Model Canvas.
- **CEV workshops** -- The City of Boulder is a Contributing sponsor for these sessions, bringing specialists to Boulder to speak, then meet one-on-one with businesses. Topics include Contracting (How to do Business with Ball Aerospace, University of Colorado network; How to Get Started – Registering on Federal Databases); Innovation Grants (SBIR Roundtables, Advanced Industries Grants); Export/International Trade (State and Federal resources to Tap.)

Disaster Relief Program

- **Business Consulting** - The City of Boulder has been recognized as a key partner in the SBDC's Disaster Relief and Recovery assistance since the September 2013 floods. Throughout 2015, the SBDC continued to provide business consulting, matching impacted businesses to grants, loans and resources - including providing technical assistance and outreach to businesses that may qualify for the State of Colorado CDBG-DR grants and loans. SBDC helps businesses to understand whether they may qualify and to compile and package their application. In 2015, SBDC began to develop resources to work with businesses on Resiliency and Business Continuity planning which will continue in 2016. SBDC Executive Director joined panel at CU-Boulder on Economic Resiliency, led by Jennifer Pinsonneault, City of Boulder Economic Vitality team.
 - **Future Resiliency programming** – Boulder SBDC is waiting for funding approval from OEDIT to launch Resiliency workshops and consulting initiatives, in collaboration with the City.
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**CITY COUNCIL JOINT MEETING
with PLANNING BOARD Proceedings
Tuesday, February 2, 2016
6 p.m.**

1. CALL TO ORDER AND ROLL CALL

Mayor Jones called the meeting to order. Council Members Brockett, Burton, Morzel, Shoemaker, Weaver, Yates and Young were present. Council Member Appelbaum was absent.

Council Member Yates moved to approve the Amended Agenda. The motion was seconded by Council Member Weaver. The motion carried 8-0 at 6:04 p.m., with Council Member Appelbaum absent.

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE

Open Comment was opened at 6:06 p.m. The following members of the public spoke: (Please note that public comments are a summary of actual testimony. Full testimony is available on the web at: <https://www.bouldercolorado.gov/>.)

1. Scott Smith, pooled with Mary Smith and Gareth Hermann, for Boulder open spaces. He opposed GMOs and wanted bee-safe neighborhoods.
2. Courtney Petrie, resident, supported neighborhood parking permits. Tenants Kim Scullion and Joe Flemming attended. She stated that parking is mis-designated, wanted Council to approve parking permits for residents, as only one parking permit has been approved with two being denied.
3. Mike Homner, resident, supported more affordable housing, opposed development other than affordable housing.
4. Neshama Abraham, resident, thanked Council for its decision at last week's study session to the update on co-operative housing issues and supported the annexation at 2801 Jay Road for affordable housing.
5. Karey Christ-Janer, resident, spoke about Excel's new initiative and supported the proceedings at the PUC. She included a hand-out for Council.
6. Darren O'Connor, pooled with Laurel Herndon and Michael Fitzgerald, showed a video and approved of development of Twin Lakes for affordable housing.
7. David Wheeler, spoke about GMOs on County property land, against pesticides, supported the movement to be pesticide-free and get "organic" certification.
8. Jo Morgan, resident, supported helping mobile home parks.
9. Paul Keaton, resident, supported Mapleton Mobile Home Park, especially against Thistle selling the park.

Council comments: To residents of Mapleton Mobile Home Park who have appeared at council meetings and accused a staff member of lying, City Manager Brautigam commented that the staff member has done nothing wrong. She further stated that if residents have issues, they should come to the City Manager's Office, who will investigate further.

3. CONSENT AGENDA

- A. Consideration of a Motion to Accept December 8, 2015 Study Session Summary on the Hill Reinvestment Strategy**

- B. Second Reading and Consideration of a Motion to Adopt Proposed Ordinance No. 8101 Amending Section 8-3-7, “Regulation of Horses and Livestock,” and Adding a New Section 7-6-31, “Horse Trailer Parking,” and Setting Forth Related Details***
 - * This Ordinance Number has been Renumbered; Formerly out of Sequence

- C. Second Reading and Consideration of a Motion to Adopt Ordinance No. 8103 Approving Supplemental Appropriations to the 2016 Budget for Costs Incurred to Implement the New Short Term Rental Program and Tax**

Council Member Yates moved to approve the consent agenda item 3A-3C. The motion was seconded by Council Member Morzel. The motion carried 8-0 at 6:38 p.m., with Council Member Appelbaum absent.

4. POTENTIAL CALL-UP CHECK IN

7. MATTERS FROM THE CITY ATTORNEY

- A. Request for a “Nod of Five” for authorization of staff to compile statistics regarding prosecution and incarceration of individuals for violation of § 5-6-10, “Camping or Lodging on Property without Consent,” B.R.C. 1981 Nod of 8 given.**

A Nod of Five given (unanimously) at 6:42 p.m.

ORDER OF BUSINESS

Planning Board was invited up to the dais with City Council members. Planning Board members present included Bryan Bowen, Chair, John Putnam, John Gerstle, Leonard May, Liz Payton and Crystal Gray. County Staff present included Abigail Shannon, Pete Fogg and Therese Glowacki.

5. PUBLIC HEARINGS

Update and direction on the following items related to the 2015 Major Update to the Boulder Valley Comprehensive Plan (BVCP):

- I. Initial Screening of Public Requests for Map Changes in Area II and Area III, Policy and Text Changes, and**

- II. Project Update including BVCP Survey Results and Phase 3 Areas of Focus**
Staff Member, Lesli Ellis, C Hyser, and Abigail Shannon presented the item to Council and Planning Board.

Supplement to Agenda Item 5A:

County action on the initial screening of public requests for map changes in Area II and Area III as part of the 2015 Major Update to the Boulder Valley Comprehensive Plan (BVCP)

The public hearing was opened at 7:18 p.m. and the following members of the public spoke: (Please note that public hearing comments are a summary of actual testimony. Full testimony is available on the web at: [https://www.bouldercolorado.gov/.](https://www.bouldercolorado.gov/))

Area #25 (3261 3rd Street)

1. Ed Byrne was a requestor and supported the rezoning. There were no members of the public to address this request.

Area #29 (2801 Jay Road #1)

1. Margaret Freund, requestor, pooled with Benita Duran and Ali Giafar. She supported the rezoning.

Members of the public that addressed this issue included:

2. Maureen Taylor, resident, opposed the rezoning and suggested using other sites for development.
3. Shawn Barry, resident supported the rezoning as it will help with affordable housing.
4. Wyley Hodgeson, resident, opposed the rezoning.
5. Matthew Karowe, resident opposed the rezoning.
6. Paulina Hewatt, resident, opposed the rezoning.
7. Heather Hosterman, resident, opposed the rezoning.

Area #35 (6655 & 6500 Twin Lakes Rd., 0 Kalua Rd. #2)

1. Willa Williford, requestor, supported the rezoning due to added affordable housing.
2. Glen Segrue, requestor, supported the rezoning due to housing for teachers.

Members of the public that addressed this issue included:

3. Aria Ratten supported the rezoning in favor of affordable housing options at Twin Lakes.
4. Andy Coco supported the rezoning for affordable housing options.
5. Jim Williams, pooled with Chris Campbell and Maggie Crossway, supported the rezoning.
6. Marty Streim pooled with Jeff Cohen and Annie Brook, opposed the rezoning and wants better infrastructure for Gunbarrel.
7. Gordon McCurry, resident, pooled with Jason Hill and Paul Sadauskas, shared the findings he was contracted to do for hydrology. He found a very high ground water table, therefore high density homes will press down and cause water to relocate. Mitigation processes might include houses will need to have French drains. He opposed the rezoning and building of homes on this property.

8. Sam Ricklefs, pooled with Sandra Ireland and Kelly Diskson, opposed the rezoning.
9. Brian Lay, pooled with Dan Rabin and Valerie Hotzcallis, opposed the rezoning.
10. Patrick Madden pooled with Dennis Dickson and Dave Dickson, resident and Board Member of Twin Lakes Action Group supported affordable housing but opposed the rezoning.
11. Donna George pooled with Dinah McKay and Fran Karash opposed the consideration of rezoning
12. Mike Smith, pooled with Kate Chandler and Doug Johnson, resident, supported affordable housing but opposed to the consideration of rezoning the area.
13. Miho Shida, pooled with Yvonne Lopez and Dave Rechberger, resident, opposed the rezoning for lack of service and distance from Boulder.
14. Jessica Hartung, pooled with Jen Murphy and Suzanne Yeshida, supported affordable housing and opposed the method of land use change. She read a letter from Jim Wilson, a former board member and said that open space must be preserved.
15. Mark George, pooled with Jill Skuba and Dee George, was concerned about the water table and the soil composition.
16. Susan Lambert, pooled with Myrna Besley and Karen Looney, wanted to preserve the open space and opposed the rezoning.
17. Bill Brown, resident, opposed the rezoning due to the distances from services and concerned about CO2.
18. Rolf Munson, pooled with Marta McPherson and Caroline Hogue, opposed the rezoning due to lack planning properly and lack of services.
19. Betsy Marten, Boulder County Housing Authority, pooled with Ian Swallow and Penny Hannegan, supported the rezoning.
20. Audry Gunn, resident, opposed the rezoning due to wildlife that dwells there, especially the owls.
21. Jennifer Johnson, resident, supported the rezoning for affordable housing.
22. Steve Whitehead, resident, opposed the rezoning.
23. Doyle McClure, resident, was unclear whether he opposed or supported the rezoning.
24. Frank Alexander supported the rezoning.
25. Amy Chu, resident supported the rezoning.
26. Renee Morgan, resident, supported the affordability housing option and supported the rezoning.
27. Nolan Rosell, resident, spoke on behalf of the Habitat Board and supported the rezoning.
28. Will Toor supported the rezoning.
29. Mary Duvall, resident and CEO at Thistle supported the rezoning.

Area #36 (6655 & 6500 Twin Lakes Rd., 0 Kalua Rd., #3)

1. Mike Chiropalos, attorney, pooled with Wendy Miller and Jerry George, opposed the development and was interested in preserving the open space.

Members of the public included:

2. Sandy Stewart supported the development because of projects that were done in Louisville and worked. She encouraged age restrictions on obtaining housing.
3. Eliberto Mendoza, resident of Longmont, supported affordable housing and saw this as an investment into Boulder residents.
4. Robin Bohannon supported the development.
5. Tracey Burnett, resident enjoyed the open space and supported the development.
6. Erin Jones supported the development for affordable housing.
7. Mike Stratton, resident, supported the development.
8. Daphne McCabe, supported the development for affordable housing.
9. Kristin Bjornsen, pooled with Mary Ann Bjornsen and Michelle Caolo, opposed the development due to the impact on wildlife habitat.
10. Lauren Kovsky, pooled with Milan Sefcik and Jeremy Kalan, opposed the development due to wildlife.
11. Juliet Gopinath, pooled with John Collis and Kristen Aldretti, opposed the development.
12. Lisa Sundell, pooled with Claudia Coppoli and Nancy Thompson, opposed the development.
13. Ken Beitel, pooled with Lenni Ducanson and Matt Ferren, opposed the development.
14. Carl Boen, opposed the development and wanted to preserve the wildlife.

Area #30

No members of the public addressed this issue.

Area #31 (7097 Jay Road)

The following member of the public spoke:

1. Brent Aanerud, requester, supported the development affordable housing.

Area #32(Hogan-Pancost)

1. Rich Lopez, opposed this recommendation and asked that they not consider this for further study.

Members of the public that addressed this issue included:

3. Steve Meyer, resident, asked that consideration be given to further study this request.
4. Deb Grojean, resident, pooled with Lois Hayes and Gabriella Sattler, wanted reconsideration for this issue.
5. Christine Rubin, wanted this topic to be reconsidered.
6. Ari Rubin, resident, opposed the development.
7. Suzanne DeLucia, resident, was concerned about the flooding.
8. Mireille Key, resident, pooled with Jeff Rifken and Maryann McWhirter, opposed the development/annexation.
9. Carol Atkinson, resident opposed the development due to ground water issues.
10. Gene Treppeda was concerned about flooding.
11. Jim Johnson was concerned about flooding.

12. Robert Prostko opposed the development.
 13. Alan Taylor, resident of Longmont, supported the measure.
- There being no further public input, the Public Hearing was closed.

Item II was not addressed, as this was mistakenly placed on Agenda. No action was taken on this matter. The deliberation for this hearing by Council will be at the February 29, 2016 Regular Meeting.

City Council adjourned for the evening at 10:55 p.m. and Planning Board continued to hold deliberations on the requests.

6. MATTERS FROM THE CITY MANAGER

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

9. PUBLIC COMMENT ON MATTERS

10. FINAL DECISIONS ON MATTERS

11. DEBRIEF

12. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on February 2, 2016 at 10:55 p.m.

Approved this 5th day of APRIL, 2016.

APPROVED BY:

Suzanne Jones, Mayor

ATTEST:

Lynnette Beck, City Clerk

**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE: Consideration of a Motion to Accept the January 26, 2016 Study Session Summary on Cooperative Housing.

PRESENTER:
Tom Carr, City Attorney

EXECUTIVE SUMMARY:

The purpose of this agenda item is to seek council approval of summary of the January 26, 2016 study session on Cooperative Housing.

STAFF RECOMMENDATION:

Staff recommends approval of the summary of the January 26, 2016 study session on Cooperative Housing.

Suggested Motion Language:

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

Motion to accept the study session summary from the January 26, 2016 study session, which is **Attachment A**.

BACKGROUND:

The background information for this topic can be found in the [study session memo](#).

NEXT STEPS:

Based on input at the study session, staff will:

Draft a proposed ordinance for council consideration enabling cooperative housing in Boulder.

ATTACHMENTS

Attachment A – January 26, 2016 Study Session Summary

ATTACHMENT A

January 26, 2016
City Council Study Session Summary

PRESENT

City Council: Matthew Appelbaum, Aaron Brockett, Jan Burton, Suzanne Jones, Lisa Morzel, Andrew Shoemaker, Sam Weaver, Bob Yates and Mary Young

Staff: Jane Brautigam (City Manager), Tom Carr (City Attorney)

PURPOSE

The purpose of the study session was for council to discuss potential changes to the city's code regulating cooperative housing.

SUMMARY

Staff Presentation: The city attorney began the meeting with a presentation about cooperatives, both in Boulder and around the country. The presentation identified three types of cooperatives, market rate, limited equity and rental. The current code allows only market rate cooperatives.

The city attorney described other provisions of the current code are as follows:

- Cooperatives are allowed in the RE, RR, RL, RM, RMX, RH, MU, IG, IM zone districts.
- All property owners within 300 feet must be identified by the applicant and notified by the city manager.
- The application must be renewed every five years. No renewal if the applicant no longer meets the code requirements.
- The permit is terminated upon transfer of the property.
- Can be revoked based on quality of life violations.
- All owners must be residents.
- Not all residents must be owners.
- 75% of residents must be owners.
- No owner may own less than 5%.
- No owner may own more than 49%.
- Concentration limits.
- Occupancy limits.
- One off-street parking spot for every two residents.
- Every resident must have an RTD EcoPass.

The city attorney described existing cooperatives in the city. There are three legal cooperatives that operate as multi-family units. In addition, the city attorney described two illegal cooperatives.

The city attorney described research regarding cooperatives in other communities. The following chart summarizes that information:

City	Population	Unrelated Occupancy	Co-op Law	Co-ops
Burlington, VT	42,000	+	No	2 limited equity 3 rental
Madison, WI	245,000	By square footage	State Law	22 mostly limited equity
Austin, TX	885,400	4 in single family zone	Limited to higher density zones	24 rental cooperatives
Berkeley, CA	117,000	No limit	State Law	20 rental cooperatives 15 limited equity 2 market rate (plus other rentals)

Council Discussion

The city council began their discussion with consideration of overarching policy goals. Council members expressed concern about the effect of the current occupancy limits on the community, particularly lower income individuals who would benefit from lower costs associated with higher occupancy. Council members also expressed the belief that cooperative housing could provide an option for some members of the community. Members stressed the community benefits that could be derived from cooperative housing as long as the impact on the surrounding neighborhoods were limited. Council members expressed general approval of the approach taken in the draft ordinance prepared by the community. The city attorney suggested that it would be best if the current code were to be repealed in its entirety, with the community's vision incorporated in a new code section.

Council continued their discussion by addressing occupancy. Council members expressed a variety of views regarding occupancy. Council Members Yates and Brockett expressed an interest in obtaining expert assistance in addressing this issue. Council Member Appelbaum asserted that it was a political issue more than an issue calling for outside expertise. Council Member Morzel agreed that occupancy is more of a political issue. Council Member Shoemaker expressed the opinion that the control mechanism was more important than an occupancy number. That is, regulating the external impacts would mitigate concerns about occupancy numbers. Council Member Appelbaum stressed the importance of life safety. He wanted to make sure that people only sleep in a place with a legal means of egress. Mayor Pro Tem Young said that she would like to explore a square footage limitation with some upper cap. Mayor Jones said that she

believed that at least 10 people would be necessary to make a cooperative financially viable. Council Member Burton expressed her view that much of the control should be removed. She supports a parking plan, but was concerned that having an occupancy limit would be too heavy handed.

The council next discussed the potential impact on market values for homes in Boulder. Council Member Shoemaker said that the key is the potential for the occupancy to revert to the limit for the zone district. This would prevent the market value from going out of control. Council Member Yates said that a small number of cooperatives would not impact market values citywide. Council Member Morzel said that based on the memorandum, the city is seeing an increase in property values. Council Members Weaver and Appelbaum expressed an interest in exploring rent control, while Council Member Yates was not interested in pursuing rent control.

Council also addressed parking impacts from cooperatives. Council Member Weaver said that the principal goal should be that a cooperative will not increase the number of cars parked in the public right of way. Council Member Shoemaker said that there should be flexibility. Council Member Burton said that cooperatives should create their own plan to achieve defined objectives. Mayor Pro Tem Young and Council Member Brockett agreed that an individualized plan would be appropriate. Council Member Morzel expressed an interest in requiring bus passes. She noted that the Chrysalis cooperative had worked to form a neighborhood EcoPass district. Council Member Burton expressed her concern that \$99 per month was a heavy burden for cooperatives outside of EcoPass districts. Mayor Pro Tem Young said that it is difficult to organize a district. She would support requiring a plan. Council Member Appelbaum agreed that a plan was preferable to an EcoPass requirement or a limitation on the number of cars. Mayor Jones said that council wanted to see no impact on parking in the neighborhood. Council Member Brockett noted that cooperatives should be part of the Neighborhood Parking Program discussion.

The council next addressed renewal and revocation. Mayor Jones said that equity cooperatives could not have renewal requirements. Council Member Shoemaker said that some revocation and renewal requirements would be necessary to provide some level of control. He said that such requirements would prevent property values from escalating above the market. Council Member Weaver said that it was important that the city be able to verify that the ownership structure had not changed. Council Member Brockett expressed the importance that cooperatives have the ability to cure any default. Council Member Appelbaum said that he assumed that there would have to be some type of renewal requirement. He said that it should be difficult to revoke. Council Member Shoemaker said that he agreed with the concepts expressed by the community.

Council members addressed the question of how many new cooperatives should be allowed. Council Member Appelbaum said that the city would need to address both the ramp up and concentration. He thought that there would be somewhere in the 10 to 20 range. He noted that no other city had more than 30. Council Member Brockett said that there is a limited demand for cooperative housing. He said that 15 per year would be an

appropriate limit. Council Member Yates suggested 20 each year, but said that he could accept a lower number. Mayor Pro Tem Young said that it was important that any limit accounted for pent up demand. She said that the initial number should be higher with a lower number in following years. Council Member Morzel expressed the importance of recognizing community concerns expressed in the last year. She cautioned that the city needed to be careful about the rate of growth. Council Member Weaver said that he would support 5 or 10 each year in each category. Council Member Burton agreed with 5 per year in each category.

Council gave general guidance on the appropriate zone districts for cooperative housing. Council Member Brockett suggested that high density districts would be appropriate. Council Member Appelbaum noted that lower density districts have bigger houses that might work better for cooperatives. He said that the real issue is concentration. Council Member Morzel suggested that cooperatives should be allowed in the area covered by the Transit Village Area Plan. Council Member Yates said that he would allow cooperatives in all districts and only prohibit cooperatives in a district for a reason. Council Member Weaver said that staff should provide reasons for not including zones.

Council concluded with a discussion on concentration. Council Member Appelbaum said that the current box is very large. Council Member Yates suggested allowing one per block. Council Member Brockett said that he would prefer a defined area but did not see a reason for grouping cooperatives with auxiliary dwelling units. Council Member Weaver agreed that a limited number of dwelling units in a neighborhood should be cooperatives. Mayor Jones suggested that the limit might only be necessary at the outset until the community accepts cooperatives. Council Member Shoemaker noted that cooperatives might group into logical areas, such as a busy street and therefore a percentage of a neighborhood would work best. Mayor Jones said that she did not want a complicated calculation. She asked staff to provide some examples. Mayor Pro Tem Young said that the issue was not concentration, but disbursement. Council Member Brockett noted that council could look at bigger boxes, but smaller percentages.

Next Steps

Council directed staff to draft a proposed ordinance. Staff asked for permission to share the proposal with the Boulder Housing Coalition. Council originally agreed, but later a council member suggested that to be fair, the ordinance should be posted on Hotline so that everyone in the community could provide input. Staff posted a proposal on March 22, 2016. The ordinance is scheduled for first reading before council on April 19, 2016. The planning board will hold a public hearing on April 21, 2016. Council's public hearing will be on May 3, 2016.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE: Consideration of a motion to accept the February 9, 2016 Study Session Summary on the Neighborhood Parking Permit Program.

PRESENTERS

Jane S. Brautigam, City Manager
Mary Ann Weideman, Assistant City Manager
Molly Winter, Director, Department of Community Vitality
Chris Hagelin, Senior Transportation Planner, GO Boulder
Bill Cowern, Transportation Operations Engineer

EXECUTIVE SUMMARY

This agenda item provides a summary of the February 9, 2016 study session on the Neighborhood Parking Permit Program.

The purpose of the study session was to share ongoing community engagement and work plan items related to AMPS and next steps. In addition, staff requested council input on options related to:

1. Parking pricing considerations;
2. Off-street parking code requirements and Transportation Demand Management (TDM) policies for new developments; and
3. On-street car share parking policy.

The purpose of this study session was to:

- Provide background, context and information on the Neighborhood Parking Permit program (NPP)
- Present issues associated with the NPP raised by council members, residents and staff and seek feedback on next steps
- Provide status of 2016 related work plan items and seek feedback on staff's work plan:
 - Chautauqua Access Management Plan (CAMP); feedback from Council on options
 - Parking pricing recommendations for residential and business permits as part of the Access Management and Parking Strategy (AMPS)

Specifically, staff had the following **QUESTIONS FOR COUNCIL**:

Does Council have any feedback on the issues for which staff currently intends to proceed with the current approach and within the existing work program? (VRBO, permit pricing and issuance, process for reducing unrestricted hours, etc.)

1. What is Council's feedback on issues related to additional NPP resident requests, such as review of NPP regulations to consider a wider range of tools for residential parking issues; changes to zone creation procedures, etc.?
2. Does Council have any further questions regarding the NPP intent and program or have additional issues for review and consideration?
3. Does Council have any feedback on staff's operating assumptions concerning the development of the CAMP and which option would Council prefer for development of the CAMP as it pertains to the historic parking data and the recent Chautauqua visitation numbers?
4. Should staff cease processing NPP applications if council desires a review of the Neighborhood Parking Permit program?

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 February 9, 2016 Study Session Summary on the Neighborhood Parking Permit Program.

February 9, 2016 Study Session Summary Neighborhood Parking Permit Program

PRESENT

City Council: Matt Appelbaum, Aaron Brockett, Jan Burton, Suzanne Jones, Lisa Morzel, Andrew Shoemaker, Sam Weaver, Bob Yates and Mary Young

Staff Members: Director of Community Vitality, Molly Winter; Transportation Operations Engineer, Bill Cowern; Sandra Llanes, Senior Assistant City Attorney; Deryn Wagner, OSMP Planner and Lisa Smith, Communications Specialist

OVERVIEW OF THE PRESENTATION

Staff provided background on the NPP program and requested council feedback on operational and policy issues as well as the Chautauqua Access Management Plan (CAMP) and Access Management and Parking Strategy (AMPS). Questions for council were: 1. Does council have feedback on current programs and approaches? 2. What is council feedback on policy issues – zone creation and regulations? 3. What is council feedback on CAMP? 4. Should staff temporarily cease processing NPP applications? 5. Any further questions/feedback on the NPP?

CURRENT PROGRAMS AND APPROACHES

Staff provided information on NPP permit management, the process for reduced time for non-permitted parking, short-term rental (STR) requirements, and an upcoming AMPS pricing review for resident, visitor and business permits and the concept of “revenue neutrality” for the NPP program. Specifically, staff presented on permit management for resident, commuter and visitor permits; neighborhood requests for reducing non-permitted parking in Whittier and Mapleton from three hours to two hours; the policy around STRs; and the status of NPP new zone and expansion requests in 2016.

Council Discussion:

- Ok with staff’s current approach on short term rentals (STRs).
- How do we decide between two hours and three hours for non-permitted parking in NPP zones? Are we asking the right people? Will residents always reduce time? Should we do broader outreach, e.g. to businesses?
- What’s the breakdown of two hour versus three hour zones? Staff can confirm and get back to council with exact information. Three hours adjacent to commercial districts is intended to provide for shopping and visits to residents. Two hours adjacent to CU is intended to fit the university class schedule.
- What concerns are we seeing around construction, e.g. at Mapleton? Do we require a minimum number of spaces for construction work? Maybe is there’s a similar issue around the BCH site we could temporarily downgrade to two hours from three. Staff indicated that would be possible.
- Maybe we could have an NPP by BCH even without being adjacent to commercial or schools. Staff agreed that could be done, if wanted.
- Do not think we should go below three hours for NPPs near downtown. Not sure why we have resident and guest visitor permits. We should simply have a three hour limit for everyone. These are public streets, not private. The current permit system requires too much management and there are always loopholes.

- The Hill works pretty well, some abuse. There is equilibrium on the Hill. Question is do you do this all over the city? How do new districts form? Staff answered that it is by neighborhood request.
- Ok with where we are but concerns with edges and boundaries, places where people don't have alleys, or off-street parking, etc. Look to the edges of NPP zones and policy and see if we can tweak things where there are problems.
- Program is too generous on how many permits are given to residents. Permits should be more restrictive; provide only one visitor permit and reduce other permits.
- Nothing should be free, i.e. a visitor permit should have a cost. Not enough people ride the bus in the city; we need cultural change. Agree on the three hour limit – support three hours for parking in NPPs adjacent to downtown. Would also like to see progressive increasing fines. Staff replied that graduated fines are under consideration with AMPS and we plan to implement them.
- Ok with where we are but agree we give out too many permits.
- Agree on restricting permits. Some places don't need NPPs and we shouldn't give them. Downtown parking issues should be addressed. Also like graduated fines.
- The problem isn't that there isn't enough downtown parking it's that it's free, for both shoppers and employees. Agree that we need a reduction in permits coupled with a price increase. We should look at an increase in prices and increase in restrictions for NPPs and system-wide.
- What problem are we trying to solve? In NPPs are there not enough places to park? What about more than two drivers? In-laws? Babysitters? Workers? Abuse of visitor permits will still exist even if we increase fines.
- Keep NPP zones by downtown at three hours.
- Keep at three hours. Could see doing two hours around CU.
- Stay at three hours.
- Summary: Stay at three hours for NPPs near downtown, we are mostly ok with what we do now for the program, don't give out visitor passes for free, allow new requests to move forward.

Next Steps - Staff will:

- Continue with the NPP program as it is in 2016, including implementing zones and taking requests;
- Look into implementing graduated fines, including in NPPs; and
- Evaluate the Neighborhood Parking Permit program for residents and commuter permits in the third quarter of 2016 when more staff resources are available.

As these efforts develop and require community and stakeholder engagement staff will continue to involve the community.

POLICY ISSUES: ZONE CREATION AND REGULATIONS

Staff described the current policy for NPP creation or expansion, which is that neighborhood residents requests NPPs. The city is therefore currently reactive to requests rather than proactive in creating or expanding NPP zones. Challenges with being proactive could include: resistance from residents who do not currently perceive parking problems and do not want the increased costs, signage, enforcement, etc.; difficulty in predicting the location and impact of spillover ahead of the

impacts; and the fact that some NPPs, for example the Hill, may be at equilibrium based on the lack of recent requests to expand that NPP, suggesting the zone has found a current natural “limit”.

Staff also discussed that the regulations governing NPPs cover neighborhoods primarily in zones RH, RM and RL and focus on residential uses adjacent to commercial uses. Therefore the present regulations were not designed to and do not address mixed use zones, for example the Steelyards, which has expressed interest in an NPP. In the Steelyards varying uses are located horizontal to each other rather than vertical, which current regulations do not address. Further, the current regulations support a shared street approach rather than exclusive use, and prohibit night and weekend parking restrictions for neighborhoods adjacent to:

“certain public and community uses, including but not limited to public schools, public parks, churches and other places of assembly, Chautauqua and Boulder Mountain Park, other large site parking and Open Space lands (including trail access points), and gateway corridors.”

Finally, staff described policy issues around financial considerations for the NPP program, including resident and business permit pricing and misuse, the concept of “revenue neutrality” for the program, that is not collecting more funds than it takes to administer the program (note that this excludes enforcement costs), and staff intention to take a “deeper dive” into the NPP program and also consider topics related to NPPs in the AMPS parking pricing work effort.

Council Discussion:

- Take a deeper dive into the NPP program and look broadly at parking. Consider city wide implementation.
- Agree and good point that NPPs are growing. Look at NPP and parking more comprehensively; also use license plate recognition more.
- Satellite parking is also good to pursue.
- Satellite parking options should move forward. Also support NPPs being considered by developers, perhaps in development plans for TDM programs.
- Support the deeper dive and also looking at the sources of parking issues.
- Need to have a more comprehensive approach rather than just studying NPPs.
- Work should be more focused on NPPs and a bigger study as part of AMPS will focus on city-wide issues. This seems like looking at the NPP program vs. overall city-wide parking management. Not that excited if the scope is just NPP. Like the NPP but just for employee and student issues; having trouble with the scope of this study. Figure out the scope and parameters.
- Agree, do not like to continue with a patchwork approach.

Next Steps – Staff will:

- Take a deeper dive and examine the NPP program and regulations starting in third quarter 2016.
- Consider the NPP program and related issues within the broader AMPS context.

CHAUTAUQUA ACCESS MANAGEMENT PLAN (CAMP)

Staff provided background on the 2012 CAMP process including parking in the leasehold and safety issues on Baseline Road. The 2015 city/Colorado Chautauqua Association lease calls for

developing a CAMP and includes 14 distinct governing principles, including: considering the needs of all stakeholders; prioritizing pedestrians and users of the historic core; and minimizing restrictions to public access. Staff requested council feedback on staff's operating assumptions, namely that staff should:

- Consider managed parking in leasehold and/or in surrounding neighborhoods
- Consider paid parking in some areas
- Consider feasible enhancements to other modes of access such as transit service

Staff also offered alternatives for the development of the CAMP, to either: 1) Develop the CAMP for implementation in the summer of 2016 using historic data collected in 2012, or 2) Collect new baseline data in the summer of 2016 and use this data to develop the CAMP for implementation in the summer of 2017.

Council Discussion:

- We need to look at the leasehold differently than the adjacent neighborhood. South of Baseline and north of Baseline are totally different, neighbors vs. the leasehold. There are concerns about safety in the leasehold. Addressing parking is a priority for the leasehold. We are supposed to have the CAMP in place by 2016; we should honor that agreement.
- There is way more use of Chautauqua than in the past. The problem is on both sides, it's not just events, but also open space. What is OSMP doing? We are loving Chautauqua to death. Open space users are in cars and will go elsewhere, to other trailheads. How do we manage parking at trailheads, broadly? Chautauqua and Sanitas both have intensive use, especially tourists. We need to address this sooner rather than later. It's a regional issue regarding carrying capacity. Can we gather data on pilots at Chautauqua and see what happens to other trailheads? OSMP staff provided information regarding current and past data and future OSMP work to evaluate OSMP usage system-wide and in Chautauqua specifically.
- Support all operating assumptions. Also support paid parking for ranger cottage area and using the funds for HOP to Chautauqua. Would like to see transit up and down Baseline.
- Ok with paid parking on streets near Chautauqua if everyone pays, including residents, but not ok with closing off streets and parking exclusivity. It's an equity issue of shutting people out who don't live near open space. But everyone pays for open space. The leasehold is different; the shared streets could be better designed. Based on past experience, don't think buses will work.
- Support a bus going up Baseline.
- Ok with paid parking at Chautauqua and support equal access to trailheads. Would like to see a trolley up Baseline like in the 80s.
- One interesting idea would be an OSMP circuit bus of popular trailheads that also goes by satellite parking.
- Summary: go forward with these operating assumptions. Gather baseline data, explore bus service, and move faster south of Baseline versus north of Baseline.

Next Steps – Staff will:

- Move forward with the creation of a CAMP including the stated operating assumptions;
- Develop a data collection/evaluation plan and a public process plan for city council's review prior to this summer;

- Gather data including parking utilization and duration and an updated intercept survey through the summer of 2016;
- Work with OSMP to coordinate data collection and outreach and to understand data and system-wide options;
- Explore transit options and other ideas for Baseline as part of the CAMP development.

PROCESSING NPP APPLICATIONS

Staff requested council feedback on whether to continue to process 2016 NPP applications for expansions and new zones.

Council Discussion:

- Yes, proceed.

Next Steps – Staff will:

- Continue processing NPP applications while also examining the program.

CONCLUSION

Based on feedback from City Council at the February Study Session, staff is developing 2016 and 2017 work program items to address the abovementioned NPP items. Staff will provide the next NPP update to City Council in the third quarter of 2016.



CITY OF BOULDER
CITY COUNCIL AGENDA ITEM
MEETING DATE: April 5, 2016

AGENDA TITLE: Consideration of a motion to accept the February 23, 2016 Study Session Summary regarding the Hillard Heintze Report on the Analysis of Police Data and Review of Complaint Processes

PRESENTERS:

Jane Brautigam, City Manager

Greg Testa, Police Chief

Hillard Heintze Representatives, Marcia Thompson, Rob Davis and Alex Weiss

EXECUTIVE SUMMARY

The purpose of this agenda item is to seek council approval of the following summary of the February 23, 2016 study session where Hillard Heintze presented the findings and recommendations from their report “Independent Analysis of Police Data and Review of Professional Police Complaint Processes”.

STAFF RECOMMENDATION

Staff recommends approval of the summary of the February 23, 2016 study session regarding the **Hillard Heintze Report**.

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 February 23, 2016 study session, included as **Attachment A**.

BACKGROUND

The background information for this topic can be found in the Study Session Memorandum dated February 23, 2016.

NEXT STEPS

Based on report and feedback from council at the study sessions, Boulder Police Staff will:

1. Respond to the recommendations in the Hillard Heintze report and add the appropriate action items to their work plan.

ATTACHMENT A – February 23, 2016 Study Session Summary

City Council
Study Session Summary
February 23, 2016
Hillard Heintze Report on their Analysis of Police Data
and Review of Complaint Process

PRESENT

City Council: Mayor Suzanne Jones, Mayor Pro Tem Mary Young, Council Members Matt Appelbaum, Aaron Brockett, Jan Burton, Lisa Morzel, Andrew Shoemaker, Bob Yates and Sam Weaver

Staff Members: City Manager Jane S. Brautigam, City Attorney Tom Carr, Greg Testa Police Chief, Carey Weinheimer Deputy Chief, and Hillard Heintze Representatives

PURPOSE

The purpose of this study session was to hear a summary of the report prepared by Hillard Heintze that was requested by the City Manager, Police Department and Human Services and to ask questions and provide feedback and work plan updates on the findings and recommendations from the report.

INTRODUCTION AND PRESENTATION OVERVIEW

City Manager Jane Brautigam gave a brief history and purpose of the study session. She reminded Council of the November 2014 USA Today article that had included some statistics showing that the Boulder Police Department was arresting black residents at five times the rate of white residents. Around the same timeframe, the city was looking to fill vacancies on the Professional Standards Review Panel. In response to questions from the community about both the article and the citizen oversight process, the City Manager's office, the Police Department and the Human Services Department engaged in a national search to bring an independent perspective on Boulder's police data and on whether the current Professional Standards Review Panel (PSRP) was a "best practice". After a competitive process, Hillard Heintze was selected to perform the research and analysis. Ms. Brautigam introduced the Hillard Heintze representatives, Marcia Thompson, Rob Davis and Dr. Alex Weiss.

Hillard Heintze representatives began the presentation by summarizing the work that they had been asked to perform:

- Analyze and review data of Police Department stops, arrests and summons
- Evaluate Boulder's Professional Standards Review Panel (PSRP) processes
- Compare Boulder to other jurisdictions and best practices

Mr. Davis outlined that the objective of their report was to provide the Council, the community and other stakeholders with information about Boulder's Police Department to determine if disparate patterns were evident, particularly racial, and to clarify the causes of identified disparities, if any. Their report would also analyze why the data may differ from

the resident demographics and help to provide greater insight into the viewpoints and opinions of key community stakeholders. Mr. Davis stated that in his opinion, Boulder should be commended for taking the initiative to see what is behind the USA Today article as well as look at their citizen complaint responses. Mr. Davis provided the steps that Hillard Heintze used to evaluate the Professional Standards Review Panel (PSRP) process. The Hillard Heintze team presented sixteen key findings and twelve recommendations.

PRESENTATION SUMMARY

Dr. Weiss presented a summary of his analysis of how the USA Today article calculated their statistics. One of the problems he noted is with the quality of the data in the Uniform Crime Reporting (UCR) statistics that were used in the article. The data is often difficult to rely on since the rules about what should be reported are often complex and not clear. He further noted that the USA today article used a “strange approach” since they took data for two years, (2010 and 2011) and calculated the arrest rate per 1000 people, so the arrest rate was effectively doubled. He discussed how, through this investigation, Hillard Heintze also uncovered that Boulder Police had erroneously reported people taken into custody for intoxication and had counted them as arrests for drunkenness in 2011 and 2012. Dr. Weiss corrected the data and recalculated the new ratio of black to non-black arrests as 4.7 rather than the 4.8 as originally reported by USA Today.

Dr. Weiss also provided information about how Boulder’s rates compare to other towns in Colorado and other cities with universities. Dr. Weiss explained that the 2010 census data was used and it indicates that the black population in Boulder is 1 % and includes students and those in shelters. He noted that more than half of Boulder’s black population is students.

Dr. Weiss presented additional information on traffic stops, field interview cards and felony arrests. His key findings regarding those items are below:

- Stop-related data is non-existent.
- No records are available on investigative actions during traffic stops.
- Reporting and data capture on race and ethnicity is inconsistent.
- Bias was evident in BPD traffic and misdemeanor citations.
- Inconsistency of data collection may skew contact card conclusions.
- Disparity of data in felony arrests not indicative of bias.

Dr. Weiss also provided recommendations based on the findings:

- Adopt new policy and procedures for data collection during traffic stops
- Conduct a comprehensive review of the field interview process
- Capture stop-related information from citizens
- Revise BPD policy on the use of race as a proxy for criminality

Mr. Davis gave an overview of the work that Hillard Heintze did regarding the Professional Standards Review Process and what was learned during their review. A summary of their review found:

- Investigations are conducted fairly and objectively.
- Case closure timeline is exceptional.
- Findings and recommendations appear to be thorough, fair and objective.

- Formal reviews and recommendations for Class I cases are in good order.
- Discipline meted out appeared to be based on the concept of progressive discipline.

Mr. Davis noted that, in his opinion, the work done by the investigators in Boulder was exceptional and that Boulder's Professional Standards Review Panel protocols are up to date and meet best practices.

Mr. Davis also presented the results of their research around the civilian oversight process for five comparable cities that are also home to major universities and outlined the various models used by each city:

- Eugene, Oregon: Police Auditor and Civilian Review Board
- Fort Collins, Colorado: Citizen Review Board
- Palo Alto, California: Independent Police Auditor
- Provo, Utah: Ombudsman's Office
- Santa Cruz, California: Independent Police Auditor (Part-Time)

He further explained that there is no "one-size-fits-all" or "cookie-cutter" form of civilian oversight universally recognized as being the best model. The most effective form of civilian oversight is that which is specifically tailored to meet the needs of each local community.

However, Mr. Davis did note that improvements could always be made and some that Boulder could consider include:

- Make police ethics and accountability a key public message.
- Keep website complaint-filing instructions up-to-date.
- Consider providing more PSRP-related information on the website.
- Solicit public and private partners in "getting the message out".
- Cast a wide net in announcing upcoming PSRP vacancies.
- Consider creating a Community Advisory Panel.
- Expand training on critical policing concepts.
- Leverage the PSRP in other areas.

Chief Testa followed the Hillard Heintze's presentation by discussing his appreciation of having an independent review of the police department's data and assessment of whether the PSRP remains a best practice. He said that he and his staff saw this review as an opportunity to evaluate all the recommendations and to develop and improve the Police Department. His goal has been, and continues to be, ensuring that Boulder remains a safe and welcoming place. Chief Testa went through each of the twelve recommendations and discussed the implementation timeline for each one.

DISCUSSION

Council members asked questions about both the data analysis portion and the complaint review portion of Hillard Heintze's presentation. Several Council Members discussed the possibility that age might also be a factor in arrests and Dr. Weiss responded that age data was not analyzed. They also discussed the variation in the ratios between towns in Colorado and other

cities with universities and questioned why the difference may exist.

Council asked for further information on what determines the best oversight model for a community. Mr. Davis responded that progressive departments who care about their community will always find a way to make sure that officers and members of the community are treated fairly. He suggested that there is no single “best approach” and the values of the agency and city will determine the best model. He noted that Boulder has been doing their process the same way for twenty-two years and is to be commended for asking for this review and being willing to look at alternatives.

Council commended the City Manager for her involvement in the appointments of the Panel members and emphasized the need for a healthy citizen oversight process.

The item in the report that suggested some people feel discouraged when calling to make a complaint was discussed. Mr. Davis said that it had come up anecdotally in interviews with community members and could be a red flag. Chief Testa responded that the proper process would be a topic at an upcoming supervisor meeting. Council members suggested that there could be multiple mechanisms for the community to file a complaint and Chief Testa ensured Council that he would be working with the City Manager’s Office to explore possibilities regarding that suggestion.

Council discussed their concern about the report statistic that showed that blacks were two times as likely to be cited as a white person in Boulder. Council also talked about the need for better understanding of how minorities feel and their sense of safety in the community and suggested there needed to be more done to build bridges to groups that might feel disenfranchised. Chief Testa responded that bringing down barriers is very much a part of Boulder’s community policing efforts. He cited recent community events at recreation centers, soccer games and surveys as some examples of Boulder’s efforts to build bridges in the community.

Council asked if having officers collect potentially sensitive data like race and ethnicity would cause officers to be less likely to take action on behaviors they witness. Dr. Weiss indicated that in his experience, officers will collect the required data when asked. Chief Testa mentioned the community sometimes reacts negatively to being asked demographic information. Several Council members suggested that they would be interested in having the officers record their perception of the race/ethnicity more than their recording of the “correct” response.

Council members wrapped up the session with the thought that Police Departments often reflect back the bias of the community, and that there is likely more work to do to improve the sense of safety and inclusiveness in Boulder. They encouraged continued work and provision of resources to help raise the literacy of all, not just the Police Department, on this important matter.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE: Consideration of a motion to approve an intergovernmental agreement between the City of Boulder and Boulder County for the Sustainability Matching Grant funding.

PRESENTERS

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development

David Driskell, Executive Director of Planning, Housing, and Sustainability

Kendra Tupper, Energy Services Manager

Yael Gichon, Energy Sustainability Coordinator

EXECUTIVE SUMMARY

The purpose of this item is to seek City Council approval of an intergovernmental agreement (IGA) with Boulder County (county) to receive funding from its Community Sustainability Matching Grant Program (**Attachment A**).

The IGA with the county will provide funding in 2016 through its Environmental Sustainability Matching Grant Program (Program) to each town or city within the county. The Program is made available to all communities in Boulder County to help further sustainability objectives. The City of Boulder has been awarded \$15,000 towards developing a solar strategy to support the goals of the city's Climate Commitment and long term greenhouse gas emission reduction goals of Boulder County as well. The city will partner with the county to extend the strategy county-wide. The benefits to Boulder and Boulder County include cleaner energy, jobs and local investment, with particular focus on ensuring access to solar energy for low income populations.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to authorize the City Manager to enter into this intergovernmental agreement between Boulder County and City of Boulder concerning the award of the Boulder County Environmental Sustainability Matching Grant

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The attached IGA is crafted to create efficiencies and to leverage intergovernmental resources in a way that benefits the Boulder community, its employees, residents and businesses, while showing progress towards the community’s Climate Commitment goal.
- Environmental – The primary purpose of the IGA is to promote environmental sustainability in a way that leverages regional resources and shows accomplishments towards the community’s climate commitment.
- Social – Installing solar tends to be an option that is not as accessible to lower income populations. The solar strategy will have a strong focus on tactics to make energy permanently affordable to lower income customers through solar.

OTHER IMPACTS

- Fiscal – The grant IGA commits \$15,000 of Climate Action Plan (CAP) Tax funding toward hiring a consultant to develop a comprehensive solar strategy as a dollar-for-dollar match is required to receive the \$15,000 grant from Boulder County. These funds have been accounted for in the CAP Tax budget and had been allocated to this project prior to receiving the grant.
- Staff time –An estimated four to six (4-6) hours of additional staff time will be required to fulfill the tracking and reporting needs of the Boulder County grant, over the remainder of 2016. The Energy Future staff overseeing the majority of the renewable energy initiatives will be managing the grant as the program administrator, and is well-suited to manage the quarterly reporting to Boulder County.

BACKGROUND

In May 2013, to continue fostering collaboration and transferability of sustainability initiatives, the county introduced its first Community Environmental Sustainability Matching Grant program. This program is available to all communities in Boulder County to help further sustainability objectives. This year, the city’s Sustainability Matching Grant project will develop a comprehensive solar strategy to inform how to steer city and other resources to maximize the uptake of solar energy. With the county grant funds providing \$15,000, the city will provide matching grant funds up to \$15,000 in CAP Tax already allocated to this project. The city will also partner with Boulder County to extend the strategy county-wide.

ANALYSIS

The city of Boulder is seeking to develop a comprehensive solar strategy to inform how to steer city and other resources to maximize the uptake of solar energy. Since solar is the most prevalent local renewable resource, the focus of this work is on solar specifically but staff recognizes that this is a subset of a larger local generation strategy that will be developed in the future. The strategy will clarify the overarching goals related to solar development, the pre-conditions necessary to meet the goals and create a process for mapping, quantifying and prioritizing all the efforts needed to reach the goals. The strategy will also place importance on the interaction between tactics and how they can support or detract from the outcomes.

Initial long term outcomes that will result from this strategy include:

- Solar installed at a level that meets the targets of the city’s Climate Commitment.
- Electricity customers experience high reliability and resiliency through system integration of solar, storage and grid modernization.
- Low income customers have permanently affordable energy costs.

While the strategy will focus on goals, outcomes, pre-conditions, targets and metrics, there will also be a component that serves to organize existing initiatives and suggest new initiatives that serve to efficiently meet the targets identified. The strategy will need to be backed by a robust quantitative analysis in order to ensure success that can be measured and with appropriate tactics selected.

NEXT STEPS

Staff will refine the objectives to develop a scope of work in partnership with Boulder County. Staff will then draft a request for proposal for the work needed to perform the solar strategy.

ATTACHMENTS

A: Draft Intergovernmental Agreement between Boulder County and City of Boulder regarding the distribution of grant funds from Boulder County to the City of Boulder.

**Intergovernmental Agreement
Between Boulder County and City of Boulder
Concerning Boulder County's Environmental
Sustainability Matching Grant Program**

This Intergovernmental Agreement (the "Agreement") is entered into by the County of Boulder, a body corporate and politic of the State of Colorado ("Boulder County" or "County"), and the City of Boulder, a Colorado home-rule municipality (the "Recipient") (each, a "Party" or, collectively, the "Parties")

RECITALS

A. The Colorado Constitution Article XIV, Section 18(2)(a) and C.R.S. §29-1-201 *et. seq* provide that political subdivisions of the State may contract with one another to provide any function, service, or facility lawfully authorized to each of the cooperating units; and

B. In 2013, Boulder County created and implemented the Sustainability Matching Grant Program (the "Program"), which provides an opportunity for governmental organizations within Boulder County to undertake environmental sustainability priorities within their communities and helps the county leverage community resources for a coordinated, regional approach to environmental sustainability; and

C. In February 2016, Boulder County selected recipients of the sustainability grant awards under the Program, including this award to the Recipient for a comprehensive solar strategy to inform city decisions and resource allocations for increased uptake of solar energy (the "Project").

AGREEMENT

In consideration of the covenants set forth herein and the mutual benefits to be derived by the Parties hereto, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. The Recipient's Obligations. The Recipient shall complete the Project, expending no less than \$15,000.00 of its own funds on such Project (the "Matching Funds") and the Recipient shall report to the County as described under Item 3 below.

2. Grant Award. Boulder County hereby awards the Recipient \$15,000.00 (the "Award") in support of the Project. The Award shall be paid to the Recipient upon execution of the Agreement.

3. Reporting. In accordance with the scope of work as set forth in Exhibit B, attached, the Recipient shall report to the County on the progress of the Project and on the expenditure of Award funds and Matching Funds for the project, on the fourteenth day following each quarter (July 14 and October 14, 2016 and January 14 and April 14, 2017) using the format of the reporting template attached hereto as Exhibit A.

4. **Term of Agreement.** This term of this Agreement shall be as the date of its execution as set forth on the signature page attached to this Agreement. Subject to the annual appropriations, this Agreement shall remain in effect until the completion of the Project, as indicated in Exhibit B, or December 31, 2017, whichever is sooner.

5. **Modification.** This Agreement may be altered, amended, or repealed only on the mutual agreement of the County and the Recipient by a duly executed written instrument. The financial obligations contained in this Agreement may be adjusted from time to time, subject to annual appropriations of the governing Party.

6. **Assignment.** This Agreement shall not be assigned or subcontracted by either Party without the express prior written consent of the other Party.

7. **Successors and Assigns.** This Agreement shall be binding upon the successors and assigns of the Parties.

8. **Choice of Laws.** The laws of the State of Colorado shall govern the interpretation and enforcement of this Agreement. Any litigation that may arise between the Parties involving the interpretation or enforcement of the terms of this Agreement, shall be initiated and pursued by the Parties in the Boulder Courts of the 20th Judicial District of the State of Colorado and the applicable Colorado Appellate Courts.

9. **Waiver of Breach.** Any waiver of a breach of this Agreement shall not be held to be a waiver of any other or subsequent breach of this Agreement. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

10. **Integration.** This Agreement cancels and terminates, as of its effective date, all prior agreements between the Parties relating to the services covered by this Agreement, whether written, oral, or partly written and partly oral.

11. **No Indemnification.** Neither Party indemnifies the other Party. The County and the Recipient each assume responsibility for the actions and omissions of its own agents and employees in the performance or failure to perform work under this Agreement. It is agreed that such liability for actions or omissions of their own agents and employees is not intended to increase the amounts set forth in the Colorado Governmental Immunity Act, now existing, or as the same may be later amended. By agreeing to this provision, the Parties do not waive nor intend to waive the limitations on liability which are provided to the Parties under the Colorado Governmental Immunity Act § 24-10-101 et seq., C.R.S., as amended.

12. **Severability.** If any provision of this Agreement is found to be invalid, illegal, or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

13. **No Third Party Beneficiaries.** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to

the County and the Recipient, and nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other or third person. It is the express intent of the Parties to this Agreement that any person receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

14. Not Agent or Representative. Neither Party is an agent or representative of the other Party and shall have no authority under this Agreement or otherwise to make representations or commitments, verbal or written, on behalf of the other Party without that Party's express prior consent.

15. No Multiple-Fiscal Year Obligation. All of the Party's financial obligations under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge those obligations. Nothing in this Agreement constitutes a debt, a direct or indirect multiple fiscal year financial obligation, a pledge of either Party's credit, or a payment guarantee by either Party to the other.

16. Counterparts. This Agreement may be executed by facsimile and in any number of counterparts, each of which shall be deemed an original instrument, but all of which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals this ____ day of _____, 2016.

BOULDER COUNTY

Michelle Krezek, Commissioners Deputy
Boulder County

RECIPIENT

Mayor

ATTEST:

APPROVED AS TO FORM:

Exhibit A – Quarterly Reporting

**Boulder County Sustainability Matching Grant Program
Local Funding and Cash Match Reporting**

Grantee:		Grant Year: 2016	
Project Title:		Project Duration: Start: _____ End: _____	
Prepared by:		Which Calendar Quarter does this Report cover?	
Date: _____	Phone: _____	Q1 (Jan - Mar)	Q3 (Jul - Sep)
Type of Report (Circle one)	<input checked="" type="radio"/> Quarterly <input type="radio"/> Progress <input type="radio"/> Final <input type="radio"/> Report	Q2 (Apr - Jun)	Q4 (Oct - Dec)

EXPENDITURES

	Fund Source	Approved Budget (Adjust According to Approved Budget)	A Expenditures beginning of quarter (C on previous report)	B Expenditures This Quarter	C Total Expenditures to Date (A + B)
Project A	Grant	\$ 15,000.00	\$ -	\$ -	\$ -
	Cash Match	\$ 3,750.00	\$ -	\$ -	\$ -
	Other Contribution, optional				
	Project Total	\$ 18,750.00	\$ -	\$ -	\$ -

****REQUIRED GRANTEE SIGNATURES:** I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents. I, hereby, also certify that the content of this form, other than the data entry required, has not been altered.

Financial Officer's Signature/Date

Project Director's Signature/Date

Quarterly reports are due 14 days following each calendar quarter.
Reports should be submitted via email to lyancey@bouldercounty.org.

Exhibit A – Continued

**Boulder County Sustainability Matching Grant Program
Programmatic Reporting**

Grantee:		Grant Year: 2016	
Project Title:		Project Duration: Start: _____ End: _____	
Prepared by:		Which Calendar Quarter does this Report cover?	
Date:	Phone:	Q1 (Jan - Mar)	Q3 (Jul - Sep)
Type of Report (Circle one or Make Bold Font)	Quarterly Progress Report	Final Report	Q2 (Apr - Jun) Q4 (Oct - Dec)

Progress Reporting

Objective and expected outcomes for your sustainability matching grant

Describe progress made this quarter

Describe any challenges or delays for the project

Please list the outcomes of this project to-date (quantitative or qualitative)

Other?

****REQUIRED GRANTEE SIGNATURES:** I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents. I, hereby, also certify that the content of this form, other than the data entry required, has not been altered.

Project Director's Signature/Date

Quarterly reports are due 14 days following each calendar quarter.
Reports should be submitted via email to lyancey@bouldercounty.org.

Exhibit B – Scope of Work

Boulder County Environmental Sustainability Matching Grant Application – 2016

City of Boulder

Yael Gichon – gichony@bouldercolorado.gov

- 1) **What community will this project serve?** City of Boulder community as a whole and municipal staff
- 2) **What are the goals of your community for this project?** Complete a solar strategy that can support achievement of community goals
- 3) **What environmental sustainability benefits will your project provide to the local community?**
Clean energy, economic benefits, and focus on low income populations

- 4) **Project Design, Logistics, and Timeline:** *Please provide a brief description of the project/program you would like to implement using the requested funds. Be sure to include how you will measure the success of this project/program and expected program outcomes.*

The City of Boulder is seeking to develop a comprehensive solar strategy to inform how to steer city and other resources to maximize the uptake of solar energy. Since solar is the most prevalent local renewable resource, the focus of this work is on solar specifically but the city recognizes that this is a subset of a larger local generation strategy that will be developed in the future. The strategy will clarify the overarching goals related to solar development, the pre conditions necessary to meet the goals and create a process for mapping, quantifying and prioritizing all the efforts needed to reach the goals. The strategy will also place importance on the interaction between tactics and how they can support or detract from the outcomes. Initial long term outcomes that will result from this strategy include:

- Solar installed at a level that meets the targets of the city’s Climate Commitment (~24MW by 2020; ~42MW by 2030; and ~80 MW by 2050).
- Electricity customers experience high reliability and resiliency through system integration of solar, storage and grid modernization.
- Low income customers have permanently affordable energy costs.

While the strategy will focus on goals, outcomes, pre-conditions, targets and metrics, there will also be a component that serves to organize existing initiatives and suggest new initiatives that serve to efficiently meet the targets identified. For example, utilizing the newly developed city solar capacity map to identify sites paired with new financing mechanisms such as CO-PACE could inform near term work to support the strategy. The strategy will need to be backed by a robust quantitative analysis in order to ensure success can be measured and appropriate tactics are selected.

The city will draft a scope of work and solicit bids from contractors to support the development of the strategy. If the city receives this funding from the county, it will be supplemented with city Climate Action Plan tax funding.

Estimated Timeline:

Exhibit B - Continued

February 5th, 2016- Grant application submittal
 February 26th (estimated)- Notification of awards, begin IGA process
 Feb 29 – March 1- Complete IGA
 March 21 (or sooner, depending on IGA)- Solicit bids for strategy development
 April 11th- Select consultant
 April 25th- Complete contract and commence work
 July 1st- First draft of Strategy
 July 15th- Vet with stakeholders and partners
 July 30th- Revise and Finalize strategy
 August – December- Begin implementation, integrate tactics into work plans

Expected Outcomes and Measurement:

If successful, this project will result in a comprehensive strategy with clear goals, targets, and metrics of success that will guide the city’s future work in this area. The strategy will provide the city specific actionable items that if implemented will meet the city’s climate goals. The strategy will be a guiding document to inform the city’s work plan related to solar, strategic regional partnerships, and work with complementary technologies such as electric vehicles and storage.

Budget Information

Funding Sources	Amount
Amount requested from Boulder County (cannot exceed \$15,000)	\$15,000
Applicant cash contribution (must match 25% of the amount requested from Boulder County)	\$15,000
Other community contribution (includes outside funding)	
Total project budget (#1 + #2 + #3)	\$30,000



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE

Authorization of the City Manager to enter into an Agreement for Delegation of Activities regarding Community Development Block Grant - Disaster Recovery (CDBG-DR) funding with the City of Longmont for the Wonderland Creek Greenways Improvement Project.

PRESENTER/S

Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works, Flood Recovery Manager
Susan Richstone, Deputy Director of Community Planning & Sustainability
Bob Eichem, Chief Financial Officer
Chery Pattelli, Director of Finance
Joel Wagner, Flood Recovery Coordinator – Finance
Chris Meschuk, Flood Recovery Coordinator – Community Services

EXECUTIVE SUMMARY

The purpose of this item is for City Council to consider authorizing the City Manager to enter into an agreement for delegation of activities with the City of Longmont for \$2,441,599 in Community Development Block Grant – Disaster Recovery (CDBG-DR) funding for the Wonderland Creek Greenways Improvement Project.

Following the September 2013 flood, the Department of Housing and Urban Development (HUD) awarded the State of Colorado \$320 million of CDBG-DR funds to support recovery efforts in three separate awards (rounds). When the first round of CDBG-DR funds (\$63M) were announced by the State of Colorado in 2014, representatives of the various local governments in Boulder County came together to coordinate and collaborate our respective applications, to ensure funds were directed to smaller and more impacted communities and to address the most urgent needs at the time. The collaborative process was successful and appreciated by the State of Colorado and HUD.

For the round two funds (\$199M), the group worked with the state to implement an option for local communities to form a collaborative, and administer a portion of the CDBG-DR funds

locally as a sub-allocation, rather than applying to the State of Colorado as was done in round one. This sub-allocation approach was approved by HUD and applies to the portion of funds to support housing and infrastructure activities.

The collaborative participants selected the City of Longmont to serve as the fiscal agent for the group. On April 21, 2015 City Council approved an IGA for the general administration of the CDBG-DR sub allocation. The documents from the April 21, 2015 meeting can be found at the following link: <https://documents.bouldercolorado.gov/weblink8/0/doc/128683/Electronic.aspx>.

This agreement establishes terms and conditions for \$2,441,599 in CDBG-DR round two funding for the city's Wonderland Creek Greenways Improvement Project. The project will provide 100-year flood conveyance capacity to the portion of Wonderland Creek downstream of Winding Trail Drive in the north to Diagonal Highway in the south, totaling approximately 2,400 linear feet. This project will reduce the risk of flooding for 212 structures and 392 dwelling units. The project will also separate the creek flows from the Boulder and White Rock irrigation ditches, mitigating the flood risk in the King's Ridge neighborhood (downstream and east of the project).

The project includes:

- Providing channel improvements along the project corridor;
- Extending the multi-use path system from Foothills Parkway to 30th Street; and
- Providing three bicycle/pedestrian and flood water conveyance underpasses at the BNSF railroad, Kalmia Avenue and 29th Street.

For more information on the Wonderland Creek Greenways Improvement Project, please visit the following link: <https://bouldercolorado.gov/flood/wonderland-creek-greenways-improvements>

The attached agreement requires City Council approval. After council approval, the City Manager will be able to enter into an agreement with the City of Longmont for CDBG-DR pass-through funding for the Wonderland Creek Greenways Improvement Project.

STAFF RECOMMENDATION

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

Suggested Motion Language:

Motion to authorize the City Manager to enter into an agreement with the City of Longmont and other Boulder County communities for the purposes of providing \$2,441,559 in funding for the Wonderland Creek Greenways Improvement Project through the Community Development Block Grant – Disaster Recovery program and to grant the City Manager the authority to withdraw from the agreement and make modifications to the agreement as the City Manager deems necessary.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: It is in the interest of the city to utilize these federal disaster recovery funds to support our community's recovery and resilience. Repairs of flood damaged public infrastructure serving private properties can be expensive. Removing areas from flood hazards reduces the amount of resources required to provide emergency preparedness, emergency response and emergency housing activities.
- Environmental: The Wonderland Creek Greenways Improvement project provides the opportunity to reduce the potential for erosion along existing channels and incorporates water quality and habitat enhancement features into the plan. Expansion of multi-use path infrastructure encourages alternative modes of transportation (pedestrian and bicycle) reducing automobile use.
- Social: This project reduces flood related hazards for vulnerable populations located in the project area.

OTHER IMPACTS

- Fiscal: The City of Boulder will benefit from the CDBG-DR grant funding.
- Staff time: The staff time to administer the funds and ensure compliance with HUD regulations is within the flood recovery work program for the city.

BACKGROUND

When the first round of CDBG-DR funds (\$63M) were announced by the State of Colorado in 2014, representatives of the various local governments in Boulder County came together to coordinate and collaborate our respective applications, to ensure funds were directed to smaller and more impacted communities and to address the most urgent needs at the time. The collaborative process was successful and appreciated by the State of Colorado and HUD.

For the round two funds (\$199M), the group worked with the state to implement an option for local communities to form a collaborative, and administer a portion of the CDBG-DR funds locally as a sub-allocation, rather than applying to the State of Colorado as was done in round one. This sub-allocation approach was approved by HUD, and applies to the portion of funds to support housing and infrastructure activities.

The collaborative participants selected the City of Longmont to serve as the fiscal agent for the group. On April 21, 2015 City Council approved an IGA for the general administration of the CDBG-DR sub allocation. The documents from the April 21, 2015 meeting can be found at the following link: <https://documents.bouldercolorado.gov/weblink8/0/doc/128683/Electronic.aspx>

The Boulder County collaborative received \$34.7 million to fund infrastructure and housing assistance projects through the round two funding allocation of \$199 million. The remaining programs developed for CDBG-DR funding will continue to be administered by the State of Colorado through a competitive grant process.

ANALYSIS

The City of Boulder was included in the area declared a federal disaster area from the September 2013 flood. HUD awarded the State of Colorado a total of \$320 million in federal CDBG-DR funds to support recovery efforts within the areas of housing, infrastructure, and economic recovery. Eighty percent of the funds must be spent in Boulder, Larimer and Weld counties.

To date, through the round two CDBG-DR funds, the city has received \$500,000 in assistance for infrastructure funding, \$378,950 in resilience and planning assistance, and Boulder households have been awarded \$1.2 million in housing rehabilitation and rental assistance.

The Flood Steering Committee considered several projects for CDBG-DR funding. The Wonderland Creek project was selected for several reasons including:

- The direct nexus to the 2013 flood. The 2013 flood resulted in 17 National Flood Insurance Program claims and 233 FEMA Individual Assistance claims in the project area.
- This project area meets the CDBG-DR national objective of funding projects that benefit low and moderate income persons and households.
- CDBG-DR funding has a two-year project completion deadline. The Wonderland Creek project was ready to begin construction and will be completed within the deadlines established by the CDBG-DR program.
- CDBG-DR funding requires compliance with the Davis Bacon Act (DBA) regarding payment of prevailing wages. DBA compliance requires significant monitoring and recordkeeping, which increases the administrative cost of the project. The Wonderland Creek project was already a recipient of Federal Highway Administration (FHWA) funding, which also requires DBA monitoring. As a result, it is more efficient to add additional federal funding to this project, instead of triggering DBA monitoring and administration on another project.

For more information on the Wonderland Creek Greenways Improvement Project, please visit the following link: <https://bouldercolorado.gov/flood/wonderland-creek-greenways-improvements>

Council approval of the funding agreement will allow the City Manager to enter into and modify an agreement with the City of Longmont for CDBG-DR pass-through funding for the Wonderland Creek Greenways Improvement Project.

NEXT STEPS

Progress on the Wonderland Creek Greenways Improvement Project will be included in future updates on Flood Recovery efforts.

ATTACHMENTS

Attachment A - Boulder County Collaborative CDBG-DR Sub Allocation Grant No. B-13-DS-08-001: INF 00007

AGREEMENT FOR DELEGATION OF ACTIVITIES

Boulder County Collaborative CDBG-DR Sub-Allocation Grant No. B-13-DS-08-001: INF-00007

THIS AGREEMENT, including attached conditions, is made by and between the City of Longmont, Colorado, a Colorado municipal corporation (“City”), and City of Boulder (“Delegate”).

WHEREAS, the City is the fiscal agent for the Boulder County Collaborative (“Collaborative”) Community Development Block Grant-Disaster Recovery (“CDBG-DR”) sub-allocation from the State of Colorado Department of Local Affairs (“DOLA”) funds from the U.S. Department of Housing and Urban Development (“HUD”) and is responsible for the development, implementation, administration, and evaluation of HUD’s CDBG-DR funds on behalf of the Collaborative Partners (“Partners”); and

WHEREAS, HUD has allocated the State of Colorado CDBG-DR funds for recovery from the disasters in 2011, 2012, and 2013, and DOLA has allocated a sub-allocation of these funds to the Boulder County Collaborative through the State’s Third Amendment to the State’s Action Plan submitted to HUD dated June 26, 2015; and

WHEREAS, the Collaborative has determined a method of distribution of the sub-allocation based on the Community Development Block Grant – Disaster Recovery Collaborative Intergovernmental Agreement detailing the targeted percentage amount each Partner will receive for infrastructure and/or housing assistance projects; and

WHEREAS, the Delegate possesses the authority and management capability necessary to assist the City in the execution of its responsibilities as a CDBG-DR sub-grantee and has been determined by the City to be an appropriate party to assume the primary administration of an activity described as Priority Infrastructure Project in CDBG-DR Program Grant No. B-13-DS-08-001; and

WHEREAS, by this Agreement, the parties are making provision for the administration and conduct of that activity by the Delegate.

THEREFORE, WITNESSETH, the City and the Delegate do mutually agree as follows:

1. WORK TO BE PERFORMED. The Delegate shall, in a timely and satisfactory manner, as determined by the City, perform the activities described in the work program set forth in **Appendix A**.

2. COMPLIANCE WITH APPROVED PROGRAM. All activities authorized by this Agreement will be performed in accordance with the goals and objectives set forth in **Appendix A**, the budget set forth in **Appendix B**, and the conditions, assurances, and requirements set forth in CDBG-DR Program Grant No. B-13-DS-08-001 as detailed in **Appendix C**. Prior to undertaking any activity or making any expenditure that is not clearly

consistent with the terms and conditions of this Agreement, the Delegate shall, in writing, request the written approval of the City. No reimbursement shall be made for any such expenditure or activity that does not receive this prior written approval of the City.

3. FUNDS AUTHORIZED AND SCHEDULE OF PAYMENTS. Subject to the receipt of funds from the State of Colorado, the City will reimburse the Delegate for expenditures, verified by vouchers and similar documentation, authorized by **Appendix A**.

For each month covered by this Agreement, the Delegate shall submit, as an invoice, a financial statement of expenses incurred in that month within ten (10) working days of the close of each month. Within ten (10) working days of receipt of the invoice, the City will determine, in its reasonable discretion, if those expenditures are authorized by **Appendix A**, and if so authorized, make payment of approved expenditures or notify the Delegate in writing of its decision to disapprove, and of any conditions to be met for approval. In no event will the Delegate receive reimbursement in excess of the total amount of CDBG-DR funds authorized by this Agreement and detailed in the budget set forth in **Appendix B**.

4. PROGRAM INCOME. Program income, as defined at 24 CFR 570.504, generated by the Delegate, will be sent to the City while the Grant Agreement under B-13-DS-08-0011 with DOLA remains open and will be used for other CDBG-DR eligible activities under the sub-allocation as determined by the Collaborative. Program income received after the Grant Agreement with DOLA is closed out can be retained and used by the Delegate that is a CDBG entitlement jurisdiction for any CDBG eligible use. Program income received by a Delegate that is not a CDBG entitlement jurisdiction after the Grant Agreement with DOLA is closed out, will be returned to the City and the City will place the program income in the Countywide Down Payment Assistance Program account to be used throughout the county for allowable down payment assistance expenses. Appropriate documentation of the receipt and use of program income during the term of this Agreement will be provided to the City.

5. REVERSION OF ASSETS. Upon the expiration or termination of this Agreement, the Delegate shall transfer any CDBG-DR funds on hand at that time and any accounts receivable attributable to the use of CDBG-DR funds to the City. Any real property under the Delegate's control that was acquired or improved in whole or in part with CDBG-DR funds in excess of \$25,000 must either:

(A) Be used to meet one of the national objectives outlined in the March 5, 2013, Federal Register Notice (78 FR 14329) or 24 CFR 570.208 until five (5) years after the expiration of this Agreement. If however, the real property being acquired is part of a buyout or flood mitigation acquisition where the future and on-going use of the property is restricted in accordance with HUD rules, then the undeveloped real property will be considered to meet the HUD national objective;

OR

(B) Be disposed of in a manner that results in the City being reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG-DR funds for acquisition of, or improvements to, the property.

If there is real property being acquired or improved under this Agreement with CDBG-DR funds, the Delegate and the City must have reached a prior agreement as to which of the above options will be used and enforced. The option for this Agreement is **(A)**.

This paragraph 5 only applies to any funds or real property provided to or acquired by the Delegate under this Agreement.

6. REPORTS, RECORDS, MONITORING AND EVALUATION. The City will monitor, evaluate, and provide guidance, direction, and technical assistance to the Delegate in the conduct of activities listed in this paragraph. The Delegate will provide the following:

(A) Quarterly Reports. Within five (5) working days after the end of each quarter (by March 5, June 5, September 5 and December 5), the Delegate shall submit the following:

(1) Progress report of the Delegate's activities and accomplishments during the period with emphasis on the objectives of the project specified in **Appendix A**.

(2) Financial statement of CDBG-DR expenditures made by the Delegate during the period, including a comparison of accumulative CDBG-DR expenditures made in the conduct of the project to the specific cost categories and expenditure milestones set forth in the budget in **Appendix B**.

(3) Any special report made necessary by the imposition of the City or HUD, or additional reasonable requirements pursuant to CDBG-DR Program Grant No. B-13-DS-08-001.

(B) Project Completion Report. Within fifteen (15) days of the earlier of termination or completion of the project, the Delegate shall submit one (1) copy of the project completion report, and one (1) copy of the final financial status report. Electronic submission of these and all reports is encouraged. The project completion report shall contain a certification from the Delegate that the project is complete and all costs for reimbursement have been submitted to the City.

(C) Annual Audit. A complete annual audit is not required by federal law if the Delegate is a non-federal entity that expends less than \$750,000 in federal funds annually, including funds authorized by this grant. However, all financial and other records must be available for review or audit by appropriate officials of the City, State, HUD, and the General Accounting Office. If the Delegate will expend \$750,000 or more in federal funds during the calendar year in which the grant award made under this Agreement is expended, a single or program-specific audit must be submitted to the City for review immediately upon completion. The Delegate will include the activities delegated by the terms of this Agreement in its audit which shall be undertaken in accordance with the provisions of OMB Super Circular Title 2 of the CFR, Subtitle A, Chapter II, Part 200, and which shall include a compliance review as per 24 CFR 44.5.

(D) Retain Records. The Delegate will retain and permit access by the City, State, HUD, and the Comptroller General to inspect all program records pertaining to the grant for a period of at least four (4) years after the date of this grant close-out. Records to be maintained by Delegate will include, but are not limited to, the following: applications including eligibility determination, national objective and LMI determination, environmental clearance, duplication of benefit, beneficiary information and other compliance documentation as required.

For Housing projects/programs, Delegate shall also retain and permit access by the City, State, HUD, and the Comptroller General to inspect all individual household assistance records pertaining to the grant for a period of at least ten (10) years after the date of this grant close-out.

(E) Cooperate with Evaluation. The Delegate will ensure the cooperation of its staff and other responsible officials in the efforts of the City to monitor and evaluate the Delegate's activities. The Delegate will actively assist City in the following activities:

(1) On-site visits by the City made to monitor the progress of the activities delegated, to review compliance with the terms of this Agreement, and to offer assistance in the conduct of the project. Such on-site visits will be undertaken within ninety (90) days of this grant award, and then every six (6) months until grant close-out. The monitoring schedule is described further in **Appendix D**.

(2) Any special monitoring or evaluation activities made necessary by the imposition by the City, State, or HUD of additional reasonable requirements pursuant to HUD CDBG-DR Program Grant No. B-13-DS-08-001.

7. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS. The Delegate shall comply with all applicable federal, state, and local laws, rules, statutes, charter provisions, ordinances, regulations, policies, guidelines, and requirements with respect to the acceptance and use of federal funds for this federally assisted program. **Appendix C** requires that the Delegate assure and certify compliance with said requirements, including the following:

- (A) Residential Anti-Displacement and Relocation Assistance Plan included in **Appendix F**.
- (B) Affirmation of Duplication of Benefits included in **Appendix H**.
- (C) Financial Management Questionnaire to affirm proficient financial controls and procurement processes included in **Appendix I**.

8. CHANGES. This Agreement is an integration of the entire understanding of the parties, and any amendment must be signed by the authorized representative of both parties. Notwithstanding the foregoing, the City, State, or HUD may, from time to time, impose other reasonable conditions in connection with the activities delegated under the terms of this Agreement, and the Delegate will comply with such conditions upon receiving written notice from the City, State, or HUD or will agree to terminate this Agreement pursuant to Paragraph 11

herein.

The City Manager may approve and sign any amendments on behalf of the City that are consistent with the purposes of this Agreement and do not substantially increase the obligations of the City hereunder.

The City Manager for the Delegate is approved by the Boulder City Council to approve and sign any amendments on behalf of the Delegate that are consistent with the purposes of this Agreement and do not substantially increase the obligations of the Delegate hereunder.

9. NON-DISCRIMINATION. In the performance of this Agreement, the Delegate shall not discriminate against any employee or applicant for employment with regard to race, color, religion, sex, national origin, disability, age, ancestry, or political belief. The Delegate further agrees that no person will be denied equal access to, excluded from participation in, or be denied the proceeds of any CDBG-DR funded project subject to this Agreement, and will adhere to the non-discrimination provisions promulgated pursuant to the Executive Orders and federal statutes referenced in **Appendix C**.

10. ENFORCEMENT. The City may, for cause and upon giving fifteen (15) days' written notice to the Delegate, undertake one or more of the following courses of action:

- (A) Withhold funds until the situation has been corrected;
- (B) Suspend the Delegate's authority to spend funds or to conduct the project until the situation is corrected; or
- (C) Terminate this Agreement in whole or in part.

Cause shall include, but not be limited to:

- (A) Failure, for any reason, of the Delegate to fulfill in a timely and proper manner its obligations under this Agreement;
- (B) Submission by the Delegate to HUD, the State, or to the City of reports that are incorrect or incomplete in any material respect;
- (C) Ineffective or improper use of funds provided under or generated by this Agreement; or
- (D) Suspension or termination by the State or HUD of the grant to the City under which this Agreement is made, or the portion thereof delegated by this Agreement.

Delegate shall comply with the provisions of the Recapture Plan in **Appendix G**.

11. TERMINATION.

(A) Either party may terminate this Agreement without cause upon thirty (30) days' written notice to the other party.

(B) The Delegate may terminate this Agreement, upon thirty (30) days' written notice to the City, if the Delegate is unable or unwilling to comply with such additional conditions as may be lawfully applied by the City, State, or HUD. In such event, the City may require the Delegate to ensure that adequate arrangements have been made for the transfer of the delegated activities to another delegate or to the City.

(C) In the event of any termination, all property and finished or unfinished documents, data, studies, and reports purchased or prepared by the Delegate under this Agreement shall become the property of the City, and the Delegate shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred in satisfactory performance of the Agreement. Notwithstanding the above, the Delegate shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the contract by the Delegate, and the City may withhold any reimbursement to the Delegate for the purpose of set-off until such time as the exact amount of damages due the City from the Delegate is agreed upon or otherwise determined.

(D) In the event of any termination, the City shall de-obligate any remaining unexpended grant funds for the project, and shall provide notice to Delegate that such project has failed to meet its expenditure milestones (included in **Appendix B**) and the corresponding HUD timeliness requirements and that as a result, the Delegate is required to immediately return to the City any previously received funds for the project for re-allocation to another project.

12. SUBCONTRACTING AND ASSIGNMENT. The Delegate shall not assign, delegate, nor subcontract any of the work or services authorized by this Agreement without the prior written approval of the City.

13. COPIES OF PLANS. The City will be provided with copies of plans, reports, studies, or other documentation signifying and giving evidence of the completion of the activities authorized by the terms of this Agreement at such time as the Delegate has fulfilled its responsibilities in executing the terms of this Agreement.

14. LIABILITY. The Delegate and the City each assume responsibility for the actions and omissions of its own agents and employees in the performance or failure to perform work under this Agreement. It is agreed that such liability for actions or omissions of their own agents and employees is not intended to increase the amounts set forth in the Colorado Governmental Immunity Act, now existing, or as the same may be later amended. By agreeing to this provision, the parties do not waive nor intend to waive the limitations on liability which are provided to the parties under the Colorado Governmental Immunity Act § 24-10-101 et seq., C.R.S., as amended.

15. INSURANCE. The Delegate will procure and maintain in full force and effect

such insurance or self-insurance that will insure its obligations and liabilities under this Agreement, including workers' compensation, automobile liability, and general liability.

16. NOTICE. Any notice provided for in this Agreement shall be in writing and shall be sufficiently given if delivered in person, by prepaid overnight express, or by registered or certified mail, postage prepaid, return receipt requested, and addressed to the following:

In case of the City, to:
Kathy L. Fedler
CDBG-DR Program Manager
Civic Center Complex
350 Kimbark Street
Longmont, CO 80501

In case of Delegate, to:
Joel Wagner
Flood Recovery Coordinator
City of Boulder
1777 Broadway
Boulder, CO 80302

Either party may designate another address by written notice as provided in this section.

17. PROVISIONS CONSTRUED AS TO FAIR MEANING. The provisions of this Agreement shall be construed as to their fair meaning and not for or against any party based upon any attribution to such party of the source of the language in question.

18. HEADINGS FOR CONVENIENCE. All headings, captions, and titles are for convenience and reference only and of no meaning in the interpretation or effect of this Agreement.

19. NO THIRD PARTY BENEFICIARIES. None of the terms or conditions in this Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than the City or Delegate receiving services or benefits under this Agreement shall be only an incidental beneficiary.

20. WAIVER. No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.

21. GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado.

22. STATUS OF DELEGATE. Delegate shall perform under this Agreement as an independent contractor and a separate entity and not as an employee or agent of the City. **Delegate's employees and volunteers are not entitled to City of Longmont worker's compensation benefits or its insurance carriers or funds. Delegate is obligated to pay federal and state income tax on money, if any, earned pursuant to this Agreement.**

23. RELATIONSHIP OF THE PARTIES. It is mutually agreed and understood that nothing contained in this Agreement is intended or shall be construed as in any way establishing the relationship of co-partners or joint ventures between the parties hereto or as construing the Delegate, including its agents and employees, as an agent of the City. The Delegate shall remain an independent and separate entity. When Delegate provides services as

listed above, Delegate personnel shall do so as volunteers and not as paid employees.

24. VERIFICATION OF LAWFUL PRESENCE. Delegate shall verify the lawful presence in the United States of each natural person eighteen (18) years of age or older who applies for state or local public benefits or for federal public benefits for the applicant, prior to providing the benefits, as required by Article 76.5 of Title 24 of the Colorado Revised Statutes, Restrictions on Public Benefits, C.R.S. 24-76.5-101, et seq. Delegate shall verify the lawful presence in the United States of each such applicant by requiring the applicant to: 1) produce (i) a valid Colorado driver's license or a Colorado identification card, issued pursuant to Article 2 of Title 42, C.R.S.; or (ii) a United States military card or a military dependent's identification card; or (iii) a United States Coast Guard merchant mariner card; or (iv) a Native American tribal document; and 2) execute an affidavit in substantially the form shown on **Appendix E** stating: (i) that he or she is a United States citizen or legal permanent resident; or (ii) that he or she is otherwise lawfully present in the United States pursuant to federal law.

For an applicant who has executed an affidavit stating that he or she is an alien lawfully present in the United States, Delegate shall verify the applicant's lawful presence for federal public benefits or state or local public benefits through the federal Systematic Alien Verification of Entitlement Program, ("SAVE Program"), operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security. Until such verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence for purposes of this section. If Delegate is unable to use the SAVE Program after reasonable efforts are made to use the program, Delegate shall request the City to verify the lawful presence of the applicant through the SAVE Program.

25. EFFECTIVE DATES. This Agreement shall be in force from March 15, 2016 through February 28, 2018.

Executed this _____ day of _____, 2016.

CITY OF LONGMONT:

MAYOR

DATE

APPROVED AS TO FORM:

ASSISTANT CITY ATTORNEY

DATE

PROOFREAD

DATE

APPROVED AS TO FORM AND SUBSTANCE:

CDBG-DR PROGRAM MANAGER

DATE

APPROVED AS TO INSURANCE PROVISIONS:

RISK MANAGER

DATE

CA File: 9963

State of Colorado)
) ss.
County of Boulder)

I attest that the foregoing instrument was acknowledged before me this _____ day of _____, 2016, by _____, as the Mayor of the City of Longmont.

Witness my hand and official seal.

City Clerk, Notary Public

My commission expires _____.

MBE/WBE Contract Statement Required: Yes
 (Refer to Boulder County Collaborative CDBG-DR Required Bid and Contract Documents Instructions.)

Compliance with Resilience Performance Standards: Required? Yes

<u>Work Program</u>	<u>Completion Date</u>
1. Household Assistance Programs	N/A
2. Environmental Review/Assessment	October 14, 2015
3. Procurement & Contracting	December 1, 2015
4. Acquisition	N/A
5. Clearance & Demolition (including re-vegetation)	N/A
6. Design/engineering	October 9, 2015
7. Construction	May 31, 2017 (CDBG-DR reimbursed portion complete) January 31, 2018 (project complete)
8. Project Delivery	June 30, 2017 (CDBG-DR reimbursed portion complete)
9. Pre Agreement Tasks	
(A) Architectural/Engineering	
(B) Environmental Review/Assessment	X
(C) Real Property/Easements/Acquisition/Lease	
(D) Permits/Surveys	
(E) Legal/Bonding/Insurance	
(F) Construction Costs	X
(G) Construction Management	X
(H) Project Delivery	X
(I) Other (Please Specify)	

APPENDIX B

BUDGET: INF-00007

Delegate: City of Boulder

Project: Wonderland Creek Greenways Improvement Project

Task	Total Project Costs	CDBG-DR Funds	Other Funds	Other Funding Sources
Wonderland Creek Greenways Improvement Project	\$22,336,469	\$2,123,130	\$2,500,000 \$1,673,095 \$8,650,058 \$7,066,466	FHWA UDFCD Local Bond Stormwater Fund
Project Delivery* (Not to exceed 15%)		\$318,469		
Total	\$22,336,469	\$2,441,599	\$19,889,619	

CDBG-DR Funds on an Advance Basis: \$0
CDBG-DR Funds on a Reimbursement Basis: \$2,441,599

***Project Delivery:**

Up to 15 percent of total project costs funded by CDBG-DR may be used for project delivery costs. Project delivery costs shall not exceed 15 percent of total project costs. Project delivery costs are those costs associated with implementing and carrying out eligible CDBG-DR activities and may include force account labor, technical assistance, and consulting fees.

Project delivery will include costs associated with charges incurred from Hagerty Consulting. These charges could include time directly spent on a specific project activity, including application setup, eligibility review, quality control, monitoring and/or technical assistance, or distributed on a fair share basis for program-wide implementation. In addition, charges may be incurred by Hagerty Consulting prior to execution of this Agreement, since both project-specific and program-wide activities have been on-going to date.

In the event that eligible project delivery charges exceed the allowable limit, coverage of charges incurred from Hagerty Consulting will take first priority. Once Hagerty Consulting costs are allocated to project delivery in full, remaining project delivery funds, as available and up to the maximum 15 percent, can be used to cover other eligible project delivery charges incurred by the

Delegate.

All eligible project delivery charges require sufficient documentation to be an acceptable reimbursable cost. In order for force account labor to be considered an eligible project delivery cost, the Delegate must ensure that all hours attributed to each project are tracked daily and reported separately on an approved timesheet format. A sample timesheet format can be provided by the City.

Excluding Hagerty Consulting costs, any project delivery costs not used by the Delegate can be applied to the project itself, up to the budgeted amount of CDBG-DR funds attributed to the project in the budget table above.

Expenditure Milestones:

Wonderland Creek Greenways Improvement Project

	Date
50% draw down by:	December 31, 2016
75% draw down by:	March 31, 2017
Substantial Completion of Work Program and Submittal of Final Pay Request (date certain):	June 30, 2017

If target date for expenditure milestones are not met, the City has the authority to use any remedies stated in the Agreement including, but not limited to, those specified in §10(a).

Disposition of Program Income: No program income is anticipated.

APPENDIX C

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM CERTIFICATIONS

The Delegate hereby assures and certifies that it will comply with the regulations, policies, guidelines, and requirements with respect to the acceptance and use of federal funds for this federally assisted program. Also, the Delegate gives assurances and certifies with respect to the grant that:

- A. It possesses legal authority to make a grant submission and to execute a community development and housing program;
- B. Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Delegate to enter into subsequent contracts, all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the Delegate to act in connection with the Agreement and to provide such additional information as may be required;
- C. It has developed its request for funds and funded project so as to give maximum feasible priority to activities which benefit low and moderate income families, or aid in the prevention or elimination of slums or blight;
- D. It will affirmatively further fair housing;
- E. It will minimize the displacement of persons as a result of activities assisted with CDBG-DR funds and will assist persons actually displaced as a result of such activities, as described in the Residential Anti-Displacement and Relocation Assistance Plan included in **Appendix F**;
- F. The Agreement will be conducted and administered in compliance with:
 1. Title VI of the Civil Rights Act of 1964 (Public Law 88-352), and implementing regulations issued at 24 CFR 570 Part 1;
 2. The Fair Housing Act (42 U.S.C. 3601-3619) and the Delegate will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;
 3. Section 109 of the Housing and Community Development Act of 1974, as amended, and the regulations issued pursuant thereto;
 4. Section 3 of the Housing and Urban Development Act of 1968, as amended, and implementing regulations issued at 24 CFR Part 135;

5. Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086 and 12107, and implementing regulations issued at 41 CFR Chapter 60;
6. Executive Order 11063, as amended by Executive Order 12259, and implementing regulations issued at 24 CFR Part 107;
7. Section 504 of the Rehabilitation Act of 1973 (Public Law 92-112), as amended, and implementing regulations issued at 24 CFR Part 8;
8. The Age Discrimination Act of 1975 (Public Law 94-135), as amended, and implementing regulations issued at 24 CFR Part 146;
9. The acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 49 CFR Part 24;
10. The labor standards requirements as set forth in 24 CFR Part 570, Subpart K and HUD regulations issued to implement such requirements;
11. Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution;
12. The flood insurance purchase requirements of Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234);
13. The regulations, policies, guidelines, and requirements of 24 CFR Part 85 - Administrative Requirements and OMB Super Circular Title 2 of the CFR, Subtitle A, Chapter II, Part 200 as they relate to the acceptance and use of federal funds under this federally-assisted program;
14. Section 402 of the Vietnam Veterans Adjustment Assistance Act of 1974 (Public Law 93-508), as amended and implementing regulations when published for effect;
15. The Americans with Disabilities Act of 1990;
16. The regulations, policies, guidelines and requirements of OMB Super Circular Title 2 of the CFR, Subtitle A, Chapter II, Part 200. The grant activity will be part of the Delegate's annual audit and that audit will be submitted to the City for review;
17. The provisions of the National Environmental Policy Act of 1969, and the regulations issued pursuant thereto;

18. The Clean Air Act, as amended (42 U.S.C. 1857 et seq.); and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended;
 19. The Archeological and Historic Preservation Act of 1974 (Public Law 93-291), Public Law 89-665, Executive Order 11593, and the procedures described by the Advisory Council on Historical Preservation in 36 CFR Part 800.
- G. No member of or delegate to the congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise from same;
 - H. No member, officer, or employee of the Delegate, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with the program assisted under the grant, and that it shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this certification;
 - I. It will comply with the provisions of the Hatch Act, which limits the political activity of employees;
 - J. It will give HUD and the Controller General or any authorized representatives access to and the right to examine all records, books, papers, or documents related to the grant, and that it will maintain such records, books, papers or documents for three (3) years after the close of the project;
 - K. It will comply with the lead-based paint requirements of 24 CFR 570.608 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831 et seq.);
 - L. It will not use CDBG-DR funds for publicity or propaganda purposes designed to support or defeat legislation pending with federal, state, or local governments;
 - M. Real or personal property purchased in whole or in part with CDBG-DR funds shall not be disposed of through sale, use, or location without the written permission of the City, State, and HUD. The proceeds from the disposition of real property shall be considered program income and subject to 24 CFR 570.504;
 - N. It will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds provided under Section 106 of the Housing and Community Development Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged

or assessment made as a condition of obtaining access to such public improvements, unless:

1. Funds received under Section 106 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than Title I of the Act; or
 2. For purposes of assessing any amount against properties owned and occupied by persons of low and moderate income, the Delegate certifies to the City that it lacks sufficient funds received under Section 106 of the Act to comply with the requirements of Subparagraph 1 above.
- O. Funds will be used solely for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas for which the President declared a major disaster in the aftermath of the September 2013 floods, pursuant to the Stafford Act.
- P. The Delegate certifies that it has adopted and is enforcing the following policies:
1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and
 2. A policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.
- Q. The Delegate will not use grant funds for any activity in an area delineated as a special flood hazard area or equivalent in FEMA's most recent and current data source, unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain in accordance with Executive Order 11988 and 24 CFR part 55. The relevant data source for this provision is the latest issued FEMA data or guidance which includes advisory data (such as Advisory Base Flood Elevations) or preliminary and final Flood Insurance Rate Maps.
- R. The Delegate certifies that it has reviewed the requirements of the March 5, 2013 Federal Register Notice (78 FR 14329) and the June 3, 2014 Federal Register Notice (79 FR 31964) and requirements of Public Law 113-2 applicable to funds allocated by this Notice, and that it has in place proficient financial controls and procurement processes (refer to **Appendix I: Financial Management Questionnaire**) and has established adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act (refer to **Appendix H: Affirmation of Duplication of Benefits**), to ensure timely expenditures of funds and to detect and prevent waste, fraud, and abuse of funds.

APPENDIX D

MONITORING SCHEDULE

Delegate: City of Boulder

Project: Wonderland Creek Greenways Improvement Project

At a minimum, the project will be visited within ninety (90) days of the date of this Delegation Agreement and then at least every six (6) months until grant close-out.

The Delegate will be informed of the time of an on-site visit and the general subject matter to be covered. An exit review of tentative conclusions will be held with the Delegate to be followed by a formal communication within thirty (30) days.

The monitoring review(s) will cover:

- Review of accounting system.
- Review of Delegate's understanding of program financial requirements.
- Review of files for required policies and procedures and documentation.
- Review of records system for maintenance of appropriate documentation.
- Project/program review for compliance with all program requirements

If it is determined that the Delegate has not met a requirement of the CDBG-DR Program, the City of Longmont will provide written notice of this determination and give the Delegate an opportunity to demonstrate within a stated timeline that it has done so. If the Delegate is unable to demonstrate compliance, the City of Longmont will take corrective action or remedial action. Said action will be designed to prevent a continuation of the deficiency, mitigate, to the extent possible, its adverse effects or consequences, and prevent its recurrence.

Delegate may be required to submit and comply with proposals for action to correct, mitigate, and prevent a performance deficiency through one or more of the following:

- Prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, timetables, and milestones necessary to implement the affected activities;
- Establish and follow a management plan that assigns responsibilities for carrying out the remedial action;
- Cancel or revise activities likely to be affected by the performance deficiency before expending program funding for the activity.

APPENDIX E

AFFIDAVIT

I, _____, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

- I am a United States citizen, or
- I am a Permanent Resident of the United States, or
- I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Signature

Date

APPENDIX F

RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN

Every effort will be made to minimize temporary or permanent displacement of persons due to a CDBG project undertaken by the Delegate.

However, in the event of displacement as a result of a federally funded award, the Delegate will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, for any household, regardless of income which is involuntarily and permanently displaced.

If the property acquired is an occupiable lower-income dwelling, but will not be used for low/moderate income housing under 104(d) of the Housing and Community Development Act of 1974, as amended, the displacement and relocation plan shall provide that before obligating and spending funds that will directly result in such demolition or conversion, the Delegate will make public and submit to Boulder County Collaborative CDBG-DR the following information:

- (A) A description of the proposed activity;
- (B) The general location on a map and appropriate number of dwelling units by number of bedrooms that will be demolished or converted to a use other than as low and moderate income dwelling units as a direct result of the assisted activity;
- (C) A time schedule for the commencement and completion date of the demolition or conversion;
- (D) The general location on a map and appropriate number of dwelling units by number of bedrooms that will be provided as replacement dwelling units;
- (E) Comparable replacement housing in the community within three (3) years of the commencement date of the demolition or rehabilitation;
- (F) The source of funding and a time schedule for the provision of replacement dwelling units;
- (G) The basis for concluding that each replacement dwelling unit will remain a low and moderate income dwelling unit for at least ten (10) years from the date of initial occupancy;
- (H) Relocation benefits for all low or moderate income persons shall be provided, including reimbursement for moving expenses, security deposits, credit checks, temporary housing, and other related expenses and either:
 - 1. Sufficient compensation to ensure that, at least for five (5) years after being relocated, any displaced low/moderate income household shall not bear a ratio of shelter costs to income that exceeds thirty (30) percent; or

2. If elected by a family, a lump-sum payment equal to the capitalized value of the compensation available under subparagraph 1. above to permit the household to secure participation in a housing cooperative or mutual housing association, or a Section 8 certificate of voucher for rental assistance.
- (I) Persons displaced shall be relocated into comparable replacement housing that is decent, safe, and sanitary, adequate in size to accommodate the occupants, functionally equivalent, and in an area not subject to unreasonably adverse environmental conditions;
 - (J) Provide that persons displaced have the right to elect, as an alternative to the benefits in subparagraph (H).2 above, to received benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if such persons determine that it is in their best interest to do so; and
 - (K) The right of appeal to the Boulder County Collaborative where a claim for assistance under subparagraph (H).2 above, is denied by the Delegate. The Lead Agency's CDBG-DR Program Manager's decision shall be final unless a court determines the decision was arbitrary and capricious.
 - (L) Paragraphs (A) through (K) above shall not apply where the HUD Field Office objectively finds that there is an adequate supply of decent, affordable low/moderate income housing in the area.
 - (M) Consistent with the goals and objectives of activities assisted under the Act, the Delegate will take the following steps to minimize the displacement of persons from their homes:
 1. All public facilities projects (water, sewer, gas, etc.) will be designed so that there will be not displacement of any residences or business;
 2. No homes will be demolished that can be reasonably rehabilitated; and
 3. There will be no displacement of any residential or business occupants on CDBG-DR projects.

APPENDIX G

BOULDER COUNTY COLLABORATIVE RECAPTURE PLAN

Overview

The Boulder County Collaborative (“BCC”) is responsible for making a good faith effort to only fund eligible applicants and projects with the Community Development Block Group-Disaster Recovery (“CDBG-DR”) funds from the Department of Housing and Urban Development (“HUD”). The City of Longmont (“City”) is the Lead Agency for the BCC and is also responsible to monitor recipients of the CDBG-DR funds for compliance with the terms of their award. In the execution of these responsibilities, the City may on occasion seek to recapture funds awarded to residents or sub-grantees (“recipients”) who did not spend the funds according to the rules of the Program, or who were awarded funds erroneously. HUD does not distinguish between persons who received funds due to an error on the part of staff or an error on the part of the applicant, however HUD does have different recapture (“collection”) processes for residents who deliberately withheld or falsified information in the application process, as this is fraud.

HUD has no set guidelines or regulations for recapture of funds from individuals. This plan and timeframe was designed to be consistent with OMB Circular A-87 (2 CFR Part 225), OMB Circular A-85, 31 U.S.C. 37 901 and 902, 24 CFR 17 Subpart C, 31 CFR, Forgivable Promissory Note, Homeowner/Contractor Agreement, closing documents and/or Grant Agreements signed by recipients of the program, and is designed to provide guidance on recapturing funds erroneously given out or erroneously spent through the HUD CDBG-Disaster Recovery Program (“Program”) from the 2013 flood in Boulder County.

The first part of this plan deals with recapture procedures for funds awarded erroneously or for Program non-compliance. The second part of this plan deals with the recapture of funds obtained fraudulently. In the third part of the plan, BCC puts forth the method by which it will redistribute the recaptured funds within the local community.

Background

The City of Longmont, as the Lead Agency for the BCC, conducts an internal review of Program files. The review is to determine that in the awarding and disbursing of Program funds, the files are documented according to program policies. Documentation must be in the files and the review is to determine whether safeguards exist to ensure that recipients use funds for their intended purposes.

The Statute of Limitations for initiating recapture proceedings is six (6) years following signature on the application forms [24 CFR 28.35(a)].

Choice to Not Recapture or Settle for Less than Whole Amount

The various federal regulations cited above establish the City as the Lead Agency with authority to recapture the full amount of ineligible assistance whether awarded due to errors by BCC Partners or a Housing Assistance Program recipient. However, for claims under \$100,000, if the City, State, or HUD determines that the recipient cannot repay ineligible grant assistance, BCC may choose to 1) forgive the funding; or 2) negotiate another amount. If negotiated, the City may defer the repayment to sale, refinance, or transfer of the existing home or otherwise place a lien on the property, or enter into a repayment plan with the recipient. BCC defines "ability to pay" as: "determined based on an assessment of the respondent's resources available both presently and prospectively from which BCC could ultimately recover the total award, which may be predicted based on historical evidence."

The City will make initial determinations and bring findings to the BCC in determining whether to recapture ineligible assistance. The BCC will consider the cost effectiveness of such action given the amount of ineligible assistance and the availability of records to support BCC's determination.

BCC may forgo collection of ineligible assistance if the following conditions are met:

1. A demand for recovery of the ineligible assistance was made; and
2. The ineligible assistance did not result from inaccurate or false information, knowingly or fraudulently, provided by the recipient; and
3. BCC determines that the recipient is unable to comply with the ineligible assistance repayment demand, but is otherwise willing and able to meet BCC requirements; and
4. BCC determines that it is in the best interest of the Federal Government to forgo collection of the ineligible assistance for amounts less than \$5,000. BCC will normally return files concerning default amounts that are less than a threshold amount of \$5,000 because the minimum cost to pursue a legal proceeding to recover money is unlikely to be less than that amount.

Note that ALL FOUR conditions above must be met for forbearance.

BCC may elect to accept a compromise settlement. If a compromise amount is negotiated and then put on an installment plan, the executed contract must say that if the recipient defaults, the recipient will owe the ENTIRE amount of the originally determined ineligible assistance, not just the negotiated amount. Assessment of a recipient's negotiated compromise amount will be based on the recipient's financial statements, obtained on penalty of perjury, showing assets, liabilities, income, expenses, credit reports and other pertinent financial information, 31 U.S.C. 902.2(g).

***Requirements for Recapturing Funds Awarded Erroneously or for
Non-Compliance with Program Rules***

Notification

The City will provide notice to recipients upon determining that ineligible assistance was received. The notice will be delivered by registered or certified mail, or will be delivered by some other means that can be confirmed and documented. The notice will:

1. Specify in detail the reason(s) that the assistance was determined to be ineligible, stating the amount of ineligible assistance to be repaid;
2. Offer a meeting for the recipient to discuss the basis for the claim giving the recipient an opportunity to provide facts, figures, written records, or other information that might alter the determination that the assistance was ineligible;
3. Outline the recipients appeal rights;
4. Specify the address to which a response must be sent;
5. Contain a statement that failure to submit an answer within fifteen (15) days of receipt of the letter may result in the imposition of the maximum amount of penalties, allowable by law/regulation, and assessments sought.

Generally, the City will set the meeting within thirty (30) days of the date of the initial letter. Upon request, the City may grant additional time for the recipient to assemble the necessary documentation. If additional time is granted, the recipient file will be documented, on a case-by-case basis, as to why additional time was granted.

Corrective Action

If the problem causing the assistance to be ineligible can be corrected, appropriate corrective action will be required. For example:

- Where the recipient is a homeowner and did not follow the Forgivable Promissory Note requirement to obtain flood insurance, the insurance must be obtained promptly, and upon demonstrating proof of insurance, the recipient will re-sign the Forgivable Promissory Note in order to restart the term of the loan, also known as the Effective Period.
- If the recipient is a homeowner and is not using the house as his or her primary residence, when the recipient proves (s)he has moved into the home permanently, the Forgivable Promissory Note document will be re-signed and the Effective Period will restart.
- If a sub-grantee executes a change order on an infrastructure project without a sufficient cost estimate and signatures, then the recipient will need to obtain a cost estimate that justifies the change in costs and also get appropriate signatures.

If the recipient is a homeowner and the problem causing the assistance to be ineligible cannot be corrected, a recipient who has defaulted on the requirements but wishes to remain in the dwelling may stipulate to reverting from the current loan structure and converting the loan into a conventional non-forgivable mortgage loan having a fixed term (between five (5) and fifteen (15) years), or into a deferred loan with repayment of principal and interest due at sale, refinance, or transfer of the property at the currently prevailing interest rate. Examples of an irremediable violation of a Forgivable Promissory Note are:

- The homeowner is renting the property and is unwilling to terminate the lease.
- The homeowner will not allow final inspection.
- The homeowner received more monies than what was reported in the application for federal assistance.

For recipients of assistance under the Buyout or Acquisition Programs, if the recipient refuses a repayment plan or ceases payments on the repayment plan, the City will institute legal proceeding to recover the funds since there will be no mechanism available for the City to lien a property that was already sold.

If a sub-grantee has expended funds ineligibly and a corrective action cannot be determined, then the City will negotiate a zero interest loan repayment plan with the sub-grantee.

Repayment Agreement

If violations are irremediable, then the City may seek repayment of all ineligible assistance received by a recipient, plus the cost of collection to the fullest extent permitted by law. The City's efforts to collect ineligible assistance may include repayment agreements, court orders, garnishment of wages and/or income tax returns, the use of private or public collection agents, intergovernmental agreements with the BCC Partner, and any other remedies available, on a case-by-case basis.

The recipient may repay BCC in a lump-sum payment of the entire amount or by entering into a repayment agreement. A recipient who is a homeowner and who has defaulted on the rehabilitation requirements but wishes to remain in the dwelling, may agree to converting the current loan into a conventional non-forgivable mortgage loan having a fixed term (between five (5) and fifteen (15) years) at the currently prevailing interest rate.

A repayment agreement is a formal document prepared by the City and signed by the recipient, in which the recipient acknowledges the debt and the amount owed. The agreement specifies:

1. The amount to be paid, including processing fees;
2. How the amount owed is to be repaid;
3. Where payments are to be sent;
4. The specific date each month when the payment is due; and
5. Consequences of delinquent or defaulted payments.

The terms will not require prohibitive payments for the homeowners that would force the recipient to sell the property (except in cases of fraud), and will be over a period of time consistent with the recipient's ability to pay. However, the City will not pursue the debt if notification of the right to collect the debt has not been communicated to the recipient within ten (10) years of the City's right to collect the debt first accrued, unless facts material to the City's right to collect were not known, 31 U.S.C. 901.4.

31 U.S.C. 901.8(g) allows the City to decide not to charge interest on the repayment agreement; if it can be shown that interest is "against equity and good conscience." The recipient will pay a set fee each payment period equaling the repayment amount, plus the processing costs of collection, 31 U.S.C. 901.9(c). BCC approval of a repayment schedule will take into consideration the best interests of the recipient, the BCC, the State of Colorado, and the Federal Government.

A lien will be placed on the property for the duration of the payment schedule, 31 U.S.C. 901.8(c). The City will retain copies of all correspondence and a record of all conversations between the City and a recipient regarding ineligible assistance received by a recipient. If a recipient refuses to enter into a repayment schedule, the City will initiate enforcement actions such as civil or criminal penalties.

31 U.S.C. 3711(e) states that HUD, (the City in this case), must report the recipient to the Consumer Credit Reporting Agencies if the recipient goes past due on the payment plan or if a settlement is not reached.

Requirements for Collecting Ineligible Assistance Obtained by Possible Fraud:

NOTE: 24 CFR 28.10 (d) states that no proof of specific intent to defraud is required to establish liability under this program. If the BCC paid too much assistance on the recipient's behalf because of discrepancies in information furnished by the recipient, and if the City has sufficient evidence that the recipient intentionally misrepresented its circumstances, the City must pursue debt collection. In cases where the City has compelling evidence that the recipient knowingly omitted or falsified information in order to receive a Housing Assistance Grant, Buyout or Acquisition Assistance, Rental Assistance, or Infrastructure Grant, the City will seek repayment of all ineligible assistance received by the recipient by turning the case directly over to the HUD Office of Inspector General (OIG) and local law enforcement officials.

General Administrative Procedures

The City may choose to handle collections or may decide to hire a private collection agency to handle collections for this program (31 U.S.C. 901.5) as long as the following conditions are met in the contract with the collection agency:

1. The collection agency is a City-approved collector who can transfer funds to the City;
2. The City retains the right to resolve disputes, to compromise debts (negotiate settlement amounts less than the full amount), suspend or terminate collection,

- and refer debt for litigation;
3. The collection agency cannot offer debtors discounts or incentives;
 4. The contract with the collection agency requires the collection agency to follow the Privacy Act of 1974 and State and Federal laws for debt collection practices, including the Fair Debt Practices Act, 15 U.S.C. 1692; and
 5. The collection agency accounts for all amounts collected.

The City will be responsible for file and documentation maintenance, communication with recipients, and arrangements for appeals hearings. The City is also responsible for reports to the State or HUD. The City will manage procurement of a private collection agency and payment of same, if this method of collection is chosen, and other financial matters associated with the Program, using approved BCC and federal procurement and financial accounting standards if it chooses to hire a collection agency.

The City will maintain full and complete documentation of all debt, calculations performed, and communications with recipients. In all communications, precaution must be taken to prevent the distribution of any Personally Identifiable Information (PII).

Administrative costs on recapture will reflect only the actual costs of recapture.

The City or designee will collect the monies due, and all collections data will be entered as a miscellaneous "Housing Program Collection," "Buyout Program Collection," or "Infrastructure Program Collection." This category will be added to the City's financial chart of accounts. The City will ensure that all money collected from the recipient is reported to the State and/or HUD and repaid to the State and/or HUD, if required.

Redistribution Plan

Any funds recaptured by the City through its efforts will be returned to the BCC account. These funds will be made available for redistribution by BCC within the Housing Assistance Program, Buyout/Acquisition Program, or the Infrastructure Program, whichever is applicable. Funds recovered from the Program will be reassigned to the same Program. New recipients will be selected from the wait list in priority order based on the existing Program rules.

New recipients will be identified and contacted as funds come available. No commitments will be made based on projected collections.

If collected funds exceed eligible recipients at Program end, remaining collected funds will be transferred to another CDBG-DR eligible activity after approval by the State or HUD of a substantial amendment.

**BOULDER COUNTY COLLABORATIVE RECAPTURE PLAN
APPENDIX**

STEPS IN THE PROCESS FOR THOSE ELIGIBLE TO RESTART THE EFFECTIVE PERIOD

1. Verify, to the extent possible, that all information in the recipient's file is current, complete, and accurate.

2. The City will send a certified *NOTICE OF CONCERNS REGARDING PROMISSORY NOTE EFFECTIVE PERIOD* letter to the recipient indicating that the recipient is out of compliance on Forgivable Promissory Note, but that the five (5) year Effective Period can be restarted by having the recipient agree to comply with all provisions of the Promissory Note. Appeal information will also be included in the letter.
 - (A) If the recipient responds to the initial notification within fifteen (15) days of the date of the letter and agrees to restart the Effective Period, completes all required paperwork to document the resolution of compliance issues, re-signs the Promissory Note with the new Effective Date, no further action will be required and recapture will not be necessary.

 - (B) If the recipient responds to the initial notification within fifteen (15) days of the date of the letter and opts to appeal, (s)he must follow the procedure outlined in the BCC Housing Program Appeals Procedure, copies of which are available from the City.

 - (C) If the recipient responds to the initial notification within fifteen (15) days of the date of the letter and opts to pay back the funds, the City will work with the recipient to negotiate a repayment plan and complete necessary documentation. The City may negotiate a reduced or fully waived repayment under certain conditions of financial hardship proven by the recipient. Assessment of a recipient's negotiated compromise amount will be based on the recipient's financial statements, obtained on penalty of perjury, showing assets, liabilities, income, expenses, credit reports, and other pertinent financial information. This reduction of payment must have prior approval from the State or HUD. The City will place a lien on the property for the duration of the payment schedule, and release it once the debt is fully paid. Actual administrative costs of recapture may be added to the payment amount for each payment period.

 - (D) If the recipient does not respond within fifteen (15) days from the date of the first letter, a second certified *NOTICE OF SERIOUS ONGOING CONCERNS* letter will be sent to the recipient. This letter will clearly state the basis of the ineligible assistance determination and the amount of ineligible assistance to be repaid, along with the recipient's appeal rights and the specific actions to be taken by the City. This letter will also specify a date and time for a meeting with BCC officials, approximately fifteen (15) days from the date of this letter, to discuss the issues stated in the letter. The recipient will have the opportunity to reschedule the meeting to a more convenient date and time, provided the

response is prior to the originally scheduled meeting date.

- (E) If the recipient does not respond to the second letter within the allotted time period, a third certified *FINAL DETERMINATION NOTICE/DEMAND LETTER* will be sent to the recipient. This letter will state that recapture proceedings will be initiated thirty (30) days from the date of the letter unless the recipient initiates the formal appeal process before then. If there is no response from the recipient, the file will be turned over to the legal department or a collection agency for recapture. The City will report the recipient to Credit Reporting Bureaus.
- 3. If a compromise amount is negotiated and then put on an installment plan, the contract must say that if the recipient defaults, (s)he will owe the ENTIRE amount of the distribution and not just the negotiated amount.
- 4. For any negotiated settlements where full payment is not immediate, upon discharge of the debt, the discharge must be reported to the State or HUD.

STEPS IN THE PROCESS OF RECAPTURING A NON-FRAUDULENT DISTRIBUTION

- 1. Verify, to the extent possible, that all information in the recipient's file is current, complete, and accurate.

For Housing Assistance or Buyout/Acquisition Program Recipients:

- 2. The City will send a certified *NOTICE OF CONCERNS* letter to the recipient detailing the specific compliance issue which compels recapture of the distribution.
 - (A) If the recipient responds to the initial notification within fifteen (15) days of the date of the letter and can provide documentation proving compliance with the Forgivable Promissory Note, or in the case of buyouts, documentation to the contrary of funds received, the City will update the file accordingly and document the satisfactory resolution.
 - (B) If the recipient responds to the initial notification within fifteen (15) days of the date of the letter and can show that the concern stated in the letter can, in fact, be remediated and the recipient is willing to do so and restart the Effective Period, refer to STEPS IN THE PROCESS FOR THOSE ELIGIBLE TO RESTART THE EFFECTIVE PERIOD for guidance.
 - (C) If the recipient responds to the initial notification within fifteen (15) days of the date of the letter and opts to appeal, (s)he must follow the procedure outlined in the BCC Housing Program Appeals Procedure, copies of which are available from the City of Longmont.
 - (D) If the recipient responds to the initial notification within fifteen (15) days of the date of the letter and opts to pay back the funds, the City will work with the recipient to negotiate a repayment plan and complete necessary documentation. The City may negotiate a reduced or fully waived repayment under certain

conditions of financial hardship proven by the recipient. Assessment of a recipient's negotiated compromise amount will be based on the recipient's financial statements, obtained on penalty of perjury, showing assets, liabilities, income, expenses, credit reports, and other pertinent financial information. This reduction of payment must have prior approval from the State and/or HUD. The City will place a lien on the property for the duration of the payment schedule, and release it once the debt is fully paid. Actual administrative costs of recapture may be added to the payment amount for each payment period.

- (E) If the recipient does not respond within fifteen (15) days from the date of the first letter, a second certified *NOTICE OF SERIOUS ONGOING CONCERNS* letter will be sent to the recipient. This letter will clearly state the basis of the ineligible assistance determination and the amount of ineligible assistance to be repaid, along with the recipient's appeal rights and the specific actions to be taken by the City. This letter will also specify a date and time for a meeting with BCC officials, approximately fifteen (15) days from the date of this letter, to discuss the issues stated in the letter. The recipient will have the opportunity to reschedule the meeting to a more convenient date and time, provided the response is prior to the originally scheduled meeting date.
- (F) If the recipient does not respond to the second letter within the allotted time period, a third certified *FINAL DETERMINATION NOTICE/DEMAND* letter will be sent to the recipient. This letter will state that recapture proceedings will be initiated thirty (30) days from the date of the letter unless the recipient initiates the formal appeal process before then. If there is no response from the recipient, the file will be turned over to the legal department or collection agency for recapture.

For Sub-grantees (BCC Partners) Recipients:

- 3. The City will send a certified *NOTICE OF CONCERNS* letter to the recipient detailing the specific compliance issue which compels recapture of the distribution.
 - (A) If the recipient responds to the initial notification within fifteen (15) days of the date of the letter and can provide documentation proving compliance or a feasible alternative solution, the City will update the file accordingly and document the satisfactory resolution.
 - (B) If the recipient does not respond within fifteen (15) days from the date of the first letter, a second certified *NOTICE OF SERIOUS ONGOING CONCERNS* letter will be sent to the recipient. This letter will clearly state the basis of the ineligible assistance determination and the amount of ineligible assistance to be repaid, along with the recipient's appeal rights and the specific actions to be taken by the City. This letter will also specify a date and time for a meeting with BCC officials, approximately fifteen (15) days from the date of the letter, to discuss the issues stated in the letter. The recipient will have the opportunity to reschedule the meeting to a more convenient date and time, provided the response is prior to the originally scheduled meeting date.
 - (C) If the recipient does not respond to the second letter within the allotted time

period, a third certified *FINAL DETERMINATION NOTICE/DEMAND* letter will be sent to the recipient. This letter will state that recapture proceedings will be initiated thirty (30) days from the date of the letter unless the recipient initiates the formal appeal process before then. If there is no response from the recipient, the file will be turned over to the legal department or a collection agency for recapture.

4. The City will maintain reports for collections not in default on a quarterly basis and aggregate the data.
5. The aggregated data will be reported quarterly to the State.
6. If a compromise amount is negotiated and then put on a repayment plan, the contract must say that if the recipient defaults, the recipient will owe the ENTIRE amount determined ineligible and not just the negotiated amount.
7. For any negotiated settlements where full payment is not immediate, upon discharge of the debt, the discharge must be reported to the State and/or HUD.

Approval and Revision Tracking

Policy and Procedure Name	BCC Recapture Plan	Original Approval Date	
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Complete the below for each revision:				
No.	Brief Description of Revision	Date sent for Approval	Signature of Person Approving	Date/Approval

APPENDIX H

DUPLICATION OF BENEFITS AFFIRMATION

SUBJECT: AFFIRMATION OF DUPLICATION OF BENEFITS FOR BOULDER COUNTY COLLABORATIVE CDBG-DR PROGRAM

Grant Recipient Local Government: **City of Boulder**

By entering into this Agreement, the Delegate affirms the following:

The Delegate acknowledges the Lead Agency received CDBG disaster recovery funds through a contract with the State of Colorado on behalf of the Boulder County CDBG-DR Collaborative.

The Delegate hereby affirms that no additional sources or amounts of matching funds beyond those indicated at the time of this CDBG-DR award for housing, infrastructure, or other applicable disaster recovery assistance have been obtained or will be utilized for the project(s) authorized under this intergovernmental Agreement.

Duplication of Benefits sources include, but are not limited to, the Federal Emergency Management Agency (FEMA), Army Corp of Engineers (USACE), Federal Highway Administration (FHWA), private insurance companies, the National Flood Insurance Program (NFIP), state or federal grants, the Small Business Administration (SBA), and Not for Profit Agency Assistance.

The Delegate understands the responsibility to immediately notify the State of Colorado if any additional funds are received for the project(s) contained in the application cited above. In addition, the Lead Agency will follow its prescribed Recapture Plan, if and when it becomes necessary, to try to recoup funds that are a non-reported Duplication of Benefits from Delegate.

Under penalty of perjury of violation of federal and state laws applicable to the application for a grant under the program, the Delegate hereby states and certifies to the United States Department of Housing and Urban Development and the State of Colorado that by approving and signing this Agreement, the information included in this intergovernmental Agreement is true and accurate and that if at any time the Delegate becomes aware that the information included is inaccurate, it is the responsibility of the Delegate to bring the inaccuracy to the attention of the program.

APPENDIX I
FINANCIAL MANAGEMENT QUESTIONNAIRE

1. List those who will perform the following financial management functions and include titles.

- A) *Signs contracts:*
 _____ Title: _____
- B) *Receives Invoices:*
 _____ Title: _____
 _____ Title: _____
 _____ Title: _____
- C) *Approves payment of invoices/purchase orders:*
 _____ Title: _____
 _____ Title: _____
- D) *Prepares Requests for Payment:*
 _____ Title: _____
- E) *Signs Requests for Payment:*
 _____ Title: _____
 _____ Title: _____
 _____ Title: _____
 _____ Title: _____
- F) *Make Journal Entries:*
 _____ Title: _____
- G) *Post to general ledger and/or prepares monthly financial statements:*
 _____ Title: _____
- H) *Maintains custody of checkbook:*
 _____ Title: _____
- I) *Signs checks (minimum of two):*
 _____ Title: _____
 _____ Title: _____
- J) *Reconciles bank statements:*
 _____ Title: _____
- K) *Compiles fiscal year-end financial statements:*
 _____ Title: _____

- 2. Identify by title the individuals who are covered by a bond or insurance and the amounts. Include Chief Elected Official/Chief Executive Officer if involved in financial transactions.

Attach copy of bonds or insurance policy

Title: _____ Amount: _____
 Title: _____ Amount: _____
 Title: _____ Amount: _____
 Title: _____ Amount: _____

- 3. Identify name of company that issued the bond or insurance policy:

Issue Date: _____ Expiration Date: _____
 Issue Date: _____ Expiration Date: _____

- 4. What is your fiscal year end date? _____
- 5. The most recent audit covered what period? _____
 Identify name of firm that prepared the audit: _____

- 6. Name and telephone number of local official to contact regarding this questionnaire

Name	Title	Phone #
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I certified that this information is true to the best of my knowledge.

Signature: _____
 Title: _____ Date: _____



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: APRIL 5, 2016

AGENDA TITLE: Consideration of a motion authorizing the city manager to enter into a settlement agreement in the litigation brought against the city by William and Ellen Habay and the Estate of Michael Habay.

PRESENTERS

Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Greg Testa, Chief of Police
Bob Eichem, Chief Financial Officer

EXECUTIVE SUMMARY

This matter arises out of a lawsuit brought against the city by William and Ellen Habay and the Estate of Michael Habay. Mr. Habay was shot and killed by Boulder police officers.

If City Council approves, the parties have agreed to settle all claims for a proposed payment of \$97,500 to the plaintiffs and dismissal of the city. The city also will make a contribution in the amount of \$1,000 in Mr. Habay's name to the EDGE program. The city manager and city attorney recommend approval of the settlement. The police chief also supports this settlement proposal.

Because the amount of the proposed settlement exceeds \$10,000, City Council approval of the proposed settlement is necessary pursuant to 2-2-14 (c) B.R.C., 1981.

STAFF RECOMMENDATION

SUGGESTED MOTION LANGUAGE

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

Motion to authorize the city manager to enter into an agreement to settle the lawsuit brought by William and Ellen Habay and the Estate of Michael Habay by payment from the city in the amount of \$97,500. The city will also make a donation to the EDGE program in Mr. Habay's name in the amount of \$1,000.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Not applicable.
- Environmental: Not applicable.
- Social: The resolution of disputes is generally of social benefit and the resolution of this dispute will free up city attorney time to work on other projects.

OTHER IMPACTS

- Fiscal-Budgetary: Payment for the proposed settlement will be made from the city's Property and Casualty Fund which was established and funded for the purpose of paying claims and settling cases. This settlement is within the city's anticipated loss planning parameters.
- Staff Time: The city attorney's office represents the city in this matter together with outside counsel from the firm of Bruno Colin and Lowe, P.C. The city estimates that outside counsel fees would far exceed the amount of the settlement.

BOARD AND COMMISSION FEEDBACK

None.

PUBLIC FEEDBACK

None.

BACKGROUND

Michael Habay was killed when, armed with knives, he charged at three officers who were attempting to locate a domestic violence victim. The Boulder District Attorney's review of the case found that the officers were justified in using deadly force. The settlement includes a payment of \$97,500 to the plaintiffs and a donation of \$1,000 to the EDGE program. The Early Diversion, Get Engaged program pairs law enforcement

officers in Boulder County with psychiatric professionals when responding to incidents involving mentally ill individuals.

ANALYSIS

It is not possible to predict the outcome of a trial. This is particularly difficult in litigation such as this. In cases brought under 42 U.S.C. § 1983 even a nominal jury award can result in significant liability for the plaintiff's attorneys' fees. Given the projected costs of litigation and the potential for an attorney's fee award, the city attorney believes that it is unlikely that the city will be in a significantly better economic position by litigating the case as compared to accepting the settlement offer.

OPTIONS

Council has the option of approving or rejecting the proposed settlement. If the settlement is rejected, the matter will continue to trial.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE

Consideration of a motion to authorize the City Manager to dispose of the property located at 3289 Airport Road, Boulder (subdivided from Boulder Municipal Airport)

PRESENTER/S

Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
Mike Gardner-Sweeney, Director of Public Works for Transportation
Tim Head, Airport Manager, Transportation
David Gehr, Deputy City Attorney
Doug Newcomb, Property Agent

EXECUTIVE SUMMARY

City staff requests that the City Council authorize the city manager to dispose of the property located at 3289 Airport Road, which was identified for disposal as part of the 2007 Airport Master Plan. Staff recommends the disposal of this parcel, which is adjacent to and slopes away from the airport, because it is considered surplus property and has been found to be unsuitable for aviation use because it is not easily accessed from the rest of the facility.

City Council may authorize land disposal under Section 2-2-8, "Conveyance of City Real Property Interests," B.R.C. 1981, which provides that the city manager may convey city real property after the "manager first obtains City Council approval in the form of a motion."

Furthermore, since 2007, the city has completed the following tasks that are necessary for this disposal:

- In June 2011, as part of the 2010 Boulder Valley Comprehensive Plan update, the City Council approved a land use map change from a Public land use map designation to Light Industrial land use category.
- In August 2012, the City Council approved an ordinance rezoning the property from Public to Industrial General.
- After rezoning, the city obtained a release from the Federal Aviation Administration (FAA) to allow the property to be separated from the airport.

If authorized, the city would sell the parcel and use the resulting revenue to fund infrastructure improvements and ongoing maintenance of the airport facility.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to authorize the City Manager to dispose of the property located at 3289 Airport Road, Boulder (subdivided from Boulder Municipal Airport)

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: The 2013 Airport Economic Impact Study, published by CDOT Aeronautics, estimated that Boulder Municipal Airport contributes more than \$60 million annually to the Boulder economy, supports approximately 729 jobs and enhances the economic diversity of the area.
- Environmental: The airport complies with all federal and state environmental requirements. In 2015, a Phase 1 environmental study identified no environmental issues on the disposal parcel.
- Social: The airport provides a recreational outlet to Boulder residents and supports various partnerships that benefit the community, such as Rocky Mountain Rescue, Civil Air Patrol, National Center for Atmospheric Research, University of Colorado (CU) Flying Club, CU Aerospace Engineering, Deaf Pilots Association, Cub Scouts of America, area nonprofits and others.

OTHER IMPACTS

- Fiscal: Revenue from the sale of this surplus property has been earmarked for airport infrastructure improvements and maintenance, as outlined in the airport master plan and the city's capital improvement program. Disposal will also decrease annual maintenance costs.

- Staff time: Disposal of the property will be completed with existing staff resources and is part of its 2016 work plan. Associated comprehensive plan land use, zoning and site plan changes have already been approved.

BACKGROUND

On January 16, 2007, council adopted the 2007 Airport Master Plan Update for inclusion in the Boulder Valley Comprehensive Plan (BVCP). The master plan identifies the parcel at 3289 Airport Road and recommends it for possible sale. The site is a small triangle of land with significant slopes (up to a 19 percent grade) located on the southwest corner of the airport and not accessible to the taxiway/apron (see Attachment A). The airport intends to sell the site for development and use the revenue to fund other airport improvements. The site's significant slope and lack of taxiway access are the primary reasons that the master plan did not identify airport uses for the property and instead recommended considering it for future sale.

As part of the 2010 BVCP update, city staff performed a detailed analysis of possible alternative land uses for the site and recommended a designation of Light Industrial as the most appropriate use. This change was approved for the parcel, now designated as Lot 1C, by Planning Board on May 24, 2011, and by City Council on June 7, 2011. Public comment was solicited on the land use change at a neighborhood public meeting on Oct. 25, 2010 and at the May 24, 2011 hearing. On August 7, 2012, council approved an ordinance rezoning that portion of the site from Public to Industrial-General.

Staff reviewed the Preliminary Plat and Final Plat for consistency with the city's Final Plat Subdivision criteria and lot standards. On July 8, 2014, following this review and subsequent approval of the Preliminary and Final Plat, city staff approved the Airport South Replat C Subdivision, as well as an Amendment to the Airport Planned Unit Development (PUD), to allow the new Lot 1C to be removed from the existing PUD (#P87-39).

The FAA approved the release of the parcel on July 2, 2013, which allows the city to dispose of the property at fair market value. The revenue from its sale has been earmarked for airport infrastructure improvements and maintenance, as outlined in the airport master plan and the city's capital improvement program.

Prior to the rezoning process, staff found that no other city departments and agencies within Boulder County were interested in purchasing the property from the airport. After checking again in late 2015 and finding no internal buyers, staff placed the parcel on the open real estate market and there is currently a pending contract on the property.

ANALYSIS

City staff recommends authorization, because the sale of Lot 1C aligns with the Airport Master Plan Update, which was unanimously approved by City Council in January 2007.

The land use map change from Public to Light Industrial was included as part of the 2010 BVCP update; did not receive any public opposition; and was approved by City Council in June 2011. Thereafter, the property was rezoned from a Public to Industrial General.

In order to prepare for disposal, the parcel was subdivided to create a separate and conveyable lot. Notifications were sent to neighboring residents and city staff held several public meetings. No significant concerns were brought forth and in July 2014, the city's Planning and Development Services (P&DS) approved the minor amendment to the approved site plan (LUR2013-00059) and allowed for the removal of the new Lot 1C from PUD #P-87-39. At that time P&DS determined that the proposal was consistent with the criteria for Amendments to Approved Site Plans found in section 9-2-14(m), B.R.C. 1981. Section 9-2-14(m), "Amendments to Approved Site Plans," B.R.C. 1981 includes the procedures and review criteria for approval of an amendment to an approved site review development.

Subsection 9-12-8(b), B.R.C. 1981 lists all of the information that is required to be placed on a final plat. Staff reviewed the plat and determined that the applicant included all of the required information on the plat document. Section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981 includes all of the substantive regulatory requirements that need to be met in order to have an approvable final plat. The proposed subdivision meets all of the necessary lot standards set forth in Section 9-12-12, B.R.C. 1981.

The Planning Board approved the new site plan (LUR2013-00059) on September 2, 2014, and the approval became final thereafter when the council chose to not call up the approval for further review on September 16, 2014.

ATTACHMENTS

A: Diagram of 3289 Airport Road



3289 Airport Rd



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE: Consideration of a motion to approve Resolution No. 1182 supporting a federal grant application by Jefferson County to fund planning, design and construction of up to two underpasses and trail segments to connect Rocky Flats National Wildlife Refuge with adjacent City of Boulder and Boulder County trails north of State Highway 128 and approving the accompanying response guidelines.

PRESENTERS

Jane S. Brautigam, City Manager
Tracy Winfree, Director, Open Space and Mountain Parks
Deryn Ruth Wagner, OSMP Planner
Janet Michels, Senior Assistant Senior Attorney

EXECUTIVE SUMMARY

The purpose of this memo is to provide the City of Boulder's City Council with background information on a proposed resolution and accompanying response guidelines for staff (Attachments A and B, respectively). If approved by council, these documents would affirm and guide the City of Boulder's participation in a grant application by Jefferson County to connect Rocky Flats National Wildlife Refuge (NWR) with city-owned trail system to the north. Jefferson County requested financial assistance from City of Boulder Open Space and Mountain Parks (OSMP), as part of a federal grant application to fund planning, design and construction of a portion of the Rocky Mountain Greenway (RMG). The RMG is an interagency effort to connect federal lands with local communities along the Front Range. As part of the larger RMG trail project, Jefferson County seeks to connect Rocky Flats NWR with public lands to the north and east. The portion of the project affecting OSMP would connect Rocky Flats NWR with OSMP and Boulder County Parks and Open Space (BCPOS) trails to the north, via one or two underpasses across State Highway 128 (S.H. 128). This memo focuses only on these proposed S.H. 128 crossings (Site Two in Figure 1), the exact location of which will be determined in future project stages.

Rocky Mountain Greenway - Proposed Project Location

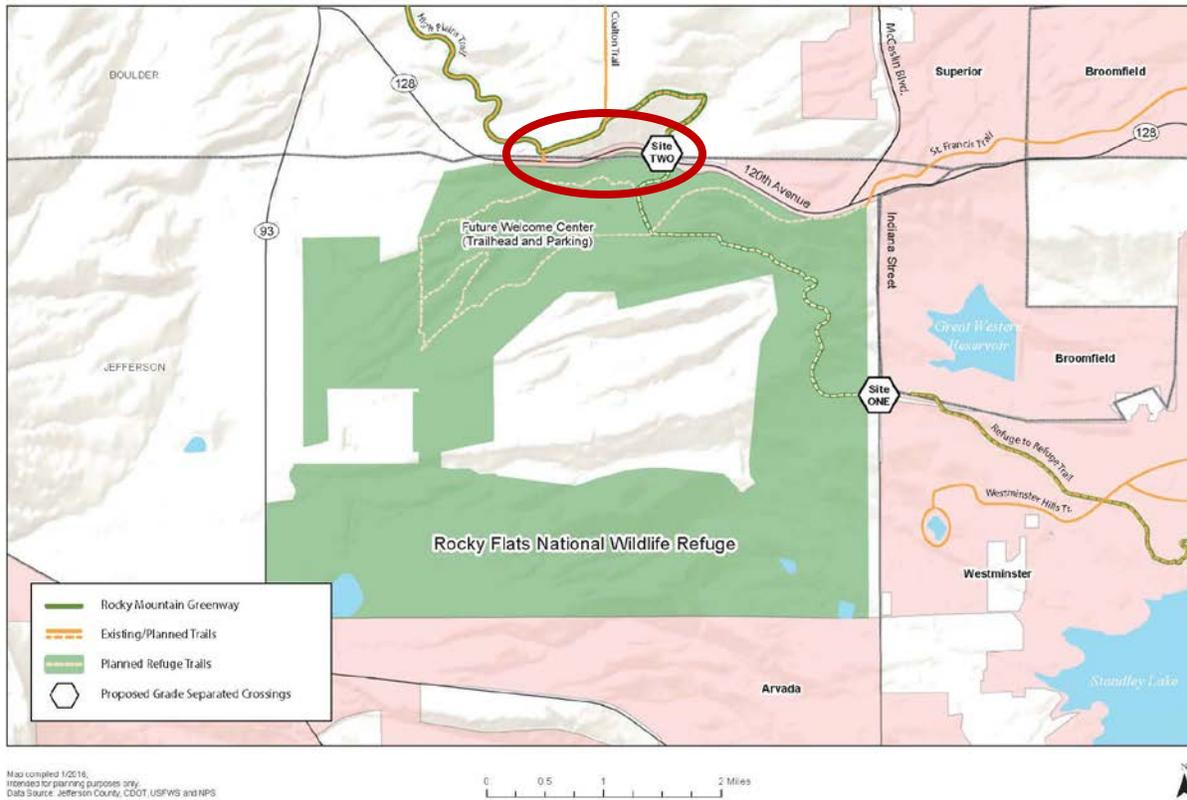


Figure 1: Site Two, proposed project location

A financial contribution from the city would help satisfy the 17.21 percent local match requirements for Jefferson County’s grant application to the Federal Lands Access Program (FLAP). FLAP grants fund transportation-related facilities that provide access to federal lands. Local partners including Boulder County, the Town of Superior, and Jefferson County are planning to provide contributions towards local match requirements. These local funds could help leverage a federal contribution of more than \$3 million. If awarded, these federal funds would require additional planning, evaluation and public process to determine final design and alignments.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to approve Resolution No. 1182 supporting a federal grant application by Jefferson County to fund planning, design and construction of up to two underpasses and trail segments to connect Rocky Flats National Wildlife Refuge with adjacent City of Boulder and Boulder County trails north of State Highway 128 and approving the accompanying response guidelines.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Environmental:** This project involves the use of federal funding, which would be expended in compliance with the National Environmental Policy Act (NEPA). NEPA provides an opportunity to identify environmental effects of the proposed project, and supports the avoidance and minimization of adverse effects to a variety of environmental resources.
- **Economic:** OSMP contributes to the economic vitality goal of the city as it provides the context for the diverse and vibrant economic system that sustains services for residents. The land system and the quality of life it represents attract visitors and help businesses to recruit and retain quality employees. The RMG project has the potential to attract visitors to Boulder where spending on goods and services would generate sales tax revenues supporting city service delivery including OSMP land acquisition and management.
- **Social:** This facility would provide linkages with communities to the north and south of the Boulder Valley, providing off-road recreational opportunities for Boulder residents to the nearby Rocky Flats NWR. It would also provide longer distance options to visit the Two Ponds and Rocky Mountain Arsenal refuges. Since the trail, like all OSMP lands, facilities and programs, is equally accessible to all members of the community, the proposed project helps to support the city's community sustainability goal because all residents "who live in Boulder can feel a part of and thrive in" this aspect of their community.

OTHER IMPACTS

- **Fiscal –** The financial contribution from OSMP could range up to \$200,000 and would be counted towards the 17.21 percent local match requirements depending on final design and contracting requirements. This would help leverage an additional \$3 to \$4 million in federal grant funds. There are sufficient funds in the Open Space Fund for this expenditure. If City Council approves participation in this grant application, OSMP will request allocation of capital funding as part of the 2017 budget process.
- **Staff time –** Regional trail planning is part of the normal work plan for OSMP staff.

BOARD AND COMMISSION FEEDBACK

This item was heard as part of City of Boulder's Open Space Board of Trustees (OSBT) public meeting, held on Feb. 10, 2016. Discussion from board members included concern over possible resource impacts resulting from a potential trail segment across the Rock Creek riparian area (which have subsequently been addressed). The following motion passed unanimously:

The Open Space Board of Trustees (OSBT) recommends that, pending support from other local partners, City Council resolves or affirms the city's intention to approve financial

support, and that City Council approves financial support for an application by Jefferson County for grant funding through the Federal Lands Access Program, which, if awarded, would fund planning, design and construction of a grade-separated trail crossing of State Highway 128 and trail segments to connect the Rocky Flats National Wildlife Refuge and City of Boulder and Boulder County trails to the north. OSBT cautions that this should not be considered a commitment to the current proposed crossing location or trail alignment.

PUBLIC FEEDBACK

The OSBT meeting was advertised in the *Daily Camera* on Feb. 7, 2016. One member of the public spoke, requesting that decision makers consider the long-term effects of making this trail connection. In addition, this City Council meeting scheduled for Tuesday, April 5, 2016 was advertised in the *Daily Camera* on April 3, 2016. Lastly, if federal grant funds are awarded, additional opportunities for input will be advertised to invite greater community involvement.

BACKGROUND

In 2012, Colorado Governor Hickenlooper and Ken Salazar, former U.S. Secretary of Interior, established the Rocky Mountain Greenway in an effort to link the Rocky Mountain Arsenal, Two Ponds National Wildlife Refuge, Rocky Flats National Wildlife Refuge, and Rocky Mountain National Park using local and regional trails and transit opportunities (see Attachment C for vicinity map). As part of the Obama administration's *America's Great Outdoors* initiative, the RMG has a focus on providing families and children access to public lands. The goal of both initiatives has been to support locally-driven projects and strengthen economies and communities with greater access to open spaces and outdoor recreation. The City of Boulder has a seat on the statewide steering committee, currently filled by Councilmember Lisa Morzel.

City Council has placed a high priority on the planning and development of regional trails. The Rocky Mountain Greenway is one of several regional trail planning projects that is currently active. In partnership with staff from OSMP, BCPOS, and other local partners, the Federal Highways Administration (FHWA) has been leading a study to assess relative feasibility of several potential routes for connecting Rocky Flats NWR through the City of Boulder to the town of Lyons. Eventually the trail is envisioned to connect all the way to Rocky Mountain National Park. Meanwhile, the Rocky Mountain Arsenal NWR in Commerce City and the Two Ponds NWR in Arvada are already connected by the Rocky Mountain Greenway, and the section from Two Ponds to Rocky Flats is almost complete. In January of this year, the Rocky Mountain Greenway received state support as one of the "16 in 16" trails identified in Governor Hickenlooper's *Colorado the Beautiful* initiative. This state initiative focuses on recreational opportunities to access and enjoy public lands with the intent of raising environmental awareness and promoting active living.

The underpasses beneath S.H. 128 would be the first step on the path for the Rocky Mountain Greenway to connect Rocky Flats NWR with Rocky Mountain National Park. Potential road crossing locations have been explored in the ongoing feasibility study led by FHWA. Building on that work, Jefferson County further evaluated crossing options. The consultant working with Jefferson County to develop options for the grant application initially selected a site on the east side of the Rock Creek drainage. Subsequently, OSMP, OSBT and BCPOS shared their concerns about the proposed crossing location and the importance of connecting with the Coalton Trail. The initial conceptual alignment would have crossed Rock Creek, affecting habitat for Preble’s meadow jumping mouse, contributing to the fragmentation of this large block of grassland habitat, disrupting current agricultural operations, and jeopardizing values central to a conservation easement held by OSMP on BCPOS’s Lindsay open space property.

As a result, Jefferson County’s consultant adjusted the proposal as reflected below in Figure 2. Site 2 (A) reflects a pedestrian crossing, with minimal trail construction needed to connect to the Coalton and High Plains trails. Site 2 (A) is now considered the proposed, favorable location for a pedestrian crossing at this early stage of the project. Site 2 (B) reflects the possibility of a **wildlife-only** crossing where Rock Creek crosses under S.H. 128. This separate wildlife crossing would connect to BCPOS’s Lindsay property. It may be constructed as part of this grant-funded project or through a separate effort, if FLAP funds do not cover this portion of the project.

Rocky Mountain Greenway - Site 2 Detail
CO HWY-128 Crossing

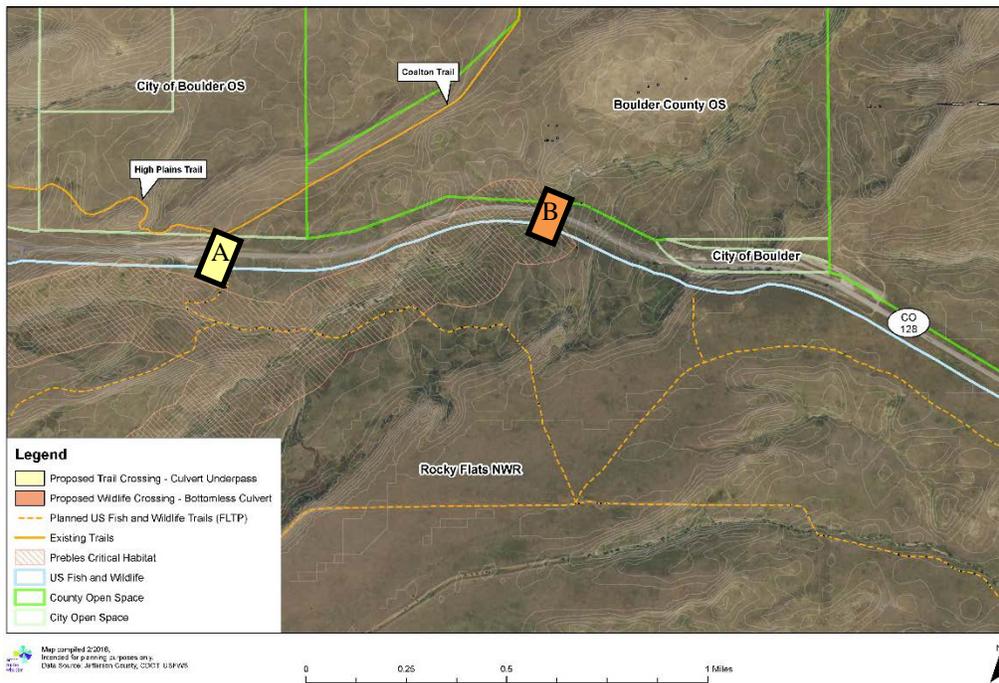


Figure 2: Latest proposal for potential crossing locations

In both options, an underpass would be constructed across the Colorado Department of Transportation’s right of way for S.H. 128. Trail construction south of the highway on the Rocky Flats NWR would be guided by the Comprehensive Conservation Plan for the refuge (Attachment D).

ANALYSIS

Site 2 (A) (Proposed location for pedestrian crossing)

OSMP staff recognizes that – depending on the final location and alignment selected – an underpass and trail connector could directly affect open space managed by Boulder County, on which the city owns a conservation easement, and/or city lands managed by OSMP. A crossing at Site 2 (A) would most directly affect the Kelsall city open space property (Figure 3). The OSMP Visitor Master Plan included this property in the Southern Grasslands Habitat Conservation Area (HCA), which protects a 3,000-acre block of intact grassland as well as the plant and animal species that depend upon it. The ecological value of this area has also been recognized in the OSMP Grassland Plan, in which it was designated a Best Opportunity Area for grassland conservation. Rare plant communities are present along the Coalton and High Plains trails (especially to the north of the trail), due to undisturbed soils, unfragmented grassland blocks, and the limited presence of weeds.

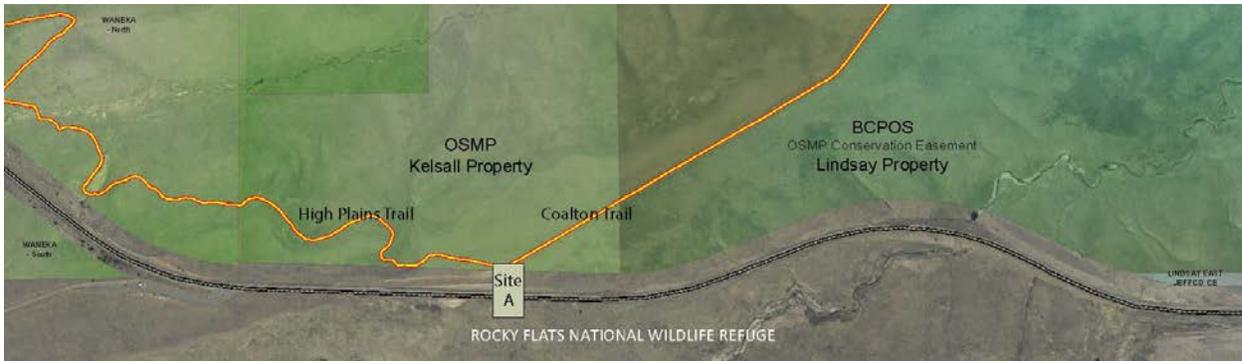


Figure 3: Proposed pedestrian crossing (Site A)

Site 2 (A) is currently used by members of the public to access the Coalton and High Plains trails, and includes an informal parking area within the CDOT right of way. The 2005 OSMP Marshall Mesa-Southern Grasslands Trail Study Area Plan anticipated increased visitation with the potential need for additional infrastructure in this area. Existing topography would require substantial grading and drainage to construct a pedestrian underpass in this location.

Future Environmental Planning and Analysis

OSMP staff has been informed that the use of FLAP grant funds would necessitate an environmental clearance process in accordance with NEPA requirements. A process determination will be made by the lead federal agency (FHWA) to require a categorical exclusion, an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). Both an EIS and an EA require the consideration of alternative approaches to meet the objectives of the project, as well as analysis of resources potentially impacted by the alternatives. After a preliminary desktop analysis of resources in this area, OSMP staff believes an EA or EIS will be required.

In addition, NEPA requires consultation with the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service when wetlands and threatened species habitat are affected. These agencies oversee compliance with Clean Water Act and Endangered Species Act regulations respectively. Federal regulations common to both these laws require consideration of designs that avoid impacts to these resources as a first approach, and the minimization of effects where avoidance is not practicable. Compensatory mitigation is typically required for the unavoidable effects of a project. Attachment B outlines proposed response guidelines to direct city staff in subsequent efforts to ensure the sufficiency of future environmental analysis and permitting.

Funding

Figure 4 below outlines estimates for local contributions according to rough cost estimates for both Site 2 (A) and Site 2 (B). These estimates include costs for design, permitting, NEPA, construction management and contingencies. However, these numbers are subject to change based on next steps outlined below, including scope confirmation by FHWA if the project is short-listed. Therefore, the city's expected contribution to the project could range up to \$200,000, depending on the option selected and refined cost-estimates developed later this year. Verbal agreements among local partners suggest that local governments would provide 17.21 percent of match, divided among the Boulder County and Jefferson County partners. The Boulder County entities include Boulder County, the City of Boulder, and the Town of Superior. After local match requirements are met, all of the project costs would be covered by the grant. The federal investment would total up to \$4.2 million.

Site 2A Highway 128 Underpass (TRAIL) from Flats to City of Boulder		Site 2B Highway 128 Underpass (WILDLIFE CROSSING) from Flats to Boulder County	
Estimated Cost	\$3,505,520	Estimated Cost	\$775,025
<i>Approximate 17.21% Match</i>	\$603,300	<i>Approximate 17.21% Match</i>	\$133,382
Split between Jeffco Entities & Boulder Entities (50/50)		Split between Jeffco Entities & Boulder Entities (50/50)	
Arvada	\$100,550	Arvada	\$22,230
Westminster	\$100,550	Westminster	\$22,230
Jeffco	\$100,550	Jeffco	\$22,230
City of Boulder	\$100,550	City of Boulder	\$22,230
Boulder County	\$100,550	Boulder County	\$22,230
Superior	\$100,550	Superior	\$22,230

Figure 4: Potential breakdown of funding contributions

Local partners would contribute funding only if federal funds are awarded, and city funds would be included as part of OSMP’s Capital Improvements Program (CIP) for 2017. Jefferson County has requested general confirmation of the city’s support ahead of the CIP budget process in order to meet the FLAP application deadline of May 15, 2016. Local partners are seeking additional clarification on the specifics and timing of funding. If the grant is awarded, the City of Boulder would enter into a reimbursable agreement with the Federal Highways Administration, which typically allows flexibility in terms of when the match dollars can be paid. The project can be scheduled out for three to five years, but would be targeted for 2017-2018 since that aligns with the USFWS trail funding and development at Rocky Flats NWR. An estimate within 10 percent of actual cost will be available prior to final grant selection (roughly October 2016).

NEXT STEPS

Following approval of the resolution and response guidelines, OSMP staff would provide documentation of the city’s support to Jefferson County for inclusion in its grant application. If added to FHWA’s short-list for grant funds, the project would then undergo more in-depth scope confirmation this summer, during which FHWA would confirm the NEPA pathway, refine cost estimates and develop a schedule for completion. FHWA will announce final selection of grant recipients in September or October, after which financial agreements with local partners would be executed to confirm local match funding. Simultaneously, OSMP

staff will coordinate with the city's 2017 CIP budget process, so that if federal funds are awarded, the city's financial contribution will be appropriately identified in the 2017 budget.

ATTACHMENTS

Attachment A – Proposed City of Boulder Resolution No. 1182

Attachment B – Proposed City of Boulder Response Guidelines for Subsequent Environmental or Land Use Review or Permitting Processes for Trail Connection to Rocky Flats National Wildlife Refuge

Attachment C – Vicinity Map

Attachment D – Rocky Flats National Wildlife Refuge Comprehensive Conservation Plan

RESOLUTION NO. 1182

A RESOLUTION SUPPORTING A FEDERAL GRANT APPLICATION BY JEFFERSON COUNTY TO FUND PLANNING, DESIGN AND CONSTRUCTION OF UP TO TWO UNDERPASSES AND TRAIL SEGMENTS TO CONNECT ROCKY FLATS NATIONAL WILDLIFE REFUGE WITH ADJACENT CITY OF BOULDER AND BOULDER COUNTY TRAILS NORTH OF STATE HIGHWAY 128 AND APPROVING THE ACCOMPANYING RESPONSE GUIDELINES.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, FINDS AND RECITES THAT:

The Boulder City Council recognizes the health and conservation benefits of connecting residents and visitors to the natural world, and encourages and supports projects that provide those benefits; and

The Rocky Mountain Greenway (RMG) of Colorado is envisioned as a way to enhance and protect our natural heritage and connect Coloradoans with this heritage; and

The goal of the RMG is to create a regional network comprised of trails and transportation systems that connects three urban wildlife refuges with Rocky Mountain National Park. The combined trail and transportation system would link the Rocky Mountain Arsenal National Wildlife Refuge (NWR) in Commerce City, Two Ponds NWR in Arvada, and the Rocky Flats NWR before continuing through Boulder County and the City of Boulder toward Rocky Mountain National Park; and

The RMG statewide steering committee includes representatives from federal, state and local levels, including Colorado Department of Natural Resources, Federal Highway Administration, US Fish and Wildlife Service, Jefferson County, Boulder County, City of Boulder (represented by Councilmember Lisa Morzel), City and County of Denver, City of Aurora, Trust for Public Land, and several private organizations; and

Managed by the Federal Highways Administration, the RMG core team includes local staff representatives from City of Boulder Open Space and Mountain Parks (OSMP), Transportation and Greenways, Boulder County Parks and Open Space (BCPOS) and Transportation, Jefferson County, Town of Lyons, and the Town of Superior; and

The RMG will use existing trails to create this newly branded regional network of trails and transportation systems. The RMG core team will make recommendations where it is necessary for new trail segments to create connections between existing trails. Within and adjacent to the City and city-owned lands managed as open space, the RMG will require a new grade-separated trail crossing of State Highway 128 (underpass) and a new trail segment to connect the Rocky Flats NWR with City of Boulder and Boulder County trails to the north; and

In support of a grant application to the Federal Lands Access Program (FLAP), Jefferson County has requested financial assistance from the cities of Arvada and Westminster, City of Boulder (OSMP), Boulder County and the Town of Superior to support planning, design and construction of up to two underpasses and trail connection. Jefferson County would also contribute funding. These contributions would help satisfy the 17.21 percent local match required by FLAP if federal grant funds are awarded; and

If awarded, federal funds would require some level of environmental analysis through the National Environmental Policy Act (NEPA), through one of three pathways – a categorical exclusion, environmental assessment (EA) or an environmental impact statement (EIS). As described in the attached response guidelines, the City of Boulder believes that an EA or EIS is likely to be required in order to develop reasonable alternatives for locating and designing up to two underpasses and trail connection, to adequately analyze potential impacts to natural resources, and to select a preferred alternative that avoids, minimizes or mitigates those impacts to the greatest extent possible; and

Through the City of Boulder charter, as well as management plans, local partnerships with BCPOS, fee ownership of the Kelsall Property and a conservation easement held by OSMP on BCPOS's Lindsay property, the City of Boulder is charged with protecting natural resource values in the area affected by a potential underpass and trail segment. Natural resource values in this area include the Rock Creek riparian area, wetlands, known habitat for a threatened species (Preble's meadow jumping mouse), and high-quality grasslands including tallgrass prairie; and

The RMG project is considering options for siting and designing a pedestrian underpass, trail connection, and possibly a separate wildlife underpass. Therefore, the Boulder City Council supports subsequent planning and design through NEPA that follows the attached response guidelines in order to determine the best options, and will continue to provide core team members to represent the City's interests; and

This Resolution affirms the City of Boulder's intention to provide a 2017 financial contribution towards local match requirements for Jefferson County's FLAP grant application, subject to support from other local partners.

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

Section 1. The Boulder City Council hereby pledges its support for Jefferson County's FLAP grant application, to include the following elements:

1. An agreement with Jefferson County to commit up to \$200,000 to support future planning, design and construction of up to two underpasses and a trail connection to connect Rocky Flats National Wildlife Refuge with City of Boulder lands to the north. This commitment is contingent upon the support from other local partners.

- 2. A pledge by Jefferson County, in addition to contributing funds, to support the environmental and trail location concerns of the City of Boulder and to advocate for a sound and thorough NEPA and permitting process to ensure protection of OSMP lands and values.

Section 2. The Boulder City Council hereby approves the accompanying response guidelines to direct City staff’s participation in efforts to adequately analyze potential impacts to natural resources, and to select a preferred alternative that avoids, minimizes or mitigates those impacts to the greatest extent possible in the planning, design and construction of this section of the Rocky Mountain Greenway (RMG).

IN WITNESS WHEREOF, this Resolution was adopted by the majority vote of the City Council of the City of Boulder, Colorado on the this ____ day of April 2016

CITY OF BOULDER, COLORADO

Mayor

ATTEST:

City Clerk

**City of Boulder Response Guidelines for Subsequent Environmental or
Land Use Review or Permitting Processes for Trail Connection to
Rocky Flats National Wildlife Refuge
As Approved by City Council on _____**

The Boulder City Council approves the following policy guidelines to inform and guide coordinated staff responses to any subsequent environmental or land use review or permitting process resulting from federal funds awarded to Jefferson County for the planning, design and construction of at least one underpass and trail segment across State Highway 128 (S.H. 128) to connect Rocky Flats National Wildlife Refuge (NWR) with City and County open space lands and trails to the north. City comments will be coordinated through the Open Space and Mountain Parks (OSMP) Department.

1. **Consistency with Plans, Agreements, Codes, Regulations and Policies** – The city supports aligning all comments with applicable policies established through existing, council-approved plans such as the Boulder Valley Comprehensive Plan, OSMP’s Visitor Master Plan, and the OSMP Marshall Mesa-Southern Grasslands Trail Study Area Plan. In addition, comments should align with terms laid out in the conservation easement held by OSMP on Boulder County’s Lindsay property located north of S.H. 128. Lastly, comments should require project compliance with applicable City of Boulder codes, regulations and policies.

2. **Sufficiency of Analysis of Environmental Impacts** – The city insists on a complete and thorough analysis in accordance with the National Environmental Policy Act (NEPA) to consider impacts and potential mitigation for potential environmental impacts to the Rock Creek riparian area, wetlands, known habitat for a threatened species (Preble’s meadow jumping mouse), high-quality grasslands and rare plant communities. To that end, the City of Boulder maintains that either an environmental assessment (EA) or environmental impact statement (EIS) may be required to develop reasonable alternatives for locating and designing up to two underpasses and trail connections, to adequately analyze potential impacts to natural resources, and to select a preferred alternative that avoids or minimizes impacts to the greatest extent possible and provides compensatory mitigation for remaining unavoidable impacts.

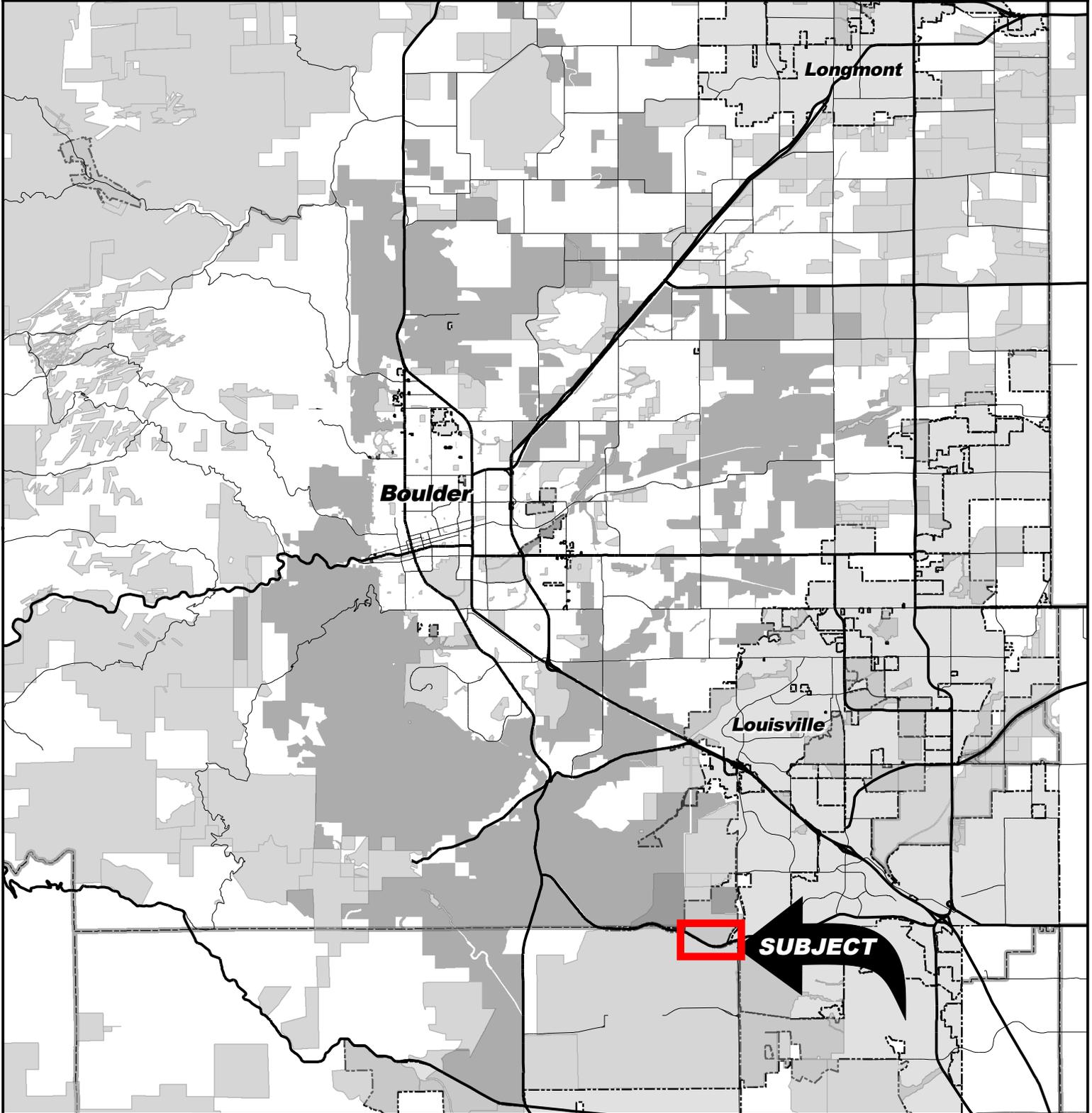
3. **Important Elements of Preferred Alternative** - The city believes that, at this time, there is not enough information to endorse one location or design for the underpasses or trail connection, prior to the completion of the NEPA process. However, it is possible to identify important elements that will support best practices, meet regulatory requirements and develop a balanced preferred alternative that meets community needs and protects resources. The city will support a preferred alternative that:
 - Adequately addresses comments received from the public and funding partners throughout the process;
 - Supports an effective balance of visitor infrastructure and resource protection;

- Creates a quality recreation experience for communities along the greenway with connections to local neighborhoods
- Ensures universally accessible and sustainable guidelines following best practices and regulatory requirements
- Avoids or minimizes impacts to the Rock Creek riparian area and wetlands;
- Avoids or minimizes impacts to Preble’s meadow jumping mouse habitat;
- Avoids or minimizes impacts to grasslands and rare plant communities north of the Coalton and High Plains trails; and
- Provides compensatory mitigation for unavoidable impacts to the resources listed above.

ATTACHMENT C - City of Boulder Open Space & Mountain Parks

VICINITY MAP -

Rocky Mtn Greenway-State Hwy 128 Underpass



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All rights reserved. This map information contains errors in historical data for the sole use of the purchaser and may not be copied, distributed or reproduced in any way, in whole or in part, without the express written consent of the City of Boulder.

The information depicted is provided as a courtesy representation only. While source documents were reviewed to comply with National Map Accuracy Standards, the City of Boulder provides no guarantee, express or implied, as to the accuracy, extent, completeness or the information contained herein.

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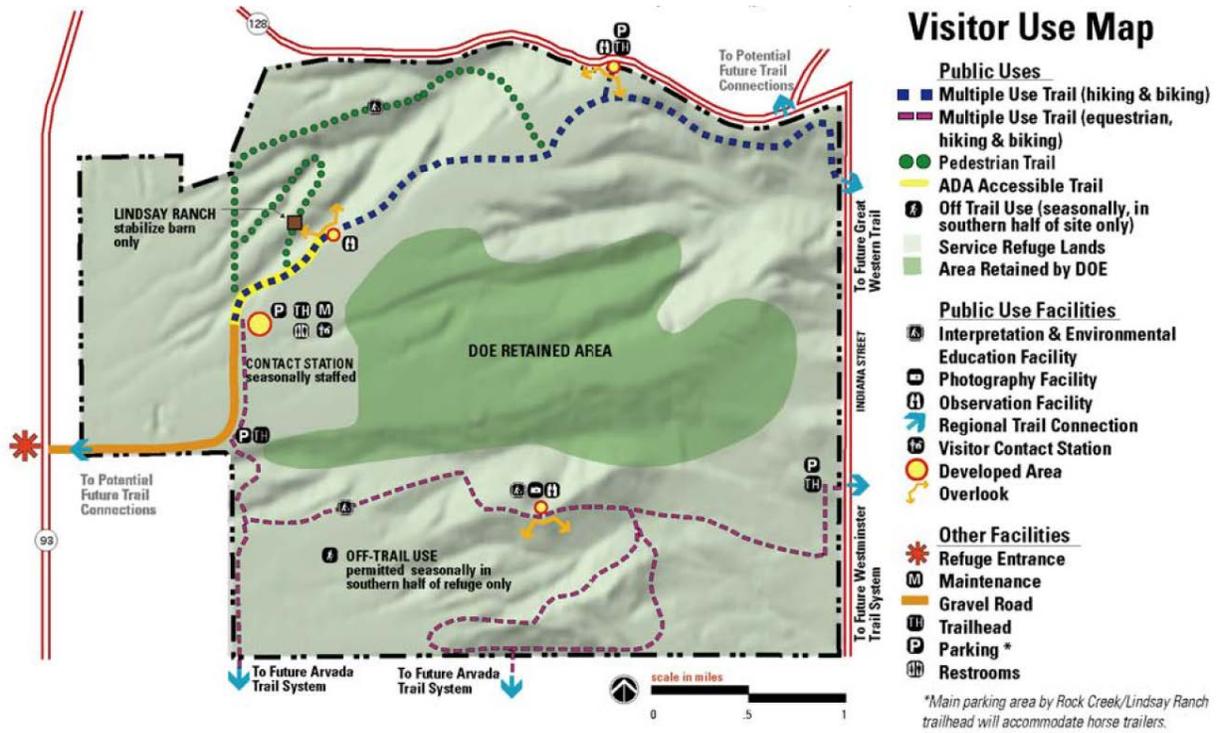
 City of Boulder OSMP
Other Public Lands



0 0.5 1 2 3 4 5 Miles

2012 aerial photography- approximate property boundaries from Boulder County Assessor's data.

Rocky Flats National Wildlife Refuge Comprehensive Conservation Plan





**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 8109 approving supplemental appropriations to the 2016 budget covering the second year of the three-year sales and use tax for capital projects that was approved by the voters in November 2014.

PRESENTERS:

Jane S. Brautigam, City Manager
Bob Eichen, Chief Financial Officer
Cheryl Pattelli, Director of Finance
Peggy Bunzli, Executive Budget Officer
Elena Lazarevska, Senior Financial Analyst
Joel Wagner, Special Assistant to Finance and the City Manager's Office

EXECUTIVE SUMMARY

This proposed supplemental appropriation ordinance (**Attachment A**) allocates funding for expenditures from the 0.3 percent, three-year sales and use tax that was approved by the voters in November 2014, as the 2A ballot measure for Community, Culture and Safety projects.

The focus of this tax is on high priority and new projects as opposed to ongoing maintenance backlogs. Projects funded through this tax will provide a significant impact to the community in a short amount of time by offering opportunities for everyone to enjoy the uniqueness and quality of life in Boulder. When tax projections were originally made for the regular 2016 operating budget, only one month of revenue had been collected for the new tax. Due to the short duration of the tax, the fact there are 13 projects funded by the tax, and because sales and use taxes are volatile, it was decided to wait until a full year of revenue was collected before doing a supplemental appropriation for the second year. The December 2015 sales and use tax collections are remitted by

vendors late in the month of January and reported on in February. The December collections are very important since they are usually about 13 percent of total sales and use tax collections for each year and provide an indication of what will happen in the following year. A listing of specific projects is provided at the end of the memo.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion adopt Ordinance No. 8109 approving supplemental appropriations to the 2016 Budget.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental ordinance appropriates funding for a variety of citywide projects and services that positively affect economic, environmental and social sustainability in the community. These impacts were explained in detail when the taxes were originally proposed. The documents from the August 5, 2014 meeting can be found at the following link:

<https://documents.bouldercolorado.gov/weblink8/0/doc/125939/Electronic.aspx>

OTHER IMPACTS

- **Fiscal:** In the Capital Improvement Fund for Community, Culture, and Safety, this ordinance will:
 - carryover unspent 2015 appropriation to continue work begun in the first year
 - appropriate revenues received above projections in 2015
 - appropriate anticipated 2016 revenues for the second year planned expenses

It is anticipated that the appropriated amounts will be spent in total by the completion of the projects, though timing may vary from the original plan. For example, projects may have been delayed due to scope of work and construction contracts taking longer to develop than was originally expected.

Depending on cash flow needs, additional revenue from 2015 will either be applied to projects, as needed and according to project plans, or be set aside in the contingency fund (see additional information on the contingency fund below).

- **Staff time:** Staff and other resources were added in the 2015 supplemental appropriation for these projects. No additional staff is requested in 2016.

BACKGROUND AND ANALYSIS

2014 - 2A Ballot Item – Three-Year Temporary Tax Increase for Community, Culture, and Safety

Revenues from new taxes

In November 2014, voters approved a temporary three-year 0.3 percent sales and use tax increase. The revenue from this tax increase is to be used for capital improvements for specific Community, Culture, and Safety projects. The ballot language projected that the new tax will yield \$27.6 million for these projects. The table below provides the updated revenue estimates from this tax. The revision is based on what was projected for the 2016 operating budgets that receive sales and use tax revenues.

	2015 Community Culture and Safety	2016 Amount Projected for Community Culture and Safety	2017 Amount Projected for Community Culture and Safety	Total
Original:	\$8.9M	\$9.2M	\$9.5M	\$27.6M
Updated::	\$9.9M	\$9.6M	\$9.9M	\$29.4M

In allocating total anticipated revenues for the three years to the projects, and after total projected expenditures, a contingency of \$555,000 remained. This amount was very small for this number of projects and the total anticipated project costs. Due to the small amount of the original contingency, it is proposed that the additional amount collected in 2015 over projection be used to increase the total contingency. This recommendation is based on the fact that preliminary indications are that construction costs may come in higher than originally projected. Some of the major projects are just starting and it is still too early to tell if this will occur with all projects. It is not a good financial practice to obligate excess funds before knowing the cost of all projects.

It is highly unlikely, but if the contingency amount were not needed for the voter approved projects, staff would bring back proposed uses of the funds that would meet the ballot language, as voter authorized projects approach completion.

Expenditures from new taxes

This tax revenue will be collected from January of 2015 through December of 2017. There will be multiple projects going on during the three-year period and beyond. A listing of the projects and estimated costs can be found at the end of the memo. Inflation cost increases are always a major concern when using this pay-as-you-go (PAYG) financing methodology. The longer projects extend into the future the higher the risk of inflation costs eroding the scope and results of the projects.

To mitigate this impact, it is best to begin all projects as soon as possible so contract costs can be locked in and buying power is not eroded. The City of Boulder Charter provides a

unique challenge for PAYG financing. It requires that before a contract can be entered into all funds for the full contract have to be appropriated. Since the actual tax amounts will be collected over a three year period, all funds for all phases of all projects will not be available during 2016. Based on updated cashflow information provided by the project managers, it is expected that not all of the projects will be ready to enter into construction contracts in 2016. If that occurs, then the cashflows in will match closely to the actual project cashflows going out, since some phases started early and some will start later.

However, if the projects move forward more quickly than that, the coverage plan proposed last year could be used to address the timing differences. That is, when the 2017 budget is brought forward for council consideration, or in the second annual adjustment to base that will occur in November/December of 2016 sufficient general fund reserves could be pledged to make up the amount not yet been collected, but needed to cover the contract. Based on current cashflow projections it is not expected that the coverage plan will be needed, nor would any of the general fund reserves be spent. However, it is best to have a financial plan in place so projects do not have to stop once they have been mobilized.

Approved 2A Community, Culture, and Safety Projects

Hill Investments

Hill Residential Pedestrian Lighting	\$2,000,000
Hill Commercial District Event Street	\$750,000
Hill Commercial District Irrigation and Street Trees	\$520,000
Hill Investments Subtotal	\$3,270,000

Civic Area \$8,700,000

Boulder Creek (BC)

BC Path Lighting	\$1,040,000
BC Path Improvements	\$885,000
BC Arapahoe 13th Underpass	\$2,500,000
BC Eben Fine Park Stream Bank Restoration	\$700,000
Boulder Creek Subtotal	\$5,125,000

Public Art \$600,000

Chautauqua Pedestrian Safety, Access, and Lighting \$1,500,000

Dairy Center \$3,850,000

Museum of Boulder \$4,000,000

Contingency \$555,000

Grand Total \$27,600,000

Communication

Community, Culture and Safety tax project information is hosted on a centralized website with links to project-specific pages that display descriptions, engagement opportunities, budget and, related details and documents.

<https://bouldercolorado.gov/pages/community-culture-safety>

As the projects become more active, regular updates will be provided to council via information packet updates and in the annual capital improvement program document.

PUBLIC AND COUNCIL FEEDBACK

There were no questions or comments from the public on first reading.

ATTACHMENTS

- A. Proposed Ordinance No. 8109 for Supplemental Appropriations to the 2016 Budget
- B. Commonly used government finance terms

ORDINANCE NO. 8109

AN ORDINANCE RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER, COLORADO, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2016 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 2016 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 revenue and fund balance to the listed funds:

Section 1. Capital Improvement Fund for Community, Culture, and Safety

Appropriation from Additional Revenue	\$9,612,498
Appropriation from Fund Balance	\$6,485,216
Appropriation from Fund Balance – Encumbrance	\$1,538,691

Section 2. 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 3. 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 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.

INTRODUCED, READ, ON FIRST READING, AND ORDERED PUBLISHED
BY TITLE ONLY this 15th day of March, 2016.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this 5th day of April, 2016.

Mayor

Attest:

City Clerk

Commonly used government finance terms

Fund: Major components of the city that must be or need to be budgeted for and accounted for due to national, state or local laws or ordinances. All expenses that are not designated or required to be accounted for separately are found in the general fund of the city. Since this is a dedicated and restricted tax it is in a separate fund.

Appropriation: The legal authorization given my council to make expenditures and incur obligations on behalf of the city. Appropriations are done at the fund level. Therefore, the proposed supplemental ordinance would adopt funds to make expenditures in the Capital Improvement Fund for Community, Culture and Safety. Appropriations if not used in one year must be re-appropriated in the following year.

Supplemental appropriation: Appropriations that are not currently in the original budget passed by Council. In this case these proposed appropriations are not in the 2016 budget passed by the city council in October of 2015 for the 2016 budget. They were not included because not enough information was known when the original budget was passed. Since this is a short term tax with multiple projects it is best to have the most current information so expenditures do not exceed revenues that are currently on hand or are expected to be received.

Encumbrance: Appropriations committed by contract with the city that have not been spent or paid yet. This term is specific to governmental accounting and budgeting.

Fund Balance: The balance remaining in a fund after costs have been subtracted from revenues.

Fiscal year: By state law all municipalities must have a December 31 year end. At that time under state law all appropriations and encumbrances lapse and must be re-appropriated in the following year. It is brought forward when adequate information is known about revenues and updated expenditures.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE: Introduction and consideration of a motion to order published by title only and adopt on first reading Ordinance No. 8111 amending Title 9, “Land Use Code,” B.R.C. 1981, to allow for changes to the city’s sign code related to lettering heights in the Boulder Valley Regional Center and compliance with a recent United States Supreme Court ruling regarding content based signage regulations and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager
Tom Carr, City Attorney
David Driskell, Executive Director
Susan Richstone, Deputy Director
Charles Ferro, Development Land Use Review Manager
Hella Pannewig, Assistant City Attorney

EXECUTIVE SUMMARY

In February 2016, The Dairy Center for the Performing Arts applied for a permit for a canopy sign that is not consistent with the city’s sign code regulations. Lettering heights for such signs are limited to 18” in height. On February 29, 2016, the city council directed staff to change the city’s sign code to allow for larger, 24” letter heights in the Boulder Valley Regional Center (BVRC). A recent Supreme Court decision raised issues with other parts of the sign code. Staff recommends that council consider addressing these issues with this proposed amendment to the sign code.

Suggested Motion Language:

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

Motion to introduce, adopt on first reading and order published by title only, Ordinance No. 8111 amending Title 9, "Land Use Code," B.R.C. 1981, to allow for changes to the city's sign code related to lettering heights in the Boulder Valley Regional Center and compliance with a recent United States Supreme Court ruling regarding content based signage regulations and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Signs play an important role in promoting businesses and contribute to the community's economic vitality.
- Environmental: Signs contribute to visual clutter.
- Social: Signs can distract drivers creating traffic hazards.

OTHER IMPACTS

- Fiscal: There is no fiscal impact from the proposed ordinance.
- Staff Time: Implementation will be accomplished with existing staff.

BOARD AND COMMISSION FEEDBACK

The Planning Board held a public hearing to consider the proposed ordinance on March 17, 2016. Board members voted unanimously to recommend the ordinance. Members asked staff to look at several issues.

- Board members expressed concern that section 9-9-21(d)(8) did not address signs relating to caucuses. This was an existing gap in the ordinance. Staff changed the language in section 9-9-21(d)(8) to allow political signs up to one month before the caucus.
- Board members asked staff to confirm that section 9-9-21(d)(8) addressed ballot measures. It does.
- Board members asked staff to confirm that section 9-9-21(d)(12) relating to subdivision signs limited the time for which such signs would be permitted. That language is included.
- Board members expressed concern that the section related to construction signs would allow for advertising at construction sites. A board member recommended that staff review requirements in other sections of the code relating to such signs to limit the use of such signs for purposes other than those for which they are intended. Staff will undertake such a review.

BACKGROUND & ANALYSIS

In February 2016, The Dairy Center for the Performing Arts applied for a permit for a canopy sign that is not consistent with the city's sign code regulations. Currently, lettering heights for such signs are limited to 18" in height. On February 29, 2016, City Council directed staff to change the city's sign code to allow for larger, 24" letter heights in the Boulder Valley Regional Center (BVRC). The boundaries of the BVRC are as follows:



Sign codes are restrictions on speech and therefore must conform to the First Amendment to the United States Constitution. A government may impose reasonable time, place and manner restrictions on speech if there is a rational basis for the restriction. For sign codes, the rational basis is generally esthetics and the need to limit distractions for drivers. Such restrictions have been upheld to the extent that they regulate the manner of speech, but not the content. That is, the government can restrict how a party speaks, but not what the party says. To restrict the content of speech there must be a compelling government interest. During the 2015 term, the United States Supreme Court struck down the sign code for the Town of Gilbert, Arizona as a content-based restriction on speech. *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015). The court took a broad view of what constituted a content-based regulation. The holding in *Reed* was that if one needed to read the sign to determine whether the code applied, the code was a content-based regulation. The city's current sign code includes certain exceptions which make it vulnerable to the *Reed* decision. These include exemptions for signs for lost animals, real

estate signs and garage sale signs currently found Section 9-9-21(c)(1)(C) B.R.C. 1981. One could argue that because the city needs to read the sign to determine whether the exemption applies makes the city’s sign code a content-based regulation. Thus, if staff were to recommend that signs advertising performing arts organizations be exempt, the ordinance could be considered a content-based regulation, hence the additional proposed changes to the city’s sign code found in **Attachment A**.

At the Council Agenda Committee meeting on March 28, 2016, Mayor Pro Tem Young asked whether LED signs were prohibited by the following language in section 9-9-21(b)(3)(B):

(3) Specific Signs Prohibited: No person shall erect, install, post, display, or maintain any of the following signs: . . . (B) Flashing: A sign with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color, or use intermittent electrical pulsations.

LED signs are not prohibited under section 9-9-21(b)(3)(B), but are regulated under language in section 9-9-21(b)(3)(G).

(3) Specific Signs Prohibited: No person shall erect, install, post, display, or maintain any of the following signs: . . . (G) Moving: A sign with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means, except for gauges and dials that may be animated to the extent necessary to display correct measurement. ***Electronic signs which change the message not more than once per minute are considered copy changes and not prohibited moving signs.*** Vertical rotating cylindrical signs, in which the text or graphic is on the surface of the cylinder, and nothing beyond the radius of cylinder surface rotates, whose rotating part does not exceed twelve inches in diameter and thirty inches in height, are not considered prohibited moving signs.

PROPOSED ORDINANCE

The following table summarizes the changes included in the proposed ordinance.

Section	What’s allowed	Change
9-9-12(a)(2)(C)	Intent	Eliminated references to real estate signs, construction warning signs, garage sale signs and lost animal signs.
9-9-21(b)(3)(L)	Non-commercial signs with sound	Changed “works of art” to “non-commercial”.
9-9-21(c)(1)(A)	Construction signs	Eliminated requirement that the sign warn of danger or hazardous condition.

9-9-21(c)(1)(C)	Garage Sale	One sign for a period not to exceed 10 days, no more than twice a year. Limited to total signage allowed for the parcel. Eliminated the requirement that the sign advertise a garage sale.
9-9-21(c)(1)(D)	Lost animal	One sign for a period not to exceed 10 days. Limited to total signage allowed for the parcel. Eliminated the requirement that the sign be for a lost animal.
9-9-21(c)(1)(E)	Noncommercial	Changed “work of art” to “sign” .
9-9-21(c)(1)(G)	Real Estate	When a property is offered for sale, one temporary non-illuminated sign. This sign does not count against the allowable sign area.
9-9-21(c)(1)(M)	Cottage foods	Added a clarification that there is no limitation on the content of the sign.
9-9-21(d)(1)(B)(2)	Awning signs	Added a provision allowing an awning sign up to 24 inches in height the BVRC.
9-9-21(d)(4)	Construction signs	Eliminated content requirements for construction signs. Added a requirement that the sign be posted by a licensed contractor on a site at which the contractor is working.
9-9-21(d)(8)	Political signs	Eliminated the content requirement for political signs. They are still limited to election season and size limits.
9-9-21(d)(12)	Subdivision	Eliminated the content requirement and replaced it with a time limitation.
9-9-21(k)(4)(I)	City Manager Approval	Added a provision prohibiting the city manager from considering a sign’s content.
9-9-21(m)(10)(C)	Construction Standards	Changed “warning” signs to “site” signs to eliminate content-based restriction.
9-16-1	Definitions	Eliminated definitions of construction sign and real estate sign and amended definition of political sign.

ATTACHMENT

Attachment A – Proposed Ordinance

ORDINANCE NO. 8111

AN AMENDING CHAPTER 9-9-21, “SIGNS,” BY ELIMINATING ANY CONTENT-BASED RESTRICTIONS AND AMENDING THE RESRICTION ON AWNING SIGNS TO ALLOW AWNING SIGNS IN THE BOULDER VALLEY REGIONAL CENTER TO INCLUDE LETTERS OF NOT GREATER THAN TWENTY-FOUR INCHES IN HEIGHT AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-9-21 is amended to read as follows:

9-9-21. - Signs.

(a) Application and Legislative Intent:

(1) Application of Section: This section applies only to signs erected on private property by the owner or lessee in possession of that property, or by persons acting with the permission or at the request of the owner or lessee. It applies only to signs which are visible beyond the boundaries of the property upon which they are located. There are two exceptions to this rule which are most conveniently included in this section: signs erected on private property as part of a sign program which was a condition of approval of development under this title; and signs on private vehicles located on public property. This section does not apply to a sign carried by a person, whether on public or private property. This section does not apply to signs, other than those on vehicles, on public property.

(2) Intent: The purpose of this section is to protect the health, safety, and welfare of the residents of the city by regulating the design, construction, and installation of private signs in the city. The city council recognizes that signs are necessary means of visual communication for the public convenience and that businesses and individuals have the

1 right to identify themselves and convey messages by using signs that are accessory and
2 incidental to the use on the premises where the signs are located. In this section the
3 council intends to provide a reasonable balance between the right of a business or an
4 individual to identify itself and to convey its message and the right of the public to be
5 protected against the visual discord that results from the unrestricted proliferation of
6 signs, especially off-premises billboards. The ability to convey messages by signs is
7 important to the proper and efficient functioning of society. However, the natural desire
8 to speak more "loudly" through signs which are more numerous, larger, higher, and
9 closer to the street than the signs used by one's neighbors and competitors requires a set
10 of rules applicable to all similarly situated. With a level playing field the community as
11 a whole benefits and no individual is disadvantaged in communicating. The council also
12 intends by this section to ensure that signs are compatible with adjacent land uses and
13 with the total visual environment of the community and that the value of nearby
14 property and the economic health of the community as a whole are protected from
15 visual blight. Another purpose of this section is to protect the public from hazardous
16 conditions by prohibiting signs that: are structurally unsafe, particularly in light of the
17 unique wind hazards in the city, obscure or distract the vision of motorists, or compete
18 or conflict with necessary traffic signs and warning signals. In adopting this section, the
19 council recognizes that the size of signs that provide adequate identification in
20 pedestrian-oriented areas differs from that necessary in vehicular-oriented areas where
21 traffic is heavy, travel speeds are greater, and required setbacks are greater.
22

23
24 (A) The city council recognizes that since the sign code was originally enacted in 1971,
25 most nonconforming signs have been eliminated through attrition and through the

1 amortization provision of chapter 48 of the Revised Code of the City of Boulder,
2 Colorado 1965. But nonconforming signs may enter the city as it annexes
3 developed land, and code changes may make conforming signs nonconforming.
4 The council recognizes that permitting the continuation of such nonconforming
5 signs provides an unfair competitive advantage over persons whose signs conform
6 to the section requirements and intends that signs that do not conform with this
7 section be eliminated as expeditiously as practicable to protect the public safety and
8 welfare and the visual environment.

9
10 (B) The city council recognizes the right of residents of the city to fully exercise their
11 right to free speech by the use of signs containing noncommercial messages that are
12 subject to minimum regulations regarding size, number, structural safety and visual
13 setbacks.

14 (C) The city council finds that certain types of signs are not appropriate for regulation
15 by permit under this section because they:

16 (i) Would not create a structural safety or traffic safety hazard;

17 (ii) Would promote public safety or the dissemination of public information;

18 (iii) Would not give rise to aesthetic or traffic concerns;

19 (iv) In the case of art, are deemed a privilege of individual creative expression;

20 (v) In the case of other noncommercial signs, are accessory to the exercise of first
21 amendment rights;

22 (vi) ~~With respect to real estate signs, the council finds that a small "for sale" or "for~~
23 ~~rent" sign is an important means of advertising real estate and does not create a~~
24
25

1 ~~traffic hazard. In fact, appropriate real estate signs prevent traffic hazards by~~
2 ~~easing the task of the motorist looking for the property. In addition, the council~~
3 ~~finds that a substantial portion of such rentals occur as a result of prospective~~
4 ~~tenants examining areas of interest to them looking for signs indicating that~~
5 ~~space is for rent, and that approximately fifty four percent of the dwelling units~~
6 ~~in the city are rental units;~~

7
8 ~~(vii) With respect to permitted construction warning signs, the council finds that~~
9 ~~such signs are essential to warn persons entering the property of dangers~~
10 ~~created by the construction and that their prompt and unfettered use constitutes~~
11 ~~a compelling governmental interest and requires a different form of regulation;~~

12 ~~(viii) With respect to permitted garage sale signs, the council finds that sporadic~~
13 ~~"garage sale" signs for garage sales permitted under this title do not constitute~~
14 ~~a commercial use of residential property and do not compromise the residential~~
15 ~~values served by the restrictions on home occupations, and that other means of~~
16 ~~advertising such sales are unacceptably burdensome. The need for such sales in~~
17 ~~the City, and the attendant signs on the premises where the occupant lives and~~
18 ~~is holding the sale, is particularly high because of the large college student~~
19 ~~population (approximately one fourth of the City's population), and the high~~
20 ~~proportion of persons living in rental housing as opposed to owner occupied~~
21 ~~housing (approximately fifty four percent of the dwelling units in Boulder are~~
22 ~~rental units), and who have from time to time a pressing need to unburden~~
23 ~~themselves from possessions they have determined they cannot reasonably take~~
24 ~~with them to their new place of abode;~~
25

1 ~~(ix) With respect to permitted lost animal signs, the council finds that notices in~~
2 ~~newspapers or other means of communicating this information are inadequate,~~
3 ~~and that notice of the animal's loss near the site of the loss is necessary to~~
4 ~~increase the likelihood and timeliness of the animal's return to its owner, and~~
5 ~~promotes the government's interest in avoiding euthanasia and the other costs~~
6 ~~attendant upon stray animals;~~

7
8 (vix) With respect to permitted private traffic signs, the council finds that such
9 signs serve a compelling governmental interest in the safe movement of traffic
10 in private parking lots and drives and serve a function which cannot effectively
11 be served in any other manner;

12 (viixi) With respect to signs required by law, the council finds that the law
13 requiring the sign is sufficient regulation of the sign, and that it is inappropriate
14 for the government to require a sign to be posted but count it against allowable
15 private signage, and that such signs by definition serve a compelling
16 governmental interest in a site-specific manner which cannot otherwise be
17 served as effectively;

18
19 ~~(xii) With respect to small permitted residential wind signs, the council finds that~~
20 ~~the safety valve for personal expression provided by such signs serves a~~
21 ~~compelling governmental interest and is within the penumbra of the First~~
22 ~~Amendment;~~

23 (vxiii) With respect to permitted utility warning signs, the council finds that the
24 dispersed nature of utility lines throughout all the community does not lend
25 itself to the property by property regulation otherwise used in this code, and

1 that warning of the location of utilities and of their hazards so that persons will
2 not be injured thereby, so that fire, police, and other public emergency services
3 may be conducted expeditiously and safely, and so that the essential public
4 functions served by such utilities will not be impaired constitutes a compelling
5 governmental interest and requires a different form of regulation;

6
7 (~~v~~xiv) With respect to permitted vehicular signs, the council finds that regulation
8 of bumper stickers and other forms of personal expression is inappropriate in a
9 free and highly mobile society and that such signs are ordinarily small,
10 whereas regulation of commercial signs on motor vehicles, which the council
11 finds are often large, is appropriate for those who have chosen to engage in
12 commerce within the City and serves a substantial governmental interest in
13 aesthetics and traffic safety;

14 (~~xv~~) With respect to permitted window signs, the council finds that such signs
15 present no structural hazards and provide a method by which messages may be
16 displayed on short notice by the property owner or tenant as that person
17 perceives the need to communicate without need for any government role in
18 the protection of the broader public interest, and that within the limitations
19 given have not and will not cause aesthetic blight or traffic hazards of the sort
20 unacceptable to the community; and

21
22 (~~xvi~~) With respect to signs on bicycles, the council finds that the use of signs on
23 bicycles will not cause aesthetic blight or traffic hazards of the sort
24 unacceptable to the community and will service a substantial governmental
25 interest by reducing the cost of an environmentally beneficial transportation

1 option that will relieve vehicular congestion, reduce greenhouse gas emissions
2 and improve public health by providing opportunities for exercise; and

3 ~~(xvii) Because of the extraordinary importance, amounting to a compelling~~
4 ~~societal and governmental interest, of election campaigning for public office~~
5 ~~and of voting on initiatives and referenda, and because political speech has its~~
6 ~~fullest and most urgent application during a political campaign from the time a~~
7 ~~candidate is nominated for electoral office until the day after the election, and~~
8 ~~from the time an initiative or referendum is placed on the ballot until the day~~
9 ~~after the election, the limit of one noncommercial residential sign within the~~
10 ~~residential noncommercial sign setback should not apply to signs urging the~~
11 ~~election or defeat of such candidates, or the passage or defeat of such~~
12 ~~measures, and the applicable provisions of this sign code reflect this~~
13 ~~determination. Without in any way limiting the applicability of the general~~
14 ~~severability provisions of section 1-1-4, "Severability of Parts of Code,"~~
15 ~~B.R.C. 1981, but mindful of the possibility that a reviewing court might~~
16 ~~disregard such an otherwise clear expression of legislative intent because of its~~
17 ~~generality, the city council intends that this exception for signs during~~
18 ~~campaigns be considered severable from the remainder of the sign code should~~
19 ~~it for some reason be found wanting under the state or federal constitutions,~~
20 ~~just as it intends all other provisions of this sign code to be severable.~~

21
22
23 (D) Council finds that commercial signs towed over the City by aircraft are a
24 distraction to motorists, pedestrians, and other users of the public streets and ways,
25 and impair traffic safety, and constitute unfair competition for earthbound

1 advertisers who comply with the City's sign code when made by multiple passes
2 over the City, and therefore are detrimental to the health, safety, and welfare of the
3 people of the City, and urges the Federal Aviation Administration to place suitable
4 restrictions upon any certificate of waiver to prohibit towing such signs over the
5 City.

6
7 (b) Prohibitions and Prohibited Signs:

8 (1) Conformity With Sign Code Required: No person shall display, construct, erect, alter,
9 use, or maintain any sign in the City except in conformance with the provisions of this
10 section. No person shall display, alter, use, maintain, or enlarge any legal,
11 nonconforming sign except in conformity with the provisions of this section. No person
12 shall perform or order the performance of any act contrary to the provisions of this
13 section or fail to perform any act required by the provisions of this section.

14 (2) Sign Permit Required: Except as provided in subsection (c) of this section, no person
15 shall display, construct, erect, alter, or relocate any sign without first applying to the
16 city manager and obtaining a permit under this section.

17
18 (3) Specific Signs Prohibited: No person shall erect, install, post, display, or maintain any
19 of the following signs:

20 (A) Animal: A sign that involves the use of a live animal.

21 (B) Flashing: A sign with lights or illuminations that flash, move, rotate, scintillate,
22 blink, flicker, vary in intensity, vary in color, or use intermittent electrical
23 pulsations.

24 (C) Height: A sign twenty-five feet or more above the ground level.
25

1 (D) High Window: A window sign exceeding four square feet in area twelve feet or
2 more above the ground level.

3 (E) Illuminated: An illuminated sign with any of the following characteristics:

4 (i) A beam or ray of light used to illuminate the sign shines directly from the sign
5 onto the surrounding area.

6 (ii) Direct or reflected light from any light source associated with the sign creates a
7 traffic hazard or distraction to operators of vehicles or pedestrians on the
8 public right-of-way.

9 (iii) The sign is directly illuminated and is in a residential or an agricultural zoning
10 district.

11 (iv) If a sign is indirectly or internally illuminated and is in a residential or an
12 agricultural zone, the illumination may not continue between the hours of
13 11:00 p.m. and 7:00 a.m., unless the illumination is required for safety
14 purposes.

15 (v) No illuminated sign visible from and located within three hundred feet of any
16 property in a residential zoning district may be illuminated between the hours
17 of 11:00 p.m. or one-half hour after the use to which it is appurtenant is closed,
18 whichever is later, and 7:00 a.m.; but this time limit does not apply to any light
19 primarily used for the protection of the premises or for safety purposes.
20
21
22

23 (F) Illusion: A sign with optical illusion of movement by means of a design giving the
24 illusion of motion or changing of copy, including, without limitation, a sign that
25 presents a pattern capable of reversible perspective.

1 (G) Moving: A sign with visible moving, revolving, or rotating parts or visible
2 mechanical movement of any description or other apparent visible movement
3 achieved by electrical, electronic, or mechanical means, except for gauges and dials
4 that may be animated to the extent necessary to display correct measurement.
5 Electronic signs which change the message not more than once per minute are
6 considered copy changes and not prohibited moving signs. Vertical rotating
7 cylindrical signs, in which the text or graphic is on the surface of the cylinder, and
8 nothing beyond the radius of cylinder surface rotates, whose rotating part does not
9 exceed twelve inches in diameter and thirty inches in height, are not considered
10 prohibited moving signs.
11

12 (H) Non-Appurtenant or Off-Premises: An off-premises commercial sign not
13 appurtenant and clearly incidental to the principal use of the property where
14 located.

15 (I) Obstructing: A sign or sign structure that obstructs or interferes in any way with
16 ingress to or egress from or use of any standpipe, fire escape, required door,
17 required window, or other required exit way; or any sign that obstructs any window
18 to such an extent that light or ventilation is reduced to a point below that required
19 by any provision of this code or other ordinance of the City.
20

21 (J) Projected Image: A sign that incorporates a projected image.

22 (K) Roof: A roof sign, except as specifically permitted by subsection (d)(11) of this
23 section.
24
25

1 (L) Sound: A sign or building that emits any sound, except for a noncommercial
2 signwork of art located in a zoning district other than an agricultural or a residential
3 district, which may emit noncommercial human voice or music recordings which
4 do not exceed fifty dBA, measured at the nearest property line, between 8:00 a.m.
5 and 6:00 p.m.

6 (M) String of Lights: A string of light bulbs used in connection with commercial
7 premises for commercial purposes and attached to or suspended from a structure.
8 This prohibition does not apply to a string of lights in a window for which a permit
9 has been issued under subparagraph (d)(14)(I) of this section, concerning wall
10 signs.
11

12 (N) Traffic Vision Obstruction: A freestanding sign or sign structure between a height
13 of two and one-half feet and ten feet above the street elevation, other than a pole
14 twelve inches or less in cross-sectional area, within the corner triangular areas
15 described in Section 9-9-7, "Sight Triangles," B.R.C. 1981.
16

17 (O) Unsafe: A sign or structure that constitutes a hazard to safety or health including,
18 without limitation, any sign that is structurally inadequate by reason of inadequate
19 design, construction, repair, or maintenance, is capable of causing electrical shock
20 to persons likely to come into contact with it, or has less than three feet horizontal
21 or eight feet vertical clearance from overhead electric conductors that are energized
22 in excess of seven hundred fifty volts.

23 (P) Vehicular: A sign displayed on a motor vehicle if:

24 (i) The vehicle is not in operable condition;
25

- 1 (ii) The sign is roof-mounted and has more than two faces or any face exceeds four
2 square feet in area;
- 3 (iii) More than two signs are mounted on the roof of the vehicle;
- 4 (iv) The sign, if not roof-mounted, is not painted on or securely affixed on all edges
5 to the surface of the side of the body of the vehicle;
- 6 (v) The principal use of the vehicle at the time of the display is for display of the
7 sign;
- 8 (vi) It is a commercial sign which does not identify the owner of the vehicle or a
9 good or service which may be purchased from the owner;
- 10 (vii) It is a commercial sign and the vehicle is not being operated in the normal
11 course of business;
- 12 (viii) It is a commercial sign and the vehicle is not parked or stored in the normal
13 course of business in an area appropriate to the use of the vehicle for delivery
14 or another commercial purpose; or
- 15 (ix) It is a commercial sign and the vehicle, if parked on private property, is not
16 parked within the setback requirements of this section, unless no other
17 reasonable provision can be made for such parking.
- 18 (x) It is a specific defense to a charge of violation of subparagraph (b)(3)(P)(vi) of
19 this section that the vehicle was licensed by the Colorado Public Utilities
20 Commission for the commercial transportation of passengers, or was engaged
21 in such transportation but was exempt from such licensure.
22
23
24
25

1 (Q) Wind: A wind sign, except as permitted for flags in subparagraph (c)(1)(B) of this
2 section, or in a residential or agricultural zone as permitted in subparagraph
3 (c)(1)(I) of this section.

4 (R) Bicycles: A sign displayed on a bicycle if:

- 5 i. The bicycle is not in operable condition; or
- 6 ii. The signs exceed two square feet in area.

7
8 (c) Signs Exempt From Permits:

9
10 (1) Specific Signs Exempted: The following signs are permitted in all zoning districts and
11 are exempt from the permit requirements of this section, but shall in all other respects
12 comply with the requirements of this code except as expressly excepted below:

13 (A) ~~Construction site signs~~ ~~Warning~~: A sign not exceeding sixteen square feet erected
14 by a licensed construction contractor on property on which it is working ~~to warn of~~
15 ~~danger or hazardous conditions~~. Such sign is also exempt from the setback,
16 limitation on number of freestanding signs, and total sign area regulations of this
17 section.

18 (B) Flags: Up to three different flags per property, subject to the following restrictions:

- 19 (i) The total area of all flags shall not exceed seventy square feet;
- 20 (ii) The area of each such flag shall be exempt from the sign area limitations of
21 paragraph (d)(2) of this section, but shall not exceed forty square feet, with no
22 one dimension of any flag greater than eight feet;
- 23
- 24
- 25

1 (iii) The flag pole or other structure on which such a flag is displayed shall be
2 treated as part of any building to which it is attached for all height
3 computations and not as an appurtenance or a part of the sign;

4 (iv) No freestanding flagpole shall exceed twenty feet in height outside of the
5 principal building setbacks or thirty-five feet in height within the principal
6 building setbacks; and

7
8 (v) No flag bearing an explicit commercial message shall constitute an exempt
9 flag.

10 (C) Garage Sale: One ~~garage sale~~ sign per property in an agricultural or residential
11 district placed on private property owned or leased by the person holding ~~at~~
12 ~~the~~ garage sale, for a period not to exceed ten consecutive days and not more than
13 twice in a calendar year. The sign must be within the total signage permitted for the
14 parcel. This provision does not restrict the content of the sign.

15
16 (D) Lost Animal: One ~~lost animal~~ sign per property placed on private property with the
17 permission of the owner for a period not to exceed ten consecutive days, in an
18 agricultural or residential district and within the total signage permitted for such
19 parcel. This provision does not restrict the content of the sign.

20 (E) Noncommercial: A sign ~~work of art~~ that in no way identifies or advertises a
21 product, service, or business or impedes traffic safety, a political sign, or any other
22 noncommercial sign.

23
24 (F) Private Traffic: A private traffic directional sign guiding or directing vehicular or
25 pedestrian traffic onto or off of a property or within a property that does not exceed

1 three square feet per face in area and six feet in height, does not contain any
 2 advertising or trade name identification, and is not illuminated, internally
 3 illuminated, or indirectly illuminated. But a private traffic control sign that
 4 conforms to the standards of the state traffic control manual defined in subsection
 5 7-1-1(a), B.R.C. 1981, may exceed three square feet per face in area but shall not
 6 exceed seven square feet per face or eight feet in height. Such sign also is exempt
 7 from the setback, limitation on number of freestanding signs, and total sign area
 8 regulations of this section.

9
 10 (G) Real Estate: At any time that a property is offered for sale or rent, One temporary,
 11 non-illuminated ~~real estate~~ sign per property or per dwelling unit street frontage, set
 12 back at least eighteen inches from the nearest public sidewalk, that does not exceed
 13 six square feet per face in area and a total of twelve square feet in area and four feet
 14 in height in the RR, RE, RL, RM, RMX, RH, and MH zones or sixteen square feet
 15 per face and a total of thirty-two square feet in area and seven feet in height in any
 16 other zone, but only if the sign remains in place no more than seven days after sale
 17 or rental of the subject property. The area of such a sign shall not be deducted from
 18 the allowable sign area or number of freestanding signs for the building or business
 19 unit. If the property owner or tenant is not using this real estate sign allowance,
 20 such person in possession of the property may place a noncommercial sign
 21 conforming ~~to with~~ these limitations in lieu of such a real estate sign. This
 22 provision does not restrict the content of the sign.

23
 24 (H) Sign Required by Law: A sign required or specifically authorized for a public
 25 purpose by any federal, state, or city law of any type, including, without limitation,

1 the number, area, height above grade, location or illumination authorized by the
2 law under which such sign is required or authorized. But no such sign may be
3 placed in the public right-of-way unless specifically authorized or required by law.
4 Except for a warning sign or barricade of a temporary nature, any such sign shall be
5 securely affixed to the ground, a building, or another structure. So much of such a
6 sign as is required by law also is exempt from all other provisions of this section.

7
8 (I) Residential Wind Sign: A wind sign in a residential or an agricultural zone, within
9 the limitations set forth in subsection (d) of this section, notwithstanding the
10 prohibition of subparagraph (b)(3)(Q) of this section.

11 (J) Utility Warning: A sign not exceeding sixteen square feet erected by a public utility
12 within a utility easement on property on which it is working to warn of danger or
13 hazardous conditions or to indicate the presence of underground cables, gas lines,
14 and similar devices. Such a sign also is exempt from the setback, limitation on
15 number of freestanding signs, and total sign area regulations of this section.

16 (K) Vehicular: A sign displayed on a motor vehicle if not prohibited by this section.

17
18 (L) Window: A non-illuminated window sign of no more than four square feet in area
19 and placed no more than twenty-five feet above finished grade, if the total area of
20 such signs fills less than twenty-five percent of the area of the architecturally
21 distinct window, and such signs do not exceed twenty-five percent of the total
22 allowable sign area for the building or business unit. The area of a window sign not
23 exempt from permit requirements under this subparagraph is calculated as a part of
24 and limited by the total allowable sign area for the premises.
25

1 (M) Cottage Foods and Fresh Produce Signs. On any premises meeting the
2 requirements of Chapter 6-17, a sign meeting the size restrictions applicable to
3 residential detached dwellings in Table 9-13 of this section. This provision does not
4 restrict the content of the sign.

5 (2) Copy Change and Maintenance: No permit is required for copy changes or maintenance
6 on a conforming sign if no structural changes are made. This exception does not apply
7 to copy changes in signs covered by a private sign program as specified in subsection
8 (k) of this section.

9
10 (d) Size Limitations and Other Rules for Certain Signs:

11 (1) Awning: An awning sign that extends more than fifteen inches beyond a wall of a
12 building shall comply with the following conditions:

13 (A) The total area of such awning sign may not exceed the lesser of one hundred fifty
14 square feet or one square foot of sign area for every linear foot of awning length.
15 Awning length is that portion of the awning that is parallel to the building wall on
16 which it is located.

17 (B) No awning sign may project above, below, or beyond the face of the architectural
18 projection on which it is located, except for an awning sign that meets the
19 following standards:

20 (i) An awning sign may project horizontally beyond the face of a marquee or
21 canopy no more than twelve inches, measured from the bottom of the sign, if
22 necessary to accommodate the letter thickness and required electrical
23 equipment;
24
25

1 (ii) An awning sign composed entirely of individual opaque alphanumeric
2 characters twelve inches or less in height, or for any awning sign in the
3 Boulder Valley Regional Center twenty-four inches or less in height, may
4 project above the point at which they are attached to the marquee or canopy by
5 no more than the height of the character plus two inches;

6 (iii) The canopy or marquee to which the awning sign is attached must be located
7 over an entry to the building; and

8 (iv) The awning sign shall be substantially parallel with the building wall to which
9 the canopy or marquee is attached.
10

11 (C) Awning signs that extend fifteen inches or less from a wall of a building shall be
12 considered to be wall signs, subject to the requirements of paragraph (d)(14) of this
13 section.

14 (D) Permission to construct, install, and maintain an awning sign over the public right-
15 of-way must be obtained from the city manager pursuant to section 4-18-3,
16 "Sidewalk Banner or Awning Permit Required," B.R.C. 1981, prior to the issuance
17 of the sign permit.
18

19 (E) For purposes of determining projection, clearance, height, and materials, an awning
20 sign shall be considered a part of and shall meet the requirements for a marquee,
21 canopy, or awning, as specified in the city building code, chapter 10-5, "Building
22 Code," B.R.C. 1981.
23
24
25

1 (F) If an awning sign is located on a marquee, canopy, or awning and is internally
2 illuminated through translucent material, the entire illuminated area of the awning
3 or awning sign shall be included in the calculation of the area of the sign.

4 (2) Banner: A banner is permitted for any permitted use in a business or industrial zoning
5 district if the person wishing to display such sign applies therefore and obtains a permit,
6 but such sign may be displayed for a maximum period of thirty consecutive days at the
7 same location, one time during the first year of such use by the occupant. The area of
8 the single sign permitted under this exception shall not exceed fifty square feet in total
9 area and shall not exceed twenty feet in height, including, without limitation, the
10 appurtenance on which the banner is displayed. Such a sign shall be firmly attached on
11 at least all four corners.
12

13 (3) Downtown Pedestrian District:

14 (A) An application for a permit for a sign to be located in the downtown pedestrian
15 district, as shown on the map in appendix E, "Downtown Pedestrian District," of
16 this title, and which otherwise complies with all applicable provisions of this
17 section and is not exempted under subparagraph (d)(3)(B) of this section shall be
18 presented by the city manager to the downtown management commission for
19 comment. The downtown management commission shall return the application
20 within ten working days to the manager with its comments. The manager shall
21 forward the comments to the applicant, who may resubmit the application to the
22 manager in its original form or as amended based upon the downtown management
23 commission's comments. If the downtown management commission fails to give its
24 comments to the manager by the ten-working-day deadline, or if the applicant
25

1 resubmits the original application unaltered after considering the downtown
2 management commission's comments, the manager shall issue the permit. If the
3 application is resubmitted with amendments, the manager shall issue the permit if
4 the amended application still complies with all other applicable provisions of this
5 section.

6
7 (B) Sign permit applications which meet the following criteria are exempt from the
8 downtown management commission comment procedure of subparagraph (d)(3)(A)
9 of this section:

10 (i) The top of the sign is located no higher than the windowsill level of the second
11 story of the building;

12 (ii) The sign is not internally illuminated;

13 (iii) If the sign is indirectly illuminated the light source must not be visible to
14 pedestrians on public property, and all mounting hardware and electrical
15 ducting must be concealed or integrated into the sign design;

16 (iv) If the sign is illuminated by neon, it does not exceed four square feet in area;

17 (v) The sign is not painted directly on the wall of a structure;

18 (vi) The sign uses a commercially available typeface;

19 (vii) The sign is rectangular or circular;

20 (viii) The sign is composed of colors from a palette approved by regulation by
21 the downtown management commission; and
22
23
24
25

1 (ix) If a freestanding sign, it does not exceed seven feet in height or twenty square
2 feet in area per sign face.

3 (4) Construction site: A sign erected by a licensed contractor at a construction site at which
4 the contractor is working identifying the type, duration, and responsible party of
5 construction of a property in any zoning district is permitted only if it is:

6
7 (A) Limited to a freestanding, wall, or window sign or signs not exceeding thirty-two
8 square feet in total area and sixteen square feet per face and seven feet in height,
9 with no riders or attachments in nonresidential zones, and twelve square feet in
10 total area and six square feet per face and four feet in height in residential zones.

11 Such signs are exempt from the sign area regulations of this section;

12 (B) Displayed only on the property to which the sign pertains, and no more than one
13 such sign per street upon which the property has frontage; and

14 (C) Displayed only for the duration of construction for which a building permit has
15 been obtained until issuance of a certificate of occupancy.

16 (D) A construction site sign may be erected only if an exempt real estate sign is not
17 displayed on the same property.

18 (E) Each construction site shall identify the type, duration and responsible party for the
19 construction site.

20
21
22 (5) Fence-Wall: A sign displayed upon a fence, or upon a wall that is not an integral part of
23 a building or that is used as a fence, shall be erected or mounted in a plane parallel to
24 the fence or wall and shall not extend above the top of the fence or wall or project more
25 than fifteen inches from the face of the fence or wall. Such sign is subject to all

1 requirements of this section applicable to freestanding signs, including, without
2 limitation, maximum area per sign, maximum sign height, minimum setback, and
3 number of permitted signs.

4 (6) Freestanding:

5 (A) A freestanding sign in any zoning district shall be set back the following distances,
6 and no point on any such sign may extend beyond the required setback line:

7 (i) Except in BMS, DT, and MU-1 districts, a sign up to and including seven feet
8 in height shall be set back ten feet from any property line adjacent to a street.
9 In the BMS, DT, and MU-1 districts, no setback is required for such a sign, but
10 no sign may be located within eighteen inches of a public sidewalk or obstruct
11 the view of motor vehicle operators entering or leaving any parking area,
12 service drive, private driveway, street, alley, or other thoroughfare.

13 (ii) A sign over seven feet in height shall be set back at least twenty-five feet from
14 any property line adjacent to a street in all zones.

15 (iii) No sign in a business or industrial district may be located less than twenty-five
16 feet from any adjacent residential zoning district line.

17 (B) In addition to any other permitted signs on the property, no more than one
18 freestanding sign may be maintained for each street frontage of the property.

19 (C) If a property has more than one street frontage, the freestanding sign permitted for
20 each frontage must be located adjacent to that frontage, and the minimum
21 permissible horizontal distance between freestanding signs on the same property is
22 seventy-five feet.
23
24
25

1 (D) Except as otherwise provided in subparagraph (d)(6)(K) of this section, the
2 maximum permissible total area of any freestanding sign is one hundred square
3 feet; and the maximum permissible area of any one face of any freestanding sign is
4 fifty square feet. For buildings with a linear frontage of less than or equal to one
5 hundred feet, the maximum permissible sign area of all freestanding signs on a
6 property is one and one-half square feet of sign area for every linear foot of
7 building frontage up to a maximum of one hundred square feet per sign and fifty
8 square feet per face. For a building with a linear frontage greater than one hundred
9 feet, the allowable sign area for freestanding signs shall be deducted from the total
10 allowable sign area for all signs for the building.
11

12 (E) Unless otherwise specified in subsection (e) of this section, the maximum
13 permissible height of freestanding signs is the lesser of: twenty-five feet or one and
14 one-fourth times the height of the principal building on the property where the sign
15 is located.
16

17 (F) The horizontal distance between freestanding signs on adjacent properties must be
18 not less than the height of the taller sign.
19

20 (G) The area of the support structure of a freestanding sign is counted in the total area
21 of the sign to the extent that the support structure exceeds the minimum required
22 for the support of the sign. But if the sign is less than seven feet in height, a plain
23 pedestal for a freestanding sign shall not be counted in the total area of the sign.
24

25 (H) A flag on flagpole shall not be subject to this paragraph, but shall be regulated as
set forth in subparagraph (c)(1)(B) of this section.

1 (I) Supports for a freestanding sign shall be designed in accordance with the
2 requirements of this code and shall not be placed upon any public right-of-way or
3 public easement, except pursuant to the terms of a lease to the adjacent property
4 owner.

5 (J) Where a freestanding sign is located in a vehicular parking or circulation area, a
6 base or barrier of concrete or steel, not less than thirty inches high, shall be
7 provided to protect the base of the sign from damage by vehicles.
8

9 (K) The maximum total sign area for freestanding signs may be increased by one-third
10 when such signs are located adjacent to the following major streets or specified
11 portions thereof:

12 (i) Arapahoe Avenue - from 28th Street to the east city limits;

13 (ii) Baseline Road - from Broadway to Foothills Parkway;

14 (iii) 28th Street - from Arapahoe Avenue to Iris Avenue;

15 (iv) 30th Street - from Arapahoe Avenue to the Diagonal Highway;

16 (v) 63rd Street - from the north city limits to the south city limits; and

17 (vi) Lookout Road - from the west city limits to the east city limits.
18

19
20 But the increased sign area permitted in this subparagraph does not include any
21 increase in sign height.
22

23 (L) All freestanding signs located within two hundred fifty feet of the nearest right-of-
24 way line of Foothills Parkway (Colorado State Highway 157) or Pearl Parkway east
25

1 of Foothills Parkway and visible from such parkway shall be further limited to a
2 maximum height of twelve feet.

3 (7) Historic District or Building: In addition to satisfying the provisions of this section,
4 signs installed or maintained on a historic building or in a historic district must comply
5 with the provisions of chapter 9-11, "Historic Preservation," B.R.C. 1981.

6
7 (8) Noncommercial Nonresidential: A noncommercial sign, including, without limitation, a
8 work of art or a political sign in all nonresidential zoning districts that does not impede
9 traffic safety is exempt from the total sign area and setback limitations of this section,
10 except the following:

11 (A) Noncommercial freestanding, projecting, suspended, and awning signs are subject
12 to the total sign area and setback limitations of this section.

13
14 (B) Prior to placing a noncommercial wall sign of more than nine square feet in area on
15 an exterior wall, the building owner shall give thirty calendar days' notice to the
16 city manager by delivery or by first class mail, effective on mailing, including the
17 building address and a colored representation of the sign. The city manager may
18 comment on the sign but shall have no power to prevent it from being placed on the
19 building wall.

20 (C) Noncommercial signs on temporary construction barriers not located in the public
21 right-of-way shall be deemed not to be wall or freestanding signs subject to
22 regulation under this section during that period of time for which a building permit
23 for the property which necessitated the barrier is valid.
24
25

1 (9) Noncommercial Residential: A noncommercial sign, including, without limitation, a
2 work of art or a political sign, in all residential zoning districts, that does not impede
3 traffic safety is exempt from the total sign area and setback limitations and wind sign
4 prohibitions of this section, subject to:

5 (A) Noncommercial signs shall be set back at least eighteen inches from any public
6 sidewalk adjacent to a street or from the curb or outer edge of the roadway if there
7 is no such sidewalk.
8

9 (B) Noncommercial signs within twenty-five feet of any public sidewalk adjacent to a
10 street, or thirty feet of the curb or outer edge of the roadway if there is no such
11 sidewalk, shall not exceed seven feet in height or thirty-two square feet in total
12 area, with no face larger than sixteen square feet, and there shall be only one such
13 sign. However, during a political campaign from the time a candidate is nominated
14 for electoral office or nominated or certified for a primary election, or a recall
15 election date is set, until the day after the election, ~~and~~ from the time an initiative or
16 referendum or other measure to be voted upon by the electors is placed on the
17 ballot until the day after the election, and from one month prior to a caucus this
18 limit of one noncommercial residential sign in the setback shall not apply ~~to signs~~
19 ~~urging the nomination, election, or defeat of such candidates or recall of such~~
20 ~~officials, or the passage or defeat of such measures.~~ These ~~election~~ signs in the
21 setback in excess of the one otherwise permitted may not exceed twelve square feet
22 in total area per sign, with no face larger than six square feet.
23

24 (C) There are no setback, number, or area limitations in residential zoning districts for
25 noncommercial signs which are set back farther than twenty-five feet from the

1 property line. If a side of a residential building is closer than thirty feet to the public
2 sidewalk, or thirty-five feet to the curb or outer edge of the roadway if there is no
3 such sidewalk, then that area within five feet of such building side shall be
4 excluded from the restrictions of subparagraph (d)(9)(B) of this section, if
5 applicable.

6 (D) Reference in this paragraph to sidewalks, curbs, and roadway edges does not
7 authorize placement of signs off premises on public property or in the public right-
8 of-way.
9

10 (10) Projecting: A projecting sign shall comply with the following conditions:

11 (A) Signs projecting over public property may not project more than thirty-six inches
12 from a wall of a building, and the maximum permissible total area for such a sign is
13 the lesser of:

14 (i) One square foot of sign area for each linear foot of frontage of the building
15 upon which such sign is displayed; or
16

17 (ii) Eighteen square feet per sign, with no face of the sign exceeding nine square
18 feet.

19 (B) Signs projecting over private property may not project more than six feet from a
20 wall of a building nor beyond the minimum required building setback line and may
21 not exceed twenty-four square feet in total area, and no face of a sign shall exceed
22 twelve square feet.
23

24 (C) Projecting signs must have a minimum clearance above the sidewalk of eight feet
25 and may not extend twelve feet or more above the sidewalk nor above the roof line.

1 (D) Any end panel on a projecting sign is considered a face of the sign and included in
2 the area of that sign if the end panel is twelve inches or more in width.

3 (E) No more than one projecting sign may be maintained per tenant space frontage at
4 the ground level of a building. The minimum horizontal distance between
5 projecting signs on a building shall be twenty-five feet.
6

7 (11) Roof: A sign may be erected upon or against the side of a roof having an angle of forty-
8 five degrees or more from the horizontal, but must be architecturally integrated with the
9 building and roof by a dormer or similar feature. Such a sign is a wall sign and must
10 comply with the provisions of paragraph (d)(14) of this section concerning wall signs,
11 and must not project more than a total of fifteen inches horizontally, measured at the
12 bottom of the sign, from the side of the roof upon which it is displayed.

13 (12) Subdivision: In addition to other such signs that may be allowed, signs erected at the
14 time of identifying a subdivision of a property in any zoning district may be issued a
15 sign permit if they comply with the following:
16

17 (A) A freestanding, wall, or window subdivision sign not exceeding thirty-two square
18 feet in total area and sixteen square feet per face, not exceeding seven feet in
19 height, and set back at least ten feet from any public right-of-way, with no riders or
20 attachments;

21 (B) Displayed only on the subdivision for which a subdivision plan has been filed~~to~~
22 ~~which the sign pertains~~, no more than one such sign per street frontage, and with a
23 minimum distance between such signs in a single subdivision or property of one
24 thousand feet;
25

1 (C) Displayed on or after the date of filing of the subdivision plan and removed within
2 two years from the date of issuance of the first building permit in the subdivision or
3 within thirty days from the time that seventy-five percent of the properties or
4 dwellings in the subdivision or filing thereof have been sold, whichever is sooner.

5 (13) Suspended: A suspended sign may not exceed ten square feet in total area or five square
6 feet per face; may not project beyond the outside limits of the architectural projection to
7 which it is attached; and shall have a minimum clearance above the sidewalk of eight
8 feet. The minimum permissible horizontal distance between suspended signs is fifteen
9 feet.
10

11 (14) Wall: A wall sign shall comply with the following conditions:

12 (A) The total area of all wall signs on a face of a building may not exceed fifteen
13 percent of the area of that portion of the building face between ground level and the
14 roof line or a line twenty-five feet above grade level, whichever is less.
15

16 (B) The total area of all wall signs on an architecturally distinct wall, where two or
17 more such walls form a face of a building, shall not exceed twenty-five percent of
18 such wall.

19 (C) No part of a wall sign may be located more than twenty-five feet above grade level.
20

21 (D) No wall sign may be attached to or displayed against any parapet wall that does not
22 extend around the entire perimeter of the roof enclosed by the parapet. No sign on
23 such a parapet wall may extend more than twenty-four inches above the roof
24 elevation immediately behind the sign, unless approved as part of a site review
25 under section 9-2-14, "Site Review," B.R.C. 1981.

1 (E) No wall sign may extend above the roof line of a building except as permitted on a
2 parapet wall. No wall sign may be displayed on the wall of a mechanical room or
3 penthouse or other such enclosed space which is not habitable by the occupants of
4 the building.

5 (F) The length of a wall sign shall not exceed seventy percent of the length of the wall
6 or the width of the leased space of the wall on which it is located, whichever is less.
7

8 (G) The lettering height for wall signs located within two hundred fifty feet of the right-
9 of-way of Foothills Parkway (Colorado State Highway 157) or Pearl Parkway east
10 of Foothills Parkway, and visible from such parkway, shall not exceed twenty-four
11 inches.

12 (H) The lettering height for wall signs located within the B.V.R.C. and the BMS, MU-
13 3, DT, and BT-2 zoning districts shall not exceed twenty-four inches for single
14 lines of copy and a total of thirty-two inches for multiple lines of copy, and any
15 graphic symbol may not exceed thirty inches in height.
16

17 (I) A string of lights which extends on or around the perimeter of a window is subject
18 to the following conditions: the linear length of a string of lights counts as fifty
19 percent of the allowable square footage for wall signs. The maximum linear length
20 of all strings of lights in windows cannot exceed ninety feet.

21 (e) Limitations on Area, Number, and Height of Signs by Use Module:
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23 (1) Use Modules: The use modules set forth in section 9-6-1, "Schedule of Permitted Land
24 Uses," B.R.C. 1981, apply to this section, and the boundaries of such districts are
25

determined by reference to the zoning map of the city and to interpretation of such map under section 9-5-3, "Zoning Map," B.R.C. 1981.

(2) Maximum Sign Area Permitted: The maximum sign area permitted per property, maximum area per sign face, maximum number of signs, and maximum height of freestanding signs in the use modules in the city are as in Table 9-13 of this section, except as modified by other provisions of this section.

TABLE 9-13: LIMITATIONS ON AREA, NUMBER, AND HEIGHT OF SIGNS BY USE MODULE

Maximum Sign Area Permitted Per Property	Maximum Area Per Sign Face	Maximum Number Signs Permitted	Maximum Height of Freestanding Signs
Residential and Agricultural Districts (RR, RE, RL, RM, RMX, RH, and A)			
For detached dwelling uses: 4 square feet	2 square feet	1 per use	7 feet
For attached dwelling uses: 32 square feet	16 square feet	1 per street frontage	7 feet
For other uses permitted by zoning chapter 9-6, "Use Standards," B.R.C.	16 square feet	1 per street	7 feet

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1981: 32 square feet		frontage	
For other uses permitted by special review and for lawful nonconforming uses: the lesser of 50 square feet or the maximum sign area for the use in the zoning district in which the use is permitted by chapter 9-6, "Use Standards," B.R.C. 1981	16 square feet	The lesser of 1 per street frontage or 2 per use	7 feet
Public District (P)			
The greater of: 15 square feet or ½ square foot of sign area for each foot of street frontage	50 square feet for freestanding signs. See subsection (d) of this section for limits on other signs	1 per street frontage for freestanding signs. 1 per ground level tenant for projecting signs. No limit on other signs	7 feet
Downtown, Mixed Use, and Business - Transitional Districts (BMS, BT, MU, DT)			
Any use that is permitted in a residential zone shall be regulated as in the residential zoning			

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districts			
For any use not permitted in residential zones, other than MU-3, in addition to freestanding signs, as permitted in paragraph (d)(6) of this section, 1.25 square feet of sign area for each linear foot of total building frontage for the first 200 feet of frontage, plus 0.5 square feet of sign area for each foot of frontage thereafter	See subsection (d) of this section for area restrictions	1 per street frontage for freestanding signs. 1 per ground level tenant for projecting signs. No limit on other signs	See paragraph (d)(6) of this section for height restrictions
Business - Community, Business - Commercial Services, Business - Regional, and Industrial Districts not in the B.V.R.C. (BC, BCS, BR, IS, IG, IM, and IMS)			
For any use permitted in residential zones, as regulated in residential zoning districts	See subsection (d) of this section for area restrictions		Varies with setback; see paragraph (d)(6) of this section
In addition to freestanding signs, as permitted in paragraph (d)(6) of this	See subsection (d) of this section for		See paragraph (d)(6) of this

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<p>section, 2 square feet sign area for each linear foot of total building frontage for the first 200 feet of frontage, plus 0.5 square foot sign area for each linear foot of frontage, except as provided in subparagraph (d)(6)(D) of this section</p>	<p>area restrictions</p>		<p>section for height restrictions</p>
<p>Boulder Valley Regional Center and Regional Business Districts</p> <p>Properties zoned BR-1 and properties located within the Boulder Valley Regional Center unless zoned BT-1 or BT-2</p>			
<p>For any use not permitted in residential zones, in addition to freestanding signs, as permitted in paragraph (d)(6) of this section, 1.5 square feet of sign area for each linear foot of total building frontage for the first 200 feet of each frontage, plus ½ square foot sign area for each additional linear foot of each frontage</p>	<p>See subsection (d) of this section for area restrictions</p>	<p>1 per street frontage for freestanding signs. 1 per ground level tenant for projecting signs. No limit on other signs</p>	<p>See paragraph (d)(6) of this section for height restrictions</p>

1 (f) Computation of Signs and Sign Area:

2 (1) Regular Shape: In computing the area of a sign, this section shall be administered using
3 standard mathematical formulas for regular geometric shapes, including, without
4 limitation, triangles, parallelograms, circles, ellipses, or combinations thereof.

5
6 (2) Irregular Shape: In the case of an irregularly shaped sign or a sign with letters or
7 symbols directly affixed to or painted on the wall of a building, the area of the sign is
8 the entire area within a single continuous rectilinear perimeter of not more than eight
9 straight lines enclosing the extreme limits of any writing, representation, emblem, or
10 any figure of similar character, together with any material or color forming an integral
11 part or background of the display if used to differentiate such sign from the backdrop or
12 structure against which it is placed, but if a freestanding sign structure is not a fence
13 which functions as such, the sign area shall be the area of the entire structure.

14 (3) Sign Structures: In computing the area of a sign, the portion of the sign structure to be
15 included is that which is visible and viewed in the same plane as the sign face and
16 which is made a part of the background of the display.

17
18 (4) More Than One Element: The total surface area of signs composed of more than one
19 sign element includes the vertical and horizontal spacing between each element of the
20 sign.

21 (5) Three-Dimensional: For three-dimensional figure signs, the sign area is the total area,
22 projected on a vertical plane, of each side of the sign that is visible beyond the
23 boundaries of the property upon which the figure is located. For purposes of this
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1 paragraph, a figure is considered to have a side for each ninety degrees or part thereof
2 of visibility from a public right-of-way.

3 (6) Attachments: Any temporary or permanent rider or attachment to a sign or sign
4 structure is included as part of the total sign area for the sign to which it is attached.

5
6 (7) Two Faces: A sign is computed as having two display faces if the angle between two
7 faces is equal to or less than sixty degrees. If a sign has two or more display faces, the
8 area of all faces and all noncontiguous surfaces is included in determining the sign area.

9 (8) Number of Signs: For the purpose of determining the number of signs that may be
10 subject to the provisions of this section, a sign shall be considered to be a single display
11 surface or display device containing elements clearly organized, related, and composed
12 to form a unit. Where elements are displayed in a random manner without an organized
13 relationship of elements or where there is reasonable doubt about the relationship of
14 elements, each element shall be considered to be a single sign.

15
16 (9) One Use of Building Frontage: Building frontage used as the basis of determining
17 permitted sign area for one use may not be used again as the basis for determining the
18 permitted sign area for another use, but nothing in this paragraph shall be construed to
19 prohibit the additional use from erecting a sign that would otherwise be authorized by
20 the provisions of this section.

21 (10) More Than One Frontage: For the purpose of determining the total allowable sign area
22 for buildings with more than one frontage, the following criteria apply:

23
24 (A) If a building has more than one frontage, the maximum sign area for the building is
25 based on the total horizontal length of not more than two contiguous frontages; and

1 (B) Signs may be located on any side of the building, but the total sign area on any one
2 side of the building may not exceed the area permitted on the basis of that frontage
3 considered independently of other frontages.

4 (g) Permits and Applications:

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6 (1) The owner or tenant of property on which a sign is to be located or an authorized agent
7 thereof or a sign contractor licensed by the city shall apply for a sign permit in writing
8 on a form furnished by the city manager, shall sign the application, and shall pay the fee
9 prescribed in section 4-20-21, "Sign Contractor License Fees and Sign Permit Fees,"
10 B.R.C. 1981. There is no fee for signs placed by a homeowner on residential property,
11 for banners, or for exempt signs.

12 (2) The owner of a multi-tenant or multiple use property or an agent of the owner shall
13 apply for all sign permits for the property or shall develop a plan for apportioning
14 permitted sign area among tenants and file such plan with the city manager, in which
15 case each tenant may apply for a sign permit in conformity with the plan.

16 (3) The applicant shall submit the following information as part of the application:

17 (A) The name, address, and telephone number of the owner or persons entitled to
18 possession of the sign and of the sign contractor or installer;

19 (B) The street address or location of the proposed sign;

20 (C) Complete information required on application forms provided by the city manager,
21 including a site plan and elevation drawings of the proposed sign, copy of the
22 proposed sign, and other data pertinent to the application;
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1 (D) Plans indicating the scope and structural detail of the work to be done, including
2 details of all connections, guy lines, supports, footings, and materials to be used;

3 (E) Complete application for an electrical permit for all electric signs if the person
4 building the sign is to make the electrical connection; and

5 (F) Statement of the sign's valuation.
6

7 (4) Within five working days of the date of the application, the city manager will either
8 approve or deny the application or refer it back to the applicant for further information.

9 (5) No person issued a sign permit under this section shall change, modify, alter, or
10 otherwise deviate from the terms or conditions of the approved application or permit
11 without first requesting and obtaining approval to do so from the city manager.
12

13 (6) If the sign conforms to all other applicable requirements of this section, no permit is
14 required for maintenance of the sign.

15 (h) Expiration of Permit:

16 (1) If a person to whom a permit is granted under this section has not commenced work on
17 the sign within sixty days from the date on which the permit was issued or if substantial
18 building operations under such permit are suspended for a period of 60 consecutive
19 days, the permit automatically expires, but the city manager may grant an extension of
20 the time limits provided in this paragraph for construction delays that are not the result
21 of willful acts or neglect by the permittee, upon a written request for such an extension
22 received by the manager before expiration of the permit.
23

24 (2) The city manager shall not refund any permit fees paid under this section if any permit
25 is revoked pursuant to subsection (t) of this section, or expires under this subsection.

1 (i) Inspections:

2 (1) In enforcing the provisions of this section, the city manager may enter any building,
3 structure, or premises in the city at reasonable times to perform any duty imposed by
4 this section.

5
6 (2) The city manager may require footing inspections on the day of excavation for a
7 freestanding sign.

8 (3) The city manager may require inspection of an electrical sign before its erection within
9 forty-eight hours after being notified that the sign is ready for inspection.

10 (4) A permit holder or agent thereof shall notify the city manager when a sign is complete
11 and ready for final inspection, which shall be no more than sixty days after work is
12 commenced.

13
14 (j) Licensed Sign Contractor Required to Install Signs: No person other than a sign contractor
15 licensed under chapter 4-21, "Sign Contractor License," B.R.C. 1981, shall install any sign
16 for which a permit is required under this section, except:

17 (1) A homeowner may install a sign on the premises of such person's residence, for which a
18 permit is otherwise required, if the homeowner obtains a permit and complies with all
19 requirements of this section other than that of licensed sign contractor installation.

20
21 (2) Banner signs for which permits are required.

22 (3) Window signs for which permits are required.

23 (k) Signs in Approved Site Review Developments:
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1 (1) A sign located in an approved site review development shall conform to all
2 requirements of this section, including those of the district in which the property is
3 located, except for those subsections dealing with sign setbacks from property lines and
4 spacing between projecting and freestanding signs if alternative setbacks and spacing
5 are specifically shown on a site plan approved under section 9-2-14, "Site Review,"
6 B.R.C. 1981, or approved as part of a sign program for the site review project. In no
7 case may the total square footage for signage permitted under this section be increased
8 through a site review or sign program.

9
10 (2) Sign lettering and graphic symbol height as specified in subparagraph (d)(14)(H) of this
11 section concerning wall signs may also be varied in accordance with paragraph (k)(1) of
12 this section.

13 (3) If a condition of site review development approval requires a uniform sign program, the
14 following additional conditions shall apply:

15 (A) The owner or developer of the site review development shall submit a uniform sign
16 program to the city manager for approval prior to the issuance of any sign permits
17 within the planned unit development. Such program shall include, as a minimum:
18

19 (i) Type of sign permitted (wall sign, projecting sign, awning sign, window sign,
20 etc.).

21 (ii) Type of construction (individual letters, cabinet, internal or indirect
22 illumination, etc.).

23 (iii) Color.
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1 (iv) Size of sign (maximum height of letters, maximum length of sign, and
2 maximum size).

3 (v) Location of sign.

4 (B) The aggregate area of all signs and the size of any freestanding sign shall not
5 exceed that permitted in subsection (e) of this section.

6 (C) The owner or developer of the site review development shall notify all potential
7 tenants or property owners of the sign program at the time of sale or lease of the
8 property.

9 (D) The property owner or developer or an authorized representative shall review all
10 signs for compliance with the sign program prior to a tenant applying for a sign
11 permit and shall countersign the application signifying such compliance.

12 (E) The sign program may not be altered without written permission of the city
13 manager. In addition, no changes may be made without the written permission of a
14 majority of tenants whose existing signs are in compliance with the previously
15 established sign program.

16 (4) The city manager shall apply the following standards in approving or denying a sign
17 program or request to alter a sign program:

18 (A) All signs shall be in compliance with law;

19 (B) The program shall ensure a reasonable degree of sign uniformity and coordination
20 within the program area and will enhance the visual quality of the area;

21 (C) The program shall be simple, clear, and to the point;

1 (D) The program shall limit the number of signs allowed for each tenant of the area;

2 (E) Signs shall be compatible with the area in color, shape, and materials;

3 (F) A color plan for signs is required;

4 (G) Signs are simple and clearly legible; ~~and~~

5 (H) Freestanding signs are integrated in appearance with their surroundings; and

6 (I) The city manager shall not consider the content of the sign.

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8
9 (5) The city manager may write uniform sign program guidelines to serve as an example of
10 a sign program which meets the requirements of this subsection.

11 (l) Structural Design Requirements:

12 (1) Signs and sign structures shall be designed and constructed as specified in this
13 subsection to resist wind and seismic forces. All bracing systems shall be designed and
14 constructed to transfer lateral forces to the foundations. For signs on buildings, the dead
15 and lateral loads shall be transmitted through the structural frame of the building to the
16 ground so as not to overstress any of the elements thereof. The overturning moment
17 produced from lateral forces may not exceed two-thirds of the dead load resisting
18 moment. The structural frame of the building or the anchoring of the sign shall be
19 adequate to resist uplift due to overturning. The weight of earth superimposed over
20 footings may be used in determining the dead load resisting moment, if it is carefully
21 placed and thoroughly compacted.

22
23 (2) Signs and sign structures shall be designed and constructed in compliance with the city
24 building code, chapter 10-5, "Building Code," B.R.C. 1981, including all requirements
25 to resist seismic forces.

1 (3) Wind loads and seismic loads need not be combined in the design of signs or sign
2 structures. Signs shall be designed to withstand the loading that produces the larger
3 stresses. Vertical design loads, other than roof live loads, shall be assumed to be acting
4 simultaneously with the wind or seismic loads.

5 (4) The design of structural members shall conform to the requirements of the city building
6 code, chapter 10-5, "Building Code," B.R.C. 1981. Vertical and horizontal loads exerted
7 on the soil shall not produce stresses exceeding those specified in the city building code.
8

9 (5) The working stresses of wire rope and its fastenings shall not exceed twenty-five
10 percent of the ultimate strength of the rope or fastening. Working stresses for wind
11 loads combined with dead loads may be increased as specified in the city building code,
12 chapter 10-5, "Building Code," B.R.C. 1981.

13 (m) Construction Standards:

14 (1) Signs and sign structures shall be securely built, constructed, and erected in conformity
15 with the requirements of this subsection.
16

17 (2) Supports for signs or sign structures shall not be placed on property not owned or leased
18 by the sign owner.

19 (3) Materials of construction for signs and sign structures shall be of the quality and grade
20 specified for buildings in the city building code, chapter 10-5, "Building Code," B.R.C.
21 1981. Plastic materials shall be those specified in the building code that have a flame
22 spread rating of 0-25 or less and a smoke density no greater than that obtained from the
23 burning of untreated wood under similar conditions when tested in accordance with the
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1 building code standards in the way intended for use. The products of combustion shall
2 be no more toxic than the burning of untreated wood under similar conditions.

3 (4) All sign structures, except for construction signs, those signs specifically excepted in
4 subparagraphs (c)(1)(A), (c)(1)(E), (c)(1)(G), (c)(1)(H), (c)(1)(J), and (c)(1)(L) of this
5 section, window signs, and signs located inside buildings, shall have structural members
6 of heavy timber or incombustible material. Wall signs, projecting signs, and awning
7 signs shall be constructed of incombustible material, except as provided in paragraph
8 (m)(5) of this section or as specifically approved by the city manager. No combustible
9 materials other than approved plastic shall be used in the construction of electric signs.
10

11 (5) Nonstructural elements of a sign may be of wood, metal, approved plastic, or any
12 combination thereof.

13 (6) Members supporting unbraced signs shall be so proportioned that the bearing loads
14 imposed on the soil either vertically or horizontally do not exceed safe values. Braced
15 ground signs shall be anchored to resist specified wind or seismic loads acting in any
16 direction. Anchors and supports shall be designed for safe bearing loads on the soil for
17 effective resistance to pull-out amounting to a force of twenty-five percent greater than
18 the required resistance to a depth of not less than three feet. Anchors and supports shall
19 be guarded and protected when near driveways, parking lots, or similar locations where
20 they could be damaged by moving vehicles.
21

22 (7) Signs attached to masonry, concrete, or steel shall be safely and securely fastened
23 thereto by means of metal anchors, bolts, or approved expansion screws of sufficient
24 size and anchorage to support safely the loads applied.
25

1 (8) No anchor or support of any sign, except flat wall signs, shall be connected to or
2 supported by an unbraced parapet wall.

3 (9) Display surfaces in all types of signs shall be of metal or other approved materials.

4 (10) Signs intended for temporary placement of less than six months and which have no
5 electrical or other special features:

6
7 (A) If less than six square feet per face and under four feet in height, may be
8 constructed of any sturdy material and shall be anchored securely to the ground or a
9 building, fence, or other structure and may be supported by any suitable support
10 which will withstand the wind loading.

11 (B) A freestanding sign more than six square feet in area or four feet or more in height
12 shall have at least two supports pounded at least two feet into the ground.

13 (C) Construction ~~warning~~ site signs placed over concrete or asphalt or other materials
14 into which posts may not conveniently be driven may instead be held in place by
15 weights sufficient to withstand the wind.
16

17 (11) The city manager may approve the use of any material if an applicant submits sufficient
18 technical data to substantiate such proposed use and if the manager determines that such
19 material is satisfactory for the use intended.
20

21 (12) Where any freestanding sign has a clearance of less than eight feet from the ground,
22 there shall be provided a barrier or other adequate protection to prevent hazard to
23 pedestrians and motorists.

24 (n) Electric Signs:
25

1 (1) An electric sign shall be constructed of incombustible material. An electric sign shall be
2 rain tight, but service holes fitted with waterproof covers may be provided to each
3 compartment of such sign. All electric signs installed or erected in the city shall bear the
4 label of Underwriters Laboratories, Inc., on the exterior of the sign.

5 (2) No electric sign shall be erected or maintained that does not comply with the city
6 electrical code, chapter 10-6, "Electrical Code," B.R.C. 1981.

7
8 (3) No electric equipment or electrical apparatus of any kind that causes interference with
9 radio or television reception shall be used in the operation of an illuminated sign.
10 Whenever interference is caused by a sign that is unfiltered, improperly filtered, or
11 otherwise defective, or by any other electrical device or apparatus connected to the sign,
12 the city manager may order the sign disconnected until it is repaired.

13 (o) Sign Maintenance: No person shall fail to maintain a sign on such person's premises,
14 including signs exempt from the permit requirements by subsection (c) of this section, in
15 good structural condition at all times. All signs, including all metal parts and supports
16 thereof that are not galvanized or of rust-resistant metals, shall be kept neatly painted. The
17 city manager is authorized to inspect and may order the painting, repair, alteration, or
18 removal of a sign that constitutes a hazard to safety, health, or public welfare because of
19 inadequate maintenance, dilapidation, or obsolescence, under the procedures prescribed by
20 subsection (t) of this section.
21

22 (p) Continuation of Legal Nonconforming Signs: A legal nonconforming sign that is not
23 required to be discontinued under the provisions of subsection (q) of this section, may be
24 continued and shall be maintained in good condition as required by subsection (o) of this
25 section, but it shall not be:

- 1 (1) Structurally changed to another nonconforming sign, to a degree that would require a
2 sign permit;
- 3 (2) Structurally altered in order to prolong the life of the sign, except to meet safety
4 requirements;
- 5 (3) Altered so as to increase the degree of nonconformity of the sign;
- 6 (4) Expanded;
- 7 (5) Re-established after its discontinuance for ninety days;
- 8 (6) Continued in use after cessation or change of the business or activity to which the sign
9 pertains;
- 10 (7) Re-established after damage or destruction if the estimated cost of reconstruction
11 exceeds fifty percent of the appraised replacement cost as determined by the city
12 manager; or
- 13 (8) If the landmarks board finds that a sign which otherwise would violate this section was,
14 before January 6, 1972, an integral part of a building, since designated as a landmark, or
15 in a historic district since designated, pursuant to chapter 9-11, "Historic Preservation,"
16 B.R.C. 1981, and is a substantial aspect of the pre-1972 historic character of such
17 building, then such a sign is exempt from the provisions of paragraphs (p)(2), (p)(6),
18 and (p)(7) of this section, and the period of discontinuance for such a sign in paragraph
19 (p)(5) of this section shall be one year.

20 (q) Discontinuance of Prohibited Legal Nonconforming Signs:

- 21 (1) Except as provided in paragraph (q)(2) or (q)(3) of this section, a legal nonconforming
22 sign prohibited by subsection (b) of this section shall be removed or brought into

1 conformity with the provisions of this section within sixty days from the date on which
2 the sign became nonconforming.

3 (2) A legal nonconforming sign described in subparagraph (b)(3)(C), (b)(3)(D), (b)(3)(H),
4 or (b)(3)(K) of this section is subject to the amortization provisions of subsection (r) of
5 this section, unless excepted by paragraph (q)(3) of this section.

6
7 (3) Existing legal signs in the city which became nonconforming solely because of a
8 change in this sign code enacted by Ordinance No. 5186 (1989) or Ordinance No. 6017
9 (1998) are subject to all the requirements of subsection (p) of this section, but are not
10 subject to the sixty-day discontinuance provisions of paragraph (q)(1) of this section or
11 the amortization provisions of subsection (r) of this section. Such amortization
12 provisions are also inapplicable to lawfully permitted nonconforming advertising
13 devices, as those terms are defined and applied in the Outdoor Advertising Act, 43-1-
14 401 et seq., C.R.S. The city manager is authorized, subject to appropriation, to remove
15 such devices by eminent domain proceedings.

16
17 (r) Amortization Provisions: Except for signs described in paragraph (q)(1) or (q)(3) of this
18 section, or a temporary sign, a legal nonconforming sign shall be brought into conformity or
19 removed under the following schedule:

20 (1) A sign that exceeds the maximum area or height limitations of this section by twenty
21 percent or less will be treated as a conforming sign and need not be removed or altered,
22 but if such sign is replaced or renovated it shall conform to all requirements of this
23 section.

1 (2) A sign having an original cost of \$100.00 or less shall be brought into conformity with
2 the provisions of this section or removed within sixty days after the date on which the
3 sign became nonconforming under this section.

4 (3) A sign having an original cost exceeding \$100.00 that is nonconforming only in the
5 respect that it does not meet the requirements of this section concerning height, setback,
6 distance between signs on the same or adjacent properties, or limitations on window
7 signs, shall be brought into conformity with the requirements of this section or removed
8 or a contract for timely completion of such work shall be executed within one hundred
9 eighty days after the date upon which the sign became nonconforming under this
10 section.

11 (4) A sign having an original cost exceeding \$100.00 that is nonconforming as to permitted
12 sign area or any other provision of this section that would require the complete removal
13 or total replacement of the sign may be maintained for the longer of the following
14 periods:

15 (A) Three years from the date upon which the sign became nonconforming under the
16 provisions of this section by annexation or code amendment; or

17 (B) A period of three to seven years from the installation date or most recent renovation
18 date that preceded the date on which the sign became nonconforming. But if the
19 date of renovation is chosen as the starting date of the amortization period, such
20 period of amortization shall be calculated according to the cost of the renovation
21 and not according to the original cost of the sign. The amortization periods in Table
22 9-14 of this section apply according to the original cost of the sign, including
23 installation costs, or of the renovation:
24
25

TABLE 9-14: AMORTIZATION SCHEDULE

Sign Code or Renovation Cost	Permitted Years From Installation or Renovation Date
\$ 101 through \$1,000	3 years
\$1,001 through \$3,000	4 years
\$3,001 through \$10,000	5 years
Over \$10,000	7 years

(5) To be eligible for an amortization period longer than three years pursuant to subparagraph (r)(4)(B) of this section, the owner of a sign shall, within one year from the date on which the sign became nonconforming, file with the city manager a statement setting forth the cost of such nonconforming sign, the date of erection or the cost and date of most recent renovation, and a written agreement to remove or bring the nonconforming sign into conformity with all provisions of this section at or before the expiration of the amortization period applicable to the sign.

1 (s) Appeals and Variances:

2 (1) Any aggrieved person who contests an interpretation of this section which causes denial
3 of a permit, or who believes a violation alleged in a notice of violation issued pursuant
4 to paragraph (t)(2) or (t)(3) of this section, to be factually or legally incorrect, may
5 appeal the denial or notice of violation to the BOZA or board of building appeals in a
6 manner provided by either such board under the procedures prescribed by chapter 1-3,
7 "Quasi-Judicial Hearings," B.R.C. 1981, or may, in the case of a denial, request that a
8 variance be granted. An appeal from a denial and a request for a variance may be filed
9 in the alternative.
10

11 (A) An appeal from an interpretation which causes denial of a permit or from a notice
12 alleging a violation of subsections (l), (m), (n), and (o) of this section shall be filed
13 with the BOZA.

14 (B) An appeal from any other interpretation alleging any other violation of this section
15 shall be filed with the BOZA.
16

17 (C) An appellant shall file the appeal, request for variance, or both in the alternative
18 with the BOZA within fifteen days from the date of notice of the denial or the date
19 of service of the notice of violation. The appellant may request more time to file. If
20 the appellant makes such request before the end of the time period and shows good
21 cause therefore, the city manager may extend for a reasonable period the time to
22 file with either board.
23

24 (2) No person may appeal to or request a variance from the BOZA if the person has
25 displayed, constructed, erected, altered, or relocated a sign without a sign permit

1 required by paragraph (b)(2) of this section. The boards have no jurisdiction to hear an
2 appeal nor authority to grant any variance from the permit requirements of this section.
3 But the BOZA has jurisdiction to hear an appeal of a notice of violation alleging
4 violation of the permit requirements if the appeal is from the manager's interpretation
5 that a permit is required, and the appellant's position is that the device is not a sign or
6 that it is exempt from the permit requirements under subsection (c) of this section.

7
8 (3) An applicant for an appeal or a variance under this subsection shall pay the fee
9 prescribed by subsection 4-20-47(b), B.R.C. 1981.

10 (4) Setbacks, spacing of freestanding and projecting signs, and sign noise limitations are the
11 only requirements which the BOZA may vary. If an applicant requests that the BOZA
12 grant such a variance, the board shall not grant a variance unless it finds that each of the
13 following conditions exists:

14 (A) There are special physical circumstances or physical conditions, including, without
15 limitation, buildings, topography, vegetation, sign structures, or other physical
16 features on adjacent properties or within the adjacent public right-of-way that
17 would substantially restrict the effectiveness of the sign in question, and such
18 special circumstances or conditions are peculiar to the particular business or
19 enterprise to which the applicant desires to draw attention and do not apply
20 generally to all businesses or enterprises in the area; or
21

22 (B) For variances from the noise limitations of subparagraph (b)(3)(L) of this section,
23 the proposed variance is temporary in duration (not to exceed thirty days) and
24 consists of a temporary exhibition of auditory art; and
25

1 (C) The variance would be consistent with the purposes of this section and would not
2 adversely affect the neighborhood in which the business or enterprise or exhibition
3 to which the applicant desires to draw attention is located; and

4 (D) The variance is the minimum one necessary to permit the applicant reasonably to
5 draw attention to its business, enterprise, or exhibition.
6

7 (5) If an applicant requests that the board of building appeals approve alternate materials or
8 methods of construction or modifications from the requirements of subsections (l), (m),
9 (n), and (o) of this section, the board may approve the same under the standards and
10 procedures provided in the city building code, chapter 10-5, "Building Code," B.R.C.
11 1981.

12 (6) Except as provided in paragraph (s)(7) of this section, the BOZA has no jurisdiction to
13 hear a request for nor authority to grant a variance that would increase the maximum
14 permitted sign area on a single property or building, or from the prohibitions of
15 paragraph (b)(3) of this section. But the BOZA has jurisdiction to hear an appeal of a
16 permit denial or of a notice of violation alleging that a sign would exceed the maximum
17 permitted sign area or is prohibited if the appellant's position is that the sign does not
18 exceed such area or is not prohibited by such paragraph.
19

20 (7) The BOZA or board of building appeals may make any variance or alternate material or
21 method approval or modification it grants subject to any reasonable conditions that it
22 deems necessary or desirable to make the device that is permitted by the variance
23 compatible with the purposes of this section.
24
25

1 (8) The city manager's denial or notice of violation becomes a final order of the BOZA or
2 board of building appeals if:

3 (A) The applicant fails to appeal the manager's denial or order to the board within the
4 prescribed time limit;

5 (B) The applicant fails to appeal the order of the board to a court of competent
6 jurisdiction within the prescribed time limit; or

7 (C) A court of competent jurisdiction enters a final order and judgment upon an appeal
8 filed from a decision of the board under this section.

9
10 (t) Enforcement:

11 (1) The city manager may enforce the provisions of this section in any one or more of the
12 following ways:

13 (A) by issuing a criminal summons and complaint, followed by prosecution in
14 municipal court.

15 (B) If the city manager desires to use self-help to remove a sign for which a permit has
16 been issued, by issuing a notice of violation, revoking a permit, removing a sign,
17 and collecting the cost of removal pursuant to paragraph (t)(2) of this section.

18 (C) If the city manager desires to use self-help to remove or correct a sign for which no
19 permit has been issued, by issuing a notice of violation, correcting the violation,
20 and collecting the cost of correction pursuant to paragraph (t)(3) of this section.

21 (D) by removing any sign posted in violation of subsection 5-4-15(a), B.R.C. 1981,
22 concerning posting signs on government property. Such signs are a public nuisance.

23 After such removal the manager may also file a civil complaint in municipal court
24
25

1 against the person who posted the sign or the beneficiary of the sign or both. The
2 court shall award the city as damages the costs of removal of the sign and
3 restoration of the surface upon which it was posted. This judgment shall be
4 enforceable as any civil judgment.

5 (E) by filing a civil complaint for declaratory or injunctive relief in District Court.

6 These remedies are cumulative and not exclusive, and use of one does not foreclose use
7 of any other also.

8
9 (2) If the city manager finds that any sign for which a permit has been issued does not
10 comply with the permit or approved permit application or violates any provision of this
11 section or any other ordinance of the city, the manager may send a notice of violation to
12 the owner of the sign by first class mail to the address on the sign permit application.
13 The notice shall state the violation, and any required corrections, and that if the
14 corrections are not made within thirty days or an appeal filed within fifteen days
15 pursuant to subsection (s) of this section, the permit shall be revoked, and the manager
16 may then proceed as specified in paragraphs (t)(4) and (t)(5) of this section.

17
18 (3) The city manager may issue a notice of violation ordering the sign owner or possessor
19 or property owner to alter or remove a sign which is in violation of this section and for
20 which no permit has been issued within thirty days from the date of the notice. Notice
21 under this paragraph is sufficient if it is mailed first class to the address of the last
22 known owner of the real property on which the sign is located as shown on the records
23 of the Boulder County Assessor. The notice shall state the violation, order removal of
24 the sign or state any reasonable corrections which would bring the sign into compliance
25

1 with this section, and that if removal or correction is not accomplished within thirty
2 days or an appeal filed within fifteen days pursuant to subsection (s) of this section, the
3 manager may proceed as specified in paragraphs (t)(4) and (t)(5) of this section. If the
4 violation is of paragraph (b)(2) or (b)(3) of this section, the manager may require
5 removal of the illegal sign within one day from the date of actual notice or five days
6 from the date of mailing of mailed notice.

7
8 (4) If the property owner or sign owner or possessor fails to complete alteration or removal
9 as required by the notice given as prescribed by paragraph (t)(2) or (t)(3) of this section,
10 or to appeal pursuant to subsection (s) of this section, or loses such appeal and it
11 becomes a final order pursuant to paragraph (s)(8) of this section, the city manager may
12 cause such sign to be altered or removed at the expense of the owner or possessor of the
13 property or sign and charge the costs thereof to such person.

14 (5) If any property owner fails or refuses to pay when due any charge imposed under this
15 subsection, the city manager may, in addition to taking other collection remedies,
16 certify due and unpaid charges, including interest, to the Boulder County Treasurer to
17 be levied against the person's property for collection by the county in the same manner
18 as delinquent general taxes upon such property are collected, as provided in section 2-2-
19 12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer
20 for Collection," B.R.C. 1981.

21
22 (6) The penalty for violation of any provision of this section is a fine of not more than
23 \$2,000.00 per violation. In addition, upon conviction of any person for violation of this
24 section, the court may issue a cease and desist order and any other orders reasonably
25 calculated to remedy the violation. Violation of any order of the court issued under this

1 subsection is a violation of this subsection, and is punishable by a fine of not more than
2 \$4,000.00 per violation, or incarceration for not more than ninety days in jail, or both
3 such fine and incarceration.

4 (u) Rules and Regulations: The city manager is authorized to adopt reasonable procedural rules
5 and interpretive regulations consistent with the provisions of this section to aid in its
6 implementation and enforcement.

7
8 (v) Compliance With State Law Required: In addition to compliance with this section, all signs
9 to which the provisions of the Outdoor Advertising Act, 43-1-401 et seq., C.R.S., and its
10 supplemental regulations apply shall comply with such Act and regulations. ^[18] Signs which
11 do not so comply shall be deemed illegal nonconforming signs under this section.

12 (w) Substitution Clause: It is the intention of the city council that this sign code not favor
13 commercial over noncommercial messages. However, all sign codes are complex, and
14 sometimes when provisions which do not appear to be related are read together, unintended
15 results may occur. If any provision of this code is judicially construed to allow a commercial
16 message but not a noncommercial message, then the property owner may substitute any
17 noncommercial message under the same limitations as to physical characteristics and
18 location of the sign as would apply to a commercial message on such sign.

19
20 Section 2. The following definitions in section 9-16-1 are amended as follows, all other
21 definitions remain unchanged.

22 ~~Construction sign means a temporary sign announcing development, construction, or~~
23 ~~other improvement of a property by a building contractor or other person furnishing services,~~
24 ~~materials, or labor to the premises, but does not include a real estate sign. (Signs)~~
25

1 Political sign means a noncommercial sign ~~concerning candidates for public office or~~
2 ~~ballot issues in a primary, general, municipal, or special election.~~

3 ~~Real estate sign means a sign indicating the availability for sale, rent, or lease of the~~
4 ~~specific property, building, or portion of a building upon which the sign is erected or displayed.~~

5 (Signs)

6
7 Section 3. This ordinance is necessary to protect the public health, safety, and welfare of
8 the residents of the city, and covers matters of local concern.

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

12
13 INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED BY
14 TITLE ONLY this 29th day of February 2016.

15
16
17 _____
Suzanne Jones
Mayor

18 Attest:

19
20 _____
Lynnette Beck
City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8112 amending Chapter 10-7.7, “Commercial and Industrial Energy Efficiency,” to clarify regulation of large industrial campuses related to reporting energy usage, and setting forth related details.

PRESENTERS

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

Carey Markel, Senior Assistant City Attorney

David Driskell, Executive Director of Planning, Housing + Sustainability

Kendra Tupper, Energy Services Program Manager

Elizabeth Vasatka, Business Sustainability Coordinator

Kimberlee Rankin, Sustainability Specialist II

1. EXECUTIVE SUMMARY

The purpose of this item is to update and clarify building performance regulations related to reporting large industrial campus energy usage.

On Oct. 20, 2015, City Council adopted Ord. 8017 which created a new Chapter 10-7.7, “Commercial and Industrial Energy Efficiency” addressing:

- Requirements for city-owned and private sector commercial and industrial building owners to annually rate and report building energy usage;
- Public disclosure of that energy information;

- Energy efficiency requirements that will be phased in over time; and
- Custom requirements for building owners of large industrial campuses¹ to report annual energy usage and perform energy efficiency over time.

Subsequent to Ord. 8017 adoption, staff received additional public feedback from concerned businesses related to the following issues:

- Confidentiality of data which is exempt from public disclosure;
- Practical difficulties related to energy reporting for the large industrial campuses; and
- Clarifying language.

The proposed ordinance for this item (**Attachment A**), addresses those issues with minor amendments. A City Manager Rule will also be published for public comment following ordinance adoption, and will include the implementation details for rating and reporting, energy assessments, retrocommissioning and lighting upgrades. **Attachment B** contains the current draft of the City Manager Rules.

2. 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 Ordinance No. 8112 amending Chapter 10-7.7, “Commercial and Industrial Energy Efficiency,” to clarify regulation of large industrial campuses related to reporting energy usage, and setting forth related details.

3. COMMUNITY SUSTAINABILITY ASSESSMENT AND IMPACTS

- Economic: Based on the benchmarking data from other cities, staff has estimated the net economic benefit of improving energy performance through these requirements to be between \$8.5 and \$14 million each year. The proposed changes will have no impact on the projected economic benefit because the requirements for energy efficiency for large industrial campuses have not changed.
- Environmental: Ord. 8017 is an important step toward achieving Boulder’s proposed climate commitment goal of reducing greenhouse gas emissions 80 percent by 2050 (compared to 2005). The proposed ordinance changes will have no impact on the projected energy and emission savings because the requirements for energy efficiency for large industrial campuses have not changed.
- Social: The intent of Ord. 8017 requirements is to transform the real estate market by increasing the transparency of building energy data. The proposed changes will have no impact on this

¹ *Large Industrial Campus* means a facility in which three or more buildings, at least partially used for manufacturing uses, are served by a central plant or a single utility meter.

because large industrial campuses are not part of the competitive real estate market and have such specialized energy usage that there are no comparable metrics to report.

4. OTHER IMPACTS

- Fiscal: Implementation of Ord. 8017 is funded through the Climate Action Plan (CAP) tax. The estimated ongoing expenses for ordinance implementation, including staffing, are approximately \$330,000 per year. The proposed changes have no significant impact on the budget.
- Staff time: Ordinance implementation and assistance represent significant work plan items in the coming years, and have been incorporated into the existing work plans of city staff and contractors. The proposed changes will slightly reduce the amount of staff time needed for implementation by simplifying and clarifying the requirements for large industrial campuses.

5. BACKGROUND

Please refer to the [May 12, 2015](#) study session memo, and the [Sept. 1, 2015](#), [Sept. 29, 2015](#) and the [Oct. 20, 2015](#) council packets for the following background information related to building performance regulations:

- Greenhouse gas emissions from commercial and industrial buildings in Boulder;
- The city's history with energy efficiency and rating and reporting programs;
- Estimated capital costs, operational savings, and payback estimates associated with these requirements;
- National context with information on the other cities and counties that have adopted similar requirements, as well as efforts at the federal government level;
- Coordination with other city programs and requirements, including commercial building energy codes and outdoor lighting codes;
- Estimated energy savings from existing rating and reporting programs across the country;
- Summary or ordinance provisions and compliance timeline;
- Analysis on data privacy and split incentive issues; and
- Implementation plans and proposed budget.

Council adopted Ord. 8017 on Oct. 20, 2015, which addressed the following items:

- Requirements for city owned and private sector commercial and industrial building owners to annually rate and report building energy usage;
- Public disclosure of that energy information;
- Energy efficiency requirements that will be phased in over time; and

- Custom requirements for building owners of large industrial campuses² to report annual energy usage and perform energy efficiency over time.

Upon publishing the draft City Manager Rules, the city received comments from one of the owners of a large industrial campus regarding their concerns with the energy reporting requirements for large industrial campuses. Although staff engaged with all of the large industrial campuses prior to ordinance adoption, the City Manager Rules provided more details on the implementation of the requirements, and at that point this owner had their internal legal team review the requirements in detail. After working closely with the concerned owner, one of the city’s largest primary employers, the city recognized the need to amend the existing code to address concerns with:

- Confidentiality of data which is exempt from public disclosure;
- Energy reporting requirements for the large industrial campuses; and
- A lack of clarity around some of the ordinance language.

The proposed ordinance is amended to incorporate and clarify the code in the areas of data confidentiality and energy reporting for large industrial campuses. Substantive changes in the proposed ordinance are detailed below.

5.a. Section Added on Confidentiality

As a city government, all information in its possession is public and subject to the Colorado Open Records Act (CORA). For industrial or manufacturing buildings with significant concerns regarding security, trade secrets, and confidential competitive information, the ordinance allows the owner to demonstrate that the information fits within an exemption to CORA. If the submission is sufficient, the city will withhold the information from any CORA request. If sued, the city will provide the business with the opportunity to defend the nondisclosure.

CORA includes the following exemptions:

(3)(a) The custodian shall deny the right of inspection of the following records, unless otherwise provided by law; except that any of the following records, other than letters of reference concerning employment, licensing, or issuance of permits, shall be available to the person in interest under this subsection (3):

(IV) Trade secrets, privileged information, and confidential commercial, financial, geological, or geophysical data, including a social security number unless disclosure of the number is required, permitted, or authorized by state or federal law, furnished by or obtained from any person.

Any building owner that wishes data to be withheld from public disclosure for CORA purposes, both during the initial grace period and after, must submit a document detailing why this disclosure would cause substantial harm to their competitive position. Concern that potential tenants might shy away from renting or buying buildings with poor energy performance will NOT qualify for this exemption.

² *Large Industrial Campus* means a facility in which three or more buildings, at least partially used for manufacturing uses, are served by a central plant or a single utility meter.

This proposed ordinance change addresses the concerns of large industrial campuses related to data privacy. In these proposed amendments, a section is added on “Confidentiality,” detailing how information will be handled if an exemption request is granted for public disclosure and thus deemed confidential.

5.b. Revisions to the Requirements for Large Industrial Campuses

Staff is proposing amendments to the energy reporting requirements for large industrial campuses (LICs), for the following reasons:

- LICs are not suited for individual building benchmarking, and even year to year comparisons of total energy use are inconclusive. This is because:
 - LICs are very unique and complex sites with central heating and cooling plants that serve multiple buildings;
 - Often times a single electric meter will serve multiple buildings; and
 - There are complex processes and energy systems that are changing constantly, and product or process changes have a huge impact on total annual energy usage.
- LICs do not participate in the competitive commercial real estate market, so there isn’t the same need for energy usage transparency to drive market transformation.

For these reasons, staff determined that it was best to treat energy reporting in a custom way that acknowledges these unique challenges. Because the efficiency requirements for LICs remained unchanged, these revisions should not impact the projected energy savings resulting from long term implementation of the ordinance requirements. The proposed changes are summarized in the table below (please note, the specific ordinance language has been paraphrased here for brevity).

Ordinance Requirement	Current Language	Proposed Language
Annual Energy Reporting	The owner of a large industrial campus must give permission to the local energy utility to aggregate and provide to the city the total energy use, separated by fuel type, for all large industrial campuses subject to this requirement.	An annual meeting will be held between the city and each LIC. The LIC will provide an oral report with the following information (treated as confidential): (a) A qualitative comparison of energy use with the preceding year and an explanation of the reason for any substantial (more than 2.5 percent) change; and (b) Using a formula supplied by the City Manager, the percentage of total energy savings during the reporting year (with supporting documentation ³).

³ Supporting information should include some proof that the projects were implemented, such as start and end dates, progress updates, etc, as well as a description of what projects were included in the energy savings calculations and a description of how the deemed savings were determined.

Ordinance Requirement	Current Language	Proposed Language
Annual Public Narrative	A written narrative description, which will be publically disclosed, including: (a) A qualitative comparison of energy usage to the previous year; (b) Energy and emission reduction goals; and (c) A summary of implemented energy efficiency or on-site renewable energy projects.	Requirement (a) has been removed and is now part of the annual meeting (see above).
Efficiency Requirements	(a) Every ten years, conduct an energy assessment that covers at least 75 percent of the total energy usage; (b) Within two years of each assessment, implement any measures with a payback of one year or less; and (c) Implement one time lighting upgrades.	No substantive changes
Criteria for being Exempt from Efficiency Requirements	(a) Efficiency measures or on-site renewable energy produced a reduction of total energy usage of at least 2.5 percent; or (b) An equivalent reduction goal was established and the owner is making adequate progress toward that goal.	No substantive changes

5.c. Non-substantive Edits to Clarify Ordinance Language

The following non-substantive edits were made to clarify the ordinance language:

- Edits to clarify which sections apply to large industrial campuses;
- Updates to section numbering and references; and
- Edits to clarify how long various exemptions are valid.

6. PUBLIC ENGAGEMENT AND FEEDBACK

Despite the comprehensive stakeholder engagement that was conducted in the twelve months preceding the ordinance adoption (see the [Sept. 29, 2015](#) memo for more details), additional concerns and issues arose once the regulation was in place and draft City Manager Rules had been published. Since the adoption of the ordinance, city staff has worked collaboratively with owners of large industrial campuses to understand and address their concerns around data privacy, confidentially, and practical difficulties related to energy reporting. Staff has worked with these concerned parties over the last six months to arrive at these proposed revisions.

ATTACHMENTS

- A: Proposed Ordinance No. 8112
- B: Proposed City Manager Rules

ORDINANCE NO. 8112

AN ORDINANCE AMENDING SECTION 10-7.7 “COMMERCIAL AND INDUSTRIAL ENERGY EFFICIENCY,” B.R.C. 1981, TO CLARIFY REGULATION OF LARGE INDUSTRIAL CAMPUSES RELATED TO ENERGY USAGE, AND SETTING -FORTH RELATED DETAILS.

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

Section 1. Section 10-7.7 is amended as follows:

10-7.7 – Commercial and Industrial Energy Efficiency

10-7.7-1. – Scope.

- (a) Scope. The provisions of this chapter apply to building owners or tenants of the following:
- (1) Any commercial or industrial building with at least 20,000 square feet of floor area.
 - (2) All commercial or industrial portions of any mixed-use building where a total of at least 20,000 ~~gross~~ square feet of floor area is devoted to any commercial or industrial use.
 - (3) Any commercial or industrial building with at least 10,000 square feet of floor area for which an initial building permit was issued on or after January 31, 2014.
 - (4) Any commercial or industrial building with 5,000 ~~gross~~ square feet or more of floor area that is owned by the City of Boulder. Provided, however, no building with less than 10,000 square feet of floor area shall be subject to the provisions of Sections 10-7.7-3, “Energy Assessment,” or 10-7.7-5, “Retrocommissioning,” B.R.C. 1981.
 - (5) Provided, however, no report shall be required in the first twelve months after issuance of an initial certificate of occupancy.
- (b) Owners of the following buildings are exempt from the requirements of this chapter:
- (1) Any building, regardless of size, which has minimal energy use, because the building is unlit and has no heating or cooling systems.
 - (2) Any building with proof of financial hardship.

1 **10-7.7-2. - Rating and Reporting Requirement.**

- 2 (a) Any owner subject to this chapter shall rate and report their buildings' energy use
3 in a manner prescribed by the city manager on the following schedule. The city
4 manager may grant a reasonable extension as may be necessary.
- 5 (1) Any building with 5,000 or more square feet owned by the city of Boulder by
6 May 1, 2016 and on or before May 1 of each year thereafter.
- 7 (2) Any building with 50,000 or more square feet of floor area by August 1, 2016
8 and on or before June 1 of each year thereafter.
- 9 (3) Any building with at least 10,000 square feet of floor area for which an initial
10 building permit was issued on or after January 31, 2014 by August 1, 2016
11 and on or before June 1 of each year thereafter.
- 12 (4) Any building with 30,000 or more square feet of floor area, but less than
13 50,000 square feet of floor area by June 1, 2018 and on or before June 1 of
14 each year thereafter.
- 15 (5) Any building with 20,000 or more square feet of floor area, but less than
16 30,000 square feet of floor area by June 1, 2020 and on or before June 1 of
17 each year thereafter.
- 18 (b) Owners of the following buildings are exempt from the rating and reporting
19 requirements:
- 20 (1) Any buildings in a large industrial campus. Such buildings are subject to the
21 provisions of Section 10-7.7-~~87~~, "Large Industrial Campus," B.R.C. 1981, as
22 well as all other sections unless specifically exempted.
- 23 (2) Any ~~other~~ building whose owner applies for and receives a special exemption
24 from the city manager.
- 25 (c) Any owner who is unable to complete a report due to a tenant's refusal to provide
requested information shall input alternative values provided by the city manager.
- (d) All owners shall maintain and make available for inspection by the city manager,
all required records for a period of three years.
- (e) At the time any building subject to this ordinance is transferred, the seller shall
provide to the buyer all information necessary for the buyer to rate and report for
the entire year.

21 **10-7.7-3 - Energy Assessment.**

- 22 (a) Any owner subject to the reporting requirements of this chapter shall conduct an
23 energy assessment within three years of the first reporting requirement and at least
24 once every ten years thereafter, except:
- 25 (1) Any building with a current U.S. Environmental Protection Agency ENERGY
STAR certification;

- 1 (2) Any building with a current Leadership in Energy and Environmental Design
2 Building Operations and Maintenance certification from the U.S. Green
3 Building Council;
- 3 (3) Any building whose owner can demonstrate to the city manager a pattern of
4 significant and consistent improvements in energy efficiency or greenhouse
5 gas emissions;
- 5 (4) Any building whose owner can demonstrate to the city manager that the
6 owner conducted an equivalent energy assessment within ten years of the first
7 deadline for energy assessments, and implemented the cost effective actions
8 that were recommended;
- 7 (5) Any buildings in a large industrial campus. Such buildings are subject to the
8 provisions of Section 10-7.7-~~87~~, "Large Industrial Campus," B.R.C. 1981; or
- 8 (6) Any other building whose owner applies for and receives a special exemption
9 from the city manager.
- 10 (b) The energy assessment shall be conducted by a qualified professional energy
11 assessor, as defined by the city manager.
- 11 (c) The owner shall provide to the city manager a summary of the energy assessment
12 report along with a statement of which recommendations from the assessment will
13 be implemented and in what timeframe.
- 13 (d) The city manager may establish rules regarding the recovery of costs associated
14 with energy assessments.

14 **10-7.7-4. - Required Lighting Upgrades.**

- 15 (a) Within five years of the first reporting requirement, each owner shall:
 - 16 (1) Replace or upgrade any interior or exterior lighting fixtures identified as not
17 meeting the lighting power allowances for interior and exterior lighting, set
18 forth in the current version of the International Energy Conservation Code.
 - 18 (2) Comply with the requirements for automatic time switch control devices,
19 occupancy sensors, and exterior lighting controls, set forth in the current
20 version of the International Energy Conservation Code.
 - 20 (3) Comply with the maximum allowed wattage for internally illuminated exit
21 signs, set forth in the current version of the International Energy Conservation
22 Code.
 - 22 (4) Provide to the city manager a summary of any actions taken pursuant to this
23 subsection.
- 23 (b) The owner of any building meeting any of the following requirements shall not be
24 required to comply with subsection (a):
 - 25 (1) Any building with a current U.S. Environmental Protection Agency's
ENERGY STAR certification;

- 1 (2) Any building with a current Leadership in Energy and Environmental Design
2 Building Operations and Maintenance certification from the U.S. Green
3 Building Council;
- 3 (3) Any building whose owner can demonstrate to the city manager a pattern of
4 significant and consistent improvements in energy efficiency or reduction of
5 greenhouse gas emissions;
- 5 (4) Any buildings in a large industrial campus. Such buildings are subject to the
6 provisions of Section 10-7.7-~~87~~, "Large Industrial Campus," B.R.C. 1981; or
- 6 (5) Any other building whose owner applies for and receives a special exemption
7 from the city manager.
- 7 (c) The city manager may establish rules regarding the recovery of costs associated
8 with lighting upgrades.

9 **10-7.7-5. – Retrocommissioning.**

- 10 (a) Within five years of the first reporting requirement, and every ten years thereafter,
11 each owner shall:
 - 11 (1) Conduct retrocommissioning.
 - 12 (2) Provide to the city manager a summary of the retrocommissioning report and
13 report any actions taken pursuant to this subsection.
- 13 (b) Within two years from the retrocommissioning report submittal, the owner shall
14 implement any retrocommissioning measure identified in the retrocommissioning
15 report as likely to produce energy and maintenance savings in a two year period in
16 excess of the cost of implementing the measure, less the value of any rebates.
- 16 (c) The retrocommissioning shall be conducted by a retrocommissioning
17 professional, as defined by the city manager.
- 17 (d) The city manager may establish rules regarding the recovery of costs associated
18 with retrocommissioning.
- 18 (e) The owner of any building meeting any of the following requirements shall not be
19 required to comply with subsections (a), (b) or (c):
 - 20 (1) Any building with a current U.S. Environmental Protection Agency's
21 ENERGY STAR certification;
 - 21 (2) Any building with a current Leadership in Energy and Environmental Design
22 Building Operations and Maintenance certification from the U.S. Green
23 Building Council;
 - 23 (3) Any building whose owner can demonstrate to the city manager a pattern of
24 significant and consistent improvements in energy efficiency or greenhouse
25 gas emissions;
 - 24 (4) Any buildings in a large industrial campus where multiple buildings are
25 served by single meters. Such buildings are subject to the provisions of
Section 10-7.7-~~87~~, "Large Industrial Campus," B.R.C. 1981; or

- 1 (5) Any other building whose owner applies for and receives a special exemption
2 from the city manager.

3 **10-7.7-6. – Disclosure.**

- 4 (a) This section applies to any owner and tenant, including those within a “Large
Industrial Campus”:
- 5 (ba) Any owner subject to provisions of this chapter shall provide to any tenant a copy
6 of any energy report or energy assessment within sixty days of receipt by the
owner.
- 7 (cb) Any tenant of an owner subject to the provisions of this chapter shall, within 30
8 days of a request, provide to the owner any information that cannot otherwise be
acquired by the owner and that is needed to comply with the provisions of this
chapter.
- 9 ~~(c) Any owner submitting information to the city manager that includes trade secrets,
10 privileged or confidential commercial information shall specifically identify such
11 information and provide a statement of the manner in which public disclosure
12 would cause substantial harm to the owner's competitive position. Any
information submitted without such a statement may be disclosed publically.
Inefficient energy usage alone will not be considered confidential commercial
information.~~

13 **10-7.7-7 – Confidentiality.**

- 14 (a) This section applies to any owner and tenant, including those within a “Large
Industrial Campus.”
- 15 ~~(c)~~(ba) Any owner submitting information to the city manager that includes trade secrets,
16 privileged or confidential commercial information, and who claiming
17 confidentiality over such information shall specifically identify such confidential
information and provide a statement of the manner in which public disclosure
18 would cause substantial harm to the owner’s competitive position. Any
information submitted without such a statement may be disclosed publically.
19 Inefficient energy usage alone will not be considered confidential commercial
information.
- 20 (c) A claim of confidentiality under this section constitutes a representation to the
city manager that the owner has a reasonable and good faith belief that the subject
21 document or information is not presumed to be open for inspection, and is, in fact,
confidential under applicable law, including the Colorado Open Records Act.
- 22 (d) When submitted to the city manager, confidential information will be sealed by
the city, designated as confidential and withheld from inspection by the public or
23 anyone not authorized to view such information pursuant to subsection (e) below.
Alternatively, confidential information may be submitted electronically through a
24 secure file transfer protocol. Whether submitted in paper or electronic format,
information designated as confidential will be treated as confidential and withheld
25 from the public, or other unauthorized persons. This treatment shall prevail

1 unless the confidential information is released by the owner claiming
 2 confidentiality or upon final order of a court having jurisdiction.

3 (e) At the request of the owner, the city manager, and no more than three staff
 4 members employed by the city of the city manager's choosing, shall have access
 5 to confidential information under this section by virtue of an annual nondisclosure
 6 agreement (the "Annual Nondisclosure Agreement") executed in accordance with
 7 this section by the city manager and the selected staff members. Notwithstanding
 8 anything in this section, the city manager and the staff members who will have
 9 access to any confidential information pursuant to this Ordinance need only sign
 10 one nondisclosure agreement annually. The Annual Nondisclosure Agreement
 11 shall include a provision that requires the individuals signing the agreement to
 12 maintain and to treat any information claimed to be confidential as confidential.
 13 The city shall maintain in its files the Annual Nondisclosure Agreements and shall
 14 make such agreements available for public inspection.

15 (f) Anyone afforded access to any confidential information under this section shall
 16 take all reasonable precautions to keep the confidential information secure in
 17 accordance with the purpose and intent of this section.

18 (g) When any person makes a request to inspect records that an owner has claimed
 19 are confidential, the city manager shall determine whether the records are subject
 20 to public inspection pursuant to the provisions of the Colorado Open Records Act.
 21 The city manager shall use procedures that are consistent with the provisions of
 22 the Colorado Open Records Act. The city manager shall give timely notice of the
 23 request for inspection of records to the owner who submitted the documents or
 24 information subject to the request and who claims that the records are
 25 confidential. The city manager shall also provide the owner who submitted the
 information to the city manager an opportunity to submit oral or written
 comments regarding the public records request.

(h) Upon making a determination as to whether the requested records are subject to
 public inspection, the city manager shall forthwith notify the owner claiming
 confidentiality and the person requesting public inspection of city records of that
 decision.

(i) If the city manager determines that the requested records are subject to public
 inspection, the city manager, upon written request from the owner objecting to
 such public disclosure, shall refrain from disclosure of the records for seven days
 from the date notice is provided pursuant to subsection (g) above to allow the
 owner objecting to such disclosure to commence judicial action to prevent public
 inspection of the subject records.

10-7.7-78. - Large Industrial Campus.

~~(a) The owner of a large industrial campus shall on or before June 1, 2016 and on or~~
~~before June 1 in each year thereafter give permission to the local energy utility to~~
~~aggregate and provide to the city manager the total energy use, separated by fuel~~
~~type, for all large industrial campuses subject to this requirement. If the local~~

energy utility will not provide this service, the city manager may designate another third party aggregator that is approved by the large industrial campuses.

(b~~a~~) The owner of a large industrial campus shall on or before June 1, 2016 and on or before June 1 in each year thereafter submit to the city manager, ~~or to an organization designated by the city manager,~~ a report in a form approved by the city manager, the following information:

(1) A written narrative description, which will be publically disclosed, including the following:

~~(A) A qualitative comparison of energy usage in the reporting year with the preceding year and an explanation of the reason for any changes;~~

~~(A~~B~~)~~ The industrial campus energy usage reduction goals and emission reduction goals, both at the site and at the corporate level; and

~~(B~~C~~)~~ A summary of energy efficiency or on-site renewable energy projects implemented in the reporting year; ~~and~~

(2) An oral report or presentation (the "Annual Report") of the following information) provided during an annual meeting between the Large Industrial Campus and city staff members who have signed the Annual Nondisclosure Agreement:

~~(A)~~ A qualitative comparison of energy usage in the reporting year with the preceding year and an explanation of the reason for any substantial (more than 2.5 percent) change; and

~~(B~~D~~)~~ Using a formula supplied by the city manager, a calculation of the percentage of total energy savings during the reporting year. Supporting documentation for this calculation must be disclosed to the city during this annual meeting.

~~(C)~~ The Annual Report Shall be treated as confidential.

(e~~b~~) The owner of a large industrial campus shall; ~~on or before June 1, 2019 and at least once every ten years thereafter, shall~~

(1) On or before June 1, 2019 and at least once every ten years thereafter, shall c~~Conduct~~ an energy assessment that covers at least seventy-five percent of the total energy usage on the large industrial campus; and

(2) Within two years ~~of the~~ after each assessment, the owner must implement any measures recommended that are projected to produce monetary savings over a one year period equal to or in excess of the cost of implementation, less the value of rebates; ~~and~~

~~(3) Develop a plan for achieving one of the standards set forth in subsection 10-7.7-7(e), within three years.~~

(d~~c~~) By June 1, 2025, each owner of a large industrial campus shall:

- 1 (1) Replace or upgrade any interior or exterior lighting fixtures identified as not
2 meeting the lighting power allowances for interior and exterior lighting, set
3 forth in the current version of the International Energy Conservation Code.
- 4 (2) Comply with the requirements for automatic time switch control devices,
5 occupancy sensors, and exterior lighting controls, set forth in the current
6 version of the International Energy Conservation Code.
- 7 (3) Comply with the maximum allowed wattage for internally illuminated exit
8 signs, set forth in the current version of the International Energy Conservation
9 Code.
- 10 (4) Provide to the city manager a summary of any actions taken pursuant to this
11 subsection.
- 12 (ed) An owner of a large industrial complex shall be exempt from the requirements of
13 subsections (eb) and (dc) above, if:
- 14 (1) The owner ~~submits proof acceptable~~ demonstrates to the city manager
15 ~~demonstrating~~ that energy efficiency measures or on-site renewable energy
16 sources produced a reduction of total energy usage of at least two and a half
17 percent, annualized over four years; or
- 18 (2) ~~If in the opinion of the city manager, the large industrial campus~~ The owner
19 demonstrates that it has established an energy or greenhouse gas emission
20 reduction goal for the large industrial campus that is equivalent to that
21 ~~established by the city set forth in Section 10-7.7-8(d)(1), B.R.C. 1981, and~~
22 the large industrial campus is making adequate progress toward that goal, as
23 determined by the city manager after at least two years of compliance with
24 subsection (a) above.

15 **10-7.7-8~~9~~** – Exemptions.

- 16 (a) This section applies to any owner and tenant, including those within a “Large
17 Industrial Campus.”
- 18 (ba) Any exemption must be approved by the city manager.
- 19 (cb) Applications to exempt any building from the requirements of this chapter must
20 be made by the building’s owner. Exemptions shall be subject to the following
21 limitations:
- 22 (1) Any exemption from annual requirements shall be for a period of one year.
23 Owners may re-apply for an additional exemption at the expiration of the
24 initial exemption period;
- 25 (2) Any exemption from the requirements of Sections 10-7.7-3 and Section 10-
7.7-5, B.R.C. 1981, shall be valid for a period of ten years or until the next
ten-year compliance deadline, whichever is later, if the requirements for
maintaining an exemption in future years, as defined in the city manager rules,
are met;

1 (3) Any exemption from the requirements of Section 10-7.7-8(b), B.R.C. 1981
 2 shall be valid for a period of ten years or until the next ten-year compliance
 3 deadline, whichever is later;

4 (4) Any exemption from the requirements of Sections 10-7.7-4 and Section 10-
 5 7.7-8(c), B.R.C. 1981 shall permanently exempt the building from those
 6 requirements;

7 ~~(5)~~ Applications must be received sixty days before the ~~start of the applicable~~
 8 ~~compliance period~~ compliance deadline established in this chapter;

9 ~~(6)~~ An application must demonstrate the owner has considered all reasonable
 10 options that would bring the building into compliance and must explain to the
 11 satisfaction of the city manager why none of these options are viable.

12 ~~(d)~~ The city manager may issue additional rules that govern the conditions under
 13 which an application for an exemption may be submitted and granted.

14 ~~(e)~~ Applications for an exemption may require submission of an application
 15 processing fee.

16 **10-7.7-910 Administrative Remedy.**

17 ~~(a)~~ This section applies to any owner and tenant, including those within a “Large
 18 Industrial Campus.”;

19 ~~(b)~~ If the city manager believes that a violation of any provision of this chapter exists,
 20 the city manager shall issue a warning to the person alleged to be in violation.
 21 The person shall be given 14 days to correct the violation.

22 ~~(c)~~ If 14 days after a warning is issued the city manager finds that a violation of any
 23 provision of this chapter still exists, the ~~owner~~ city manager, after notice to the
 24 person and an opportunity for hearing under the procedures prescribed by Chapter
 25 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the
 following actions to remedy the violation:

(1) Impose a civil penalty of

(a) \$0.0025 per square foot per day, not to exceed \$1,000 per day; ~~and~~

(b) Issue any order reasonably calculated to ensure compliance with this chapter
 and Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.

~~(d)~~ If notice is given to the city manager by the owner at least forty-eight hours
 before the time and date set forth in the notice of hearing on any violation that the
 violation has been corrected and the city manager finds that the violation has been
 corrected, the city manager may cancel the hearing.

~~(e)~~ The city manager's authority under this section is in addition to any other
 authority that he or she has to enforce this chapter, and election of one remedy by
 the city manager shall not preclude resorting to any other remedy as well.

~~(f)~~ The city manager may, in addition to taking other collection remedies, certify due
 and unpaid charges to the Boulder County Treasurer for collection as provided by

Section 2-2-12, "City Manager May Certify Taxes, Charges and Assessments to County Treasurer for Collection," B.R.C. 1981.

(g) To cover the costs of investigative inspections, the city manager will assess owners a \$250.00 fee per inspection, where the city manager performs an investigative inspection to ascertain compliance with or violations of this chapter.

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 5th day of April, 2016.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____, 2016.

Mayor

Attest:

City Clerk

City Manager Rules for Building Performance Ordinance

I. Definitions

- A. “ASHRAE Energy Assessment Standard” means Procedures for Commercial Building Energy Audits as published by the American Society of Heating Refrigerating, and Air-conditioning Engineers Inc. (ASHRAE) in 2011, and as updated periodically. It is expected that ASHRAE will soon adopt Standard 211, Standard for Commercial Building Energy Audits to replace this resource. If that occurs, Standard 211 will serve as the new basis for requirements for energy assessments.
- B. “Base Building Systems” mean the systems or sub-systems of a building that use Energy and/or impact Energy consumption including but not limited to: Primary HVAC (heating, ventilation, air conditioning) systems; Conveying systems; Domestic hot water systems, and; Electrical and lighting systems. Base Building Systems shall not include equipment used for Industrial Processes.
- C. “City Manager” means, city manager or the city manager’s delegee.
- D. “Cost Effective” means any investment or project with a predicted Payback Period of five years or less.
- E. “Current Facility Requirements” means the Owner’s current operational needs and requirements for a building and systems including but not limited to space temperature and humidity set points, operating hours, ventilation, filtration and any integrated requirements such as controls, personnel training, warranty review, and service contract review.
- F. “Energy” means electricity, natural gas, steam, hot or chilled water, heating oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.
- G. “Energy Assessment” means a systematic evaluation to identify modifications and improvements to building equipment and systems which use Energy.
- H. “Energy Assessment Report” means a report prepared and certified by an Energy Assessor on the approved list on the Project Website, covering the scope provided by the City Manager.
- I. “Energy Performance Score” means the numeric rating generated by the ENERGY STAR Portfolio Manager tool or equivalent tool adopted by the City Manager that compares the Energy usage of the building to that of similar buildings.
- J. “ENERGY STAR” means the U.S. Environmental Protection Agency program related to improving Energy efficiency in buildings and products.

- K. “ENERGY STAR Portfolio Manager” means the Internet-based tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative Energy performance of buildings nationwide.
- L. “Energy Use Intensity (EUI)” means the total kBtUs (1,000 British Thermal Units) used per square foot of floor area.
- M. “Industrial Processes” means any business related process supported by mechanical or electrical systems other than Base Building Systems.
- N. “Large Industrial Campus” means a facility in which three or more buildings, at least partially used for Manufacturing uses, are served by a central plant or single utility meter.
- O. “Manufacturing” means any building which has a primary use of assemblage, processing, and/or Manufacturing products from raw materials or fabricated parts OR one that has the majority of its Energy usage come from process loads.
- P. “Owner” means any person who is a commercial or industrial building Owner, or is an Owner's representative, such as a property manager, who has charge of, or controls any building or parts thereof.
- Q. “[Partners for a Clean Environment](#)” (PACE) is a joint program with the City and County of Boulder that provides free expert advisor services, financial incentives and a certification program to help businesses measure and gain recognition for their Energy, waste, water, and transportation achievements. EnergySmart is PACE’s Energy service program.
- R. “Payback Period” means the length of time required to recover the capital cost (less rebates and incentives) of an investment through operational savings.
- S. “Project Website” means www.BoulderBuildingPerformance.com, the website maintained by the City Manager for the implementation of these requirements.
- T. “Rating and Reporting Tool” means the U.S. Environmental Protection Agency’s Internet-based tool, ENERGY STAR Portfolio Manager, and any additional tool adopted by the City Manager for this purpose.
- U. “Retrocommissioning” means identifying and correcting building system issues to achieve optimal building performance, in a manner specified by the City Manager.
- V. “Retrocommissioning Measure” means a corrective action or facility improvement identified during the investigation or evaluation phase of Retrocommissioning.
- W. “Retrocommissioning Report” means a report prepared and certified by a Retrocommissioning Professional on the approved list on the Project Website, covering the scope provided by the City Manager.
- X. “Site Energy” means the amount of Energy consumed by a building as reflected in utility bills or other documentation of actual Energy use.

- Y. “Source Energy” means all the Energy used in delivering Energy to a building, including power generation and transmission and distribution losses, to perform a specific function, such as but not limited to space conditioning, lighting, or water heating.

II. Rating and Reporting Requirements and Process (B.R.C. 10-7.7-2)

By December 1st of the year preceding the first rating and reporting requirement set forth in B.R.C. 10-7.7-2, the building Owner (or designated representative) must go to the Project Website to claim their building by assigning a point of contact (for each building) for this program and verifying that the building information is correct.

Building Owners, subject to B.R.C. 10-7.7-2 shall annually input, into the Rating and Reporting Tool, data which accurately reflects the total Energy consumed by each of their buildings, along with all other descriptive information required by the Rating and Reporting Tool, for the previous calendar year and report this information to the City of Boulder in accordance with procedures specified on the Project Website. Submittals will be subject to a quality control review and will be rejected if data input errors are found. In that case, building Owners will have 30 days to correct the errors and resubmit the data into the Rating and Reporting Tool.

A. Information Reported to City

The information reported to the city, and publically disclosed after a two-year grace period, may include, but need not be limited to:

1. Property address;
2. Primary use type;
3. Floor area;
4. Site Energy Use Intensity (EUI);
5. Source EUI;
6. Annual Energy consumption;
7. Annual greenhouse gas emissions;
8. The Energy Performance Score that compares the Energy use of the building to that of similar buildings, where available; and
9. Compliance or noncompliance with the Building Performance Ordinance (Ordinance 8071).

B. Options for Demonstrating Compliance

Manufacturing buildings that are not part of a Large Industrial Campus (*see* Section Large Industrial Campus Requirements) have the option of complying with this requirement via two

alternative methods. Owners can track their Energy use through either of the following tools, and email a summary of this information to the City Manager:

1. The ENERGY STAR [Energy Tracking Tool](#), developed and maintained by the U.S. Environmental Protection Agency (available for any type of Manufacturing facility); or
2. For specific types of Manufacturing plants and buildings, the U.S. Environmental Protection Agency has developed and maintains an Excel-based ENERGY STAR [Energy Performance Indicators tool](#). This tool tracks annualized Energy use, cost, greenhouse gas emissions, and a sector-specific Energy Performance Score on a scale of 1 to 100.

III. Energy Assessments Requirements and Process (B.R.C 107.7-3)

The Energy Assessment must meet or exceed the following requirements per the ASHRAE Energy Assessment Standard:

1. Buildings < 50,000 square feet (sf): ASHRAE Level I assessment (the free Energy Assessments offered by the city's [Partners for a Clean Environment](#) program meet these requirements); and
2. Buildings \geq 50,000 sf: ASHRAE Level II¹ assessment.

For Manufacturing buildings or Large Industrial Campuses, an electrical utility's process efficiency assessments and studies can meet this requirement, if the scope is approved by the City Manager. The assessment must cover everything in the required scope for Energy Assessments below:

A. Required Scope for Energy Assessments

1. A Level II Energy Assessment shall include a preliminary site which shall cover the following:
 - a. The preliminary site visit will scope and price the Energy Assessment and should include an evaluation of the costs and benefits of implementing the Retrocommissioning requirements in the Building Performance Ordinance;
 - b. If the service provider does not recommend implementing the Retrocommissioning requirements, the service provider should explain the basis for failing to recommend implementation of Retrocommissioning. Such explanation must be submitted to the City Manager when requesting any applicable exemption; and
 - c. If the service provider does recommend implementing the Retrocommissioning requirements, the service provider should provide the building Owner with a cost estimate for the Energy Assessment with and without Retrocommissioning.

¹ ASHRAE Level II requirements related to comparing to Level I results are not required.

2. Level I and Level II Energy Assessments shall cover the following:

- a. Building envelope and infiltration;
- b. Plug loads;
- c. Base Building Systems; and
- d. Industrial Processes (if these processes are responsible for 25 percent or more of total Energy use).

B. Required Scope for Energy Assessment reports

An Energy Assessment Report shall include everything required by the ASHRAE Energy Assessment Standard, and the following:

1. Level I Energy Assessment report:

- a. Summary of the need and opportunities for Retrocommissioning, including identification of operations and maintenance problems and needs. Provide justification if there is no anticipated benefit from the required Retrocommissioning scope;
- b. Energy and energy cost savings estimate if EUI were to meet the criteria for ENERGY STAR certified (if applicable);
- c. Statement of whether or not the building's lighting systems and controls meets each lighting requirement in the Building Performance Ordinance; and Summary of applicable rebates.

2. Level II Energy Assessment report:

- a. Summary of the need and opportunities for Retrocommissioning, including identification of operations and maintenance problems and needs. Provide justification if there is no anticipated benefit from the required Retrocommissioning scope;
- b. Statement of whether or not the building's lighting systems and controls meets each lighting requirement in the Building Performance Ordinance;
- c. Table of practical measures, with the following:
 - i. Capital costs;
 - ii. Applicable rebates and incentives;
 - iii. Annual energy use and energy cost savings (including reduction in demand charges);

- iv. Annual maintenance cost savings;
 - v. Payback Period;
 - vi. Recommended implementation timeline of each measure; and
 - vii. Recommended measurement and verification (M&V) method for each measure.
- d. A recommended package of measures that would allow the building to achieve ENERGY STAR certification, if applicable. For buildings that are not eligible to receive an Energy Performance Score, recommend a package of measures to reduce annual Energy costs by at least 25 percent; and
 - e. A summary of applicable rebates, incentives, and financing options offered at the federal, state and local levels.

C. Required Qualifications for Energy Assessors

The assessment must be performed by a qualified Energy Assessor who has been authorized by the City Manager to perform or directly supervise individuals performing Energy Assessments and to certify Energy Assessment Reports required by this ordinance. An Energy Assessor must complete the online verification and approval process described on the Project Website and shall meet at least one of the following qualifications:

1. A registered design professional (either a Professional Engineer or Registered Architect), with at least three years professional experience performing Energy Assessments of equivalent scope on similar types of buildings;
2. A contractor approved by the local utility to perform Energy Assessments of equivalent scope on similar types of buildings as part of the utility's Energy efficiency programs;
3. A contractor approved by the city to perform Energy Assessments of equivalent scope on similar types of buildings as part of the city's Energy efficiency programs;
4. A Certified Energy Manager (CEM) or Certified Energy Auditor (CEA), certified by the Association of Energy Engineers (AEE), with at least three years professional experience performing Energy Assessments of equivalent scope on similar types of buildings;
5. A Building Energy Assessment Professional (BEAP) certified by ASHRAE, with at least three years professional experience performing Energy Assessments of equivalent scope on similar types of buildings; or
6. Other credentials based on review and approval of the City Manager.

Upon completion of the online verification and approval process, the Energy Assessor will be listed on an approved list of Energy Assessors on the Project Website.

*The relevant years of experience or approval by other entities must be consistent with the ASHRAE Level of audit that will be performed. For instance, a licensed Professional Engineer with three years of experience performing ASHRAE Level I audits would be qualified to perform the required Energy Assessment for only buildings smaller than 50,000 sf.

D. Procedures for Passing Costs through to Tenants

If an Owner chooses to pass the costs of the required Energy Assessments through to their tenants, those costs must be amortized over a 10-year period, rather than passed through in a bulk assessment in a single year.

E. Submitting Proof of Compliance to the City

A qualified Energy Assessor must submit materials and information to the city to verify that the Owner has complied with these requirements. The Project Website contains guidance concerning required submissions.

IV. Lighting Requirements and Process (B.R.C. 10-7.7-4)

A. Requirements Within Five Years of First Report

In accordance with B.R.C., 10-7.7-4, within five years of the first reporting requirement, each Owner shall:

1. Replace or upgrade any interior or exterior lighting fixture that does not meet the lighting power allowances set forth in the most current version of the International Energy Conservation Code (IECC);
2. Comply with the most recent versions of the IECC requirements for automatic time switch control devices, occupancy sensors, and exterior lighting controls; and
3. Replace or upgrade internally illuminated exit signs that are not in compliance with the most current version of the IECC.

B. Compliance

Owners, or a representative of the Owner, shall demonstrate compliance as follows:

1. Interior Lighting Power
 - i. Calculate the building's maximum lighting power using either the Building Areas Method or Space-by-Space Method and compare to the maximum allowable levels identified in the most recent IECC requirements.
2. Exterior Lighting Power
 - i. Calculate the building's maximum exterior lighting power and compare to the maximum allowable level identified in the applicable table (Table

405.6.2(2)) in the IECC requirements. The total exterior lighting power for all exterior building lighting is the sum of the base site allowance plus the individual allowances for areas that are to be illuminated for the applicable lighting zone.²

C. Procedures for Passing Costs through to Tenants

If an Owner chooses to pass the costs of the required lighting upgrades through to their tenants, those costs must be amortized over the length of the predicted payback period (as determined by the lighting contractor), rather than passed through in a bulk assessment in a single year.

D. Submitting Proof of Compliance to the City

The Owner, or a representative on their behalf, must submit materials and information to the city to verify that the Owner has complied with these requirements. The Project Website contains guidance concerning the required submissions.

V. **Retrocommissioning Requirements and Process (B.R.C. 10-7.7-5)**

A. Scope of Retrocommissioning

If the Retrocommissioning is conducted through a local energy utility program, the scope for that will satisfy the requirements of the ordinance, as long as it addresses both electricity and natural gas consuming equipment and controls.

If the Retrocommissioning is conducted outside of a local energy utility program, the scope of the Retrocommissioning (RCx) shall include the activities below. A monitoring-based commissioning approach may be used to investigate and evaluate building systems as part of the Retrocommissioning process.

Activity	Bldgs ≥ 50,000 sf	Bldgs < 50,000 sf	Activity Description
Develop a RCx Plan	✓		Develop a plan that outlines the activities, roles and responsibilities, schedule and documentation requirements of the RCx process.
Review and Optimize Equipment Scheduling (existing controls)	✓	✓	Any time of day schedules that are programmed in a building management system (BMS), programmable thermostat or time clock system shall be reviewed and, if necessary, corrected to ensure they reflect the current facility requirements.
Review BMS Sequence of Operations	✓	✓	The current BMS sequence of operations shall be reviewed to ensure they are appropriate for the current facility requirements.

² From IECC 2015 Table C405.5.2(1): Areas predominantly consisting of residential zoning, neighborhood business districts, light industrial with limited nighttime use and residential mixed use areas.

Activity	Bldgs \geq 50,000 sf	Bldgs < 50,000 sf	Activity Description
Review BMS Temperature, Pressure and Airflow Setpoints	✓	✓	The current BMS setpoints shall be reviewed to ensure they reflect the sequence of operations and current facility requirements. If needed, adjust the setpoints to meet the current facility requirements.
Test BMS Automatic Reset Functionality	✓	✓	Any automatic reset function that is currently programmed in the building management system shall be tested to confirm proper operation per the sequence of operations. An automatic reset function may include but is not limited to supply air temperature reset, static pressure reset, and chilled water supply temperature reset.
Pre-functional Checks on all major equipment	✓		Visually check all equipment identified in the RCx plan as ones to be functionally tested to ensure proper equipment and component assemblies are in proper condition and sensors are properly calibrated.
Comprehensive Functional Testing on all major base building equipment	✓		Perform functional testing on all major Base Building Systems to verify the sequence of operations and proper component functionality to include but not be limited to damper and valve actuation, motor modulation, on/off commands, lighting occupancy sensors and controls, etc.
Boiler Combustion Testing	✓		A combustion efficiency test shall be conducted for each boiler serving a Base Building System.
Review Economizer Functionality	✓	✓	If economizer functionality exists and is included in the sequence of operations, perform functional testing to verify proper operation during economizer conditions including proper damper controls. If economizer is not functioning properly, adjust sequence of operations and setpoints, adjust and or/replace damper linkage and actuator motors for proper operation and current facility requirements.
Sensor Calibration Checks (All Critical Sensors)	✓		Each critical sensor that is part of an HVAC control sequence shall be tested to ensure proper calibration. For each sensor that is out of calibration, recalibrate or replace the sensor.
Sensor Calibration Checks (OAT & RAT Only)		✓	All outside air temperature (OAT) sensors and return air temperature (RAT) sensors that are part of an HVAC control sequence shall be tested to ensure proper calibration. For each sensor that is out of calibration, recalibrate or replace the sensor.
Check Coils for Cleanliness	✓	✓	Visually inspect hot water, chilled water, steam and DX coils for cleanliness. If coils are visually loaded, clean all coils as appropriate.
Boiler/Furnace Tune-Up	✓	✓	Perform a tune-up on any boilers or furnaces serving Base Building Systems.

Activity	Bldgs ≥ 50,000 sf	Bldgs < 50,000 sf	Activity Description
Review & Adjust Domestic Hot Water Temperatures	✓	✓	Review current domestic hot water temperature setpoints and compare to current facility requirements. If needed, adjust the setpoints to meet the current facility requirements.
Check Air Filters	✓	✓	All air filters shall be checked to verify that the pressure drop across the filters are within the manufacturer's recommended limits.
Install Programmable Thermostats if no controls exist	✓	✓	If there is no central building Energy management system, and no programmable thermostats, install programmable thermostats in every regularly occupied thermal zone.

B. Required Implementation of Measures

The ordinance requires that within two years from the Retrocommissioning deadline, the Owner shall implement any Retrocommissioning Measure identified in the report with a predicted Payback Period of two years or less.

C. Required Scope for a Retrocommissioning Report

If the Retrocommissioning is conducted through a local energy utility program, the report produced for that will satisfy the requirements of the ordinance.

If the Retrocommissioning is conducted outside of a local energy utility program, then the Retrocommissioning Report shall include the following:

1. Summary of building use (with square footage breakdown) and typical operation;
2. Summary of building systems including mechanical, electrical and controls systems;
3. Summary of the results for each completed activity required in the Retrocommissioning scope; and
4. Table of recommended Retrocommissioning Measures that clearly indicates those measures that must be implemented per the ordinance requirements. The table should include the following, for each measure:
 - a. Capital costs;
 - b. Applicable rebates and incentives;
 - c. Annual energy savings (including reduction in demand charges);
 - d. Annual maintenance savings;

- e. Payback Period (note that any measure with a Payback Period of two years or less, must be implemented within two years); and
- f. Recommended implementation timeline of each measure.

D. Required Qualifications for Retrocommissioning Professionals

The Retrocommissioning must be performed by a qualified Retrocommissioning Professional who has been authorized by the City Manager to perform or directly supervise individuals performing Retrocommissioning and to certify Retrocommissioning Reports required by this ordinance. A Retrocommissioning Professional must complete the online verification and approval process described on the Project Website and shall meet one or more of the following qualifications:

1. A contractor approved by the local utility to perform Retrocommissioning of equivalent scope on similar types of buildings as part of the utility's Energy efficiency programs;
2. Licensed Professional Engineer with three or more years of proven commissioning or Retrocommissioning experience with similar buildings; or
3. Hold relevant certification(s) with Associated Air Balance Council, National Environmental Balancing Bureau, Association of Energy Engineers, Building Commissioning Association, University of Wisconsin or the American Society of Heating, Refrigeration, and Air-Conditioning Engineers as a commissioning authority with three or more years of proven commissioning or Retrocommissioning experience with similar buildings; or
4. An individual or firm with five or more years of proven commissioning or Retrocommissioning experience with similar buildings; or
5. Other credentials based on review and approval of the City Manager.

Upon completion of the online verification and approval process, the Retrocommissioning Professional will be listed on an approved list of Retrocommissioning Professionals on the Project Website.

E. Procedures for Passing Costs through to Tenants

If an Owner chooses to pass the costs of the required Retrocommissioning through to their tenants, those costs must be amortized over a 10-year period (for the study), rather than passed through in a bulk assessment in a single year. If the Owner chooses to pass the costs of the required Retrocommissioning measure implementation through to their tenants, those costs must be amortized over the length of the predicted payback period (as determined by the Retrocommissioning Professional), rather than passed through in a bulk assessment in a single year.

F. Submitting Proof of Compliance to the City

A qualified Retrocommissioning Professional must submit materials and information to the city to verify that the Owner has complied with these requirements. The Project Website contains guidance concerning the required submissions.

VI. **Large Industrial Campus Requirements (B.R.C. 10-7.7-8)**A. How To Calculate the Percentages of Total Energy Savings

1. Calculate/measure the calendar year Energy savings* in electricity consumption = X1 kWh.
2. Calculate/measure the calendar year Energy savings* in fuel (oil & gas) consumption = Y1 MMBtu.
3. Get the total actual calendar year electricity consumption = X2 kWh.
4. Get the total actual calendar year fuel consumption = Y2 MMBtu.
5. Get the total actual calendar year Energy cost = A \$K.
6. Get the total actual calendar year electricity cost = B \$K.
7. Get the total actual calendar year fuel cost = C \$K.

The Energy savings as a percent of the total Energy (electricity and fuel) consumption for "xxxx" year is calculated by the following formula:

$$\{(B/A) * (X1)/X2 + (C/A) * (Y1/Y2)\} * 100 = \text{Percent Energy Conservation for the Year}$$

* The Energy savings from a project can be counted for 12 months. For example, a project saving 12,000 kWh annually (1,000 kWh/month) that is implemented on November 1, 2015 would have 2,000 kWh in 2015 and 10,000 kWh of "carryover" savings in 2016.

** This calculation can be annualized over years to account for significant investments and savings that may have been made in prior years.

B. Energy Assessment Requirements

Owners of Large Industrial Campuses are required to conduct an Energy Assessment that covers at least 75 percent of the total Energy usage on the Large Industrial Campus. If the Large Industrial Campus does not have the monitoring systems necessary to identify the consumption source of 75 percent of the total Energy usage, the entire site must be included in the assessment.

The assessment must meet or exceed the requirements of a Level II assessment per the ASHRAE Energy Assessment Standard. An electrical utility's process efficiency assessments and studies can meet this requirement, if the scope is approved by the City Manager, and if the assessment

covers at least 75 percent of the total Energy usage. The assessment and report must cover everything required for the Level II assessments, described above in Section III.

C. Lighting Requirements and Process

Please refer to Section IV.

D. Submitting Proof of Compliance to the City

The Owner, or a representative of the Owner, must demonstrate to the City Manager, orally or in writing, that the Owner has complied with these requirements.

VII. Exemptions (B.R.C. 10-7.7-9)

An Owner can request an exemption as set forth in B.R.C. 10-7.7-9 through the form available on the Project Website. A building owner can apply for one of the exemptions to the efficiency requirements within three years of the compliance deadline for the requirements (e.g., if the deadline is June 1, 2019, an owner could apply as soon as June 1, 2016).

If an Owner applies for an exemption to the Energy Assessment requirements set forth in B.R.C. 10-7.7-3 because they conducted an equivalent Energy Assessment within 10 years of the first deadline for Energy Assessments, they must demonstrate to the City Manager that they implemented the Cost Effective actions that were recommended.

A. Maintaining an Exemption in Future Years

If an exemption is granted for having a current U.S. Environmental Protection Agency ENERGY STAR certification, or a current Leadership in Energy and Environmental Design (LEED) Building Operations and Maintenance certification from the U.S. Green Building Council, the Owner must maintain that exemption in the following ways.

If the exemption is granted for an ENERGY STAR certification:

1. The exemption will be valid as long as the ENERGY STAR score of the building is in the certified range (minimum of 75), as submitted through the rating and reporting requirement, with an actual re-certification required every 10 years.
2. If the building's score falls below the certified range (below 75), the owner will be required to get a free Level I energy assessment through the city's Partners for a Clean Environment (PACE) Program to help diagnose the cause of the increased energy use. The owner will then have one more rating and reporting cycle to improve their ENERGY STAR score above 75 – if they fail to do so, the exemption will no longer be valid, and the owner will have to comply with all future efficiency requirements.

If the exemption is granted for a LEED for Existing Buildings Operations and Maintenance certification:

1. The exemption will be valid as long as the LEED Certification is valid (re-certification is required every 5 years through LEED to stay current).
2. If the building loses its LEED certification, the exemption will no longer be valid, and the owner will have to comply with all future efficiency requirements.

If the exemption is granted for showing a significant pattern of continuous reductions in greenhouse gas emissions, or for one of the exemptions specific to Large Industrial Campuses:

1. The exemption will be valid for the first round of efficiency requirements following when the exemption is granted. For example, if this exemption is granted on June 1, 2016, the building owner would be exempt from the required Energy Assessment in 2019 and the required Retrocommissioning and Lighting Upgrades in 2021. The owner would be subject to the next round of requirements starting in 2029 when the next Energy Assessment would be required.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE: First Reading and Consideration of Ordinance No. 8113 to Adopt Amendments to 13-1, "Elections," B.R.C. 1981, to Change from the Uniform Election Code to the Municipal Election Code to Streamline the Process for Municipal Non-Partisan Elections, and Setting Forth Related Details.

PRESENTER/S

Jane S. Brautigam, City Manager
Kathy Haddock, Senior Assistant City Attorney
Lynnette Beck, City Clerk
Dianne Marshall, Administrative Specialist III

EXECUTIVE SUMMARY

This ordinance amends the city's provisions regarding elections and brings them in line with the Municipal Election Code rather than Uniform Election Code (state election laws). The Uniform Election Code has been used by the city for several years. This will eliminate the need for regular code changes and streamline the election process, particularly for elections that may not be coordinated with the county, such as elections for general improvement districts or special elections.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to Adopt Ordinance No. 8113 to amend Chapter 13-1, "Elections," B.R.C. 1981, To Change from the Uniform Election Code to the Municipal Election Code to Streamline the Process for Municipal Non-Partisan Elections, and Setting Forth Related Details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic - No economic impact is anticipated.
- Environmental - No environmental impact is anticipated.
- Social - No social impact is anticipated.

OTHER IMPACTS

- Fiscal - No fiscal impact is anticipated.
- Staff time - The clarification of conflicting laws is anticipated to have a positive impact reducing staff time on election campaign issues.

BACKGROUND

Colorado law has two separate election codes: the Uniform Election Code for partisan and state elections and the Municipal Election Code for municipal elections. The city adopted the state election code with numerous amendments to delete references to partisan elections and other non-applicable provisions, updated the chapter each year as the legislature adopted amendments, and prepared a master copy for use that included both codes. Staff has not kept up with the annual amendments for several years. Staff recommends simplifying the process by adopting the municipal election code which will not require regular updates and will allow the city to conduct special elections and elections for general improvement districts.

As a practical matter, for the annual November elections, there will be no change because those elections are coordinated with the county and not ran directly by the city. The Municipal Election Code allows the city to adopt the Uniform Code by ordinance for any particular elections, so if ever appropriate, the council could decide without amending the code to use the state code. The Municipal Election Code would most often be used for non-coordinated elections, such as special elections or elections for special improvement districts. The change will allow the staff to run those elections with less staff time and cost, and eliminate the need for routine changes to the city's code as the state makes changes.

The changes in the ordinance are to implement the changes from the Uniform Election Code to the Municipal Election Code. The deletion of former section 13-1-6 regarding Submission of Citizen Petitions for Comment is deleted because it conflicts with the charter. Charter Section 38B governs this procedure and makes it mandatory that the form be submitted for comment prior to circulation.

RECOMMENDED ACTION

Staff recommends adoption of the ordinance on first reading to simplify the city's law regarding elections. The ordinance eliminates the numerous provisions that were necessary to adapt the Uniform Code to the city's needs.

ATTACHMENTS

Ordinance No. 8113

ORDINANCE NO. 8113

AN ORDINANCE AMENDING CHAPTER 13-1, "ELECTIONS," B.R.C. 1981; TO CHANGE FROM THE UNIFORM ELECTION CODE TO THE MUNICIPAL ELECTION CODE TO STREAMLINE THE PROCESS FOR MUNICIPAL NON-PARTISAN ELECTIONS; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 13-1, "Elections" B.R.C. 1981, is amended to read:

Chapter 13-1: Elections

13-1-1. Legislative Intent.

(a) The purpose of this chapter is to establish procedures for regular and special elections of the home rule City of Boulder. Such procedures are intended to be consistent with the Municipal Uniform Election Code of 1965~~92~~ as adopted by the state of Colorado, except as necessary to comply with provisions of the charter or to meet a specific need of the City as determined by the city council.

~~(b) The purpose of this chapter in adopting by reference sections 1-2-228, 1-4-913, part 2 of article 1-11, and article 13 of title 1, C.R.S., which form a part of the Uniform Election Code, is to make it clear that such provisions apply to city elections. Adoption does not create a separate municipal offense or municipal court proceeding. Proceedings under such statutes, including, without limitation, contests of municipal elections and criminal prosecutions, shall be brought and heard in the district court or county court as specified by state law, and control of the criminal prosecution of the enumerated election offenses shall remain with the district attorney or the attorney general of the state.~~

~~(c) The purpose of this chapter is to set the date upon which a proposed ballot measure is final for its submission to the voters for purposes of complying with the intent and spirit of § 1-45-117, C.R.S. Such date is the final vote by city council on the final reading of the ordinance submitting the ballot measure to the voters. That date is set in order to allow for the distribution of information by the city and input by the public without limitation until the finalization and submission of the ballot measure for the ballot.~~

13-1-2. Adoption Incorporation of Municipal Uniform Election Code of 1965~~92~~, as Amended, With Modifications.

1 ~~(a) The Municipal Uniform Election Code of 196592, 31-10-101, et seq1-1-101 through 1-13-
2 803, C.R.S., as amended through June 6, 2006, as it may be amended, is adopted by reference and
3 incorporated so as to have the same force and effect as if printed in full in this code, except as
4 specifically amended by the charter or provisions of this chapter. Unless the context or
ordinance requires otherwise general municipal elections as defined in Sec 22 of the charter shall
be held as specified for regular municipal elections in the Municipal Election Code.~~

5 ~~(b) The council finds that certain modifications to the Uniform Election Code of 1992, as~~
6 ~~amended, are in the best interest of the residents of the City and therefore adopts the following~~
~~modifications:~~

7 ~~(1) Section 1-1-102, C.R.S., is repealed and reenacted to read:~~

8 ~~1-1-102. Applicability.~~

9 ~~(1) This election code applies to all municipal general and special elections of the City, including~~
10 ~~without limitation recall elections. Except as otherwise provided in the Boulder Revised Code,~~
11 ~~1981, or any uncodified ordinance specific to the situation, this election code also applies to~~
12 ~~general improvement district elections, and to any elections required by the Constitution of the~~
~~State of Colorado for which no specific provision is made by any law of the City.~~

13 ~~(2) The Uniform Election Code of 1992 was adopted by the General Assembly of the State of~~
14 ~~Colorado to cover many elections other than municipal elections. Accordingly, many provisions~~
15 ~~of the Uniform Election Code are inapplicable to municipal elections. The sections and parts of~~
16 ~~sections which appeared most clearly to be inapplicable to municipal elections have been~~
17 ~~specifically not adopted, either by calling them not adopted, repealed, or repealed and reenacted~~
18 ~~to read, in adopting by reference the Uniform Election Code of 1992. However, other provisions~~
19 ~~of the Uniform Election Code of 1992 which are also inapplicable to municipal elections have~~
~~not been specifically called out as being inapplicable. Adoption by reference of such provisions~~
~~does not mean that the city council was of the opinion that such provisions are applicable to~~
~~municipal elections, and in such cases their applicability shall be determined by the intent of the~~
~~Colorado General Assembly.~~

20 ~~(3) This election code is applicable both to coordinated elections involving the participation of~~
21 ~~the county clerk and elections of other political jurisdictions, and to municipal elections which~~
22 ~~the City may choose to conduct on its own, as the city council may from time to time specify in~~
~~any ordinance calling a special election or otherwise.~~

23 ~~(4) To the extent that any provision of this election code conflicts with the charter, such~~
~~provision is inapplicable.~~

24 ~~(2) Section 1-1-104(2.6) Definitions.~~

1 ~~"Ballot measure" means a ballot issue or a ballot question that has been approved by the city~~
2 ~~council for submittal to the voters at an election.~~

3 ~~(3) Section 1-1-104(8), C.R.S., is repealed and reenacted to read:~~

4 ~~"Designated election official" means the city clerk.~~

5 ~~(4) Section 1-1-104(17), C.R.S., is repealed and reenacted to read:~~

6 ~~"General election" means the election specified in Charter Section 22 to be held on the first~~
7 ~~Tuesday in November of every odd-numbered year.~~

8 ~~(5) Section 1-1-104(18), C.R.S., is repealed and reenacted to read:~~

9 ~~"Governing body" means the city council, including without limitation the city council sitting as~~
10 ~~the board of directors of a general improvement district.~~

11 ~~(6) Section 1-1-104(34.5), C.R.S., is repealed and reenacted to read:~~

12 ~~"Referred measure" includes any ballot question or ballot issue submitted by the city council to~~
13 ~~the qualified electors of the city pursuant to Charter Sections 37 through 54 or Section 1-41-103,~~
14 ~~C.R.S.~~

15 ~~(7) Section 1-1-104(46), C.R.S., is repealed and reenacted to read:~~

16 ~~"Special election" means an election other than a general election as specified in the charter,~~
17 ~~including without limitation Sections 22, 41, 47, and 58.~~

18 ~~(8) Sections 1-1-104(1), (5), (6), (9), (9.5), (19), (20), (22), (23), (24), (25), (26), (31), (32), (39),~~
19 ~~(40), (41), (42), and (45), C.R.S., are repealed.~~

20 ~~(9) Sections 1-1-109(1) and 1-1-110(3), C.R.S., are repealed and reenacted to read:~~

21 ~~(1) Except as otherwise provided by this election code, by some other specific provision of the~~
22 ~~Boulder Revised Code, 1981, or by the ordinance calling a particular election, the secretary of~~
23 ~~state shall approve all the forms required by this election code, which forms shall be followed by~~
24 ~~county clerk and recorders, election judges, and other election officials. Forms concerning~~
25 ~~nominations for city council, initiative, referendum, and recall petitions, and any other forms~~
~~governed by the charter are included among the forms which are "otherwise provided" by this~~
~~election code.~~

~~(2) As the chief election official for the county, the county clerk and recorder shall be the chief~~
~~designated election official for all coordinated elections. If the City or its general improvement~~
~~districts request that its election be coordinated with any other election, it shall certify the ballot~~
~~content to the county clerk and recorder prior to the fifty-fifth day before the election. Nothing in~~

1 ~~this section shall authorize the city clerk or the county clerk and recorder to take any action at~~
2 ~~variance with the requirements of the charter.~~

3 ~~(10) Section 1-1-202, C.R.S., is repealed and reenacted to read:~~

4 ~~1-1-202. Commencement of Terms.~~

5 ~~The terms of city councilmembers shall commence as specified in charter section 5.~~

6 ~~(11) Section 1-2-104, C.R.S., is repealed and reenacted to read:~~

7 ~~1-2-104. Additional Qualifications.~~

8 ~~Qualifications for voting in elections concerning general improvement districts of the City shall~~
9 ~~be as specified in Chapter 8-4, "General Improvement Districts," B.R.C. 1981, and in the~~
10 ~~ordinance establishing the specific district.~~

11 ~~(12) Section 1-4-501, C.R.S., is repealed and reenacted to read:~~

12 ~~1-4-501. Electors Eligible to Hold Municipal Office.~~

13 ~~Qualifications of electors eligible to hold municipal office are those set forth in charter section 4.~~

14 ~~(13) Section 1-4-805, C.R.S., is repealed and reenacted to read:~~

15 ~~1-4-805. Nomination of Municipal Officers.~~

16 ~~Nomination of municipal officers is governed by charter sections 23 through 28 and 30.~~

17 ~~(14) Section 1-4-901, C.R.S., is repealed and reenacted to read:~~

18 ~~1-4-901. Recall.~~

19 ~~Recall elections shall be conducted when required and under the procedures specified in charter~~
20 ~~sections 55 through 62. The conduct of such elections shall be in accordance with those~~
21 ~~provisions of this election code not inconsistent with the charter.~~

22 ~~(15) Repealed.~~

23 ~~(16) Section 1-4-1001, C.R.S., is repealed and reenacted to read:~~

24 ~~1-4-1001. Withdrawal from candidacy.~~

25 ~~Withdrawal from nomination shall be governed by charter section 29.~~

~~(17) Section 1-5-203, C.R.S., is amended to add a new subsection (4) to read:~~

~~(4) Certification of Ballot for Elections Which are Not Coordinated.~~

1 ~~To the extent not inconsistent with the charter, the city clerk shall certify the ballot at least fifty~~
2 ~~days before any election which is not a coordinated election. The ballot certified shall comply~~
3 ~~with Charter Section 31, and shall also include any ballot issues or ballot questions to be~~
4 ~~submitted to the eligible voters.~~

4 (18) Section 1-5-205, C.R.S., is amended by the addition of a sentence to read:

5 ~~With respect to the election of a member or members of the city council, the city clerk shall also~~
6 ~~publish the notice required by and containing the information contained in charter section 31.~~

6 (19) Repealed.

7 (20) Section 1-5-208, C.R.S., is repealed and reenacted to read:

8 ~~1-5-208. Election May be Canceled or Ballot Questions Withdrawn.~~

9 (1) ~~Except for initiative, initiated referendum, and recall elections, if the only matter before the~~
10 ~~electors is the consideration of ballot issues or ballot questions, no later than twenty-five days~~
11 ~~before an election conducted as a coordinated election in November, and at any time prior to any~~
12 ~~other election, the city council may by resolution cancel the election or withdraw one or more~~
13 ~~such issues or questions from the ballot. The ballot issues and ballot questions shall be deemed to~~
14 ~~have not been submitted and votes cast on the ballot issues and ballot questions shall either not~~
15 ~~be counted or shall be deemed invalid by action of the city council.~~

14 (2) ~~If the electors are to consider the election of persons to the city council and ballot issues or~~
15 ~~ballot questions, the city council may remove any or all of the ballot issues or questions by~~
16 ~~following the procedures set forth in subsection (1) of this section.~~

16 (3) ~~Unless otherwise provided by an intergovernmental agreement pursuant to 1-7-116, C.R.S.,~~
17 ~~upon receipt of an invoice, the City shall within thirty days pay all costs accrued by the county~~
18 ~~clerk and recorder and any coordinating political subdivision attributable to the canceled election~~
19 ~~and any removed ballot questions or issues.~~

19 (4) ~~The designated election official shall provide notice by publication of the cancellation of an~~
20 ~~election and a copy of the notice shall be posted at each polling place of the City, in the city~~
21 ~~clerk's office, and in the office of the county clerk and recorder.~~

21 (21) Section 1-5-406, C.R.S., is repealed and reenacted to read:

22 ~~1-5-406. Content of Ballots.~~

23 ~~The designated election official shall provide printed ballots for every election. The official~~
24 ~~ballots shall be printed and in the possession of the designated election official at least thirty days~~
25 ~~before the election. Every ballot shall contain the names of all duly nominated candidates for city~~
26 ~~council, except those who have died or withdrawn, and the ballot shall contain no other names.~~

1 The names of the candidates shall be printed upon the ballot in alphabetical order by surname as
2 provided in charter section 34.

3 ~~(22) Section 1-5-407, C.R.S., "Form of Ballots" is amended and reenacted to include a new~~
4 ~~subsection (10) to read as follows: Mail ballots shall be considered ballots on demand for~~
5 ~~purposes of subsection (1.6) so that ballot stubs shall not be required.~~

6 ~~(23) Sections 1-6-105 and 106, C.R.S., are repealed and reenacted to read:~~

7 ~~1-6-105. Appointment of Election Judges for Non-partisan Elections.~~

8 ~~(1) For coordinated elections, election judges shall be appointed by the county clerk as provided~~
9 ~~by state law. For other elections, no later than fifteen days before the election, the city clerk shall~~
10 ~~appoint election judges for the City or the district for which the election is to be held. The term~~
11 ~~of office for such judges shall end with the end of the judge's duties with respect to the election~~
12 ~~for which appointed.~~

13 ~~(2) For coordinated elections, any person who has been appointed by a county clerk and~~
14 ~~recorder, who has filed an acceptance, and who has attended a class of instruction may be~~
15 ~~appointed as an election judge for non-partisan elections. For other elections, any person who has~~
16 ~~been appointed by the city clerk, who has filed an acceptance, and who has attended a class of~~
17 ~~instruction may be appointed as an election judge for such election.~~

18 ~~1-6-106. Certification of Appointment~~

19 ~~For coordinated elections, thirty days before the election the county clerk and recorder shall~~
20 ~~certify the list appointing the election judges and shall mail one acceptance form to each person~~
21 ~~appointed. For other elections, fifteen days before the election the city clerk shall certify the list~~
22 ~~appointing the election judges and shall mail one acceptance form to each person appointed.~~

23 ~~(24) Section 1-7-902, C.R.S., is repealed and reenacted to read:~~

24 ~~1-7-902. Preparation of Fiscal Information.~~

25 ~~The city manager shall be responsible for providing to the designated election official the fiscal~~
information which must be included in the ballot issue notice for a referred measure.

~~(25) Section 1-7.5-104, C.R.S., is repealed and reenacted to read:~~

~~1-7.5-104. Mail Ballot Elections.~~

If the city council determines that an election shall be by mail ballot, the designated election
official shall conduct the election by mail ballot in accordance with this article. The designated
election official shall give appropriate weight to the comments of the secretary of state

1 ~~concerning the City's mail ballot plan, but may conduct the election despite disapproval of all or~~
2 ~~a part of such plan by the secretary of state.~~

3 ~~(26) Section 1-7.5-107, C.R.S., is amended by the addition of a sentence to read:~~

4 ~~With respect to the election of a member or members of the city council, the city clerk shall also~~
5 ~~publish the notice required by and containing the information contained in charter section 31.~~

6 ~~(27) Sections 1-10-201, 202, and 203, C.R.S., are repealed and reenacted to read:~~

7 ~~1-10-201. Canvassing.~~

8 ~~The general canvassing and election board shall be appointed and conduct its business as~~
9 ~~provided in charter section 32. The city clerk shall forward all election returns to the city council~~
10 ~~for canvassing pursuant to charter section 32. This canvassing board shall also act as the~~
11 ~~canvassing board for the City portion of a coordinated election.~~

12 ~~(28) Repealed.~~

13 ~~(29) Section 1-11-103, C.R.S., is repealed and reenacted to read:~~

14 ~~1-11-103. Certificates of Election.~~

15 ~~Certificates of election shall be issued as provided by charter section 32.~~

16 ~~(30) Article 1-12, C.R.S., is repealed and reenacted to read:~~

17 ~~1-12-101. Recalls and Vacancies.~~

18 ~~Recalls shall be initiated and conducted as provided in Charter Sections 55 through 62.~~
19 ~~Vacancies shall be filled as provided in Charter Section 8.~~

20 ~~(31) Section 1-13-107, C.R.S., is amended to add a subsection (b) to read:~~

21 ~~(b) The secretary of state is not authorized by this section to take any action or enforce any~~
22 ~~regulation which is inconsistent with this election code as adopted by the home rule City of~~
23 ~~Boulder or with the charter.~~

24 ~~(32) The following sections, parts, and articles of the Colorado Revised Statutes are not adopted~~
25 ~~by reference, and are not applicable to City elections: Sections 1-1-112, 201 and 203, 1-2-203,~~
26 ~~209, 210, 218.5, 219, 222, 701, 702 and 703; Article 1-3; Article 1-4 except parts 9, 10, and 11;~~
27 ~~Sections 1-4-902 through 908, 910, and 912, 1-4-1002 and 1003, 1-4-1103; 1-5-101, 103, 207,~~
28 ~~301, 402, 403, 404, 601.5, 605.7 and 608.2; 1-6-102, 103, 103.5, 103.7, 104, 109, 110, 111; 1-7-~~
29 ~~105 and 106; Part 2 of Article 1-7, Sections 1-7-407; Section 1-8-114.5; Part 1 of Article 1-10; 1-~~
30 ~~10.5-102; 1-11-101 through 108, 1-11-203, 1-11-204 through 211, and Part 3 of Article 1-13.~~

1 **13-1-3. Responsibility of the City Manager.**

2 The city manager shall administer the requirements of this chapter and comply with all laws
3 regulating the conduct of elections.

4 ~~**13-1-4 Absentee Ballot Cards.**~~

5 ~~Whenever an electronic voting system is used in a municipal election and official ballots are in
6 the form of ballot cards to be read by electronic vote counting equipment, official absentee
7 ballots may also be in the form of ballot cards.~~

8 ~~**13-1-5 Duplication of Absentee Ballots for Counting.**~~

9 ~~(a) Whenever an electronic voting system is used in a municipal election and whenever an
10 absentee ballot is not suitable for counting on the electronic vote counting equipment because
11 such ballot was cast in pencil or ink or is in the form of a paper ballot, a true duplicate copy of
12 the ballot may be made and counted in the manner provided in this section.~~

13 ~~(b) By means of a vote recorder or punching device, the judges of election of the precinct
14 selected by the city manager to receive the absentee ballots shall make such duplicate copy by
15 punching an unused ballot card provided to the judges for that purpose. One such judge shall
16 read aloud the vote on the original handwritten ballot and another judge shall punch the
17 duplicate. A third judge shall watch the duplication process and shall check its accuracy.~~

18 ~~(c) An election judge shall label any duplicate ballot so made as a duplicate ballot and shall
19 record the serial number of the duplicate ballot on the original handwritten absentee ballot.~~

20 ~~(d) If a judge makes an inaccurate duplicate ballot, the judge shall label such ballot "void" and
21 place it in a separate envelope provided by the city manager for that purpose. The judges shall
22 make a new duplicate ballot and label it in the same manner as provided in this section and shall
23 record the serial number of any new duplicate ballot on the original handwritten absentee ballot.~~

24 ~~(e) The election judges shall retain all original handwritten absentee ballots and place them in a
25 separate envelope provided by the city manager for that purpose.~~

~~(f) The election judges shall substitute any duplicate ballot made under this section for the
original ballot and shall present such duplicate for counting on the electronic vote counting
equipment at the counting center after 7:00 p.m. on election day in the same manner as other
ballots from city election precincts are counted.~~

~~(g) No election judge shall make any duplicate ballot under this section before the time otherwise
allowed by law for the counting of absentee ballots.~~

~~(h) Whenever election judges of the absentee voter precinct use the duplicate ballot process
authorized by this section, such judges shall make a written statement, in addition to any other~~

1 ~~statements or certificates otherwise required by law to be made, showing the number of duplicate~~
2 ~~ballots made and not marked "void" together with the serial numbers thereof and the number of~~
3 ~~duplicate ballots made and marked "void" together with the serial numbers thereof and shall~~
4 ~~return such statement to the city manager with other election papers and supplies.~~

5 (i) ~~When absentee ballots are duplicated and counted as authorized by this section, the absentee~~
6 ~~precinct judges shall not be required to make or post an abstract of the count of votes.~~

7 (j) ~~All provisions of the election laws of the city that are not inconsistent or in conflict with this~~
8 ~~section continue to apply to all elections where the duplicate ballot process authorized by this~~
9 ~~section is used. Any provisions of the election laws of the city that are inconsistent or in conflict~~
10 ~~with the provisions of this section do not apply to elections where the duplicate ballot process~~
11 ~~provided in this section is used. Nothing in this section shall be construed to prohibit the use of a~~
12 ~~manual system of counting absentee ballots.~~

13 (k) ~~The city manager is authorized to institute other procedures not inconsistent with the~~
14 ~~provisions of this section that are designed to promote efficiency and accuracy in the duplication~~
15 ~~process authorized by this section.~~

16 ~~13-1-6 Submission of Citizen Petitions for Comment Prior to Circulation.~~

17 ~~The proponents of an initiative, referendum, or charter amendment petition may submit a draft~~
18 ~~thereof to the city manager before circulating the petition. No later than fifteen days after the~~
19 ~~date of receiving such petition draft, and after consulting with the city attorney, the manager~~
20 ~~shall provide written comments to the proponents concerning any problems encountered in the~~
21 ~~format or contents of the draft. The proponents may either disregard the comments or alter the~~
22 ~~petition draft in response thereto.~~

23 ~~13-1-47. Initiative and Referendum.~~

24 All aspects of the exercise of the initiative and referendum power reserved to the people by
25 the charter of the city of Boulder shall be governed exclusively by the provisions of the charter,
this code, and any other applicable ordinance of the city, and no statute of the state purporting to
regulate in any way the exercise of the initiative or referendum shall govern the exercise of the
initiative or referendum, except for those criminal provisions of state law not in conflict with any
provision of the charter or this code which prohibit fraud or deception in the circulation or
signing of initiative or referendum petitions, or respecting affidavits concerning said petitions.
This section does not apply to initiatives concerning the amendment or abolition of the charter.

26 ~~13-1-58. Special Provisions Concerning Filling Council Vacancies by Special Election.~~

27 The electors of the city approved an amendment to charter section 8 in November 1996. That
28 amendment changed the method of filling vacancies on the city council from an appointment
29 system to an election system. This section establishes the term of a person elected by special

1 election to fill a council vacancy, ~~and makes such adjustments to the provisions of the Uniform~~
2 ~~Election Code of 1992, as adopted with amendments by this title, as are useful in adapting that~~
3 ~~code to the exigencies of special elections to fill vacancies, which must be conducted on a~~
4 ~~compressed time frame.~~

4 (a) The term of a council member elected in a special election held pursuant to charter section 8
5 to fill a council vacancy shall expire at 10:00 a.m. on the third Tuesday in November
6 following the next general municipal election.

6 (b) The city council may, in the resolution calling for a special election to fill a council vacancy,
7 specify a number of days before the election that the early voters' polling place shall be open
8 ~~which is less than that specified in section 1-8-202, C.R.S., as adopted by reference,~~ and may
9 also specify additional hours during which such early voters' polling place shall be open. But
10 such a provision is only effective for a special election which is not conducted as a
11 coordinated election.

10 **13-1-679. Fixing of Ballot Title for Purposes of § 1-45-117, C.R.S.**

11 For purposes of § 1-45-117, C.R.S., ballot titles for city ballot measures shall be considered
12 fixed upon the final vote of the council after final reading of a motion, resolution, or ordinance
13 which officially submits a specific ballot measure in the form it is to appear on the ballot for a
14 vote of the electors at the next election. The date the election is called for consideration of city
15 ballot measures shall not change the date upon which the ballot title is fixed as provided in this
16 section.

16 Section 2. This ordinance is necessary to protect the public health, safety, and welfare of
17 the residents of the city, and covers matters of local concern.

18 Section 3. The City Council deems it appropriate that this ordinance be published by title
19 only and orders that copies of this ordinance be made available in the office of the city clerk for
20 public inspection and acquisition.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this ____ day of _____, 2016.

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Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
PUBLISHED BY TITLE ONLY this ____ day of _____, 2016.

Mayor

Attest:

City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE:

AGENDA TITLE: First Reading and Consideration of a Motion to Approve an Ordinance Amending Chapter 13-2, “Campaign Financing Disclosure,” B.R.C. 1981; Chapter 13-3, “Campaign Activities,” B.R.C. 1981; And Chapter 13-4, “Complaints Related To Election Procedures And Regulations,” B.R.C. 1981, To Make Changes to Conform to Recent Supreme Court Cases and Changes to State Law, Change the Campaign Limits for Matching Funds from Formulas to Dollars, Clarify Issues; And Setting Forth Related Details.

PRESENTER/S

Jane S. Brautigam, City Manager
Kathy Haddock, Senior Assistant City Attorney
Lynnette Beck, City Clerk
Dianne Marshall, Administrative Specialist III

EXECUTIVE SUMMARY

In the 1990s, the voters approved an initiative regarding campaign finance in city elections. Since that time, the United States Supreme Court has adopted limitations on campaign finance laws, particularly with respect to issue campaigns, and the state of Colorado has eliminated registration of political committees. The initiative was to require disclosure of campaign activities that involve the expenditure of funds, but is written to include campaigning using technology that does not involve the expenditure of funds. This ordinance is to change these chapters of the code without changing the intent of the voters.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to Adopt Ordinance No. 8114 Amending Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981; Chapter 13-3, "Campaign Activities," B.R.C. 1981; And Chapter 13-4, "Complaints Related To Election Procedures And Regulations," B.R.C. 1981, To Make Changes to Conform to Recent Supreme Court Cases and Changes to State Law, Change the Campaign Limits for Matching Funds from Formulas to Dollars, Clarify Issues; And Setting Forth Related Details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic - No economic impact is anticipated.
- Environmental - No environmental impact is anticipated.
- Social - No social impact is anticipated.

OTHER IMPACTS

- Fiscal - No fiscal impact is anticipated.
- Staff time - The clarification of conflicting laws is anticipated to have a positive impact reducing staff time on election campaign issues.

BACKGROUND

Several changes have occurred since the voters adopted the Campaign Finance Reform Initiative in 1999. Campaigning does occur through technology that does not require the expenditure of funds. The initiative does not differentiate between campaigning that involves expenditure of money and those that do not. Because the initiative was drafted to make the financing portion of campaigns transparent, we have not attempted to require that any information distributed without cost include the disclosures that are required when money is spent. Several of the changes in the proposed ordinance are to eliminate the implication that they apply to electioneering that is free.

The United States Supreme Court has made rulings that restrict limits on spending on non-candidate ballot measures and the state has changed some of its laws upon which sections of the code were based. Through the past several years of implementation, questions have been raised that require clarification of the law.

The proposed ordinance also adds definitions where there have been questions on various terms. The reference to "clerk" has been changed to "manager" except where clerk is specified in the charter. Following are more detailed explanation of the changes that may not be self-explanatory.

- The definition of "political committee" and Section 13-2-12 are eliminated since the state no longer maintains the records upon which these sections relied. The only way for transparency of expenditures by organizations is to require that they establish unofficial candidate committees or issue committees.

- “Financial” has been eliminated for the description of the disclosures required by candidates and incumbents in Section 13-2-3 and 13-2-4 because the disclosures required to not include dollar amounts, but only the employers and other sources of funds that may affect a candidate’s or incumbent’s opinion on an issue.
- Sections 13-2-6 and 13-2-7 regarding unofficial candidate committees and issue committees have been amended by adding a new subsection to each explicitly stating that these types of committees cannot be combined. While the existing language seems to make that clear, there has been some confusion. Because there are different contribution limits for issues than candidates, combining committees allows for intermingling of contributions and expenditures that circumvents the purpose of the initiative and prevents transparency.
- Subsection (c) was added to Section 13-2-7 because some issue committees were changing their purposes after they had received donations. Without a limitation on those changes, donations could be used for purposes not intended by the donors.
- Subsection (f) was added to Sections 13-2-8 and 13-2-9 to require the candidate to provide the city clerk’s office within back-up support documents to what they entered on the city’s website as total contributions and expenditures. The city clerk’s office performs audits of the committees, and the back-up information is necessary for those audits.
- Subsection (d) of Section 13-2-13 was eliminated because it is not practical to include the statement on tweets or other communications with limited characters.
- The initiative had included a formula which was in the Code. The state law does not require purging of registration records any longer, and it is difficult for a normal person to make the calculation. The formula has been replaced with “\$20,000” to reflect the amount the formula allows, estimating if the registration records were purged. That replacement is in Sections 13-2-19 and 13-2-20(b)(1).
- The number of contributors was added to Section 13-2-20 so the public does not have to do the calculation.
- Subsection (b)(4) was eliminated from 13-2-21 because carryover funds are not permitted.

For Section 13-3-3 regarding contributions by city contractors, we recommend eliminating the section. It can only be applied to candidates or candidate committees. Since the maximum contribution is limited to \$100 per candidate or unofficial candidate committee, and some courts have determined that \$100 is not enough to unduly influence a candidate. As is, Section 13-3-3 was very confusing and difficult to apply. If council would prefer to leave in this section, but make it intelligible, staff suggests:

13-3-3 Contributions by City Contractors.

It shall be unlawful for any city contractor to make or solicit any contribution of money or other things of value, or to promise expressly or impliedly to make or solicit any such contribution to any candidate or unofficial candidate committee. For purposes of this section, city contractor means any person who enters into any contract with the city or any department or agency thereof either for the rendition of personal

services or furnishing any material, supplies, or equipment to the city or any department or agency thereof, or for selling any land or building to the city or any department or agency thereof. This section shall apply to a city contractor if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the city council, at any time between the commencement of negotiations for and the later of completion of performance under or the termination of negotiations for such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly.

Finally, in Section 13-4-13, language has been added to make clear that the results of an inquiry or investigation that does not go to hearing is also not made public. Last election, there were arguments that the determinations which the clerk resolves with the committees individually should be public. As staff read the initiative and the code, the intent was to keep the spot checks and requests for compliance for mistakes confidential to avoid influencing the election. It was only when an issue became serious enough for formal action, that the matter was public. This change will make that intent clear.

ATTACHMENTS

Ordinance No. 8114

ORDINANCE NO. 8114

AN ORDINANCE AMENDING CHAPTER 13-2, "CAMPAIGN FINANCING DISCLOSURE," B.R.C. 1981; CHAPTER 13-3, "CAMPAIGN ACTIVITIES," B.R.C. 1981; AND CHAPTER 13-4, "COMPLAINTS RELATED TO ELECTION PROCEDURES AND REGULATIONS," B.R.C. 1981, TO MAKE CHANGES TO CONFORM TO RECENT SUPREME COURT CASES AND CHANGES TO STATE LAW, CHANGE THE CAMPAIGN LIMITS FOR MATCHING FUNDS FROM FORMULAS TO DOLLARS, CLARIFY ISSUES; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981, is amended to read:

Chapter 13-2: Campaign Financing Disclosure

13-2-1. Legislative Intent.

- (a) The purposes of this chapter include assisting electors in the city in making informed election decisions by requiring ~~financial~~ disclosure of information from candidates for city office and committees supporting or opposing such candidates and city ballot issues.
- (b) The limitations on contributions are intended to assure the public that:
 - (1) Excessive campaign costs and large contributions do not cause corruption or the appearance of corruption in the election process; and
 - (2) Large campaign contributions will not be used to buy political access or to influence governmental actions.
- (c) Public campaign financing is intended to assure the public that access to large amounts of money will not be a prime requirement for participation in the political process.
- (d) The provisions of this chapter concerning financial disclosure are exclusive and supersede any state statute on the subject, whether in conflict herewith or not, including, without limitation, article 1-45, C.R.S., unless the provisions of such statute are expressly made applicable by reference in this chapter.

- 1 (e) The reporting requirements are necessary to gather the data to detect violations.
- 2 (f) The provisions of this chapter have been modeled on the Federal Election Campaign Act and
3 the Colorado Fair Campaign Practices Act, and in accordance with an initiative passed by the
4 people of the city in 1999. Modifications have been made where necessary to meet specific
5 needs of the city, to clarify and make more specific various requirements, and to comply with
6 the evolving law in this area.
- 7 (g) The city council finds that at this time it is not necessary to require candidates and their
8 candidate committees to report expenditures over \$200.00 as frequently as such reporting is
9 necessary for unofficial candidate committees and independent expenditures in order to serve
10 the purposes of this chapter. Candidates are necessarily subject to intense scrutiny throughout
11 the campaign, and are required to file financial disclosures shortly after becoming candidates.
12 They become candidates no later than seventy-one days before the election under the charter.
13 Candidate committees file their statement of organization at the beginning of the campaign,
14 and thus are a formed ongoing entity which is well known. Unofficial candidate committees
15 can be formed at any time, and individuals can make independent expenditures at any time,
16 so within twenty-one days of the election more frequent reporting of larger expenditures is
17 required of them. Council, like the United States Congress, finds that a twenty-four-hour
18 reporting period is not unreasonable in that immediate pre-election time, especially where
19 mail ballots are used.
- 20 (h) The purpose of this chapter is to provide for transparency in the expenditure of monies spent
21 on campaigns and not to regulate speech. Making an endorsement supporting or opposing a
22 candidate or ballot ~~proposition~~ measure, or solicitation of such an endorsement by a
23 candidate, committee, or other person, is not regulated by this title. However, the
24 expenditures for publishing endorsements, and any contributions for support or opposition to
25 a candidate or ballot ~~proposition~~ measure other than the endorsement itself, are regulated by
this title in the same way as other contributions and expenditures.

13-2-2. Definitions.

The following terms used in this chapter and Chapter 13-3, "Campaign Activities," B.R.C. 1981,
have the following meanings unless the context clearly indicates otherwise:

"~~Ballot measure~~ proposition" means any amendment to the city charter, and any initiative,
referendum, or recall for which ~~a petition committee has submitted the proposed petition form to~~
~~the city or for which~~ petitions have been properly certified by the city ~~clerk~~ manager for
submission to the city council, or any ordinance or issue put to a vote of the electors of the City
of Boulder under the provisions of the city charter. For purposes of this chapter only, "ballot
measure" also includes any initiative, referendum, or recall for which a petition committee has
submitted a proposed petition to the city manager. Such term does not include any ballot issue

1 placed on the ballot by the United States, the State of Colorado, or any political subdivision
2 thereof other than the city.

3 "*Candidate*" means any person whose petition of nomination for city council, whether at a
4 regular, special, or recall election, has been certified as sufficient by the city clerk pursuant to
5 charter section 26.

6 "*Candidate committee*" means a person, including the candidate, or persons with the common
7 purpose of receiving contributions or making expenditures under the authority of a candidate.
8 The term "official candidate committee" is synonymous with "candidate committee."

9 "*Committee*" means a candidate committee, an unofficial candidate committee, and an issue
10 committee, unless the context indicates that it can mean only one or two of these types of
11 committees.

12 "*Contribution*" means:

13 (a) Any payment, loan, pledge, or advance of money, including, without limitation, checks
14 received but not deposited or payments made by credit card, or guarantee of a loan, made
15 to or for the benefit of any candidate or committee;

16 (b) Any payment made to a third party for the benefit of any candidate or committee,
17 including, without limitation, the use of a credit card to secure such benefit;

18 (c) Anything of value given, directly or indirectly, to a candidate for the purpose of
19 promoting the candidate's election, including, without limitation, commercial services
20 such as banking, printing, and mailing services; or

21 (d) With regard to a contribution for which the contributor receives compensation or
22 consideration of less than equivalent value to such contribution, including, without
23 limitation, items of perishable or non-permanent value, goods, supplies, services, or
24 participation in a campaign-related event, an amount equal to the value in excess of such
25 compensation or consideration; or

(e) A contribution in kind.

"*Contribution*" does not include services provided without compensation by individuals
volunteering their time on behalf of a candidate or committee.

"*Contribution in kind*" means the fair market value of a gift or loan of any item of real or
personal property, other than money, made to or for any candidate or committee for the purpose
of influencing the passage or defeat of any issue or the election or defeat of any candidate.
Personal services are a contribution in kind by the person paying compensation therefor. In
determining the value to be placed on contributions in kind, a reasonable estimate of fair market
value shall be used by the candidate or committee. "Contribution in kind" does not include an

1 endorsement of a candidate or an issue by any person, nor does it include the payment of
2 compensation for legal or accounting services rendered to a candidate if the person paying for
3 the services is the regular employer of the individual rendering the services and the services are
solely for the purpose of ensuring compliance with the provisions of this title.

4 "*Expenditure*" means the payment, distribution, loan, or advance of any money by any
candidate or committee, whether in cash, by check, as a credit card charge, or otherwise.

5 "*Expenditure*" also includes the payment, distribution, loan, or advance of any money by a
6 person for the benefit of a candidate or committee that is made with the prior knowledge and
7 consent of an agent of the candidate or committee. An expenditure occurs when the actual
payment is made or when a contract is agreed upon, whichever comes first. Consent may be
implied from collaboration and need not be express.

8 "Fair market value" means the amount a willing buyer and a willing seller would pay for the
9 product or service when either was under any obligation to do so.

10 "*Independent expenditure*" means an expenditure by any person for the purpose of expressly
11 advocating the election or defeat of a candidate or candidates, which expenditure is not
12 controlled by, coordinated with, or made upon consultation with any candidate or candidate
13 committee or any agent of such candidate or committee. "*Independent expenditure*" does not
14 include expenditures made by persons, ~~other than political parties and political committees,~~ in
the regular course and scope of their business, including political messages sent solely to
members.

15 "*Issue*" is synonymous with "ballot ~~measure~~proposition."

16 "*Issue committee*" means any two or more natural persons who collaborate together, or any
17 corporation, partnership, commission, association, or any other organization or group of persons,
18 that accepts contributions or makes expenditures for the purpose of opposing or supporting a
ballot ~~proposition~~measure at a city election, regardless of whether or not it has obtained the
consent of the sponsors of the ballot ~~proposition~~measure.

19 "Loan" means providing something of value, including money, to another, with a promise,
20 express or implied, that money will be paid in the future for the item of value.

21 "*Official candidate committee*" - see definition of "candidate committee."

22 ~~"Political committee" means any two or more natural persons who collaborate together, or~~
23 ~~any corporation, partnership, commission, association, or any other organization or group of~~
24 ~~persons, that accepts contributions or makes expenditures for the purpose of opposing or~~
25 ~~supporting a candidate for city council or a city ballot proposition, and which, because of~~
~~campaign activities concerning other candidates, other ballot measures, or both, is required under~~
~~the Fair Campaign Practices Act found in state law to file statements and reports with the~~

1 ~~secretary of state or the county clerk and recorder. It is the intention of this chapter to reduce the~~
 2 ~~burden on such committees of following two separate sets of filing and reporting requirements,~~
 3 ~~while still protecting the public purposes served by filing and reporting. However, no candidate~~
 4 ~~committee or other committee, the expenditures of which are in any way, directly or indirectly,~~
 5 ~~controlled by, coordinated with, or made upon consultation with any candidate or candidate~~
 6 ~~committee or agent thereof shall be deemed a political committee eligible for these different~~
 7 ~~requirements.~~

8 “Published” means a writing presented for distribution in exchange for money or other item
 9 of value.

10 “Solicitation” means a written or oral or other endeavor to obtain, seek or plead for money or
 11 other item of value.

12 *"Unofficial candidate committee"* means any two or more natural persons who collaborate
 13 together, or any corporation, partnership, commission, association, or any other organization or
 14 group of persons, that accepts contributions or makes expenditures for the purpose of expressly
 15 advocating the election or defeat of a clearly identified candidate for city council. An unofficial
 16 candidate committee ceases to be independent if its expenditures are in any way, directly or
 17 indirectly, controlled by, coordinated with, or made upon consultation with any candidate or
 18 candidate committee or agent thereof.

19 **13-2-3. Candidate's ~~Interest~~ Financial Disclosure Statement.**

- 20 (a) The purpose of this section is to provide members of the public and other council members
 21 with information regarding financial dealings of candidates and council members that might
 22 affect their ability to make impartial decisions. When reporting information regarding the
 23 activities of a third party, a reporting person is required to report only information about which
 24 he or she has actual knowledge.
- 25 (b) Any person required to file a financial disclosure statement required by this chapter shall file
 a statement on a form provided by the city clerk, as follows:
- (1) The reporting person's employer and occupation;
 - (2) The source of any income in excess of \$1,000 per year, including, without limitation,
 other household income, capital gains, whether or not taxable, dividends, interest, wages,
 salaries, rents, profits, and retirement accounts;
 - (3) The name, location, and nature of activity of any business entities or enterprises, with
 holdings of real or personal property or with business dealings in the area encompassed
 by the Boulder Valley Comprehensive Plan, in which the reporting person or other
 household member has any financial interest or is actively engaged as an officer, director,
 or partner, and the nature of the reporting person's or other household member's interest
 or activity. A reporting person or other household member is not required to report any
 financial interest in any business entity in which the reporting person's or other household
 member's only interest is through an investment in an excepted investment. A charitable
 donation is not a financial interest;

- 1 (4) The location of any real property within Boulder County in which the reporting person or
2 other household member has an interest or, if the reporting person or other household
3 member has a reportable interest in an entity or enterprise disclosed pursuant to Paragraph
4 (b)(3) above, in which the entity or enterprise has any interest and the nature of such
5 interest;
- 6 (5) Any other information that the reporting person feels would be helpful or should be
7 disclosed; and
- 8 (6) Notwithstanding any other provision of this chapter, no reporting person or other
9 household member is required to disclose any confidential relationship protected by law.

10 **13-2-4. - Filing Dates and Disclosure Periods — Candidates and Incumbents.**

- 11 (a) On or before September 10, any candidate having filed a petition of nomination shall file a
12 statement of financial disclosure as set forth in Section 13-2-3, "Financial Disclosure
13 Statement," B.R.C. 1981. The candidate shall file a supplemental report if there is any material
14 change in the information reported after the date of filing within fifteen days after the material
15 change.
- 16 (b) On or before April 15 of each year, every member of the city council shall file a statement of
17 financial disclosure as set forth in Section 13-2-3, "Financial Disclosure Statement," B.R.C.
18 1981. Council members shall report any material changes to the information reported, except
19 information reported pursuant to Paragraph 13-2-3(b)(2) of this chapter, within fifteen days
20 of the end of the calendar quarter in which the material change occurred.
- 21 (c) Each financial disclosure statement shall include all information current on the date of filing,
22 except information required by Paragraph 13-2-3(b)(2) of this chapter shall be reported as of
23 the end of the previous calendar year.

24 **13-2-5. Statement of Organization of Official Candidate Committee.**

- 25 (a) No more than three days after a candidate's petition of nomination for city council has been
certified as sufficient by the city ~~clerk~~ manager pursuant to charter section 26, the candidate
shall file a statement of organization of the committee formed to assist the candidate in being
elected to city council. This statement shall be filed even if the candidate has not formed a
committee, and shall be amended later if a committee is formed or the information required
changes. The statement of organization shall include:
 - (1) The name and address of the candidate;
 - (2) The name and address of the committee;
 - (3) The names and addresses of all persons acting as officers of the candidate's campaign or
of the committee, including committee chairpersons; and
 - (4) The name and address of the committee's campaign treasurer.

- 1 (b) A candidate may be the treasurer and hold any position in the candidate's own campaign
2 committee. A candidate is deemed to have a committee even if there is none, but this does
3 not increase the reporting requirements. No candidate shall be deemed to have more than one
4 candidate committee, and if more than one committee acts under the authority of or in
5 coordination with a candidate, all shall be deemed the candidate's committee and shall file
6 combined reports as required by this title and all shall jointly be subject to the limitations of
7 this title.
- 8 (c) The committee treasurer shall file a statement of any changes in the information required by
9 Subsection (a) of this section no more than three days after such change.
- 10 (d) Expenditures by any person on behalf of a candidate that are, in any way, directly or
11 indirectly, controlled by, coordinated with, or made upon consultation with any candidate or
12 the candidate's official committee or agent thereof shall be considered a contribution to the
13 candidate and are subject to the contribution limitations contained in this chapter. If such an
14 expenditure is made by an unofficial candidate committee, all contributions to that committee
15 shall be deemed contributions to the candidate for purposes of contribution limitations. Such
16 expenditures also count toward the expenditure limit of any candidate receiving public
17 funding under this chapter.

18 **13-2-6. Statement of Organization of Unofficial Candidate Committee.**

- 19 (a) No more than three days after an unofficial candidate committee accepts a contribution or
20 makes or obligates itself to make an expenditure, the treasurer of the committee shall file a
21 statement of organization that includes:
- 22 (1) The name and address of the committee;
 - 23 (2) The candidate or candidates the committee is supporting or opposing, or both if that is the
24 case;
 - 25 (3) The names and addresses of all persons acting as officers of the committee, including
committee chairpersons; and
 - (4) The name and address of the committee's campaign treasurer.
- (b) The committee treasurer shall file a statement of any changes in the information required by
this section no more than three days after such change.
- (c) Expenditures by any unofficial candidate committee on behalf of a candidate that are, in any
way, directly or indirectly, controlled by, coordinated with, or made upon consultation with
any candidate or the candidate's committee or agent thereof shall be considered a
contribution to the candidate and subject the candidate and the contributor to any applicable

penalties contained in this chapter. Such expenditures also count toward the expenditure limit of any candidate who has received public funding under this chapter.

(d) Unofficial candidate committees which make expenditures on behalf of any candidate who has received public funding under this chapter shall keep records of the time, place, and general subject matter of all consultation with any person, other than a member of the committee who is not affiliated with any other candidate or official or unofficial candidate committee, concerning the substance, venue, and timing of the expenditure, which records shall be given to the city manager by the committee treasurer if the manager makes a demand for same. The manager is authorized to make such a demand any time the manager has a reasonable suspicion that the expenditures were controlled by, or coordinated with, or made upon consultation with any candidate or candidate's committee or other unofficial candidate committee or agent thereof.

(e) Unofficial candidate committees cannot be combined with an issue committee.

13-2-7. Statement of Organization of Issue Committee.

(a) No more than three days after an issue committee accepts a contribution or makes an expenditure, or three days after ballot certification if the committee has accepted contributions or made expenditures in anticipation of ballot ~~proposition~~measure certification, the treasurer of the committee shall file a statement of organization that includes:

- (1) The name and address of the committee;
- (2) The ballot ~~proposition~~measure or ~~measures~~propositions being supported or opposed by the committee;
- (3) The names and addresses of all persons acting as officers of the committee, including committee chairpersons; and
- (4) The name and address of the committee's treasurer.

(b) The committee treasurer shall file a statement of any changes in the information required by this section no more than three days after such change.

(c) Once an issue committee files a statement of organization, it cannot add or change the ballot measure(s) supported or opposed.

(e) Issue committees cannot be combined with an unofficial candidate committee.

13-2-8. Statement of Contributions and Expenditures of Official Candidate Committee.

(a) The candidate, or the treasurer of each official candidate committee, shall file statements of contributions and expenditures according to the following schedule:

1 (1) Three days after the candidate's petition of nomination for city council has been certified
2 as sufficient by the city clerk pursuant to charter section 26, which statement shall cover
all contributions and expenditures made in anticipation of candidacy;

3 (2) On the forty-second day prior to the election.

4 (3) On the twenty-eighth day prior to the election;

5 (4) On the twenty-first day prior to the election; and

6 (5) On the fourteenth day prior to the election.

7 (b) The statement shall contain:

8 (1) The names and addresses of each person making contributions ~~to the filer's knowledge,~~
9 and the amount, dates, and nature of such contributions since the last report required to be
filed by this chapter, unless the statement is the first one required;

10 (2) The cumulative total value of the contributions received;

11 (3) The names and addresses of each person to whom an expenditure has been made and the
12 amount, date, and purpose of such expenditure since the last statement required by this
chapter, unless the statement is the first one required;

13 (4) The cumulative total value of all expenditures made; and

14 (5) A statement of all anonymous contributions received, together with their disposition,
15 from the last statement required by this chapter, unless this statement is the first one required.

16 (c) By 5:00 p.m. on the Thursday before the election, the candidate or the treasurer of each
17 official candidate committee shall file a statement of contributions and expenditures,
18 providing the information required by Subsection (b) of this section, together with
19 anticipated contributions and expenditures for the remainder of the campaign, if any, before
or after the election.

20 (d) On or before the thirtieth day after the election, the candidate or the treasurer of each official
candidate committee shall file a final statement of contributions and expenditures, stating the
21 information required by Subsection (b) of this section and, if a balance remains on the
22 candidate's or committee's books, the intended disposition of that balance. If such a balance
remains, the candidate and treasurer shall file a final statement sixty days after the election
23 showing the actual disposition of that balance.

24 (e) The candidate and the candidate's committee shall comply with the disclosure requirements
of Section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate
25 to Contain Sponsor's Name," B.R.C. 1981.

1 (f) Copies of documents supporting the contributions and expenditures included in any
2 statements required by this section shall be provided to the city manager at the time of
3 submitting the statement.

4 **13-2-9. Statement of Contributions and Expenditures of Unofficial Candidate Committee.**

5 (a) The treasurer of each unofficial candidate committee shall file statements of contributions
6 and expenditures according to the following schedule:

- 7 (1) Three days after the committee accepts a contribution or makes or obligates itself to make
8 an expenditure, which statement shall cover all contributions and expenditures made;
9 (2) On the forty-second day prior to the election;
10 (3) On the twenty-eighth day prior to the election;
11 (4) On the twenty-first day prior to the election; and
12 (5) On the fourteenth day prior to the election.

13 (b) The statement shall contain:

- 14 (1) The names and addresses of each person making contributions to the treasurer's
15 knowledge, and the amount, dates, and nature of such contributions since the last report
16 required to be filed by this section, unless the statement is the first one required;
17 (2) The cumulative total value of the contributions received;
18 (3) The names and addresses of each person to whom an expenditure has been made and the
19 amount, date, and purpose of such expenditure since the last statement required by this
20 section, unless the statement is the first one required;
21 (4) The cumulative total value of all expenditures made; and
22 (5) A statement of all anonymous contributions received, together with their disposition,
23 from the last statement required by this section, unless this statement is the first one
24 required.

25 (c) By 5:00 p.m. on the Thursday before the election, the treasurer of each unofficial candidate
committee shall file a statement of contributions and expenditures, providing the information
required by Subsection (b) of this section, together with anticipated contributions and
expenditures for the remainder of the campaign, if any, before or after the election.

(d) In addition, if an unofficial candidate committee makes an expenditure in excess of \$200.00,
the treasurer of the committee shall file a statement of independent expenditure giving the

names and addresses of each person to whom such an expenditure has been made, and the amount, date, and purpose of such expenditure, on the following schedule:

(1) On or before the twenty-first day before the election: Within three business days after obligating funds for the first such expenditure.

(2) On or after the twenty-first day but more than twenty-four hours before the election, and including any reportable expenditure not previously reported: Within twenty-four hours after obligating funds for such expenditure.

(3) On or before the thirtieth day after the election: Notice of any independent expenditure in excess of \$200.00 made on the day before or the day of the election.

(4) A statement due on a weekend or holiday shall be filed on the next business day.

(e) On the thirtieth day after the election, the treasurer of each unofficial candidate committee shall file a final statement of contributions and expenditures, stating the information required by Subsection (b) of this section and, if a balance remains on the committee's books, the intended disposition of that balance. If such a balance remains, the candidate and treasurer shall file a final statement sixty days after the election showing the actual disposition of that balance.

(f) Unofficial candidate committees shall comply with the disclosure requirements of Section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981.

(f) Copies of documents supporting the contributions and expenditures included in any statements required by this section shall be provided to the city manager at the time of submitting the statement.

13-2-10. Independent Expenditures – Applies to Natural Persons and Unofficial Candidate Committees.

(a) Any natural person making an independent candidate expenditure in excess of \$200.00 shall deliver notice in writing to the city ~~clerk~~manager of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure, within three business days after obligating funds for such expenditure.

Thereafter, notice of additional expenditure obligations in excess of \$200.00 shall be delivered to the ~~clerk~~manager on the twenty-first day before the election. Notice of each subsequent independent expenditures in excess of \$200.00 up to twenty-four hours before the election but not previously reported shall be delivered to the ~~clerk~~manager within twenty-four hours after obligating funds for the independent expenditure. On or before the thirtieth day after the election, notice of any independent expenditure in excess of \$200.00 made on the day before or the day of the election shall be delivered to the ~~clerk~~manager. The notice

1 shall specifically state the name of the candidate or candidates whom the independent
2 expenditure is intended to support or oppose. Each independent expenditure shall be reported
as a separate item in each notice.

- 3 (b) Any natural person making an independent expenditure in excess of \$200.00 shall comply
4 with the disclosure requirements of Section 13-2-13, "Election Materials and Advertising
Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981.
- 5 (c) Expenditures by any natural person on behalf of a candidate that are, in any way, directly or
6 indirectly, controlled by, coordinated with, or made upon consultation with any candidate or
7 the candidate's committee or agent thereof shall be considered a contribution to the candidate
8 and subject the candidate and the contributor to any applicable penalties contained in this
chapter. Such expenditures also count toward the expenditure limit of any candidate who has
9 received public funding under this chapter.
- 10 (d) Individuals who make an independent expenditure on behalf of any candidate who has
11 received public funding under this chapter shall keep records of the time, place, and general
12 subject matter of all consultation with any person about the substance, venue, and timing of
13 the expenditure, which records shall be given to the city manager if the manager makes a
demand for same. The manager is authorized to make such a demand any time the manager
has a reasonable suspicion that the expenditures were controlled by or coordinated with or
made upon consultation with any candidate or candidate's committee or agent thereof.

14 **13-2-11. Statement of Contributions and Expenditures of Issue Committee.**

- 15 (a) The treasurer of each issue committee shall file a statement of contributions and expenditures
16 according to the following schedule:
- 17 (1) Three days after the committee accepts a contribution or makes or obligates itself to make
18 an expenditure, and three days after ballot certification if the committee has accepted
19 contributions or made expenditures in anticipation of ballot ~~proposition~~measure
certification;
- 20 (2) On the forty-second day prior to the election;
- 21 (3) On the twenty-eighth day prior to the election;
- 22 (4) On the twenty-first day prior to the election; and
- 23 (5) On the fourteenth day prior to the election.
- 24 (b) The statement shall contain:

1 (1) The names and addresses of each person making contributions to the treasurer's
2 knowledge, and the amount, dates, and nature of such contributions since the last report
3 required to be filed by this section, unless the statement is the first one required;

4 (2) The cumulative total value of the contributions received;

5 (3) The names and addresses of each person to whom an expenditure has been made and the
6 amount, date, and purpose of such expenditure since the last statement required by this
7 section, unless the statement is the first one required;

8 (4) The cumulative total value of all expenditures made; and

9 (5) A listing of the amount of each individual anonymous contribution, together with the
10 total of all anonymous contributions received from the last statement required by this
11 section, unless this statement is the first one required.

12 (c) By 5:00 p.m. on the Thursday before the election, the treasurer of each issue committee shall
13 file a statement of contributions and expenditures, providing the information required by
14 Subsection (b) of this section, together with anticipated contributions and expenditures for
15 the remainder of the campaign, if any, before or after the election.

16 (d) On the thirtieth day after the election, the treasurer of each issue committee shall file with the
17 city manager a final statement of contributions and expenditures, stating the information
18 required by Subsection (b) of this section and, if a balance remains on the committee's books,
19 the intended disposition of that balance. If such a balance remains, the candidate and
20 treasurer shall file a final statement sixty days after the election showing the actual
21 disposition of that balance.

22 (f) Copies of documents supporting the contributions and expenditures included in any
23 statements required by this section shall be provided to the city manager at the time of
24 submitting the statement.

25 **~~13-2-12 Political Committee Filing and Reporting Requirements.~~**

~~A political committee which is, by virtue of its support for or opposition to a candidate for a
political office other than that of city council of the city, or for a ballot proposition appearing on
the ballot of an entity other than the city, required to file, and does file with the secretary of state
or the county clerk and recorder, or both, the disclosures required by § 1-45-108, C.R.S., and
complies with the reporting and filing requirements of § 1-45-109, C.R.S., and disposes of
unexpended campaign contributions pursuant to § 1-45-106, C.R.S., is exempt from the separate
filing and reporting and unexpended campaign contribution requirements of this chapter. But
such a committee shall file with the city manager, within three days of its first acceptance of a
contribution or expenditure in support of or opposition to a candidate for city council or a city
ballot proposition, a full and correct copy of its registration statement as filed with the secretary~~

1 of state pursuant to § 1-45-108(3), C.R.S., and the most recent other report or disclosure which it
2 has filed with the secretary of state or any county clerk and recorder, and shall thereafter file with
3 the manager full and correct copies of every disclosure or report on the same day it files such a
4 document with either state official, plus an expenditure report conforming with Section 13-2-9,
5 "Statement of Contributions and Expenditures of Unofficial Candidate Committee," or 13-2-11,
6 "Statement of Contributions and Expenditures of Issue Committee," B.R.C. 1981, as applicable,
7 segregating, insofar as possible, expenditures made on the city election.

8 **13-2-123. Election Materials and Advertising Supporting or Opposing Candidate to**
9 **Contain Sponsor's Name.**

10 All persons composing, presenting, using, or distributing information which expressly
11 opposes or supports any candidate or candidates shall include therein the name of the person who
12 is responsible for sponsored the composition, presentation, use, or distribution of such
13 information. This requirement includes all electronic, social media, paper, audio, or visual forms
14 of distribution.

15 **13-2-134. Solicitation for Candidate Campaign Funds.**

16 Whenever any person makes an expenditure for the purpose of soliciting any contribution
17 through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct
18 mailing, or any other type of general public political advertising for the purpose of financing
19 communications expressly advocating the election or defeat of a clearly identified candidate,
20 such communication:

- 21 (a) If authorized by a candidate or committee or any agent thereof, shall clearly state that the
22 communication has been so authorized;
- 23 (b) If paid for by other persons but authorized by a candidate or committee, or its agents, shall
24 clearly state that the communication is paid for by such other persons and authorized by such
25 candidate or committee, or its agents; or
- (c) If not authorized by a candidate or committee, or its agents, shall clearly state the name of the
person who paid for the communication and state that the communication is not authorized
by any candidate or committee.
- (d) ~~Each candidate and committee shall include on the face or front page of all electronic or
paper materials soliciting contributions the following notice:~~
"A copy of our report is filed with the City Clerk of the City of Boulder, Colorado."

1 **13-2-145. Filing, Preservation, and Public Inspection of Statements.**

- 2 (a) Persons required by this chapter to prepare and file statements shall do so on the basis of
3 information that is complete and current at least as of 5:00 p.m. on the second calendar day
4 before the filing date.
- 5 (b) Persons required by this chapter to file statements or deliver notices shall file such statements
6 or notices with the city manager on forms that the manager provides and preserve such
7 records for a period of six months from the date of the election.
- 8 (c) The city manager shall preserve all statements filed under this chapter for a period of six
9 months from the date of the election or, in the case of a successful candidate, until six months
10 after the person finally leaves office, or as specified in the City's Records Retention
11 Schedule, whichever is longer. Such statements constitute a part of the public records of the
12 city and shall be available for public inspection during normal business hours.

10 **13-2-156. Notice of Disclosure Requirements and Enforcement.**

11 The city manager shall administer the provisions of this article and shall:

- 12 (a) Publish a summary of the filing and reporting required of candidates and committees and
13 independent expenditures in a newspaper of general circulation in the city on the forty-fifth
14 day before each regular municipal election, or as soon thereafter as practicable after the
15 calling of a special election, and again two weeks after each municipal election;
- 16 (b) Prepare and make available the forms to be used in filing the statements required by this
17 chapter;
- 18 (c) Prepare and provide to each candidate or organization, upon its first filing with the manager,
19 a checklist of the statements required and the specific calendar date each is due;
- 20 (d) Keep a record of persons or organizations to whom the forms and checklists were given and a
21 record of the date such filings were received;
- 22 (e) Upon concluding on the basis of such records, complaints, or other information that a
23 candidate or organization has not filed the required statements or has filed incomplete or
24 incorrect statements, immediately notify, either verbally or in writing, the person required to
25 file that such person must file the missing statement or provide the information within
seventy-two hours of the manager's notice; and
- (f) As soon as practical after any candidate signs a contract with the city for matching funds, the
manager shall publish notice of that fact electronically on the election page of the city's
website.

1 **13-2-167. Contribution Limitation – Applies to Natural Persons and Unofficial Candidate**
2 **CommitteesCandidates Only.**

3 No candidate for city council, or candidate committee, or unofficial candidate committee,
4 shall solicit or accept any contribution, including any "in-kind" contribution, that will cause the
5 total contributions from any person to exceed \$100.00 to that candidate with respect to any single
6 election. The recipient of any contribution which would cause the total amount of contributions
7 to a candidate from a single person to exceed \$100.00 shall promptly return any such excess to
8 the donor. The candidate and the candidate's committee shall be treated as one, and a
9 contribution to one is counted as a contribution to the other. Contributions to unofficial candidate
10 committees are separately subject to the \$100.00 limitation.

11 **13-2-178. Anonymous Contributions.**

12 (a) Anonymous contributions to any candidate or candidate committee, or unofficial candidate
13 committee, may not be retained or expended by the candidate or committee. Anonymous
14 contributions also may not be retained or expended by a political committee insofar as it is
15 reasonably possible to discern from the contribution that it was intended to support that
16 committee's efforts to elect or defeat a candidate. If anonymous contributions are received by
17 a candidate or committee, they shall be disposed of as follows:

18 (1) If the candidate has accepted public financing under this chapter, all anonymous
19 contributions to the candidate or the candidate's committee shall be forwarded to the city
20 ~~clerk~~ manager with the next required report, noted in the report, and deposited in the
21 general fund of the city.

22 (2) Unofficial candidate committees, political committees, and candidates and candidate
23 committees of candidates who have not accepted public financing under this chapter shall
24 donate anonymous contributions to any charitable organization recognized by the Internal
25 Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code or to the
city, and the distribution of such funds shall be indicated on the next report required to be
filed pursuant to Section 13-2-8, "Statement of Contributions and Expenditures of
Official Candidate Committee," or 13-2-9, "Statement of Contributions and Expenditures
of Unofficial Candidate Committee," B.R.C. 1981.

(3) If an anonymous contribution is donated to a charitable organization recognized by the
Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code, the
candidate or committee shall retain the envelope or other container in which it arrived,
together with any other material which arrived with it, and a photocopy of the
contribution itself (showing only the amount and serial number of any bills), shall retain
such information as candidate or committee records for at least six months after the
election, and shall make such records available to the city manager upon request.

1 (b) If an anonymous contribution is received by an issue committee, the treasurer shall retain the
2 envelope or other container in which it arrived, together with any other material which
3 arrived with it, and a photocopy of the contribution itself (showing only the amount and
4 serial number of any bills), shall retain such information as committee records for at least six
5 months after the election, and shall make such records available to the city manager upon
6 request.

7 **13-2-189. Unexpended Campaign Contributions.**

8 Unexpended contributions to candidates or committees (including issue committees) may be
9 donated to any charitable organization recognized by the Internal Revenue Service pursuant to
10 section 501(c)(3) of the Internal Revenue Code or returned to the contributor, and the
11 distribution of such funds shall be indicated on the final report of the committee required to be
12 filed pursuant to Section 13-2-8, "Statement of Contributions and Expenditures of Official
13 Candidate Committee," or 13-2-9, "Statement of Contributions and Expenditures of Unofficial
14 Candidate Committee," B.R.C. 1981.

15 **13-2-1920. Public Matching Funds.**

16 (a) The city will allocate and provide matching funds, up to fifty percent of the expenditure limit
17 as herein defined, to any city council candidate who meets the eligibility requirements set out
18 in Section 13-2-20, "Eligibility for Matching Funds," B.R.C. 1981. The expenditure limit
19 shall be set at ~~\$20,000~~~~\$0.15 per registered city voter as of the day after the date set by state~~
20 ~~law for the purging of registration records of the election year. This limit shall be adjusted~~
21 ~~based on changes in the Consumer Price Index (all items) of the U.S. Department of Labor,~~
22 ~~Bureau of Labor Statistics, for the statistical area which includes the city, in an amount equal~~
23 ~~to the percentage change for the preceding two years. Only actual currency or its equivalent~~
24 shall be matched with public funds. Neither loans nor in-kind contributions nor amounts
25 exceeding \$100.00 from the candidate's personal wealth shall be eligible for matching funds.

(b) After meeting the eligibility requirements, any candidate may request matching funds from
the city no more frequently than once per week in amounts no less than \$500.00. The final
request for matching funds must be submitted to the city no later than fourteen days before
the election, but may be for less than \$500.00.

13-2-201. Eligibility for Matching Funds.

A candidate who meets the following requirements shall be eligible to receive matching
funds:

(a) The candidate raises at least ten percent of the expenditure limit from a minimum of 80
individual contributors. No more than \$25.00 of each contribution may be counted toward
the ten percent; and

1 (b) The candidate signs a contract with the city committing to the following:

2 (1) Agrees to limit his or her expenditures to ~~\$20,000.15~~ per registered voter of the city as
3 of the day after the date set by state law for the purging of registration records of the election
4 year. This limit shall be adjusted based on changes in the Consumer Price Index (all items) of
5 the U.S. Department of Labor, Bureau of Labor Statistics, for the statistical area which
6 includes the city, in an amount equal to the percentage change for the preceding two years;

7 (2) Agrees to contribute to his or her campaign no more than twenty percent of the
8 expenditure limit from his or her own personal wealth; and

9 (3) Agrees to return at least fifty percent of any unexpended funds to the city, but not more
10 than the matching funds received; ~~and~~

11 (4) ~~Agrees to treat any carryover funds from a previous campaign as funds from the
12 candidate's personal wealth, subject to the limits of such funds.~~

13 **13-2-212. Violations and Penalty.**

14 (a) Criminal Acts and Penalties: No person shall:

15 (1) File any statement required by this chapter that the person knows contains false
16 information;

17 (2) Fail to file a required statement within seventy-two hours of having been notified by the
18 city manager pursuant to Subsection 13-2-16(e), B.R.C. 1981;

19 (3) Fail to provide required information necessary to complete a required statement within
20 seventy-two hours of having been notified by the city manager pursuant to subsection 13-
21 2-16(e), B.R.C. 1981;

22 (4) Knowingly misstate or misrepresent the name of the person who financed the
23 composition, presentation or distribution of information as required by section 13-2-13,
24 "Election Materials and Advertising Supporting or Opposing Candidate to Contain
25 Sponsor's Name," B.R.C. 1981; or

(5) Fail to comply with any of the other requirements of this chapter;

(6) Any person convicted of a violation of this subsection is subject to a fine not to exceed
\$1,000.00.

(b) Civil Remedies:

(1) For the purposes of this subsection, "this ordinance" means those provisions adopted by
the people in the 1999 regular municipal election as placed on the ballot in Ordinance No.

1 6097, including, without limitation, any contract entered into pursuant to subsection 13-2-
2 21(b), B.R.C. 1981.

3 (2) Any registered elector of the city may bring a civil action including, without limitation,
4 an action for injury, and may sue for injunctive relief to enjoin violations or to compel
5 compliance with this ordinance consistent with paragraph (b)(3) of this section, provided
6 such person first files with the city attorney a written request for the city attorney to
7 commence action. The request shall include a statement of grounds for believing a cause
8 of action exists. The city attorney shall respond within ten days after receipt of the
9 request indicating whether the city attorney intends to file a civil action. If the city
10 attorney indicates in the affirmative and files suit within thirty days thereafter, no other
11 civil action for the same violation may be brought unless the action brought by the city
12 attorney is dismissed without prejudice.

13 (3) Any candidate or candidate committee who knowingly accepts a contribution in excess of
14 \$100.00 or exceeds the expenditure limit in violation of the contract with the city and this
15 ordinance is liable in a civil action initiated by the city attorney or by a registered elector
16 of the city for an amount up to \$500.00 or three times the amount by which the
17 contribution or expenditure limit is exceeded, whichever is greater.

18 (4) In determining the amount of civil liability, the court may take into account the
19 seriousness of the violation and culpability of the defendant.

20 (5) The city attorney shall enforce all provisions of this ordinance.

21 (6) The city council is empowered to create an advisory committee and other enforcement
22 procedures as it deems appropriate to implement this ordinance.

23 Section 2. Chapter 13-3, "Campaign Activities," B.R.C. 1981, is amended to read:

24 **Chapter 13-3: Campaign Activities**

25 **13-3-1. Legislative Intent.**

The purpose of this chapter is to regulate election campaign activities in municipal elections. The provisions of this chapter have been modeled on portions of the Federal Election Campaign Act, 2 U.S.C. sections 435 and 441. Modifications have been made where necessary to meet specific needs of the city. The provisions of this chapter concerning municipal election campaign activities are exclusive, and supersede any state statute on the subject, whether in conflict herewith or not, including, without limitation, article 1-45, C.R.S.

1 **13-3-2. Campaign Advertising Requirements.**

2 No person who sells space in a newspaper or magazine to a candidate or committee to use in
3 connection with a municipal election may charge an amount for such space which exceeds the
amount charged for comparable use of such space for other purposes.

4 ~~13-3-3 Contributions by City Contractors.~~

5 ~~It shall be unlawful for any person who enters into any contract with the city or any department
6 or agency thereof either for the rendition of personal services or furnishing any material,
supplies, or equipment to the city or any department or agency thereof, or for selling any land or
7 building to the city or any department or agency thereof, if payment for the performance of such
contract or payment for such material, supplies, equipment, land, or building is to be made in
8 whole or in part from funds appropriated by the city council, at any time between the
9 commencement of negotiations for and the later of completion of performance under or the
10 termination of negotiations for such contract or furnishing of material, supplies, equipment, land,
or buildings, directly or indirectly to make any contribution of money or other things of value, or
11 to promise expressly or impliedly to make any such contribution to any candidate or committee
or to any person for any political purpose or use in any city election; or knowingly to solicit any
12 such contribution from any such person for any such purpose during any such period.~~

13 ~~13-3-4.3. Contributions in Name of Another Prohibited.~~

14 No person shall make a contribution in the name of another person or knowingly permit such
15 person's name to be used to effect such a contribution, and no person shall knowingly accept a
contribution made by one person in the name of another person.

16 ~~13-3-4.5. Limitation on Contribution of Currency.~~

17 No person shall make contributions of coin or paper currency of the United States or of any
18 foreign country to or for the benefit of any candidate or committee, which, in the aggregate,
exceed \$100.00 with respect to any campaign in which such candidate or committee is
19 participating for a municipal election.

20 ~~13-3-6.5. Misrepresentation of Campaign Authority.~~

21 No candidate or political committee or any agent thereof shall make any fraudulent
22 misrepresentation as speaking or writing or otherwise acting for or on behalf of any other
candidate or committee on a matter which is damaging to such other candidate or committee; or
23 willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to
do so.

24 Section 3. Chapter 13-4, "Complaints Related to Election Procedures and Regulations,"

25 B.R.C. 1981, is amended to read:

1 **Chapter 13-4: Complaints Related to Election Procedures and Regulations**

2 **13-4-1. Legislative Intent.**

3 The provisions of this chapter are intended to assist with the enforcement of the regulatory
4 provisions of chapters 13-2, "Campaign Financing Disclosure," and 13-3, "Campaign Activities,"
5 B.R.C. 1981. The procedures set forth in this chapter are not exclusive and shall supplement
6 other applicable enforcement provisions.

6 **13-4-2. Allegation of Election Code Violation.**

7 (a) A request for action stating that any provision of chapter 13-2, "Campaign Financing
8 Disclosure" or chapter 13-3, "Campaign Activities," B.R.C. 1981, of this title has been
9 violated may be submitted to the city ~~clerk~~ manager. The request for action shall be in writing
10 and must be submitted no later than forty-five days following any election in which it is
11 alleged that the misconduct occurred. The request for action shall:

- 12 (1) Request that the city attorney file a civil action;
- 13 (2) Identify the particular provisions of chapter 13-2, "Campaign Financing Disclosure," or
14 13-3, "Campaign Activities," B.R.C. 1981, that allegedly were violated;
- 15 (3) State the factual basis for that allegation;
- 16 (4) Identify any relevant documents or other evidence; and
- 17 (5) Identify any witnesses or persons with relevant knowledge.

18 (b) The city ~~clerk~~ manager will notify the party named in the request for action (the "respondent")
19 and may provide the respondent an opportunity to provide information or otherwise respond
20 to the allegations of the request for action.

18 **13-4-3. Initial Review of Request for Action.**

19 The city ~~clerk~~ manager will evaluate the request for action and all information in the
20 ~~clerk~~ manager's possession related to the request for action to determine whether there is probable
21 cause to believe that further investigation would disclose a violation by the respondent. The city
22 ~~clerk~~ manager may, at the ~~clerk~~ manager's discretion, consult with the city attorney or delegated
23 legal counsel regarding this review. Such determination shall be made based upon the request for
24 action, any information provided by the person who filed the request for action or the party
25 named in the request for action, and upon such additional information as the ~~clerk~~ manager may
determine to be pertinent.

24 **13-4-4. Denial of Request for Action by City Clerk Manager.**

1 If the city ~~clerk~~manager determines that no probable cause exists that further investigation
2 would disclose a violation by the respondent, the city ~~clerk~~manager shall close the file with
3 regard to the matter. In that event, the city ~~clerk~~manager shall so notify both the complainant and
4 the respondent. Such notice shall be sufficient if it is accomplished by depositing it with the
5 United States Postal Service addressed to the last known address of the complainant and the
6 respondent. The city ~~clerk~~manager may also determine that the violation, if any, can be cured
after exercise of the city ~~manager~~manager's powers under chapter 13-2, "Campaign Financing
Disclosure," B.R.C. 1981, and, if the violation is cured, may deny the request for action on that
basis without further review.

7 **13-4-5. Determination by City ~~Clerk~~Manager Final.**

- 8 (a) A determination by the city ~~clerk~~manager that there is no probable cause that further
9 investigation would disclose a violation by the respondent shall be final. Cure of a violation
10 through exercise of the city ~~manager~~manager's powers under chapter 13-2, "Campaign
11 Financing Disclosure," B.R.C. 1981, also shall be final. No appeal or review from such
12 determinations shall be permitted, and the city attorney will not bring any civil or criminal
13 enforcement action against a party in either circumstance.
- 14 (b) A determination by the city ~~clerk~~manager that there is probable cause that investigation will
disclose a violation by the respondent shall also be final. No defect in the city ~~clerk~~manager's
determination shall constitute a defense at any hearing held by a city ~~clerk~~manager or at any
judicial enforcement proceeding.

15 **13-4-6. Power of City ~~Clerk~~Manager to Hold Hearings.**

16 The city ~~clerk~~manager is empowered to receive evidence and make recommendations with
17 regard to any request for action. The purpose of such hearings will be to determine whether
18 sufficient evidence of a violation by the respondent exists to warrant bringing a civil or criminal
19 action. The city ~~clerk~~manager may schedule hearings, mandate the appearance of witnesses
20 through the issuance of subpoenas and mandate the provision of documents through the issuance
of subpoenas for documents. Subpoenas for documents may be directed to any custodian of
records or to any other person possessing or controlling such records.

21 **13-4-7. Hearing Procedures.**

22 The following procedures shall be used by the city ~~clerk~~manager in any hearing:

- 23 (a) The city ~~clerk~~manager shall fix the date, time, duration, and place of each hearing;
- 24 (b) The complainant and the respondent may each be represented by counsel or other authorized
representative;

- 1 (c) The city ~~el~~er~~k~~manager may receive and consider testimony under oath, as well as evidence of
2 witnesses by affidavit, giving such evidence only such weight as seems proper after
3 consideration of any objection made to its admission;
- 4 (d) The legal rules of evidence need not be strictly applied by the city ~~el~~er~~k~~manager. The city
5 ~~el~~er~~k~~manager shall accept or reject evidence based upon the city ~~el~~er~~k~~manager's evaluation of
6 the reliability of that evidence; and
- 7 (e) The city ~~el~~er~~k~~manager may refer to the provisions in chapter 1-3, "Quasi-Judicial Hearings,"
8 B.R.C. 1981, relating to quasi-judicial hearings, for guidance with respect to procedures that
9 may be utilized at any hearing held pursuant to this section. However, final decisions
10 regarding such procedures shall be determined by the city ~~el~~er~~k~~manager in conformity with
11 the intent of these provisions and in a manner consistent with general principles of due
12 process.

13 **13-4-8. Negative Determination by City ~~C~~lerk~~M~~anager.**

14 If, upon completion of the city ~~el~~er~~k~~manager's evaluation of evidence, the city ~~el~~er~~k~~manager
15 determines that there is insufficient evidence of a violation by the respondent to warrant bringing
16 a civil or criminal action, the investigation shall be terminated concerning that respondent. In that
17 event, the city ~~el~~er~~k~~manager shall notify both the complainant and the respondent of this
18 determination. Such notice shall be sufficient if it is deposited with the United States Postal
19 Service addressed to the last known address of the complainant and the respondent.

20 **13-4-9. Power of City ~~C~~lerk~~M~~anager to Issue Remedial Order or Warning Letter.**

21 If, upon completion of the hearing process, the city ~~el~~er~~k~~manager determines that sufficient
22 evidence exists to bring a civil or criminal action, the city ~~el~~er~~k~~manager may direct the
23 respondent to take remedial actions including, without limitation, the following:

- 24 (a) Filing a corrected disclosure form;
- 25 (b) Publishing corrective advertising;
- (c) Refunding any private contributions obtained under false pretenses; and
- (d) Refunding to the city any public monies inappropriately obtained for the financing of
election activities.

The city ~~el~~er~~k~~manager may also issue the respondent a warning letter. The city attorney may
bring a civil action following compliance with a remedial order as described in subsections (a)
through (d) of this section for the purpose of incorporating the terms of the order into a consent
decree. Otherwise, a warning letter or compliance by the respondent with a remedial order will
end the process, and no civil or criminal action will be filed.

13-4-10. Referral to City Attorney for Criminal or Civil Prosecution.

If upon completion of the formal hearing process, the city ~~clerk~~ manager determines that sufficient evidence exists to bring a civil or criminal action and if the matter is not resolved through a warning letter or compliance with a remedial order issued by the city ~~clerk~~ manager, the matter shall be referred to the city attorney and delegated legal counsel. In such an instance, the city attorney or delegated legal counsel will evaluate the case to determine whether or not criminal prosecution or the bringing of a civil enforcement action is in the public interest.

13-4-11. Remedies Not Exclusive.

The procedures set forth by these provisions shall not impair the right of any interested party, including the city ~~clerk~~ manager, the city attorney, or a complainant, to notify the district attorney or the police of crimes that might be investigated or potentially prosecuted by those agencies. Nor shall these provisions preclude the city attorney from bringing criminal charges without first exhausting the administrative hearing process set forth in these provisions if the city attorney feels that there is sufficient basis for a criminal prosecution and that the interests of justice require prosecution prior to exhaustion of the administrative process described in these provisions.

13-4-12. No Appeal to City Council.

No decision by the city ~~clerk~~ manager made pursuant to this chapter shall be reviewed or reversed by the city council. The city council shall not become involved in the handling of any matter brought or investigated pursuant to these provisions. Nothing in this chapter shall be deemed to create a right of appeal to the city council by a person named in a request for action.

13-4-13. Confidentiality of Investigation.

The contents of files relating to pending inquiries or investigations into possible violations of the provisions of chapter 13-2, "Campaign Financing Disclosure," or 13-3, "Campaign Activities," B.R.C. 1981, shall not be made public by the city ~~clerk~~ manager, the city attorney, or by any other person or agency that is conducting an official investigation on the part of the city into alleged or possible violations of this type. Nor will any preliminary reports or drafts relating to the results of such investigations be made public. Nor shall the results of such inquiry or investigation be made public unless a hearing is held pursuant to this chapter. The city council finds that such disclosures could compromise criminal justice investigations. Further, the city council finds that such disclosures would be contrary to the public interest because such disclosures might have the effect of politically damaging a person or interest in a case in which the final disposition of an investigation would not sustain a finding of misconduct. The release of interim findings or draft reports might in that manner interfere with the appropriate workings of the democratic process.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE:

**APPROVAL OF BOULDER ARTS COMMISSION RECOMMENDATIONS
FOR 2016 OPERATING GRANTS FOR LARGE ORGANIZATIONS**

PRESENTERS

Jane S. Brautigam, City Manager
David Farnan, Library & Arts Department Director
Matt Chasansky, Office of Arts + Culture Manager

EXECUTIVE SUMMARY

The Boulder Arts Commission (BAC), established in 1979 to provide support to local artists and art organizations, is chartered with promoting and encouraging development and public awareness of, and interest in, the visual, fine and performing arts in the city. The BAC is committed to fostering a climate in which residents value art as a civilizing force, and recognize art as a basic community need.

In Boulder's newly adopted Community Cultural Plan, one of the key new strategies is to provide operational support to existing cultural organizations. This strategy, known as "Support our Cultural Organizations," provides:

Have a substantial and positive effect on the ability of Boulder's many cultural organizations to advance their operational capacity, promote organizational resiliency, and encourage innovation for the benefit of the community.

To accomplish this, the Boulder Arts Commission implemented a new Operating Grant for Large Organizations, offered for a triennial term. In the language of the ordinance which governs the grants program (Boulder Revised Code Title 14, Chapter 1) these are

considered “major grants”, and subject to approval by Council. The BAC has established guidelines for applicants to qualify as “a large organization.” The organization must:

- Maintain a budget of \$200,000 or more, and
- Have been registered as 501c3 non-profit organizations operating in Boulder for at least 5 years.

Recently, the BAC completed the 2016 Operating Grants for Large Organizations process, utilizing the online grant application tool. 17 applicants vied for \$280,000 allotted to this category and eight grants were awarded (four @ \$50,000 and four @ \$20,000). The grants were awarded based on a competitive process with established criteria. Before finalizing their decisions, the BAC held public hearings at which the applicants and members of the public could comment. The process was robust and the BAC is proud of the work they did to present the recommendations to council.

BOULDER ARTS COMMISSION RECOMMENDATIONS

The Boulder Arts Commission recommends that City Council approve the following organizations to receive operational grants:

1. Boulder Museum of Contemporary Art (BMoCA) - \$50,000
2. The Dairy Arts Center - \$50,000
3. eTown - \$50,000
4. Parlando School for the Arts - \$50,000
5. KGNU - \$20,000
6. Colorado Film Society (Boulder International Film Festival) - \$20,000
7. Frequent Flyers Productions - \$20,000
8. Open Arts (Open Studios) - \$20,000

QUESTIONS FOR COUNCIL

Does Council approve the recommendations of the BAC for the Operating Grants for Large Organizations?

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

The ability of the grants program to affect our community goals of economic, environmental, and social sustainability are captured in Appendix Ten of the Community Cultural Plan: “Connections to the City of Boulder Sustainability Framework” (Community Cultural Plan, Page 130). Specifically, the grants program has the potential to positively impact sustainability in the following ways:

- Economic – Tourism in Boulder is complemented by a powerful and innovative mix of exhibitions, performances, events and festivals. The Office of Arts + Culture will support the organizations that are creating this portfolio of remarkable experiences for our visitors.

In addition, our more than 130 cultural organizations fulfill a significant employment function, hiring administrators, curators, technicians, engineers, artists, laborers, and many others.

- Environmental - Cultural Organizations and practicing artists add vibrancy to the social offerings that are critical infrastructure for city life. Our community will build a foundation of livability, and thus attachment to Boulder, on the programs offered by these creative leaders. It is by fostering this attachment, that our residents will be motivated to take necessary and challenging actions to solve the important issues of climate change and livability necessary for the long term sustainability of our community.
- Social - Communities that gather for cultural activities know their neighbors, and check up on each-other. These connected neighborhoods are demonstrably safer.

Opportunities for creative expression are a part of community health that is offered by the variety of cultural organizations that call Boulder home. The Office of Arts + Culture will encourage that facet of community health.

The variety and diversity of social offerings, and the degree to which they are a welcoming part of everyday life, is a priority for the programs of the Office of Arts + Culture.

OTHER IMPACTS

Fiscal Impacts and Staff Time– The Operating Grants for Large Organizations was a planned program, and will not additionally impact the city budget or staff capacity.

BACKGROUND

Details on the grants process, and an FAQ document, can be found on the cultural grants website:

<https://bac.culturegrants.org/>

<http://boulderarts.org/wp-content/uploads/2015/11/Grant-FAQs.docx>

Public feedback on the Grants Program - This grant, as well as the entire portfolio of cultural grants being offered in the Community Cultural Plan's "Support Our Cultural Organizations" strategy, has been developed publicly in several forums. During the 18 month process to design and adopt the Cultural Plan, staff and consultants conducted an extensive a series of public engagement initiatives. Our outreach included town halls, focus groups, interviews, neighborhood meetings, several surveys, pop-up interviews, and online interactions that reached out to more than 2,000 people. Guided by this program of public inquiry, the Cultural Plan focuses on the sustainability and resiliency of cultural organizations as the cornerstone of our grants program.

Concurrent with the adoption of the Community Cultural Plan, the structure and details of the grants program was discussed in five meetings of the BAC.

- Two workshops were held to discuss the grant structure and application process with potential applicants.
- Process - The application and jury process for most grants, including for those here recommended, follows these steps:
 1. Applications are designed in consultation with the BAC.
 2. The online system is made publicly available and organizations may begin building their applications. Staff makes every attempt to maximize the amount of time that organizations have to work on them.
 3. At the application deadline, staff reviews all grants for errors or other issues that can be resolved by the applicants. Applicants have several days to fix any problems.
 4. The application system is closed, and the jury system is opened to members of the BAC.
 5. Commissioners score each application, also providing feedback or questions with each of their scores.
 6. The feedback and questions of the Commissioners are compiled and delivered to applicants for their consideration. Applicants are given a few days to develop a short oral presentation.

7. A public hearing is held at the meeting of the Boulder Arts Commission:

- Applicants are given the opportunity to deliver three-minute presentations to address the feedback and questions of the Commissioners.
- Commissioners discuss the feedback and may elect to change their scores if their questions have been adequately answered.
- Staff adjusts any changed scores.
- The members of the BAC discuss the final list of top scoring applications. An approval vote is taken.

This process was carefully followed by the BAC as they considered the 17 applications for the Operating grants for Large Organizations.

STAFF RECOMMENDATION

It is the recommendations of staff that Council approves the proposal of the Boulder Arts Commission. Council may decide to:

- Approve the recommendations of the BAC,
- Ask that the BAC reconsider one or several of the grants,
- Ask the BAC to reconsider all of the grants,
- Postpone the approval of the grants and ask staff to provide Council with more information.

In the event that Council asks BAC to reconsider some or all of the grants, staff would ask that Council provide guidance on what additional criteria to using in adjudicating the applications. The criteria used by the BAC is outlined in detail under the Analysis section, below.

ANALYSIS

Key Principles of the Grants Program – The public inquiry, research, and consultation with the BAC that occurred during and after the process to adopt the Community Cultural Plan resulted in a few key principles that guide the actions of staff in the execution of the cultural grants program. These include:

Transparency and Engagement with Applicants – Interviews with individuals who have previously applied for cultural grants revealed a need for increased transparency and the ability for commissioners to interact with applicants during the jury process. The result was a process that more deeply engages the members

of the community who are applying for grants, including the addition of the comment and response process that is detailed above.

Justification of Operational Funding - In consideration of the structure and operation of the cultural grants, the members of the BAC and staff have adopted the following “justifications of operational funding”, developed by the National Assembly of State Art Agencies:

- Operational grants maintain the autonomy of grantees, allowing them to allocate the dollars to their most pressing needs.
- Operational grants tend to be more predictable over time, which helps organizations maintain continuity of services to their communities.
- Because operational grants are flexible, grantees can use the funds in more opportunistic or entrepreneurial ways than project-restricted funds often allow.
- Operational grants come with stringent accountability and management requirements that incentivize and perpetuate good business practices among arts organizations.
- Because the grantee—not the grant maker—ultimately defines the activities for which operational grants are used, this funding mechanism can reduce "mission drift" among grantees and can help to curtail the proliferation of programs designed solely to appeal to funders.
- Operational grants strengthen the nonprofit arts infrastructure and deepen working relationships between funders and core grantees.

Evaluation Criteria - Below is a list of criteria used by the BAC to evaluate and score the applications:

1. Capacity Building

How will this grant increase the capacity of your organization to meet goals in your strategic plan or master plan? In what way will this grant increase your organization’s sustainability and resiliency? What innovations, growth, or new community benefits will be made possible by this award?

2. Community Priorities

In what way will this grant funding increase your organization’s ability to contribute to one or several of the Community Priorities described in the Community Cultural Plan? Those Community Priorities are:

- Support the resiliency and sustainability of cultural organizations to enhance their ability to benefit the community.

- Create a supportive environment for artists and creative professionals, while fostering innovative thinking and leadership among them.
- Prioritize the civic dialogue about the ability of culture to positively contribute to the economy, social offerings, the environment, and the authentic expression of diversity.
- Develop Boulder's creative identity in becoming an innovative world leader in cultural matters and project that identity to the region and the world.
- Focus on the expression of culture and creativity in the public realm through public art, the urban landscape, culture in the neighborhoods, and serendipitous encounters with the arts.
- Amplify the vibrancy of Boulder's cultural destinations: the lively mix of museums, performance venues, events, districts, studios, maker spaces, and other facilities that make Boulder an enticing place to visit, live, play, and work. Fill in the gaps and address issues of access and affordability.

3. Proposed Outcomes And Evaluation

Describe your evaluation strategy for understanding the success of this grant over time. Please include the goal(s), the measures by which you will understand progress towards those goals, and the strategy for collecting this data. Note: Funding recipients will be asked to include this evaluation as part of their annual reporting.

Grandfathered Organizations - Of the eight grants that are here recommended, the BAC decided to assign two grants to organizations that have until recently been recipients of annual, non-competitive operating grants: BMoCA and the Dairy Arts Center. After much discussion, and guided by the Community Cultural Plan, this decision was made to ensure that the operating grants do not inadvertently undermine the goal of this very program, and threaten the businesses of these organizations through an unexpected fiscal crisis. The other six grants were awarded through a competitive process, and both BMoCA and the Dairy Arts Center are prepared for the fact that they will be included in the competitive pool during the next grants cycle.

The grant process utilized for the Operational Grants for Large Organizations under the new Community Cultural Plan was far more robust than the grant process formerly used. Staff and the BAC learned from the public and from the organizations themselves over the course of the development of the Community Cultural Plan and were able to respond to the need for clear criteria, dialogue and input. The decisions made by the BAC were well informed thanks to the hard work of the applicants. The BAC is proud of its work and looks forward to enhancing the work of cultural organizations in our community.

ATTACHMENTS None.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE

Update on Civic Area Master Plan Implementation, including Phase I Park Development, Analyses Related to the East and West “Bookends,” Related Projects (including the Civic Use Pad and proposed planning and engagement process for the Boulder Community Health/Broadway Campus’ redevelopment), and Proposed Next Steps

PRESENTER/S

Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing & Sustainability
Maureen Rait, Executive Director of Public Works
Yvette Bowden, Director of Parks and Recreation
David Farnan, Director of Boulder Library and Arts
Mike Sweeney, Director of Public Works for Transportation
Jeff Arthur, Director of Public Works for Utilities
Molly Winter, Director of Community Vitality
Edward Stafford, Development Review Manager, Public Works
Sam Assefa, Senior Urban Designer
Jeff Haley, Project Coordinator
Joanna Crean, Project Coordinator

EXECUTIVE SUMMARY

In June 2015, City Council accepted the updated Boulder Civic Area Master Plan, which defines the overall concept for the site and establishes criteria and guidelines for the consideration of specific improvements. The site includes the area between Canyon Boulevard and Arapahoe Avenue and between 9th and 14th Streets. The long-term vision is to transform the Civic Area into an even more unique and active destination that reflects the community’s shared values and its diversity, providing space and programs for people to gather, recreate, eat, learn, deliberate and innovate.

Implementation of the Boulder Civic Area Master Plan is expected to take place over the next 10 to 20 years. The first phase of improvements is currently moving forward thanks

to passage of the [Community, Culture and Safety Tax](#) in November 2014. Staff is working with the selected design team to finalize the Civic Area Park Site Plan to implement the \$8.7 million Phase I improvements and coordinate with the more than \$5 million from the tax devoted to Boulder Creek Path, 11th Street lighting, public art and Arapahoe Avenue underpass improvements at 13th Street. Construction of Phase I is anticipated to begin in the 3rd quarter of 2016, most likely after Labor Day (which concludes the busy summer season of events and activities in the park).

Subsequent phases and timing to implement the remainder of the Boulder Civic Area Master Plan will be defined by analyses currently underway, informed by community input, guided by council decision making, and dependent on the availability of funding sources (see **Attachment A** for an overview of the project timeline).

For 2016, the focus of the more detailed analysis to guide subsequent implementation activities includes:

- **Market Hall Feasibility Analysis** to study the possibility of a year-round public market and potential next steps related to community input, governance/management structures, and facility/program options;
- **Comprehensive Civic Area Flood Analysis** to better understand site and facility constraints and opportunities;
- **Canyon Boulevard Complete Street Study** and design options, some of which may propose changes to the Glen Huntington Band Shell landmark site;
- **Coordination with the Boulder Community Health/Broadway Campus planning effort**, and in particular city facility evaluation and planning, to help inform the potential program of future city facilities within the Civic Area campus as well as the BCH/Broadway site;
- **Coordination with the University of Colorado** related to potential development of a conference and hotel facility on the Grandview site, south of the Civic Area's "east bookend" (and potential implications and opportunities it may create);

Work is also underway to complete a management agreement and development proposal for expansion of the St. Julien Hotel and creation of a civic use meeting space on the Civic Use Pad site (described later in this memo). Further, an update to the Human Services Strategy is underway which will help inform decisions related to the future of the West Boulder Senior Center and its potential redevelopment or relocation. The update to the Library's current 2007 Master Plan is also beginning and is expected to be completed by end of 2017. The results of these work efforts will help inform the desired mix of uses and activities as well as facility design parameters for each of the bookends (including associated spaces to accommodate parking and access demands).

The purpose of this agenda item is to provide an update on these analyses, answer questions, and get council feedback, particularly in relation to planned next steps for the remainder of 2016. The memo also provides an update on implementation of the Phase I Park Plan; an overview of the proposed planning and community engagement process for

the Boulder Community Health/Broadway Campus; updates on related Civic Area projects (e.g., the Arapahoe underpass); and, under Board and Commission Feedback, a response to concerns raised by the Library Commission in a recent letter to City Council.

In short, key findings and recommendations presented in this memo are:

- 1 Analysis related to the Civic Use Pad in partnership with the St. Julien Hotel has demonstrated the feasibility of an 8,000 s.f. first-floor meeting space to support civic and cultural functions. However, after exploring numerous design options, staff has concluded that a rooftop public space as part of the Civic Use Pad is not viable.** Options remain for ensuring a high quality, attractive meeting venue that is both visually and functionally connected to the larger Civic Area. Staff recommends proceeding with next steps to develop a workable building design, project construction costs, and develop a management agreement to address the needs of future civic space users (including creation of a limited duration advisory group to provide input on discussions around space amenities and terms of the management agreement).
- 2 A year-round Public Market Hall is economically feasible, desired by key partners, and would attract visitors from throughout the community and the region.** The Civic Area Master Plan envisioned the development of a year-round market hall building that could serve as a center for local food sales, education, celebration and innovation. The preliminary Market Hall Feasibility Analysis indicates that a market hall incorporating a variety of program elements is financially and economically feasible, and an ad hoc working group representing various interests in the local food industry (farmers, retailers, restaurateurs, researchers, wholesalers and educators) expressed strong interest in and support for creating such a facility.
- 3 Reuse or redevelopment to accommodate an increased program of uses in each “bookend” is technically feasible in a manner consistent with flood regulations.** However, careful consideration will be needed to evaluate potential alternatives and their relative costs, appropriateness, impact on historic resources, and ability to mitigate life safety risks above and beyond minimum standards. The work completed in recent months has helped answer the question of whether new facilities *could* be developed; subsequent analyses and the engagement of stakeholders, boards, public and council will need to determine whether they *should* be developed.
- 4 East Bookend planning should be the priority focus for 2016 and into 2017.** With completion of the Market Hall Feasibility Analysis and finer-grain flood analysis, the Boulder Civic Area (BCA) team has begun to consider the “test fit” of facility options for the Public Market Hall program on the northern portion of the East Bookend (i.e., alternatives and tradeoffs for reuse and expansion of the existing building or redevelopment). Work is also underway on the Canyon Boulevard Complete Street options; and work is now commencing that will help determine the city office and community space needs to be accommodated in the Civic Area versus at the Boulder

Community Health/Broadway Campus site. These work efforts will help define the full program of uses to be accommodated in the East Bookend and their potential configuration. Further, the pending landmark application for the Atrium Building and the anticipated schedule for CU's development of a hotel/conference facility on the Grandview site give impetus to focusing on the East Bookend. Anticipated next steps include further exploration of the market hall options (including governance models); continued stakeholder and public engagement; determination of the "city facility" (offices, meeting space, etc.) program elements; completion of the "fit test" work; development of urban design criteria; and coordination with related work efforts. *Importantly, staff resources to support these multiple interrelated work efforts are significantly stretched as we work to fill key vacancies and develop consultant contracts, subject to pending adjustments to the 2016 approved budget. Project schedules may need to adjust in response to resource limitations.*

5 West Bookend efforts should focus on near-term programming and further analysis of key program elements to inform the evaluation of facility options.

Recently completed flood analysis has helped answer the question about whether an expanded and reconfigured program of uses in the West Bookend *could* be accommodated, from a technical perspective, in a manner consistent with city flood regulations and the Civic Area's guiding principles. However, significant work remains to engage key stakeholders and the community, evaluate program needs, test program and facility feasibility, determine costs and tradeoffs associated with alternative approaches, consider impacts and alternatives related to historic resources, and develop a preliminary preferred proposal. Staff recommends that further work on the West Bookend proceed only after completion of the Library Master Plan, the key program component in the West Bookend, and the Human Services Strategy, which will help define the desired future for the West Boulder Senior Center—another key program component in this part of the Civic Area. During this interim period, the focus of work in the West Bookend will continue to be on enhancing the program in existing spaces (such as the opening of the library's new MakerSpace and the arts cinema use in the library auditorium). The time could also be used by the Boulder Performing Arts Center group to further consider their proposed business model to inform the evaluation of arts and culture facility options and related uses in the area north of the creek. Stakeholder and public engagement in the evaluation of such options would proceed in 2017, contingent on availability of staff resources.

QUESTIONS FOR CITY COUNCIL

The following questions are provided to guide the discussion with City Council:

Civic Use Pad

1. Does council have any comments or questions on the proposed process and next steps for determining the management agreement with the St. Julien for the Civic Use Pad?

Planning for the Civic Area Bookends

2. Does council have any questions or feedback on the preliminary Market Hall Feasibility Analysis and proposed next steps to further evaluate program and governance options as well as facility alternatives with the community and key stakeholders?
3. Does council have questions or feedback on the flood analysis results and implications for reuse or redevelopment in the “bookend” areas?

Civic Area Implementation Work and 2016 Priorities

4. Does council have questions on other aspects of the Civic Area implementation work (including park design and construction schedule), related work efforts (including the proposed engagement process for the Boulder Community Health/Broadway Campus site), and staff recommendation to focus on the East Bookend work for the rest of 2016 and early 2017?

OVERVIEW

Background

The [2015 Civic Area Master Plan](#)  replaced the 1992 Civic Center Master Plan and builds on the 2013 Vision Plan. The plan establishes the goals, guiding principles and core themes for Civic Area implementation. A high level summary of the seven guiding principles are included below:

1. **The Civic Heart of Boulder** – Boulder’s Civic Area has symbolic, geographic, and functional importance and should serve as an inclusive place for people to interact with each other and with government. The area should be complementary to Pearl Street (the commercial heart) and downtown.
2. **Life & Property Safety** – Boulder’s Civic Area is located within the 100-year floodplain, and much of the land lies within the High Hazard Zone (HHZ). The city will meet or exceed existing flood standards, including avoiding placing new structures and parking in the HHZ and will be proactive about planning for and educating about floods.
3. **Outdoor Culture & Nature** – Boulder’s Civic Area is a central place to enjoy the outdoors in the middle of the city. The linear “green” along Boulder Creek will be a unifying focus, providing natural beauty, ecological function and flood safety as well as recreational, art, and cultural opportunities.
4. **Celebration of History & Existing Assets** – Boulder’s Civic Area has a historical focus and many long-standing functions and facilities highly valued by the community, such as the library, Sister City Plaza, Farmers’ Market, and Teahouse. Existing community assets will continue to play a vital role in the area.

5. **Enhanced Access and Connections** – Boulder’s Civic Area has well-used bicycle and pedestrian amenities and convenient transit connections, serving as both an important destination and connector. Travel and access to the area will continue to be improved.
6. **Place for New Community Activity & Arts** – Boulder’s Civic Area offers potential to expand civic services or cultural, arts, science, educational or entertainment amenities that are otherwise lacking in the community. Any new facilities will provide a high level of public benefit.
7. **Sustainable & Viable Future** – All future uses and changes in Boulder’s Civic Area’s public properties will exemplify the community’s sustainability values (i.e., economic, social and environmental).

These guiding principles were approved by City Council early in the planning process to inform development of the vision plan and ultimately the master plan. The principles provide direction as the Civic Area Master Plan is implemented, when analyses are prepared, and as detailed planning, design and financing decisions are made.

Public Process

The Boulder Civic Area has been the focus of a community-wide visioning and planning effort over the past three years, in which thousands of Boulderites have expressed their hopes and concerns about this area’s present and future. As part of this effort, the Civic Area Master Plan was recommended by both the Planning Board and Parks and Recreation Board and ultimately accepted by City Council on June 16, 2015. Passage of the Community, Culture and Safety tax initiative in November 2014 allows the first phase of improvements in the Civic Area to move forward focused on the park at the core. A park development plan was approved by City Council on Nov. 10, 2015 to implement the \$8.7 million Phase I improvements. The Phase I park project is now in final design and coordination through the city’s standard review process. Construction of Phase I is anticipated to begin in the 3rd quarter of this year, most likely after Labor Day which concludes the busy summer season of events and activities in the park.

More detailed planning work is now underway on the remaining components of the long-term implementation of the Civic Area Master Plan, including the west and east “bookends.” To help inform the desired urban form, design characteristics and future land uses for the bookends, two studies were initiated: a study on the feasibility and type of year-round market hall for the east bookend (13th Street) and a more detailed analysis of flood opportunities and constraints. The analysis and initial recommendations will be presented at a community open house on April 4, 2016. The open house will also provide an opportunity to share information about related aspects of the Civic Area including historic resources assessment, access improvements and parking changes, the Boulder Community Health Broadway Campus redevelopment planning and engagement process, Arapahoe Underpass, Canyon Complete Street options analysis, and Boulder Creek Path Improvements.

Staff will give a verbal update on the feedback from the open house at the April 5, 2016 council meeting. Council's input will help shape the next steps related to the Civic Area long-term implementation. The more detailed planning work related to the Civic Area bookends will continue into 2017 and include a robust public process, including the engagement of council, boards, commissions and the community. Given the timing of related work efforts and resource constraints, staff recommends that work on the bookends be sequenced, with 2016/17 work efforts focused on the east bookend program of uses and design options, followed by the west bookend uses and design options in 2017/18. In the end, the proposed processes will result in the development of specific urban design criteria for each bookend that will establish the desired land uses, scale, design performance standards for future new buildings, additions, preservation of historic structures, and design of public spaces. It is anticipated that the specific urban design criteria for each bookend will be approved by council and will supersede relevant portions of the Downtown Urban Design Guidelines.

Board and Commission Feedback

The city's Library Commission has recently expressed concerns with the Civic Area planning process, and the park design proposed for the area directly east of the north wing library. See **Attachment B** for the Commission's letter to City Council. Staff would like to acknowledge their feedback and apologize for any miscommunication. For information on how staff plans to move forward to address issues raised by the Library Commission, please see **Attachment C**.

LONG-TERM USES FOR CIVIC AREA BOOKENDS

Civic Use Pad (west bookend)

Guiding Question for City Council

1. Does council have any comments or questions on the proposed process and next steps for determining the management agreement with the St. Julien for the Civic Use Pad?

Background

Discussions are ongoing regarding the potential for a mixed-use building on the pad adjacent to the St. Julien Hotel, which could include a "civic use" space of approximately 8,000 square feet on the first floor, along with hotel uses above. The civic use space is envisioned as a flexible space to be available at a discounted rate to community and nonprofit groups for civic and cultural functions. In May 2015, the city and the St. Julien signed a letter of intent that outlines the key issues, process, and responsibilities for moving forward.

The project has a deadline of Jan. 1, 2020 as outlined in Article 6 of the condominium agreement, which governs the relationship between the St. Julien and the Central Area General Improvement District (CAGID). The relevant language in the condo agreement is as follows: "...in the event the [condominium] Association fails to enter into a Civic Use Lease on or before January 1, 2020, the [St. Julien] will be free to construct

improvements, lease, operate, use and otherwise manage the Civic Use Site in any manner without requiring the consent of the Association or any other Unit Owners....but subject to all other provisions of this Declaration and applicable Laws, including any zoning requirements.” The proposed project, as reflected in the Letter of Intent, will not require a civic use lease as envisioned in the condominium agreement, but execution of a civic use management agreement and completion of the project before Jan. 1, 2020 will ensure the deadline never becomes an issue.

Rooftop Public Space

City staff have been working with the St. Julien on some threshold design issues, most notably the potential rooftop patio. An analysis shows that the rooftop patio, as previously imagined through the Civic Use Taskforce process, will not be feasible with the proposed building program. The project as envisioned in the Letter of Intent—a civic use space on the first floor with three floors of hotel use above—will very nearly hit the legal height limit. Most infrastructure or appurtenances necessary to make the rooftop usable for events, such as elevators, storage spaces, canopies, shelters, walls, or railings, will push the building over the height limit (see **Attachment D** for details).

Staff entertained a variety of possible ideas to overcome the height challenge related to a potential rooftop patio. None of the ideas were seen as viable options; either because of financial or technical reasons.

Proposed Next Steps

As staff and the St. Julien have come to a better understanding on the building’s design, likely construction costs can be projected with better accuracy. In turn, the St. Julien’s financial needs related to construction and future management of the civic use space will be better understood and movement can then be made toward a management agreement.

To ensure the management agreement will address the needs of future civic space users, input will be sought from community groups in April and May. Staff is in the process of convening a limited duration advisory group to provide input on the terms of use for the space as well as potential costs. The advisory group’s input will be critical in helping staff and the St. Julien craft a proposed agreement for council consideration in late 2016.

Council will be provided with an overall update on the project via information packet memo in August. First reading, public hearing, second reading, and council approval of the management agreement are tentatively scheduled for November.

Market Hall

Guiding Question for City Council

2. Does council have any questions or feedback on the preliminary Boulder Market Hall Feasibility Analysis and proposed next steps to further evaluate program and governance options as well as facility alternatives with the community and key stakeholders?

Background

One of the specific uses identified in the Civic Area Master Plan is a year-round market hall that would complement the existing Farmers' Market as well as advance local foods and activate the east bookend. A consultant team, Economic & Planning Systems, a national economic consulting firm, and David O'Neil, an expert in the development of public markets halls, were retained by the city to assess the potential program mix, type, and scale of a year-round market hall consistent with the vision articulated in the Boulder Civic Area Master Plan. The consultant team has developed preliminary recommendations (which are summarized below) including the desired mix and types of food related programs and activities for the market hall, as well as the desired management structure. See **Attachment E** for the consultants' draft report. The recommendations were made based on data from comparable year-round markets around the country, stakeholder outreach, market research, and input from two sessions with an ad hoc working group comprised of individuals representing a wide range of the local food industry (i.e., production, packaging, distribution, retailing, as well as institutions such as the Boulder County Farmers' Market, the Boulder Valley School District, University of Colorado, and Colorado State University). The group provided input at two sessions held on Dec. 15, 2015 and Feb. 10, 2016. See **Attachment F** for the list of participants on the working group. Meeting notes can be found on the [Civic Area website](#).

Summary of Preliminary Recommendations

The individual components of the preliminary recommended programs include:

- Flexible event hall with its primary use intended to be for food related activities including a year-round farmers' market
- Demonstration kitchen
- 6 - 8 vendor stalls
- Single tenant brewer, distiller, or vintner
- Tap House/Tasting Room with education oriented production space
- Common dining area with tables and chairs, with shared access from tasting room within/adjoining the large hall
- Farmers' Market Co-op store
- Office Space for the Boulder County Farmers' Market
- Rooftop – Opportunity to create a teaching garden on the roof that can also be used for events, seating and education
- Cold Cellar – A naturally cooled cellar for product storage and public education
- Outdoor Market Area –an attractive and flexible public space around the building that promotes circulation to and from neighboring uses
- Garden – A street-level, outdoor kitchen and wellness garden

Size Options

In regards to the potential size of a market hall, the consultants have recommended two options; a low option of approx. 20,000 s.f. and a high option of approx. 30,000 s.f. of net operating space as indicated in the table below.

Market Hall Elements	Size (sq. ft.)	
	Low	High
Market Hall/Event Space	8,000	10,000
Demonstration Kitchen	1,000	1,500
Anchor Attraction	4,000	6,000
Production Space	2,000	3,000
Tasting Room	2,000	3,000
Food Hall	2,200	5,500
Food Vendors	1,200	1,600
Farmers' Market Co-op	1,000	1,500
Permanent Retail Stalls	-	2,400
Additional Elements	4,000	6,500
Office Space	2,500	5,000
Storage	1,000	1,000
Bathrooms and Support Space	500	500
TOTAL	19,200	29,500

Source: Economic & Planning Systems; David K O'Neil

Table 1 - Market Hall Elements

The low option has all the elements required to achieve a diverse level of activity and a break-even operation. The high option has all of the elements of the lower option, but includes a larger event hall and anchor space, more office space in addition to space for the Farmers' Market, and additional permanent retail stalls to provide a critical mass of retail that is open daily and complement the Farmer's Market Co-op Store. Both options achieve the critical mass required for the market hall to succeed; however the high option has the potential to add more activity to the market hall and operate in the black.

Management

The consultants recommend the market hall be operated and managed by a not-for-profit corporation. The Board of the nonprofit should be community based and may include members from the City of Boulder and the Boulder County Farmers' Market. The board should not be seen as over dominated by any group and should be comprised of seats that best serve the market goals. The responsibility of managing a public market will also require contracting with a property management entity.

Potential Market Hall Facility

In addition to the program mix and type of food-related uses described above, a "test-fit" analysis is also underway to help identify options for a facility to house the market hall at the east bookend. The analysis will explore options to repurpose the existing Atrium

building¹ with a possible addition as well as options for a new mixed-use building. This analysis will be coordinated with various potential uses identified in the Civic Area Master Plan to be explored for the east bookend, such as city facilities, innovation center, events space, etc., consistent with the vision articulated in the Civic Area Master Plan to have a rich mix of horizontal and vertical uses. The desired program of uses will be informed by the planning process being initiated for the Boulder Community Health/Broadway Campus redevelopment project, particularly in relation to potential city facilities and community meeting space (i.e., which facilities and spaces will remain in the Civic Area campus, and which will relocate to the Broadway campus site). The preferred program of uses will also determine the need for additional parking and access improvements, all of which will inform the final analysis of facility options and selection of a preferred alternative.

Proposed Next Steps

The above conclusions are preliminary and based on initial analysis; however, they clearly show that a year-round Market Hall is potentially feasible from a market and financial standpoint and should be considered further. Staff proposes initiating a more robust public process to understand how a public market can best play out in Boulder. The specific process and schedule have yet to be developed, but it is anticipated that the next steps will include the following:

- Further exploration of the Market Hall Feasibility Analysis with the community including: refinement of the Market Hall program and mission, and in depth analysis of governance and finance options;
- Investigation of implementation phasing options to build off the existing success of the Farmer’s Market;
- Determine facility needs and possible re-use of the Atrium building and/ or new facility;
- Cultivate partnerships and sponsors (potential city and nonprofit partnerships)
- Continue discussions with potential tenants; and
- Explore the relationship of the Market Hall and potential adjacent city uses in conjunction with the larger Boulder Community Health/Broadway Campus and Civic Area planning efforts.

Based on council direction, staff will scope the work plan for the remainder of 2016 and 2017, detailing the next steps and identifying needed resources.

Flood Impact

Guiding Question for City Council

3. Does council have questions or feedback on the flood analysis results and implications for reuse or redevelopment in the “bookend” areas?

¹ The city-owned Atrium building has historic significance associated with one of a group of “first rate modern architects”, Hobart Wagener, and has a pending landmark designation application. See **Attachment I** for information on this and other historic resources in the Civic Area.

Background

Boulder's Civic Area is located within the 100-year floodplain (see **Attachment G** for more background on the Civic Area floodplain), with much of the land located within the High Hazard Zone (HHZ) and the Conveyance Zone (CZ). At the start of the Civic Area planning process in 2011, the City Council affirmed the dual project goals of creating a vibrant civic park complemented by new and existing uses with increased activation, and enhancing public safety, with any improvements and new facilities meeting or exceeding the city's flood regulations. This became one of the guiding principles of the Civic Area Master Plan. Included in this guiding principle is the goal of avoiding placing new structures and parking in the HHZ and being proactive about planning for and educating about floods. City Council decided, as part of the Civic Area Master Plan and in accordance with the city's floodplain regulations, to remove the New Britain and Park Central buildings², all within the HHZ, to reduce potential hazards to life and property associated with flooding. These buildings house functions that are critical for flood recovery (e.g., utilities, transportation, and business support). A flood structural assessment conducted in 2012 concluded that the buildings, as constructed, are not able to withstand the 100-year flood event. In addition, the buildings are significantly older than their originally planned lifespan, contributing to increasing operation and maintenance costs. In response, council agreed that this is an appropriate time to plan for the future removal of these buildings from the HHZ.

It was also decided to remove most of the surface parking in the Civic Area, and replace it with pervious park features, while relocating some 600+ surface parking spaces into structured parking outside the HHZ. The Civic Area contains 13 scattered parking lots and almost 600 parking spaces. Approximately 300 surface parking spaces are located within the HHZ and the rest in the 100-year flood zone. Vehicles can become buoyant in as little as 18-inches of water and create a significant hazard. The majority of deaths as a result of flash floods are due to people attempting to drive their vehicles out of the flooded areas. Cars, when swept downstream by flood waters, also create a significant hazard. Reconfiguring or relocating some of the surface parking spaces, especially those located in the HHZ, could significantly reduce flood risks associated with cars.

Floodplain issues have been a concern in this area over many years and included in different studies. The September 2013 Flood event that impacted the Civic Area lands and city facilities as a result of flooding along Boulder Creek and Gregory Creek was considerably less than the 100-year storm event used for flood planning, but it still highlighted the need to carefully consider risk and uses in the floodplain. A flood analysis completed in 2013 for the Civic Area recommended that any new buildings be constructed outside of the 100-year floodplain and that planning efforts should proceed with an understanding of flood risk above and beyond the 100-year event.

² Removal of the New Britain and Park Central buildings, with replacement at a location outside of the HHZ, is a critical safety need for the city and will improve conveyance in the area. Anthem Structural Engineering studied the soils, foundations and flood hydrology for these two buildings and determined that in a large flood event, "the foundations of both buildings would be undermined due to scour, which would result in the collapse of the structures."

In 2015 and early 2016, additional building assessments and the evaluation of potential flood mitigation work was undertaken in order to further examine the feasibility and risk of the on-going public use of existing buildings currently identified as being maintained and/or potentially modified in the Civic Area, including the Main Library, West Senior Center and the Atrium. While all of the sites in the Civic Area are impacted by floodplain and/or HHZ determinations, there are differences in the risks associated with potential flooding for each of the sites as discussed below.

Flood Constraints & Site Opportunities

Public safety must be considered for flood potential, but does not prohibit activation of areas in the floodplain or HHZ. A hierarchy of activation and uses related to safety should be considered. Uses that are outdoors and that do not confine the ability of people to evacuate from the area are safer than occupied buildings. For buildings, those occupied by the same people on a daily basis (such as office space) and who are aware of their situation and trained on how to respond is less of a risk than the circumstance of buildings used for assembly space (such as performance and theater) where occupants are not routinely in the building, may not have situational awareness nor training on how to respond during a flood event (or flash flooding). The following is a summary of the flood assessments in regards to constraints and opportunities for land uses and building structures at the west bookend:

Flood Constraints - West Bookend

Main Library

- Portions of the north and south wings of the library, along with the bridge that connects the north and south wings, are located within the HHZ. As a result, according to city regulations, the entire library building is subject to requirements for the HHZ which prohibit the expansion of either the footprint and/or increase in square footage of the building, and also limit the level of improvements that can be made to the building.
- It may be possible that mitigation measures for Boulder Creek could change the HHZ mapping and remove the north and/or south wings from the designation. Additional analysis would be required to make a determination on this issue.
- The recent detailed flood analysis determined that, while the areas north and south of the creek have generally similar conditions in regards to flood zone mapping, due to water flow depth and flow velocity, the area north of the creek poses a higher risk in comparison to the area south of the creek.
- The higher risk north of the creek suggests that assembly type uses in the current building should consider the acceptable level of risk with that use. For example, a regularly used performance/assembly space creates a higher risk to life safety and is a use that is less appropriate for this location. More informal uses such as a seating space for the café and small community groups have a lower risk potential. This leads to a recommendation that consideration be given to relocate these uses elsewhere in the long-term as part of facilities planning and the update to the Library Master Plan. Until such relocation, the Emergency Management Plan should be updated to reflect the current uses along with enhanced

communication with patrons. Flood mitigation improvements to the existing structure could be implemented to enhance safety and lower flood risks.

- The analyses also concluded that if the bridge that connects the north and south wing of the library were removed, then the area north of Boulder Creek could potentially be modified to allow construction of new buildings that were outside of the HHZ and elevated or flood proofed to the flood protection elevation. Similarly, options exist for redevelopment of facilities south of the creek, connecting to the existing Main Library building along Arapahoe. These site opportunities are described in the subsequent section of this memo.

West Senior Center

- The west edge of this building is impacted by Gregory Canyon Creek HHZ; however the rest of the site is not within the 100-year floodplain.
- While this site is not mapped in the 100-year floodplain, this facility was significantly impacted during the September 2013 floods and therefore flooding is a concern separate from the regulatory maps.
- Mitigation work for Gregory Canyon Creek could impact this site, and would also lower the flood risk to a portion of this site and Arapahoe Avenue. To accomplish this, it is likely that the current building would need to be removed.
- Examples of acceptable uses of this site with flood mitigation could be an above ground parking garage or office space. A redeveloped senior center use may also be acceptable, pending further design analysis to create acceptable egress and overall public safety during a flood event.

Municipal Building

- The 2012 updated Boulder Creek Floodplain mapping removed this building from the HHZ but the building remains in the 100-year floodplain and the conveyance zone.
- Additional floodproofing measures were recommended for this building in a 2013 structural and flood assessment.
- The building is a landmarked structure³ and the Civic Area Master Plan envisions it could possibly be repurposed (if city facilities are consolidated in new building or multiple buildings) to create a vibrant mix of uses primarily focused on arts and culture.

Flood Constraints - East Bookend

Floodplain issues on the east end are different from those found on the west end of the civic area. While this area is covered by the 100-year floodplain of Boulder Creek, the HHZ and conveyance zone designations are more confined in this area as they follow Canyon, 13th and 14th where flood waters are then returning to Boulder Creek.

Atrium Building

³ See **Attachment I** for information about the historic significance of the Municipal Building. Landmark designation does not affect building use or interior changes; however, exterior alterations and additions must be approved through the Landmark Alteration Certificate process and consistent with adopted guidelines

- This building is not in the High Hazard Zone or the Conveyance Zone, but is within the 100-year floodplain.
- Previous floodproofing recommendations include building a flood wall and adding flood gates around the building, which could impact access and future uses.

13th/14th Block Overall

- The developable area in this block is impacted by 100-year floodplain for Boulder Creek, but most of the property is neither within the HHZ nor the conveyance zone.
- The street corridors are in the HHZ, which impacts access during a flood event; however it may be possible to add design elements to the site to provide access that is elevated over the HHZ.

Below grade parking structures are not recommended in the Boulder Creek area due to flood risk and ground water challenges. Below grade structures are at greater risk for flood damage to both the structure and the contents, and are also a risk for people that may try to leave the area during a flood. Mitigation for groundwater will also likely increase the cost for both construction and long-term operations of any below grade structure. Mitigation may also cause impacts to existing vegetation in the area.

Site Opportunities

Reuse or redevelopment to accommodate an increased program of uses in each “bookend” is technically feasible in a manner consistent with flood regulations. However, careful consideration will be needed to evaluate potential alternatives and their relative costs, appropriateness, impact on historic resources, and ability to mitigate life safety risks above and beyond minimum standards. The work completed in recent months has helped answer the question of whether new facilities *could* be developed; subsequent analyses and the engagement of stakeholders, boards, the public and council will need to determine whether they *should* be developed

Based on a preliminary architectural “test-fit” assessment of potential structures that could be designed to meet flood regulations and improve public safety, below is a summary of the site opportunities for future structures and programs at the west bookend:

Site Opportunities - West Bookend

North of Boulder Creek

- If the existing performance/assembly type uses such as the Canyon Theater and related programs at the north library building are not preferred because they create a high flood risk to life safety, the building could be repurposed for non-assembly lower risk uses that do not confine the ability of people to evacuate from the area. These uses would need to be carefully considered in relation to the Civic Area goals of increasing activation while improving flood safety. A related facility option is to plan for the long-term removal of the structure and replacement with a program of active and passive park uses. Obviously, any such change in use would require relocation of existing library

uses elsewhere, which will need to be done as part of a broad planning process and community conversation. Until such relocation, flood mitigation measures to floodproof and reinforce the existing structure could be implemented as recommended by structural assessment of the building conducted in 2013 to lower flood risks.

- It is also possible to redevelop the north library site with a building that meets the city’s minimum flood safety regulations and accommodates an assembly use, continued library use, or other program of activation. Such options can and should be considered based on the update to the Library Master Plan and other factors.

A preliminary architectural “test-fit” exploration of design options conducted as part the recent analysis of flood constraints and opportunities highlighted the potential for creating a new 2nd level bridge connection both across the creek (to a potential new parking structure just west of the existing Main Library on Arapahoe, south of the creek) and to the new Civic Use site across Canyon Blvd. by the St. Julien Hotel (see **Attachment H** for the preliminary architectural “test-fit” exploration). Under this design scenario, paths of egress allow for crossing over the HHZ area from Arapahoe to Walnut streets during flood events. Of course, this assumes that the north wing of the library⁴ is not landmarked and could be redeveloped with a new building, and that existing library functions are consolidated in an expanded campus south of the creek.

South of the Creek

- Structured parking that could accommodate 300-400 spaces, wrapped with a building for other uses (such as for the West Senior Center or relocated/expanded Library space) is possible west of the Main Library on Arapahoe. This would require relocation of existing housing on the site, which based on its current configuration is prone to flood risk. This potential approach would both support a continued or increased program of activity while improving flood safety through site reconfiguration and the relocation of existing surface parking spaces, consistent with the adopted Civic Area Master Plan.
- Future redevelopment opportunities also exist just east of the library along Arapahoe Ave. This opportunity would allow for a possible consolidated library campus south of the creek should the library consider this to be a desired option in the future.

Site Opportunities – East Bookend

- There are redevelopment opportunities for the 13th/14th St. block that would meet flood regulations and expand the program of uses, as identified in the Civic Area Master Plan. Specific uses to consider include a public market hall,

⁴ See **Attachment I** for information about the historic significance of the north wing of the library. Landmark designation does not affect building use or interior changes; however, exterior alterations and additions must be approved through the Landmark Alteration Certificate process and consistent with adopted guidelines

parking structures to replace existing surface parking and address future needs, and uses such as city facilities, event space and supporting retail.

Proposed Next Steps

The work completed in recent months has helped answer the question of whether new facilities and increased activation *could* be accommodated, from a technical perspective, in a manner consistent with city flood regulations and the Civic Area’s guiding principles.

Staff recommends that East Bookend planning be the priority focus for 2016 and into 2017, and that further work on the West Bookend proceed only after completion of the Human Services Master Plan, and in coordination with the update to the 2007 Library Master Plan. During this interim period the focus of work in the West Bookend will continue to be on enhancing the program in existing spaces (such as in the opening of the library’s new MakerSpace and the arts cinema use in the library auditorium) and supporting the update to the Library Master Plan.

Significant work remains to engage key stakeholders and the community, evaluate program needs, test program and facility feasibility, determine costs and tradeoffs associated with alternative approaches, consider impacts and alternatives related to historic resources, and develop a preliminary preferred proposal for what *should* be developed in each bookend.

Historic Resources

One of the guiding principles of the Civic Area Master Plan is to celebrate the history and existing assets in the area. **Attachment I** provides a history of the area and background on existing and potential city landmarks. The Civic Area has a rich history, including Frederick Law Olmsted, Jr.’s 1910 plan for improvements to Boulder, which was the genesis for the formation of Central Park in the early 1920s and the Boulder Creek Greenway and path system in the 1980s. In addition to Olmsted, the area was shaped by other prominent designers including several members of “a group of first-rate modern architects”⁵ Glen Huntington, James Hunter, and Hobart Wagener, as well as nationally-known landscape architect Saco R. DeBoer. The Glen Huntington Band Shell survives as a rare and prominent example of Art Deco, while the Municipal Building and Public Library present a distinctly mid-century modern civic identity with a regional flair befitting Boulder’s natural setting. Other important resources described in **Attachment I** include the Dushanbe Tea House and the Boulder Museum of Contemporary Art.

⁵ “Historic Context and Survey of Modern Architecture in Boulder, Colorado” (Paglia, Segel and Wray, 2000). This group of prominent local architects includes Charles Haertling, whose office was located in the civic area (Yocum Building on Broadway).

Boulder Community Health, Broadway Campus: Planning Process and Community Engagement Overview

Timeline Summary



- 2015 -city purchased site
- **2016 -evaluate, understand, and analyze**
- 2017 -site and area planning process
- 2018 -city acquires entire property (existing tenants vacate)
-site and area planning process (continues)
-design and phased implementation process
- 2019 -design and phased implementation process (continues)

Background

As highlighted in the Civic Area Master Plan, the first guiding principle is the “civic heart of boulder” meaning that the Civic Area will serve as the primary location for city government. The plan also identifies the opportunity to improve life and property safety by removing existing city buildings (New Britain and Park Central) from the High Hazard Flood Zone (HHZ). In addition, the master plan describes the opportunity for a new mixed-use community services center for public and private offices and city hall functions (suggested in 13th/14th Street block).

As part of the Civic Area public outreach and discussions with City Council in March 2015, it was affirmed that some municipal services should continue to be in the Civic Area. In December 2015, the city purchased 8.8 acres of property from Boulder Community Health (BCH), which is the entire hospital campus site at 1100 Balsam Avenue (corner of Balsam and Broadway Street) as well as two properties on Alpine Street and two small properties on North Street. This creates an opportunity to consider the BCH site in addition to the Civic Area for city offices as well as other uses. The BCH site includes over 355,000 square feet of existing building space, five-story parking structure (two subterranean levels and three above ground) and two large surface parking areas.

Proposed Planning & Community Engagement Process

The BCH redevelopment project is an opportunity for the city and community to work together to ensure that future uses of this valuable property are consistent with a shared vision and goals. Development must honor the site’s rich history, preserve the neighborhood and carefully manage the growth associated with the property. This project is a strategic and inclusive process that will take a number of years to complete. In 2016, the three main focus areas include:

- Framing within the Boulder Valley Comprehensive Plan (BVCP) & Defining the Site – Evaluate the BCH site within the context of the major BVCP update, which may mean land use and policy changes. Define the boundary of the site in order to prepare for site and area planning in 2017.
- Developing an Urban Design Framework & Guidelines – Understand the existing interrelationships of BCH, University Hill, Downtown and the Civic Area, and

develop planning and design principles to guide decision-making for the site as informed by community input.

- Envisioning City Facilities – Analysis of which city functions should be grouped at key locations around the city including what functions should remain in the Civic Area, what functions might relocate to BCH and through visioning exercises, develop guiding principles for new and renovated city facilities in the context of “what is the city facility of the future for Boulder.”

A study session to gather City Council feedback on a draft urban design and city facilities guiding principles and framework is scheduled for Oct. 25, 2016.

Throughout the entire process there will be community engagement. The next step is for the city to work with the community to understand the current site, including its history and current facilities. The city will be kicking off a storytelling campaign, later this spring, that will ask the community to share memories of BCH to help ensure the future of the site is informed by its past. More information can be found on the city’s website at: <https://bouldercolorado.gov/planning/bch-broadway>. In addition, there will soon be community space located at the Brenton Building (1136 Alpine Street) where people will be invited to visit, to share their stories and experiences, and to learn more about the planning process.

All of the input and work efforts in 2016 will help inform the site and area planning process in 2017 and the beginning of 2018. The city will acquire the entire property in 2018 (currently tenants occupy some buildings on the site). Later in 2018 and 2019, the city will begin the design and phased implementation process. Throughout the multiyear effort the community will be involved and informed given the importance of the site and project to the surrounding neighborhoods and the community as a whole.

NEAR-TERM CIVIC AREA PARK SITE IMPLEMENTATION (PHASE I)

Civic Area Access Enhancements & Parking Changes

Background

To provide better connectivity, including visual and physical access into the park from adjacent sidewalks and paths, the current Civic Area plan calls for the removal of approximately 20 parking spaces. To mitigate this parking loss and serve the increase in demand for access to the new park, a multidepartment staff team has been working to develop strategies and options to address potential impacts and provide opportunities for multimodal access to and from the Civic Area.

The overall approach, developed in 2015, is to comprehensively and collectively manage and price all parking lots within the Civic Area campus, including parking lots at the Park Central, New Britain, Library, and Municipal buildings. This implemented approach created pools of shared parking for both short-term (hourly) visitors accessing civic uses and long-term (daily) City of Boulder employees accessing permit parking. The approach

provides a larger overall supply of parking accessible to all users. The city also enhanced existing Transportation Demand Management (TDM) programs including parking cash out, satellite parking, and concierge (personalized) commute trip planning for city employees. In the future, as part of the Civic Area improvements, publicly available walk, bike and transit facilities will be enhanced to promote reduced single occupant vehicle (SOV) trips.

Prior to the onset of Civic Area construction later in 2016, the abovementioned management and pricing changes were implemented in Civic Area parking lots, in January 2016 for city employees and February 2016 for the community. An education and outreach campaign was launched in November 2015 to prepare all potentially impacted users before the changes were implemented. A high-touch, customer-experience-oriented ambassador program was implemented to assist Civic Area parkers, particularly library users, in understanding the parking changes and using the new parking system. After the implementation of the management and pricing changes, feedback and data are being collected on an ongoing basis to determine if further refinements are needed. It should be noted that in addition to serving the goals of the Civic Area, the parking and TDM strategies support the city's Transportation Master Plan objectives and the community's sustainability goals.

Preliminary Findings

Parking usage in the Civic Area lots and the surrounding neighborhood were studied prior to and following implementation of the parking management and TDM changes. Based on an initial evaluation in February 2016, staff has the following interim findings:

- Average peak parking demand in the Civic Area was never higher than about 80 percent prior to the TDM measures and changes in the parking management. Reasonable access, meaning a well-functioning parking lot, is considered 85 percent parking utilization (more than 85 percent means that demand has exceeded the parking capacity).
- Peak parking utilization before and after the changes is during the late morning. Prior to the changes, the average peak parking utilization in all lots was 78 percent. After the changes, the average peak parking utilization was 75 percent. That is a 3 percent reduction in average parking utilization at that time period.
- Greatest decrease in average parking utilization was in the south Library lot where the average peak utilization at 9 a.m. (prior to the library opening) was over 90 percent and is now closer to 78 percent.
- Benefits of creating more parking availability in the south Library lot are mostly countered by higher parking utilization in both the Park Central and the north Library parking lots.

- Average peak parking utilization did increase somewhat in the surrounding neighborhood. There was an increase of approximately 5 percent or 26 additional parked vehicles. This was predominantly in the neighborhood west of 9th Street.
- Parking utilization was much higher on weekdays than on weekends. Peak Civic Area parking utilization at 3 p.m. on weekends was just slightly higher than 50 percent. The south Library lot showed the highest weekend utilization at approximately 75 percent.
- There was a high level of variability in the after parking utilization data. Additional data collection planned for later this spring will allow staff to confirm the longer term impacts of the implemented parking management and TDM strategies.

Next Steps

In previous discussions about the Civic Area park improvements, it was communicated that up to 45 parking spaces in the Civic Area lots may eventually be eliminated to accommodate potential design configurations. The current plan requires a minimum reduction of 20 parking spaces to realign the Boulder Creek path through the park which roughly equates to a 6 percent parking supply reduction.

Consideration of removing additional parking spaces beyond the initial 20 spaces to enhance opportunities for creating the 11th Street spine in the Civic Area are still under evaluation. Given that the construction is now scheduled for late summer 2016, staff will continue monitoring the Civic Area parking during the warmer months to gauge parking demand prior to determining if additional parking spaces can be removed. In the 3rd quarter of 2016, staff will update City Council, as well as appropriate boards and commissions, on the first half-year results of the parking management changes and pilot TDM programs for city employees, including recommendations about potential program changes.

Park Site Implementation Update

The BCA team is working diligently to begin construction of the initial park improvements funded through the Community, Culture and Safety tax from 2014 and approved by City Council in November of 2015. Current schedules anticipate that the construction will commence within the 3rd quarter of 2016 and continue for 12 to 18 months depending on weather conditions and the efficiency of the construction. Additionally, while the site is under construction, a subcommittee has been formed to develop strategies and policy related to the long-term activation and governance of the site. The committee includes staff from the Library, Parks and Recreation and Community Vitality departments. The near-term goal is to bring clarity and alignment to the short-term activation during construction of the Civic Area and ensure that current and prospective event producers and partners have a clear path towards coordinated use of the space through the following:

Activation

- Ensured that 2015 Event Producers are aware of the construction timeline and can coordinate successful staging of their events in the Civic Area or as relocated to another park for 2016/2017;
- Developed a 2015-2016 activation calendar (part of a larger city-wide Calendaring effort) as aligned with the vision for the Civic Area;
- Implemented a successful winter activation (produced by the City and coordinated with DBI);
- Revised/eased the permitting process for the Band Shell
- Developed 2016 sponsorship opportunities for City-produced Activation
- Developing internal and external communications plan for all items above.

Policy/Business Model/Partnerships

- Solidified Park “Intended Use” matrix including proposals for permitting authority;
- Addressed all private use policy issues (including for-profit events, commercial vending, etc.);
- Provided input on new Parks & Recreation guidelines for Donor Recognition and Sponsorships (incoming and outgoing);
- Addressing policies related to consumption/sale of alcohol and on-site commercial vending;
- Continuing – coordination with Farmers Market, DBI, Library/Arts, Sister Cities, Special Events;
- Review of anticipated operating costs and models to ensure fiscal sustainability (park operations and activation)

RELATED PROJECTS UPDATE

Sister City Plaza

A major renovation of the plaza in front of the Municipal Building is not part of the Civic Area Phase I construction. However, the city will refresh this important public space to help enliven the amenity and create further opportunities to celebrate the city’s relationships and educate the public on the Sister Cities Initiative. City staff will refresh the plaza this spring prior to the busy summer event season. A flower bed was selected over other forms of installation (additional flag poles, etc.) because there is existing irrigation on the site and it would allow for updates/amendment as the Civic Area and Sister Cities Initiative continues to evolve. Specifically, the project will:

- 1) Replace the rock garden with flowers in colors representing Sister Cities country flags: red, white, blue, green, and yellow. The flowers will correspond with the city’s standards for bee-friendly materials.
- 2) Replace some of the cherry trees on the North and South sides in the turf.
- 3) Remove the Oregon Grapeholly against the Municipal Building to create better

aesthetics. Shade tolerant flowering shrubs with minimal maintenance will replace these.

- 4) Remove the two benches directly in front of the Crabapples and install 5-7 large pots of varied heights and colors (green, red, black, white, etc. selected from the colors of tiles in the plaza). Removal of these two benches shouldn't affect the space as there is ample other seating in the area.

West Senior Center (west bookend)

Human Services is currently updating its 2006-2015 Housing and Human Services Master Plan. Called the Human Services Strategy, its purpose is to create a guiding framework to direct city human services investments in both community funding and services for the next five years. The department has completed Phase I of the update process, which included background research and data analysis on human services planning models and themes, best practices and community trends. Phase II, currently underway, includes community engagement, direct services analysis, and development of community funding options. The department has engaged BBC Research and Consulting to assist in launching a robust public process, including a community survey, public meetings and focus groups, and numerous online and web-based opportunities for engagement. The city and Boulder County have also been convening partnership meetings to evaluate roles, assess and integrate services where feasible, and align funding and metrics to meet common community goals. In addition, during this phase the department participated in city facility and flood assessments with regard to the West Senior Center. Phase III includes developing and refining policy options and recommendations, drafting the Strategy document, soliciting stakeholder and public feedback, and seeking final council approval, anticipated to take place fourth quarter 2016. Phase IV will consist of an implementation strategy, metrics development, and ongoing evaluation components.

Canyon Boulevard Complete Street Study & Glen Huntington Band Shell

The Canyon Boulevard Complete Street Study has begun and is developing design options to improve travel and the travel experience through urban design and placemaking for all users along and across Canyon Boulevard from 9th to 17th Street. Upcoming outreach efforts are intended to gain feedback on the design options developed and the measures to use to later evaluate the design options this summer. The spring outreach includes a public meeting on April 27 followed by a joint board/commission meeting on May 12 and a City Council Study Session on May 31. The project team will conduct a second phase of public outreach in the fall including a public meeting, board reviews and considerations of recommendations regarding the preferred design option for Canyon Boulevard, which will ultimately be brought to City Council. The recommended design option, or preferred alternative, may or may not impact the Glen Huntington Band Shell (Band Shell). Any modifications to the Band Shell Landmark (including the seating area), will comply with the Americans with Disabilities Act (ADA) and the city's standards for alterations to designated Landmarks. Such modifications will require review and approval by the Landmarks Board (subject to call up by City Council) per 9-11-12 of the Boulder Revised Code.

Arapahoe Underpass

The Arapahoe Avenue Underpass project will improve the general safety of Boulder Creek multi-use path at Arapahoe Avenue and 13th Street, reduce high water closures of the multi-use path, and encourage use of the underpass through safety design improvements to decrease the use of the at-grade crossing at 13th street.

This project will progress through a Community and Environmental Assessment Process (CEAP). The project team has been developing project design alternatives, which will be presented to the public as part of the Civic Area Open House on April 4th. The next steps will include briefs to TAB & PRAB subsequent to the open house, which will lead to the selection of the preferred project alternative. The final preferred alternative will be presented to the public, TAB and PRAB for comment, review and recommendation. It will then be brought to City Council for call up (estimated August, 2016). Construction is anticipated to begin in winter, 2018.

Boulder Creek Path Improvements

The Boulder Creek Path & Lighting Improvements projects will add a pedestrian path to allow a separation of bicycle and pedestrian traffic along the corridor and provide outdoor lighting that provides adequate and appropriate light levels for nighttime visibility and safety. The lighting installed through the project will follow the city's [outdoor lighting ordinance](#).

The project team is creating preliminary project designs. The project and the preliminary concepts will be presented to the public at the Civic Area open house. A separate open house for these two projects will be held in summer (June or July) 2016 to present revised project designs. The project team will provide updates to the TAB and PRAB but does not anticipate needing to present to council. Construction is anticipated to begin in winter 2017 and will take six months to complete.

CU-Grandview Conference Center/Hotel

On Dec. 8, 2015, City Council approved a set of goals and objectives to frame and guide discussions and collaboration with the University on a potential CU-affiliated hotel/conference facility on CU-owned land on the east side of Broadway from about Grandview to University. Among the advantages of this site for a conference center and hotel are its adjacency to University Hill, the main campus and the Civic Area / Downtown, and its potential to act as a major "anchor use" that could significantly contribute to the Hill revitalization efforts. A key goal is to improve the convenience, function and urban design of multi-modal connections between the Grandview site/ CU campus and the civic center area/ downtown (as well as between Grandview and the Hill Commercial Area).

The current status of the project is that the university's consultants are in the process of completing a financial and economic analysis of the project. If the results of this work conclude that the project is financially viable, the University has indicated that a likely

next step would be to issue a formal RFQ/ RFP and subsequent design development in spring of 2016.

In the meantime, city staff has formed an interdepartmental team, is in close communication with CU staff, and has developed a work plan for collaborating with the university on the project. Although city staff has done some preliminary work coordinating with the Arapahoe underpass project team and discussing the opportunities and constraints of improving the Arboretum trail connection to Grandview, until the university completes its financial report and confirms that it plans to move forward on the conference center/ hotel project, the city has not begun substantive work on this project.

NEXT STEPS

While construction of Phase I is anticipated to begin in the 3rd quarter of 2016, subsequent phases of the Boulder Civic Area Master Plan will be defined by analyses currently underway; informed by input from stakeholders, boards, commissions, and the community; guided by Council decision-making; and dependent on the availability of funding sources.

Staff recommends that East Bookend planning should be the priority focus for 2016 and into 2017. Focusing on the East Bookend would capture the momentum surrounding the Public Market Hall feasibility analysis and next steps; work underway on the Canyon Boulevard Complete Street options (May 31 Study Session), the Boulder Community Health/Broadway Campus site planning coordination; and the anticipated schedule for CU's development of a hotel/conference facility on the Grandview site. All these work efforts will help define the full program of uses to be accommodated in the East Bookend and their potential configuration.

Further work on the West Bookend could proceed after completion of the Library Master Plan and the Human Services Strategy, both of which will help define the desired future program of uses in this area. During this interim period the focus of work in the West Bookend will continue to be on enhancing the program in existing spaces (such as in the opening of the library's new MakerSpace and the arts cinema use in the library auditorium).

Additional work will include the development of specific urban design criteria for each bookend that will establish the desired land uses, scale, "civic design" performance standards for future new buildings, additions, preservation of historic structures, and design of public spaces. The urban design criteria for the bookends will inform subsequent regulatory actions the city will need to take in order to implement the plan. These may include an area plan of the Civic Area including the larger area of private properties east of 13th Street, or specific implementation plan for the bookends including zoning changes, phasing and funding for key capital projects and public improvements. This work is anticipated to take place based on council direction and further scoping of the project later in 2017 and 2018.

Council feedback on April 5th will shape the process and next steps for the long-term analysis of the bookends continuing into 2017.

ATTACHMENTS

Attachment A – Overview of Project Timeline

Attachment B – Library Commission’s Letter to Council

Attachment C – Staff Addresses Questions from Boulder Library Commission

Attachment D – Civic Use Pad Height Illustrations

Attachment E – Boulder Market Hall Draft Feasibility Analysis

Attachment F – List of Market Hall Working Group Participants

Attachment G – Background of Civic Area Floodplain Information

Attachment H – Preliminary Architectural “Test Fit” for the West Bookend

Attachment I – Overview of Civic Area Historical Resources

Boulder Community Health Site
2016 - 2018

Civic Use Pad
Management Agreement
& Design Development
2016/2017

Alternatives Analysis 2016
Design Development 2017

Canyon Complete Streets

Atrium Architectural Test-Fit
2016

Market Hall Feasibility Study
2016

Flood Analysis East Bookend
Q1 2016

East Bookend Urban Design Framework
2017

Park Construction
Summer 2016 - 2017

Park Design
2017
in conjunction with related projects

Arapahoe Underpass
Design Development
2016-2017

Shared Managed Parking
Q1 2016

CU Conference Center/Hotel
Collaboration w/ CU on Key Issues
2016

Flood Analysis West Bookend
Q1 2016

West Bookend Urban Design Framework
2017

Civic Area Vision Plan

The community came together to define a future for the Civic Area - one that reaffirms shared values and provides a path for engagement while addressing change over time.

This plan demonstrates how successfully the community has answered these questions and provided ideas for how the Civic Area can transform into an even more extraordinary place that reflects the community's shared values as well as its diversity.

The plan maintains beloved places—the Dushanbe Teahouse, the Boulder Public Library, the Farmers' Market, Sister Cities Plaza, and others—and views of the Flatirons and access to Boulder Creek.

2012 - 2013
Packet Page 288

Council Adoption of Vision Plan

September 2013

Civic Area Masterplan

- Refinement of the Park Site Plan
- Analysis
 - Program
 - Parking

The Civic Area Master Plan provides a roadmap for how the Civic Area can transform into an even more extraordinary place that reflects the community's shared values as well as its diversity. The plan provides an illustrative future plan for mostly public owned land in the Civic Area and guides the decision making, coordination, and detailed site design. The plan is advisory in nature.

2014/2015

Council Adoption of Master Plan

June 2015

We are here



Analysis of Site Components

- Historic Resources:
 - Band Shell
 - Atrium
 - North Wing of the Library
- Access:
 - Canyon Complete Streets
 - Structured Parking
- Flood
- Program:
 - Market Hall
 - City Offices

In progress: 2015/2016

Urban Design Criteria for a Civic Campus

Q1 2017

Council Adoption of Urban Design Criteria

Q3 - 2017

Implementation plan

- Including:
- Zoning changes
 - Phasing
 - Funding

Q4 2017/2018

Concept Plan

... ?

Site Plan

... ?

March 18, 2016

To: Mayor and Members of City Council

From: Paul Sutter, Chair
Joni Teter, Vice-chair
On behalf of the Boulder Library Commission

cc: Jane Brautigam, City Manager
David Farnan, Library Director

Re: Library Commission concerns with the Civic Area planning process and this summer's planned re-configuration of the north lawn

As the primary occupant of the Civic Area's "West Bookend", the Library is a key stakeholder in redevelopment and activation of the Civic Area. Over the last two years, the Library Commission has consistently requested to be an active participant in the Civic Area planning process. Our principal focus areas include programing and redevelopment of the Library's north side; usage of the north lawn for arts, cultural and community events; and long-term curation of Civic Area programming.

Below is an excerpt from the Library Commission's December 8, 2015 Annual Letter to City Council:

Civic Area Process – Finally, and again continuing a priority from 2014, we will participate in the larger Civic Area Planning process while advocating for the Library's role as a "bookend" in the redesigned Civic Area. The Library's contribution to activating the redesigned Civic Area will come in two ways: through extending Library programming into Civic Area spaces, and through co-sponsoring cultural and arts programming with community partners. One of the lessons we learned through the Library's sponsorship of the first Jaipur Literature Festival is that effective programming of cultural events will require that the City be much more active in event planning and execution, involvement that will have both staffing and budgetary impacts. We suggest that the 2016 Council workplan include analysis and discussion of several different business models for how programming and event planning in the Civic Area might be staffed and funded (e.g., private/public partnerships; creating an "events department" staffed by City employees; funding generated through activities held in the Civic Area; funding through the general fund).

Over the last 2 years, the Library director and staff, the Library Commission and the Library Foundation have worked together to successfully expand services and programming in order to activate the Library and adjacent exterior spaces. The success of these efforts can be seen in attendance and usage numbers from the Library's 2015 annual report:

- Library visits are up nearly 7%, topping 930,000 visitors system-wide this year. About 700,000 of those visits were to the Main Library, making it by far the largest activator of Civic Area spaces. (For comparison, the Farmers' Market estimates annual attendance at 250,000 people, based on hourly rates.)
- New card holders are up 16.5% over last year. Juvenile card holders increased 7%.
- Program and event attendance topped 100,000 participants - more than a 100% increase over the previous year.
- Children's programming reached nearly 60,000 participants, with over 12,860 of those participating in the Library's new STEAM activities.
- The Jaipur Literature festival's inaugural weekend drew more than 7,000 people over two days to the Library and Civic Area.
- Altogether, major community events, increased Storytimes and STEAM programming have resulted in a more than 140% increase in attendance at Library programs and events.

We applaud the hard work that City staff is doing around planning for the Civic Area. We recognize that work is underway on multiple inter-related projects, and that staff is trying hard to keep key stakeholders informed and engaged. However, over the last 8 months, questions and concerns raised by Library Commission have not been addressed, despite repeated requests. We have received feedback from other key stakeholders with similar concerns.

Two issues are of special concern to the Commission. First, extensive conversations are underway internally around potential redevelopment of the north side of the Library. Our repeated requests for information and engagement in this process have been declined. The April 4th public workshop will include a roll-out of conceptual plans that represent a major re-envisioning of the Library's Main facility - plans that we have not seen and in which we have had no input. It is highly unusual for a feasibility study to be presented to Council with no review by the citizen board charged with responsibility over that facility. Our lack of knowledge about the ideas presented in this study places the Commission in a very awkward position, since we cannot explain or defend ideas being presented with our constituency. By excluding the Commission from review of this study, staff is exposing the plan to public opposition that we cannot help them fend off (as we have done and are presently doing with the Civic Area parking management plan).

A second issue involves future use of the north lawn for large events. We think it is important to ensure that opportunities for Civic Area activation are not inadvertently foreclosed by this summer's proposed reconfiguration of the lawn. Since last September, Commission members have been asking for clarification around how the proposed re-configuration will affect the ability to mount large festival events (like the Jaipur Literature festival) on the west end. Last week, staff shared sketches outlining their vision for how festival events might be accommodated in the configured north lawn. Preliminary feedback from some event stakeholders (including JLF) suggests that the proposed re-configuration will not accommodate their events.

We have discussed these problems with the Library Director and members of the Civic Area Planning team, and offer the following suggestions to improve communication and engagement in the Civic Area planning process.

1. Establish a clear internal communication process to ensure that questions/ concerns raised by stakeholders and the public are acknowledged and addressed in a timely fashion.
2. Ensure that key information and analyses are shared with all stakeholders and made available on the Civic Area webpage.
3. Establish an engagement process for stakeholder boards and commissions that provides opportunities for questions and feedback with the Civic Area planning team (rather than only updates).
4. The Market Hall feasibility process underway around the East Bookend offers a good model for stakeholder engagement. We suggest that this model be applied to the West Bookend, actively engaging Library Commission and stakeholders with an interest in programming in planning discussions relating to the West Bookend.
5. Create processes that insure that internal staff disagreements and disputes do not compromise the public's opportunities for information and input.
6. Finally, we strongly recommend that Council direct staff to convene discussions with existing festival organizers to address whether large festival events will be feasible on the north lawn, prior to giving final approval for construction to commence this summer.

Thank you for your consideration.

Staff addresses questions from Boulder Library Commission

The Library Commission raised two issues of special concern in their letter to Boulder City Council dated Mar. 4, 2016. First, the Library Commission expressed frustration that a redevelopment of the north side of the Library will be rolled out without any prior input on behalf of the commission. Second, the Library Commission wants to ensure that the north lawn of the Civic Area is not affected by reconfiguration and allows for continuous activation after Phase 1 Park Plan construction is complete.

The Boulder Civic Area (BCA) team would like to offer some further information to reassure Commission members, City Council members and the public that engagement has been and continues to be a major emphasis of future decisions regarding the Civic Area enhancements.

In an effort to bring all stakeholders up to speed on the current status of background analysis related to the entire Civic Area that has direct impacts on the north Library and north lawn park design, the BCA team offers the following information:

- Consultants have been working on a comprehensive technical flood analysis for the west and east bookends to better understand the opportunities and constraints related to flood, and determine the types of uses suitable for the bookends to ensure safety, and that any structures and site planning would meet or exceed flood regulations.
- The BCA team is presenting the findings of the flood study at the April 4 Civic Area Open House and at the April 5 City Council Meeting.
- The work completed in recent months has helped answer the question of whether new facilities *could* be developed; subsequent analyses and the engagement of stakeholders, boards/commissions, public and council will need to determine whether they *should* be developed. Preliminary architectural “test fit” renditions to explore technical feasibility in a manner consistent with flood regulations of potential options for the north Library area will be included in the information in this memo and at the April 4 -6 engagement activities. However final decisions will not be made until all stakeholders have had the opportunity to consider options and offer input. Any proposed redevelopment would require a broad community conversation as well as careful consideration to evaluate potential alternatives and their relative costs, appropriateness, impact on historic resources, and ability to mitigate life safety risks above and beyond minimum standards.
- The current park design, approved by City Council last November, provides a large green space north of the creek that will accommodate a spectrum of events and programs ranging from daily park use and small informal gatherings to large multi-day events. Through many months of community involvement and council input, the design balances many goals to create a vibrant park space that is inviting and attractive to an array of park uses and activities.
- Staff from Parks and Recreation, Community Vitality and the Library continue to meet regularly with community representatives to coordinate opportunities for

activation, events and programs that will provide many opportunities for public enjoyment of the park. Staff will also continue to meet with various event promoters to develop plans and opportunities for future events once the initial Phase I construction is complete.

- Since the letter from the Library Commission was submitted, BCA team members have had productive meetings with commission members to offer reassurance of future dialogue and input.
- In the next few weeks, the City of Boulder will be hosting a breakfast for stakeholders and a representative from each city board and commission to provide an update on the latest developments in various projects, share the latest project analyses findings and receive direct feedback on potential city recommendations.
- The City of Boulder also plans to host a listening session focusing on potential public-private partnerships for possible development options for a future Public Market Hall in the area of 13th St. and Canyon Blvd.

The more comprehensive analysis for the long-term redevelopment opportunities at the bookends is recommended to be sequenced, with 2016/17 work efforts focused on the east bookend program of uses and design options, followed by the west bookend uses and design options in 2017/18. This work will involve extensive public engagement, including the Library Commission, all relevant boards and council.

In summary, the BCA team would like to reassure all interested parties that public input and stakeholder communications has been and will be a priority throughout the Civic Area planning process. As a reminder, the BCA team has incorporated numerous communications tools to solicit and encourage public input, including:

- A robust Website frequently updated that specifically targets those interested in getting the latest information on the project;
- A quarterly email newsletter dedicated specifically to the Civic Area Project sent out to 5,000-plus subscribers of the City Planning listserv; and
- Dedicated public input campaigns that are widely publicized through the website, newsletter, advertising campaigns, Channel 8, social media, news releases, and Information Items. The input campaigns also included several open houses, joint board meetings, and special events with opportunities to discuss Civic Area projects.

Civic Use Pad Height Illustrations

4240 Architecture, the firm that provided the original conceptual design for the civic pad in 2013, has provided revised illustrations which measure height per the city’s code. They show that elevators and other infrastructure necessary to support access and events, as previously considered, will exceed the height limit. Both figures below show the height limit in red.

Figure 1 – Aerial View of Civic Pad Looking Northeast

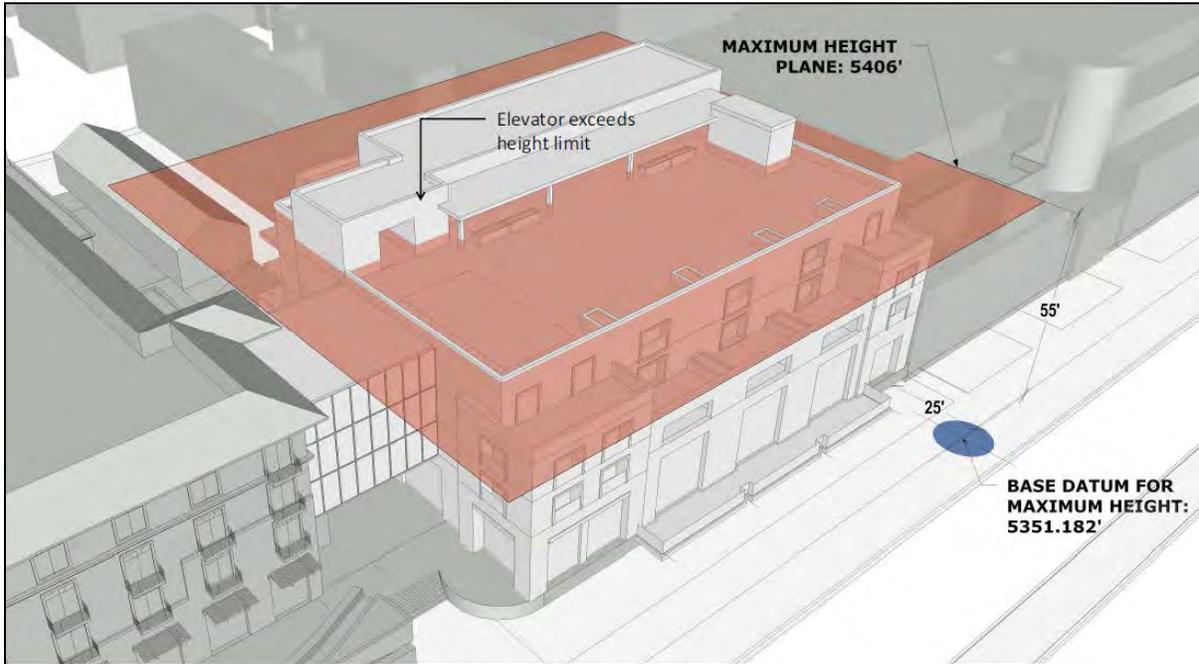
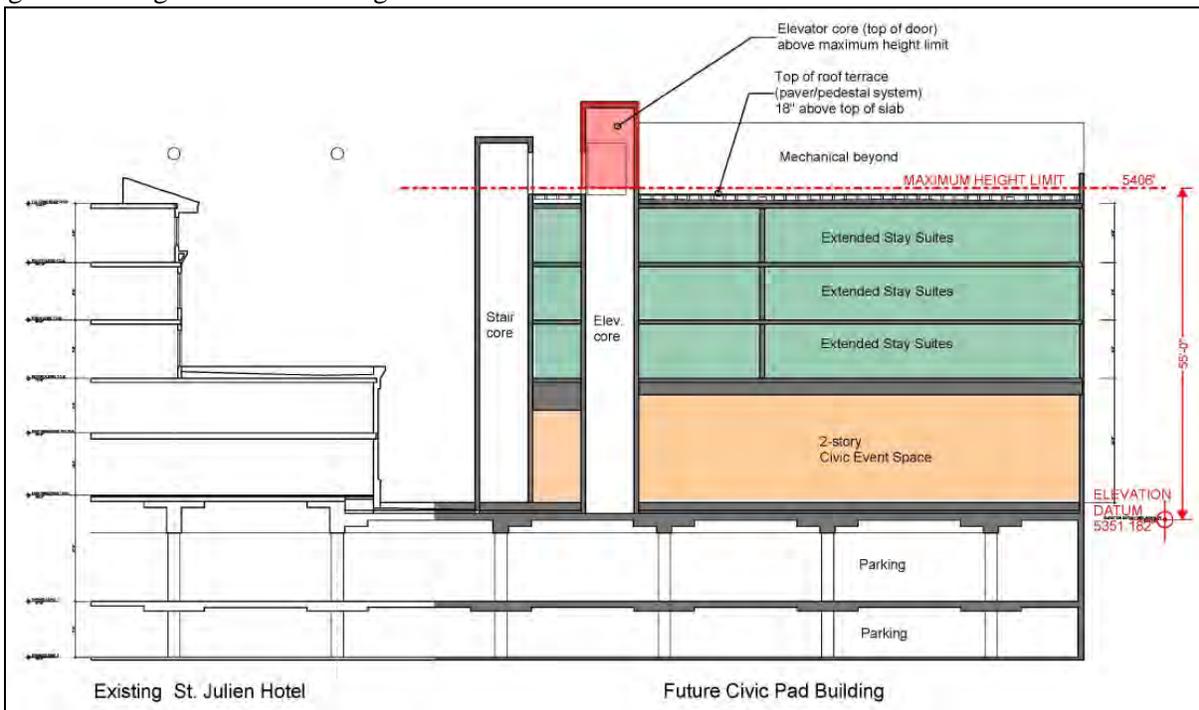


Figure 2 – Diagrammatic Building Section



Draft Final Report

Boulder Market Hall Feasibility Analysis

The Economics of Land Use



Prepared for:

City of Boulder, Colorado

Prepared by:

Economic & Planning Systems, Inc.

and

David K. O'Neil

*Economic & Planning Systems, Inc.
730 17th Street, Suite 630
Denver, CO 80202-3511
303 623 3557 tel
303 623 9049 fax*

March 17, 2016

*Denver
Los Angeles
Oakland
Sacramento*

EPS #153086

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EXECUTIVE SUMMARY

Economic & Planning Systems and David K O'Neil (Consultant Team) were retained by the City of Boulder to assess the feasibility of a market hall located within the Civic Area, specifically near the corner of 13th Street and Canyon Boulevard. The Civic Area Master Plan provides the foundational themes and mission used to develop the potential program for the market hall. The program was also guided by the outreach efforts completed during this study and the input from the Boulder Civic Area Market Hall Working Group. This report summarizes the findings of the feasibility study and provides the Consultant Team's recommendations future course of action for the City of Boulder on the market hall.

Recommended Program

The proposed Boulder Market Hall program was developed to incorporate the themes and vision of the Boulder Civic Area Master Plan and outreach efforts. Major driving themes include the desire to be food oriented, authentic, reflective of Boulder, innovative, local, and educational. The mixture of the recommended elements intends to capture the desire to celebrate and educate about local foods and natural products while creating new opportunities to grow the popular Farmers' Market. The concepts of "Boulder's Kitchen" or "Boulder's Dining Room" were suggested in outreach, and the components proposed lend themselves well to this concept. The elements identified align with this vision by creating a food center while providing opportunities for testing and educating to be key components.

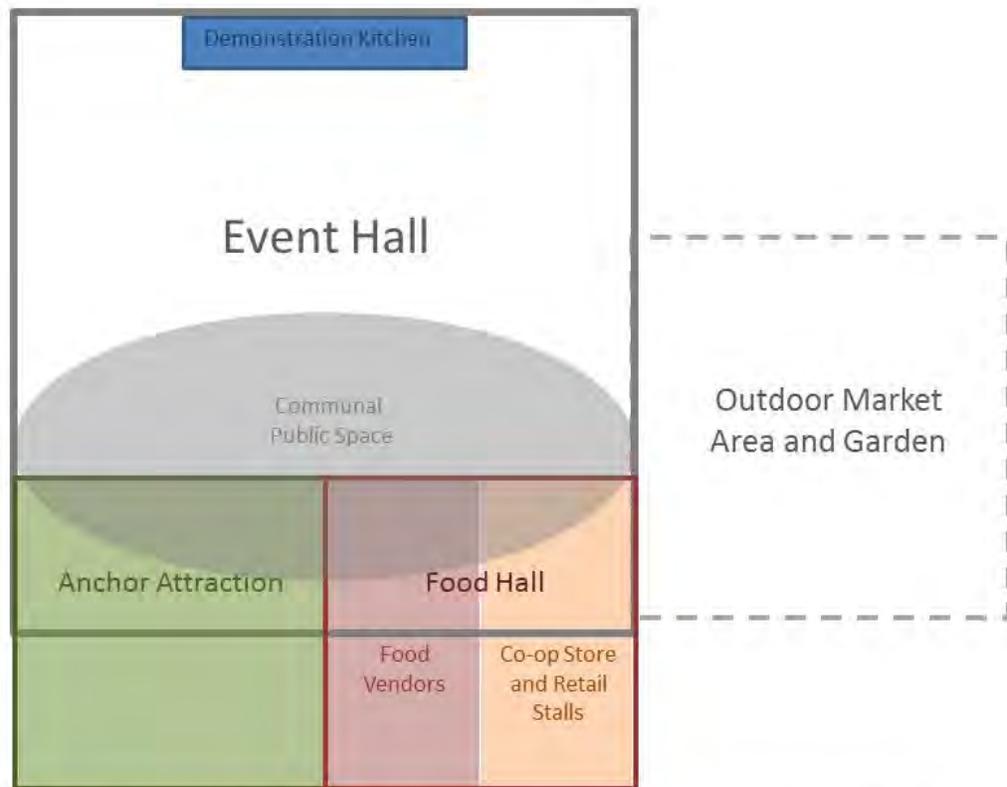
The individual components of the recommended Market Hall program are described below and summarized in **Table 1**. Components were determined and refined through the research and outreach process and a vendor analysis, and are presented as two options – a smaller option (Alternative 1) and a larger option (Alternative 2). Alternative 1 has all the elements required to achieve a diverse level of activity and a break-even operation. Alternative 2 has all of the elements of Alternative 1, with a larger event hall and anchor space, more food vendors, permanent retail in addition to the Farmers' Market Co-op store, and office space in addition to the Farmers' Market. Both options achieve the critical mass required for the Market Hall to succeed; however Alternative 2 has the potential to add more activity to the Market Hall and potentially to operate in the black.

Table 1
Market Hall Elements

Market Hall Elements	Size (net sq. ft.)	
	Alt. 1	Alt. 2
Event Hall	8,000	10,000
Demonstration Kitchen	1,000	1,500
Anchor Attraction	4,000	6,000
Production Space	2,000	3,000
Tasting Room	2,000	3,000
Food Hall	2,200	5,500
Food Vendors	1,200	1,600
Farmers' Market Co-op	1,000	1,500
Permanent Retail Stalls	-	2,400
Additional Elements	4,000	6,500
Office Space	2,500	5,000
Storage	1,000	1,000
Bathrooms and Support Space	500	500
TOTAL	19,200	29,500

Source: Economic & Planning Systems; David K O'Neil

Figure 1
Market Hall Conceptual Diagram



Note: This diagram is conceptual and meant for illustrative purposes only. The drawing is not to scale or a recommended floor plan.

Event Hall

The central component of the Market Hall is an 8,000 to 10,000 square foot multi-purpose event and gathering space. This is envisioned to be a large, flexible space that will serve as expanded space for the Farmers' Market in the summer, a winter home to the Farmers' Market, a space for other market events, and an event hall that can be rented for community and private functions. This hall would have a maximum capacity for 500 seated (banquet style), serving a need in the Boulder market. A key feature of this space would be a demonstration kitchen with a "back of house" prep space that could be used both for demonstrations and educational classes, as well as by caterers for events.

Brewery/Distillery/Winery Anchor Attraction

The primary, every day attraction is proposed to be a 4,000 to 6,000 square foot brewer, distiller, or vintner tap/tasting room. The tap/tasting room will be supplied by beverages (specifically beer, spirits, or wine) made at the market hall. This could be a single tenant, or a tap house/tasting room with education oriented production space operated by a partner organization.

Food Hall

Another every day attraction is proposed to be a group of 6 to 8 food stalls to house aspiring restaurateurs and food vendors. This concept builds off a larger “food hall” movement nationally that brings together a set of food vendors in a shared building. The vendor stalls will provide spaces to up and coming chefs, restaurateurs, and food producers to test food concepts before maturing to stand alone locations in Boulder. Tenants for these stalls may include food truck vendors or vendors at the Farmers’ Market looking to grow. These stalls could be open up to seven days a week and/or during the evenings. The stalls are for food production and sales to patrons who may enjoy a communal seating area shared with the tasting room and connected/within the event hall. Seating could be expanded seasonally to include outdoor areas.

Permanent Retail Stalls

A permanent retail space is planned for a Farmers’ Market Co-op store, and potentially three other retailers. The Co-op store is envisioned as a permanent retail space to provide the Farmers’ Market with an outlet to sell Farmers’ Market vendor products year-round on a daily basis, and as a way to provide continued outreach and education. This space is presumed to be leased and operated by the Farmers’ Market, but other approaches may be explored.

There is the option in Alternative 2 to add three additional retail stalls for complementary food businesses such as a butcher, baker, and cheese maker. If not used for permanent retail, these stalls could potentially be used as retail incubation spaces that allow for pop-up stores and/or new retailers to test concepts. These stalls would be specifically open to businesses within the natural products industry.

Additional Building Elements

- Office Space - The Market Hall building will include 2,500 square feet of office space for the Boulder County Farmers’ Market offices. The Market Hall could potentially have an additional 2,500 square feet of office space available to lease. The office space would be oriented toward non-profit or businesses with a mission oriented towards the Market Hall mission.
- Bathrooms and support space for events and Farmers’ Market
- Storage for Farmers’ Market and events – 1,000 sf
- Rooftop – Opportunity to create a teaching garden on the roof that can also be used for events, seating and education
- Cold Cellar – A naturally cooled cellar for product storage and public education
- Outdoor Market Area – Create an attractive and flexible public space around the building that promotes circulation to and from neighboring uses. Add water and electric hookups for outdoor vendors. A large open area that could be tented would add to programming opportunities of the market.
- Garden – A street-level, outdoor kitchen and wellness garden.

Financial Feasibility

The financial feasibility of the two alternatives was tested using utilization estimates, competitive lease rates, average rental rates, and estimates from staffing and operations levels at comparable facilities. Using this data, and accounting for subsidized rates for certain users to ensure the community access that is a part of the Market Hall's mission, both options result in approximately break-even operations.

The market hall is estimated to require 5.0 FTE including a full-time executive director, full-time event and marketing manager, half-time bookkeeper, two full-time maintenance staff, and a half time security person. Total annual revenues and expenses for each option are shown in **Table 2**.

Based on these estimations, in a stabilized year the Market Hall is projected to have a net deficit of approximately \$16,000 under Alternative 1, and a net revenue of close to \$108,000 under Alternative 2. Based on the planning numbers used, these projections for Alternative 1 can be considered approximately a break-even operation while Alternative 2 would have the potential to generate a modest operational surplus. The income projections presented in this report are for a stabilized year; occupancy and rental income will not be 100 percent in the first few years, which will likely result in operating losses.

Table 2
Projected Stabilized Net Revenues

Net Revenue	Alternative 1	Alternative 2
Revenue		
Retail Rent	\$223,000	\$374,500
Office Rent	\$62,500	\$125,000
Hall Rentals	<u>\$194,600</u>	<u>\$194,600</u>
Total Income	\$480,100	\$694,100
Expense		
Payroll Expense	\$255,000	\$255,000
Employee Benefits	\$70,500	\$70,500
Education/Programming	\$50,000	\$75,000
Office	\$10,560	\$16,225
Legal/Professional	\$4,800	\$7,375
Insurance	\$10,560	\$16,225
Garbage	\$12,480	\$19,175
Facility Maintenance / Repairs	\$16,320	\$25,075
Facility Supplies	\$8,640	\$13,275
Utilities	<u>\$57,600</u>	<u>\$88,500</u>
Total Expense	\$496,460	\$586,350
Net Revenue	(\$16,360)	\$107,750

Source: Economic & Planning Systems

H:\153086-Boulder Market Hall Feasibility\Models\153086- Budget Model.xls\Market Hall Proposed Budget

Management and Ownership

Cities have historically had a role in operating public markets, however most cities are now supporting other management models. The recommended implementation strategy involves the City of Boulder owning the property and the building, and the market hall itself managed by a community based independent nonprofit corporation.

Recommendations and Next Steps

The analysis of the feasibility of a public market hall in Boulder found that there is ample demand and support within the community for this type of venue. Furthermore, the analysis identified a program for the Market Hall that matches with the values and desires of the City and the community that is financially feasible from an operational standpoint. The consultant team recommends that the City continue to explore building a Market Hall, with the basic programmatic perimeters identified above, within the Civic Area. The City should continue in its role as convener of the process to build understanding and support for the market. Prior to addressing any proposed development timeline, the City should initiate a more robust public engagement to understand how a public market can best play out in Boulder as follows:

- Refine Program, Mission
- Cultivate Partnerships and Sponsors
- Continue discussions with potential tenants
- Refine the business plan
- Understand the financial/fundraising obligations
- Explore City and nonprofit partnership

Once a focused consensus emerges, the following series of events and next steps can begin:

- Create working design concept
- Outline a draft business plan
- Establish the Not for Profit Corporation
- Develop capital financing plan to raise funds necessary to build the Market Hall
- Explore creative and alternative methods for raising funds for the Market Hall

The proposed Boulder Public Market should raise all development, start-up and capital costs (and any projected operating shortfalls) and not use cash flow as a financing method. Operational sustainability should be the goal, with any surplus used to further support the mission and/or establish a capital reserve fund.

1. INTRODUCTION

Project Purpose

The City of Boulder recently adopted the Boulder Civic Area Master Plan. The Plan was created to help the Civic Area within Boulder become a reflection of the community's values and diversity by providing an enhanced environment that allows citizens to gather, recreate, eat, learn, deliberate and innovate. One of the elements identified within the Civic Area Master Plan that could be a central assets/attraction for the Civic Area was a year-round public market hall. Building on the success of the Boulder County Farmers' Market, the public market hall could help to provide a year round venue for local foods and help expand the season and facilities for the Boulder County Farmers' Market. The market hall can also be a significant attraction that can stimulate activity on a daily basis in the Civic Area that is currently lacking daily activity.

Scope of Work

In identifying the recommended program, the consultant team used data from comparable year-round markets, stakeholder outreach, and other market research. Comparable markets were researched to illustrate a range of public market concepts, and that information was used to inform the type and size of market facility to be programmed for Boulder. Meetings were held with the Boulder Civic Area Market Hall Working Group and other stakeholders to help identify the potential interest and demand for this type of facility, and to inform the development of the market mission and program. The comparable market research and stakeholder outreach are summarized below, and detailed in **Appendix A** and **Appendix B**.

Based on this and other research, the consultant team has defined a recommended program in terms of tenant mix, types and sizes of spaces needed, lease parameters and total square footage. This recommended program also includes a financial feasibility analysis for operating the Market Hall. The team has identified the most effective organization and management structure for the recommended development program.

Definitions

Public Market – a permanent market building that operates in or as part of a public space featuring locally owned and operated businesses, and serves a broader public purpose, such as community vitality, health and/or education.

Farmers' Market – The Boulder County Farmers' Market.

Market Hall – Over-arching term for the entire building (and all its uses).

Event Hall – a flexible flat floor space within the Market Hall that is intended to be used for expanded Farmers' Market, private, and community events.

Food Hall – permanent dedicated retail space within the Market Hall open on a daily basis with access to the street as well as the interior of the Event Hall. This space includes the food vendors, the Farmers' Market Co-op store, and other permanent food retailers.

Food Vendor – restaurant/food-truck type tenant; located in the Food Hall.

Permanent Retailer – permanent, everyday retail stores located within the Food Hall component.

Comparable Markets Analysis

The term “public market” encompasses a broad spectrum of spaces ranging from open-air, temporary markets to permanent year-round building including a number that have spawned larger market districts. Along that spectrum, there are variations in the form, function, management, and operations of these facilities. To inform this analysis and recommendation of a development program, nine comparable markets at various points along this spectrum were profiled, chosen from a larger sample for their similarities to the Boulder market setting, including similar climate, size of community, presence of a university, and/or other factors. The comparable markets were chosen to illustrate the wide variety of market hall concepts that could be considered.

There are four key elements that vary among market halls: the building itself, the role of a farmers’ market and fresh foods, the mixture of tenants, and the organizational and management structure. These four elements form the major organizing themes used to develop the recommended program for Boulder’s Market Hall.

The selected comparable market halls are summarized in **Table 3**. Major points of consideration identified in the comparable markets that helped guide the program definition for the Boulder Market Hall are:

- When the farmers’ market is the main tenant, the market space is only active when the farmers’ market is open. The more uses and functions the market hall has, the closer it gets to seven-day/week functionality.
- Many of these market halls have uses or components that do not generate adequate revenue to support operation. While these uses contribute to the mission and authenticity of the market halls and associated farmers’ markets, the losses generated must be recouped through other revenue-generating uses or operating subsidies. The inclusion of more revenue-generating uses can support the market hall’s operation and non-revenue generating components, which increases its financial viability.
- When the farmers’ market is the sole or prime use, a city tends to be the operator of the venue. As more uses and functions are added, a non-profit or private entity is often involved and may manage the facility. However, for all of these comparable markets, city involvement in some way—whether land ownership, structure ownership, or management—is common.
- Many of the market halls analyzed have some level of annual subsidy to offset costs. The subsidy comes from contributions from the municipality and/or private donations. The need for a subsidy is often driven by the desire to provide programs and services that support the community and are often not part of a for-profit business.

**Table 3
Market Hall Attributes**

Market Hall Elements	Bellingham	Ann Arbor	Rochester	Old Strathcona, Edmonton	Santa Fe	Flint	Halifax Seaport	Eastern Market	Ferry Building
Building									
Type of Building	Enclosed Shed	Open-Air Shed ¹	Enclosed Shed	Market Hall	Market Hall	Market Hall	Market Hall	Market Hall	Market Hall
Size of Building (Sq. Ft.)	5,200	---	9,000	75,000	27,000	32,000	56,000	14,000	240,000
Size of Market Hall Portion (Sq. Ft.)	---	---	9,000	35,000	10,000	10,500	56,000	10,000	65,000
Other Permanent Uses in Building	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Days per Week in Operation	---	---	---	1	7	3	6	6	7
Role of Farmers' Market									
Type of Tenant in Building	Day User	Main	Main	Main	Day User	Main	Main	Not a tenant	Not a tenant
Days per Week in Operation	1	1 to 2	3	1	1 to 2	3	6	3	3
Year Round/Seasonal	Seasonal	Year Round	Year Round	Year Round	Year Round	Year Round	Year Round	Year Round	Year Round
Space and Tenant Mix									
Permanent Rental Spaces	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Non-Farmers' Market Tenants	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes
Event Space for Rent	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
Organizational Structure									
Building Owner	City	City	City	City	Non-Profit	City	Federal	City	City
Market Hall Operator	City	City	City	Non-Profit	Non-Profit	Non-Profit	Federal	City	Private
Operating Subsidy	---	Yes	Yes	No	No	Yes	No	Yes	No

¹ Planning to build a 4,000 sf w interized structure

Source: Economic & Planning Systems; David K O'Neil

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Stakeholder Outreach

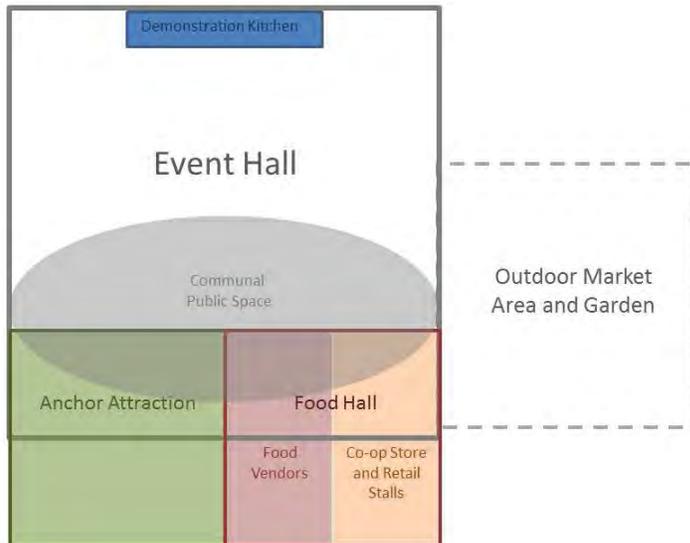
Stakeholder interviews and meetings were conducted with the Civic Area Market Hall Working Group and other food specialists in Boulder to gather input and perspective on development opportunities, constraints, and community need. This outreach was focused on the natural foods market in Boulder, potential uses for a year-round Market Hall, the role of the Market Hall in the broader Boulder food industry, vendor interest, and potential challenges that may arise.

There was general agreement that the Market Hall should have a clear, food-focused mission and that it should support and maintain the existing Farmers' Market with complementary uses. Flexibility was also brought up as a key component of the vision, both for the Farmers' Market to utilize the space in the regular and winter seasons, and for the local food community to have access to the space. Feedback on the vision and mission for the Market Hall centered on three key themes – the space should be food-centric, community-based, and have a strong education component.

Feedback around vendors and uses focused on what is already available in the community, what existing needs are, and how those needs fit into the potential mission of the space. There was enthusiasm for expanded space for the Farmers' Market, a large, flexible event space that could also be used for larger events, education, a kitchen space, and an anchor tenant and other revenue-generating uses to draw people to the building.

2. EVENT HALL

Overview



The central component of the Market Hall building is a flexible event hall, with its primary use intended to be for food related activities including a year-round farmers' market. However, these activities are not expected to use the hall on a full time basis; it is therefore designed to be a flexible space that can also be used as an event hall for other community and private functions. The hall can also serve as an informal customer gathering and seating space to complement the food, retail and production activities. The review of comparable facilities confirmed that many market halls are utilized for a

variety of private and community events including weddings, banquets and receptions, small concerts, and community meetings and other assemblies. These uses increase utilization and provide additional revenue generating opportunities for the hall. The availability of this space also allows for the inclusion of a variety of community and educational programming.

A sample of existing event spaces in Boulder were surveyed to estimate potential demand and to provide cost and revenue inputs to the financial model. The facilities are separated into two categories: public, and open to the public venues including university, civic, and cultural facilities and hotel meeting and banquet spaces. For each facility, data are compiled on facility capacities, rent rates, and usage. This data is provided to help estimate the expected level of usage, as well as supportable rental rates and operating costs for this type of activity.

Public Venues

EPS collected data on selected public event venues in Boulder including CU-Boulder Memorial Center, Boulder Museum of Contemporary Art, Boulder Public Library Gallery, Rembrandt Yard, and Dairy Center for the Arts.

University of Colorado-Boulder Memorial Center - The CU-Boulder Memorial center has two primary event centers and also manages club suite functions. The Glenn Miller Ballroom is the largest venue at 9,600 square feet and provides the ability to subdivide into three smaller spaces, of 3,000 to 4,000 square feet. The Glenn Miller Ballroom also has a 1,700 square foot commercial catering kitchen. The non-university organization room rental rate for the entire ballroom is \$1,430. This rate is good for the entire day (no minimum or maximum). The non-university organization room rental rate for the smaller rooms ranges between \$420 and \$640

for the day. Assuming an average of a five-hour event, the hourly rental rate would be \$286 for the entire space and between \$84 and \$128 for the subdivided spaces. Assuming an average of an eight-hour event, the hourly rental rate would be \$178 per hour for the entire space and between \$53 and \$80 per hour for the subdivided space. CU-Boulder averages between 500 and 600 annual events at its facilities. About 10 percent, or 50 to 60 annual events, are non-university organizations. A 2,000 square foot rooftop terrace is also available for rent. The non-university organization rent is \$530 (\$56 to \$106 per hour). Non-profits and private organizations are charged the same rent.

Boulder Public Library Canyon Theatre and Gallery – The Boulder Public Library has two main event venues available for rental. The Canyon Theatre is primarily a performance venue. It seats 205 people and can be rented for \$125 per hour for a minimum of three hours. The Canyon Theatre is utilized almost nightly. The second, more relevant, venue is the gallery space that can accommodate 400+ people and is available for \$100 per hour with no minimum. Audio-visual equipment is available for \$40 per hour. The gallery space is generally rented for receptions once or twice per month.

Boulder Museum of Contemporary Art (BMOCA) – The Boulder Museum of Contemporary Art (BMOCA) is a non-profit art gallery dedicated to providing the public with progressive exhibitions, innovative education programs, and valuable outreach initiatives. The BMOCA has two floors. The second floor is approximately 2,800 square feet and can accommodate up to 150 people. This space is primarily used for smaller groups. The entire two floors (approximately 6,000 sq. ft.) can also be rented for events. Each option can be rented for either a minimum of five hours (three-hour event and one hour for setup and breakdown/cleanup) or eight hours (five-hour event, two hours for setup and one hour for breakdown/cleanup). Hourly rental rates range depending on the day of the week (weekday vs. weekend). There is not a lower rate for non-profits. The low end includes the five-hour option for upstairs on a weeknight for \$800 (\$160/hour). The high end includes the eight-hour option for the entire building for \$2,500 (\$312/hour). Most options are for five hours on the weekend. The BMOCA averages about three events per month, depending on the month, with holidays being the most popular. The upstairs can also be rented for group meetings during normal business hours at \$125/hour. This generally happens once per month.

Rembrandt Yard – Rembrandt Yard is a private event center located at 1301 Spruce Street in downtown Boulder. Rembrandt Yard offers over 6,500 square feet of gallery space on two floors and serves as home to Open Studios, a Boulder based nonprofit art advocacy organization. Rates vary depending on time and day of rental. Weekday evening rentals for one floor are \$1,450 (\$207 per hour) for a seven-hour period or \$2,050 (\$293 per hour) for both floors. Weekend evening rentals for one floor average between \$1,850 (\$264 per hour) and \$3,500 (\$500 per hour) and \$2,450 (\$350 per hour) and \$4,100 (\$586 per hour). Weekend evening rentals for both floors average between \$3,250 (\$460 per hour) and \$4,900 (\$700 per hour). Prices include full assortment of tables and audio-video. During business hours, rates average \$125 to \$175 per hour for a five-hour minimum. Non-profit discounts are available.

Dairy Center for the Arts – The Dairy Center for the Arts is a non-profit performance and visual arts organization located at 2590 Walnut Street. It has 15 resident programs focused on youths to adults, including the Boulder Ballet, the Boulder Philharmonic, CentreStage Theatre Company, and the Parlando School for the Arts. The Dairy Center has three theater venues (250-

seat, 100-seat, and 80-seat) available for rent, as well as two event spaces. The largest event space is the lobby which has capacity of up to 150 people. This space accommodates fundraisers and receptions; however because of its dual use as the lobby, it has limited ability to be used on the weekends during other performances. The smaller event space is more private and serves as a gallery and exhibit space when not rented. The gallery can accommodate up to 85 people. Because the gallery space offers greater ability for private functions, this space is rented more frequently, or between five and ten times per month. The Dairy Center offers a limited catering kitchen. Rental rates for each space are \$95 for private or for-profit organizations and \$75 per hour for non-profit users. Each space must be rented for a minimum of four hours, including a two-hour event and one hour each for setup and breakdown/cleanup.

Hotel Venues

Most hotels have meeting and banquet space to support their group business. Group business can be a major or minor component of total hotel business depending on the type of property and setting. In a university town as well as in a typical urban market, the peak season for meetings and other group business is in the spring followed by the fall months. The first priority is to use meeting and event space to serve multiday meetings and conferences taking place at the hotel. On an as available basis, hotels will also rent their banquet space for weddings, reunions, parties, and community events. The three hotel properties listed below have facilities attractive and conducive for holding weddings, banquets, and other receptions.

St Julien Hotel and Spa – The St Julien is a 201-room luxury boutique hotel located at 700 Walnut in Boulder. The hotel's meeting and event spaces are especially well designed for weddings and banquets with 9,708 square feet of flexible indoor event space and 6,810 square feet of outdoor landscaped terrace and garden areas. The main Xanadu ballroom is 4,088 square feet with a capacity of up to 300 for a banquet and up to 240 for a wedding including a dance floor. The 2,400 square foot outdoor lawn is functional for outdoor ceremonies and the three contiguous terraces of 4,400 square feet work well for outdoor receptions.

Figure 2
St. Julien Floor Plan





Boulderado Hotel – The Boulderado is a five-story historic boutique hotel in downtown Boulder located at 2115 13th Street. The 10,000 square feet of meeting and event space can accommodate up to 240 guests. The lavish lobby and balconies are attractive settings for cocktail receptions, as well as informal gatherings.

Marriott Boulder – This 157-room boutique style hotel is located at 26th and Canyon close to the TwentyNinth Street lifestyle center and other retail and commercial uses along 28th Street. The hotel has six event rooms totaling 4,979 square feet. The largest ballroom has 2,418 square foot ballroom with a capacity of approximately 120 for a banquet and 175 for a reception. The Marriott has an average of 150 non-conference events per year, with rental rates ranging from \$1,200 to \$3,500 per event.

Conclusions

The existing public event spaces surveyed are well utilized. Similarly, Boulder hotels have relatively high demand for local events. The majority of event spaces in Boulder have a capacity of 150 to 200 people. There are few options for events that are larger than 200 people outside the Glenn Miller Ballroom or rental of one of the music theaters in Boulder. An event space that can provide a venue for larger events would likely have demand and is missing in the Boulder market currently. A number of the comparable public hall buildings, including the Flint Farmers' Market, Eastern Market in Washington DC, and the Santa Fe Farmers' Market were also popular venues for private and community events. The event space in the Market Hall should therefore be designed with flexibility to incorporate a range of similar functions that can increase utilization and revenue potential.

The recent had space should therefore be designed to accommodate the following uses and program elements:

Programming

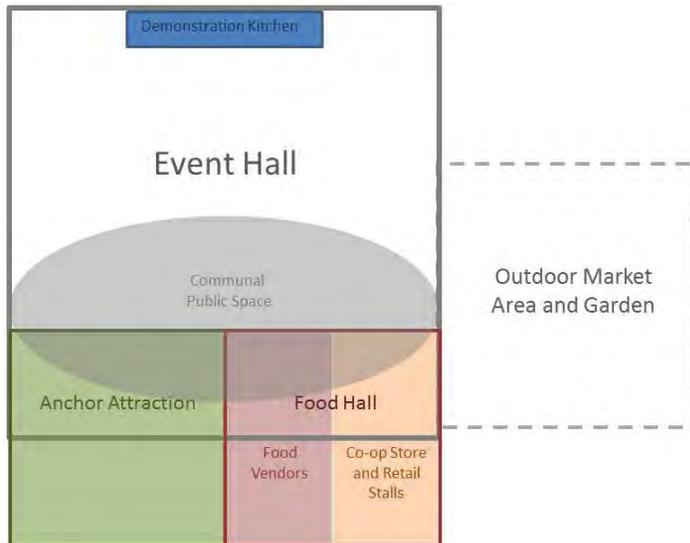
- Farmers' Market vendor space in summer/fall – 2 or 3 days per week
- Winter Farmers' Market – 1 day per week
- Other market style events including night markets
- Banquet and reception hall – maximum capacity seated 500 (banquet seating) (can be designed to partition into smaller space)
- Cooking and food education events/classes
- Health and wellness activities and programs

Specific Elements

- A large open hall, preferably with high or vaulted ceilings and 8,000 to 10,000 square feet in size.
- Large openings to the outside, likely with glass garage doors or a similar treatment, that allows the market hall users to easily transition into the building from the outdoors.
- A large opening(s) to an outside loading/staging area to allow for quick and easy set up and take down of events.
- Demonstration kitchen space of 1,000 to 1,500 square feet designed to allow for demonstrations and educational classes to be performed within the hall. The demonstration space should be attached to a “back of house” prep space with a small component for food storage (dry and cold) that can be used by caterers and for events.

3. *BREWERY ANCHOR*

Overview



An anchor tenant is critical to the success of the Market Hall, both for generating revenue and to draw in customers on a daily basis. Throughout the feedback process there was strong support for a production-oriented anchor with a customer-facing use. A brewery, distillery, or winery would serve this function while staying true to the local food mission of the Market Hall. This use can also create the opportunity to tie in education – another key component of the Market Hall’s mission. Recent trends in craft brewing and distilling, both nationally and in Colorado, indicate that there is

likely to be demand among these businesses for this type of space.

Craft Brewing and Distilling in Colorado

Craft brewing and craft distilling are growing industries, both nationally and in Colorado. Colorado has the third-highest number of breweries among states, behind only California and Washington; as of 2015 there were 309 manufacturing brewery and brew pub licenses in Colorado, a 178 percent increase in the number of breweries since 2009. This growth is mostly coming from craft breweries - a 2015 survey of 113 craft brewers found that nearly 78 percent of the companies had formed since 2005. The City of Boulder alone has over 15 craft breweries, with more in the County, indicating an environment conducive to this type of business. Not only are more breweries entering the market, but existing craft breweries are growing. In the same 2015 survey, more than 59 percent of respondents projected growth in excess of 20 percent in 2015, and 56 percent projected that level of growth for 2016.

Craft distilling, while a newer industry than craft brewing, is also growing across the country. There were 24 identifiable craft distilleries in production in 2000; by 2011, that number had increased to 234. According to the American Craft Spirits Association, in 2015 there were 769 craft distillers nationwide. In Colorado, there were no craft distillers in 2000; by 2005 there were 4, and the Colorado Distillers Guild – which not all craft distilleries are members of - currently has 21 members. There are at least 3 craft distilleries in Boulder.

Confluence of Education and Brewing

The Market Hall Working Group suggested the idea of a brewery, distillery, or winery as an anchor use for the Market Hall. As this concept was explored and subsequent meetings were held, the opportunity to incorporate education into the anchor uses was identified. There is the potential to create a combined education/production space around brewing/distilling/vinting. The idea of a partnership with CU, in which the production space is used as a classroom, has been discussed among members of the Working Group and CU faculty. A new program run by CU to provide education on brewing/distilling/wine making is being discussed and the production space in the Market Hall could be the location for this effort. This idea would require CU to be a lessee of the space and to develop a program that would need and use the production space. Only initial discussions have been had and the ultimate viability of this concept is uncertain. The idea, if it can come to fruition, would align perfectly with the mission and vision for the Market Hall. However, it may complicate the operations of the Market Hall and could potentially decrease the revenue that could be generated by the anchor use.

The National Brewers Association has identified prominent brewing education options in the US. The organization has four professional brewing schools and courses listed on their website, none of which are in Colorado. There also 16 university-affiliated brewing programs in the US that the National Brewers Association has identified. The majority of these programs are certificate or short course educational programs. Two of the programs identified are located in Denver. Regis University, located in northwest Denver, offers a certificate in applied craft brewing and Metro State University of Denver offers a bachelor of science degree in brewing or brewpub operations.

- The Metro State program is part of their larger hospitality school and appears to be one of the few bachelor degree programs directly related to brewing. The Metro State program is part of their Department of Hospitality, with brewing operations or brewpub operations as a major focus as part of the larger hospitality degree tracks. The program provides hands on brewing opportunities through a partnership with the Tivoli Brewing Company, which is located in the Tivoli Student Union (originally the Tivoli Brewery).
- The Regis program is a 12 month, part time program with courses in the evenings. Course topics include biology of brewing, chemistry of brewing, business of brewing, and a brewing practicum that is a supervised practical experience at a brewery.

The majority of the other programs in the US have a similar focus as the Colorado programs, which provide a mixture of business and introductory chemistry and biology courses related to brewing. However, there are a few programs that are more oriented towards food and brewing science, including a four year program in fermentation science at Oregon State University.

Needs of Brewers

The size needs of craft brewers vary based on a variety of factors, but they are often able to operate in small spaces – as small as 1,500 square feet. A sample of 10 small, craft breweries in the Boulder and Denver areas had sizes ranging from 1,650 to 5,500 square feet, with an average of close to 3,600 square feet. This includes both production space and a taproom. These businesses can work in smaller spaces, and new breweries often do not want or need larger spaces.

Depending on needs and setup, these businesses may occupy either retail or industrial space. Rents for retail space are generally higher than industrial rents. In the areas immediately surrounding the craft breweries sampled, net rents average around \$13 per square foot for retail space and \$7 to \$10 per square foot for industrial space in Boulder, and \$16 to \$20 per foot for retail space and \$7 to \$10 per foot for industrial space in Denver. These numbers indicate that net rents around \$15 per square foot would likely be attainable for this type of tenant.

Conclusions

A small brewer, distiller, or vintner would be able to generate traffic and revenue for the Market Hall while staying true to the mission of the facility. There are a few potential approaches to this element, two of which have been identified to further explore.

Potential Programming Approaches

Single tenant brewer, distiller, or vintner – In this option a single brewer, distiller, or vintner would lease the space, responsible for managing the tasting room and producing beer/spirits/wine on site. Guiding parameters for the type of operator would need to be developed to match with the mission of the Market Hall (potential parameters include: established or new business, primary or secondary location of business, amount of production on site, the incorporation of local ingredients, and others).

Benefits of this approach are that it has the highest revenue potential, would be easiest to manage, and easiest to attract a high quality tenant. Potential negatives would be the potential for competition with Pearl Street establishments, lack of uniqueness, and lack of educational component and/or alignment with mission.

Tap House/Tasting Room with education oriented production space – In this option, there would be two components with a varying degree of relationship. A tasting room would be managed and operated by an entity and supplied by some beer/spirits/wine produced in the Market Hall but supplemented by beer/spirits/wine from Boulder/Boulder County (or broader to include all Colorado). The production space would be a separate entity that could be an incubation space for new brewers allowing aspiring brewers to produce beer on site and sell in the tap room to build a following. Another option would be for a partnership with CU where the production space is used as a classroom for a new program run by CU to provide education on brewing/distilling/wine making. This option would require CU to be a lessee of the space and to develop a program that would need and use the production space. This concept was identified by members of the Working Group and initial discussions with some faculty at CU have occurred with Working Group members.

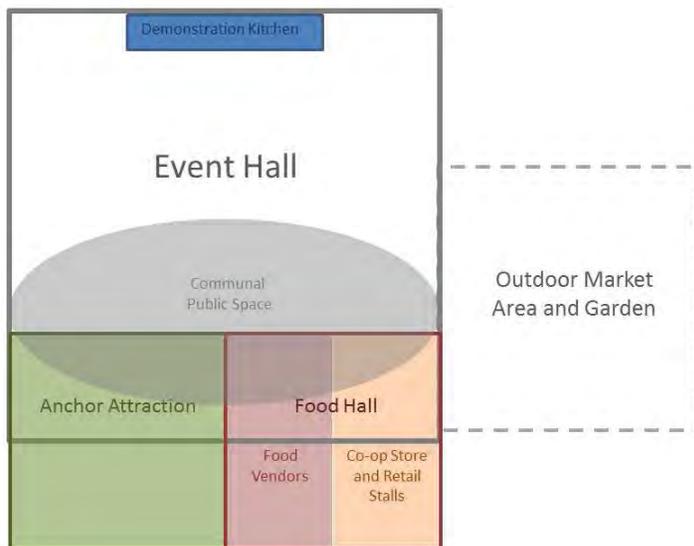
Benefits to this approach are the ability to build in new business incubation and/or education into the market hall. The negatives are that this concept could produce less revenue and would be more difficult to develop into a viable enterprise, which would add complications to an element that likely needs to produce revenue for the overall Hall's viability.

Specific Elements

- Location and entrance visible from Canyon and 13th Street.
- Connectivity with larger hall with seating into a portion of the large hall accessible to patrons of food vendors.
- Access from both the hall and the street.
- 4,000 – 6,000 square feet total – production space of 2,000 – 3,000 square feet and tasting room of 2,000 – 3,000 square feet (includes portion shared with large hall).

4. PERMANENT RETAIL STALLS

Overview



Permanent retail stalls for the Market Hall include a year-round space for a Farmers' Market Co-op store, and the potential for three additional retail spaces. An assessment of the demand for permanent retail stalls within the Market Hall is provided in this section. The analysis evaluates the performance of the existing market vendors, the demand for fresh foods, an inventory of food stores within Boulder, and assessment of demand for permanent vendors based on outreach efforts performed for this study.

Permanent retail space provides the opportunity for both 7 day/week functionality and revenue generation. While concerns were raised during the feedback process about competition with existing retailers, there are a number of ways to incorporate permanent retail into the Market Hall while complementing the natural foods retailers already in the area.

Farmers' Market Vendor Analysis

The Boulder County Farmers' Market operates in Boulder two days a week, Saturday and Wednesday. Saturday is by far the largest of the two days, with an average of 77 vendors and a high of 87. The Wednesday market has an average of 42 vendors. The Wednesday market also operates during the afternoon and evening (as opposed to during the day on Saturday) and is more often affected by inclement weather. In 2015, the Saturday market saw nearly 200,000 visitors and the Wednesday market nearly 50,000.

There are three types of vendors at the farmer's market; producer, packaged, and prepared foods. Producer vendors are farmers or ranchers. Packaged vendors are vendors with value-added products such as coffee beans, baked goods, or salsa. Prepared vendors sell prepared food products that are intended for consumption on-site. The number of vendors per type varies depending on the day of the market and time of year. Producer vendors vary the most, but are always the most prevalent vendor type at any market. Producers make up 40 to 45 percent of vendors at the market on average. Packaged vendors make up approximately 35 percent of vendors, and prepared vendors are 20 to 25 percent of the vendors on any given market day.

Producer vendors have the highest average sales of all vendors and account for over half of the gross sales at the market. The average sales for producer vendors are three times higher for a Saturday market compared to the Wednesday market. Packaged vendors account for

approximately a quarter of gross sales for the market and have the lowest average sales per vendor. Prepared vendors contribute 20 percent of the gross sales at the market but have higher average sales per vendor than the packaged vendors.

The Saturday market is a significant regional attraction and the vendor numbers and sales confirm this. The Wednesday market is less of an attraction and serves a smaller trade area, as evidence by the visitation numbers. The performance of the Wednesday market vendors is a good proxy for the demand for permanent vendors at the Market Hall. The average sales per vendor at Wednesday are approximately 1/3 of the Saturday market. The average sales per visitor, however, only drop by 30 to 35 percent. Producer sales on Wednesday markets are substantially less than Saturday markets but they still account for the majority of sales at the market. The packaged vendors have the largest decrease in sales levels on Wednesday markets. Prepared vendors notice a drop in average sales per vendor, but the sales per visitor for prepared vendors actually increases on Wednesday markets.

Outreach efforts to various vendors at the Market illustrated how the Farmers' Market fits within their larger business model. For producers, the market is one of their primary ways to sell their products and the Farmers' Market will always be a primary component of their business model. For packaged vendors, the Farmers' Market is used differently. Packaged vendors are typically selling a limited number of products, sometimes only one product. The Farmers' Market is a way for these vendors to gain exposure to potential customers and may even be a break even endeavor for some. Ultimately, many of these vendors aspire to have their products sold in a variety of stores, therefore the Farmers' Market is more about building a brand and name recognition than it is actual sales. This may not be true for all packaged vendors, but is representative of how the market is used for different purposes.

The analysis of the performance of the Farmers' Market vendors indicates three findings that will impact the potential vendors that can be accommodated in the Market Hall.

- There appears to be demand for producer vendors throughout the Farmer's Market season and these vendors are the primary draw.
- Sales for packaged vendors are significantly impacted by overall visitation to the market and vendors of this type in the Market Hall will likely struggle without regular traffic generated by other uses.
- Prepared vendors appear to have steady demand even with decreased visitation and appear to be a distinct, yet complementary, attraction for Wednesday markets.

The Farmers' Market vendors that appear the most in demand for a permanent space within the Market Hall are likely those in the producer or prepared categories. There may be packaged vendors that perform well at markets and may be successful in the Market Hall, but they may not have the same destination attributes as vendors in the other categories. For these vendors, the ability to participate in a shared retail space is likely to be more of a draw than an independent outlet. The concept of a Farmers' Market Co-op store is viable way to allow vendors to sell products on non-market days, but not require them to provide staffing. In addition, many vendors mentioned that having the farmer, rancher, or business owner at the booth increased sales because their in-depth knowledge can help sell the product. A component of the Farmers' Market store could be to have vendors participate and aid in running the store, which adds the "co-op" component to the store.

Fresh Food Demand Analysis

Permanent retail stalls within the Market Hall should fit the mission and vision for the facility. To fit this mission, potential retailers mostly likely fall into two categories 1) a retailer selling food products made for consumption that are grown or produced locally, or 2) a retailer selling products produced locally made from plant or food by-products. The vast majority of retailers in these categories will primarily sell products that can be bought in grocery stores, natural foods markets, and/or specialty food stores. The estimated demand for sales for retailers that fit this general store category was assessed, as well as demand in other traditional store categories.

The Boulder County Farmers' Market serves a large trade area for its Saturday market. This trade area, defined as the geography where the majority of patrons come from, for a Saturday Market is likely as big, if not bigger, than Boulder County. The Wednesday Market, as evidenced by the drop in average sales at the existing Farmers' Market, is likely smaller but still citywide. Retailers at the Market Hall will serve an even smaller trade area. A typical grocery store serves a two mile trade area, and it is likely that everyday retailers in the Market Hall will serve a similar or even smaller trade area.

Within a two mile radius of the proposed Market Hall site, there are 60,000 residents and 24,000 households. To estimate demand from this trade area, the average household income is multiplied by the total households to estimate total person income (TPI) of the trade area. A typical Colorado household spends approximately 35 percent of its income annually on retail goods. The average percent of income spent by retail store category is shown in **Table 4**. Supermarkets and other grocery/food stores capture about 7 percent of an average household's annual income. The estimated demand for grocery and food store sales from the trade area is \$114.4 million. Using an average sales per square foot of \$400, the estimated demand for grocery store space from the trade area is 286,000 square feet. As a point of reference, a typical traditional grocery store such as Kings Sooper's or Safeway average approximately \$25 to \$35 million in sales annually and are typically 50,000 to 60,000 square feet in size.

Table 4
Market Hall Everyday Trade Area Retail Demand

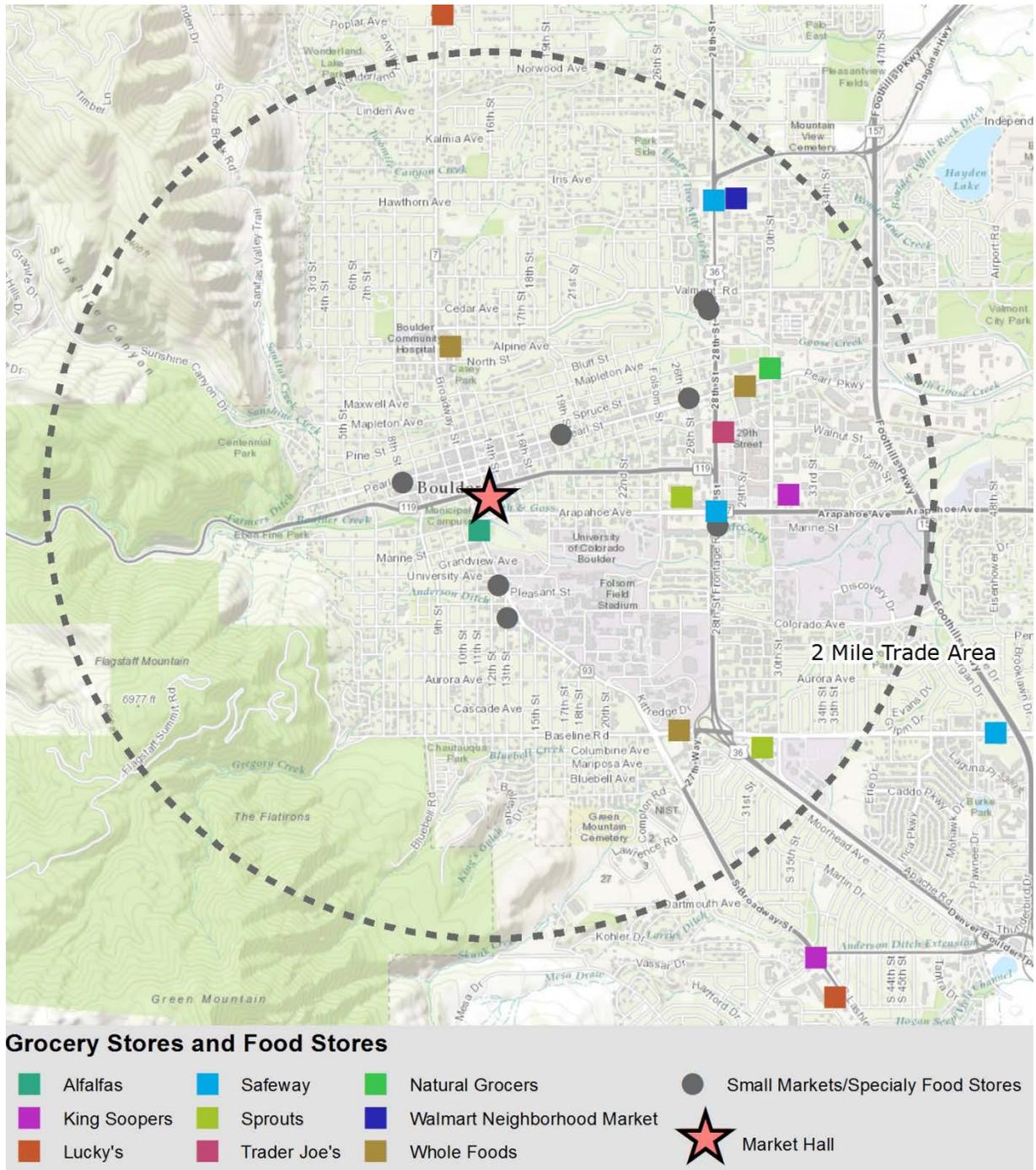
Store Type	Retail Sales % of Total (2012)	Expenditure Potential (\$000s)	Avg. Sales Per Sq. Ft.	Supportable Square Feet
Total Personal Income (TPI), Market Hall Trade Area	100%	\$1,653,856		
Convenience Goods				
Supermarkets and Other Grocery Stores	6.9%	\$114,434	\$400	286,000
Convenience Stores (incl. Gas Stations) ¹	2.0%	\$32,734	\$400	82,000
Beer, Wine, & Liquor Stores	1.1%	\$17,808	\$300	59,000
Health and Personal Care	1.7%	\$27,546	\$400	69,000
Total Convenience Goods	11.6%	\$192,522		496,000
Shopper's Goods				
General Merchandise				
Traditional Department Stores	0.5%	\$8,388	\$250	34,000
Discount Department Stores and Other	1.3%	\$21,500	\$350	61,000
Warehouse Clubs & Supercenters	5.4%	\$89,008	\$500	178,000
Subtotal	7.2%	\$119,078		273,000
Other Shopper's Goods				
Clothing & Accessories	2.2%	\$35,604	\$350	102,000
Furniture & Home Furnishings	1.2%	\$19,483	\$250	78,000
Electronics & Appliances	1.1%	\$17,638	\$500	35,000
Sporting Goods, Hobby, Book, & Music Stores	1.3%	\$20,854	\$350	60,000
Miscellaneous Retail	1.3%	\$21,343	\$250	85,000
Subtotal	7.1%	\$117,424		360,000
Total Shopper's Goods	14.3%	\$235,949		633,000
Eating and Drinking	6.1%	\$100,714	\$350	288,000
Building Material & Garden	3.2%	\$52,923		157,000
Total Retail Goods	35.2%	\$582,108		2,207,000

Source: 2012 Census of Retail Trade; Economic & Planning Systems

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An inventory of food stores that might be competitive with a permanent food-oriented retailer in the Market Hall was created to assess how well served the local trade area for the Market Hall is. **Figure 3** shows grocery stores, smaller markets, and specialty food stores that are within the two mile trade area of the Market Hall. There are 12 grocery stores within two miles of the Market Hall location, the majority of which are located along 28th Street. In addition, there are at least eight other specialty food/small markets within the trade area. Much of the retail within Boulder is centralized along 28th Street or Pearl Street. As a result, many of these stores serve trade areas that extend to the eastern and western borders of the City.

Figure 3
Competitive Food Stores



Based on this assessment of existing stores and estimated demand, Boulder and the two mile trade area around the Market Hall is well served by food stores. A good portion of these retailers are also natural food oriented. It is likely these stores carry many of the products that could be sold in stores within the Market Hall that fall within its local food mission. Potential stores within the Market Hall would likely be in competition with at least some of these retailers identified above.

One exception to this potential competition would be if the retailers in the Market Hall are Farmers' Market vendors who have matured into a permanent space and the Market Hall provides them the opportunity to sell products that they can't provide within established, chain grocers. Thus the Market Hall can give vendors an affordable opportunity to provide products that cannot get into the mainstream market. This approach provides a way for local farmers and ranchers to take the next step and build a demand for their products year round and provide a venue for selling products outside a farmers' market setting or directly to consumers. Customers particularly enjoy the experience of buying directly from farmers and producers, which is a big part of the attraction of a public market.

Conclusions

Retail Programming and Tenant Options

Based on the analysis completed, these four elements were identified as potential programs for retail space that fit within the mission of the Market Hall and address the potential lack of demand and concerns of increased competition from existing retailers.

Farmers' Market Retail Space

One retail space would be for the Farmers' Market to have a co-op store or similar type of space for vendors to offer products all week, year-round. This space would be leased and operated by the Farmers' Market, and could also provide the opportunity for continued outreach and education – key components of the Market's mission. The Farmers' Market currently provides a unique space for new and growing companies to showcase their products and access customers, and the co-op store can expand that to a year-round function. This space would allow producers to sell their products without needing to be physically present at the market, and would also provide more exposure for packaged foods companies. Packaged food vendors in particular are often at the market for product exposure more than sales. This retail space would allow for extended customer exposure and sales opportunities for vendors that may not have grown to the point where they are selling in large retailers and cannot afford or do not want a space of their own.

Retail Incubator

Many natural products companies sell their products in local stores, but do not have independent retail space. Permanent retail stalls within the Market Hall can be used as "retail incubation" space for these companies, providing a location for them to start and grow a retail location. This space could also be used by existing retailers to try a new concept at a small scale.

When companies have "graduated" out of the incubation space, they may move on to Pearl Street or other retail districts in the city. This is particularly important given the difficulties retailers are facing on Pearl Street, as rising rents are forcing some to leave. This space would not directly compete with existing retailers, but rather serve as a first step for companies that are growing.

Natural Foods Retailers

There are many natural products companies in Boulder and the surrounding area. Naturally Boulder, an organization founded in 2005 that serves as a voice for the natural products industry, has approximately 1,000 members. The organization is central to the industry in Boulder, offering education, networking, and mentoring for the natural products community.

These 1,000 organizations may not currently have a retail outlet or may have limited retail exposure, and are a pool of potential tenants for this space. The retail space in the Market Hall can be used to feature these companies, either permanently or on a rotating basis. The space can be used by a single company or as a shared retail space, for multiple local natural products to be featured.

Other Food Retailers

Retail space has the potential to drive both revenue and customer traffic, however this space may not be feasible for many retailers. Costs will likely be too high for packaged food companies that are just starting out, but tenants such as bakers, butchers, and cheesemakers are likely to be able to occupy this space. These types of tenants are mostly commonly found in the comparable markets, still fulfill the mission of the market, and can provide a week-long attraction that complements the other tenants and uses.

Recommended Approach

A permanent retail space should be provided for a Farmers' Market Co-op store. The Co-op store is envisioned as a permanent retail space to provide the Farmers' Market with an outlet to sell Farmers' Market vendor products year-round on a daily basis, and as a way to provide continued outreach and education. This space is presumed to be leased and operated by the Farmers' Market, but other approaches may be explored.

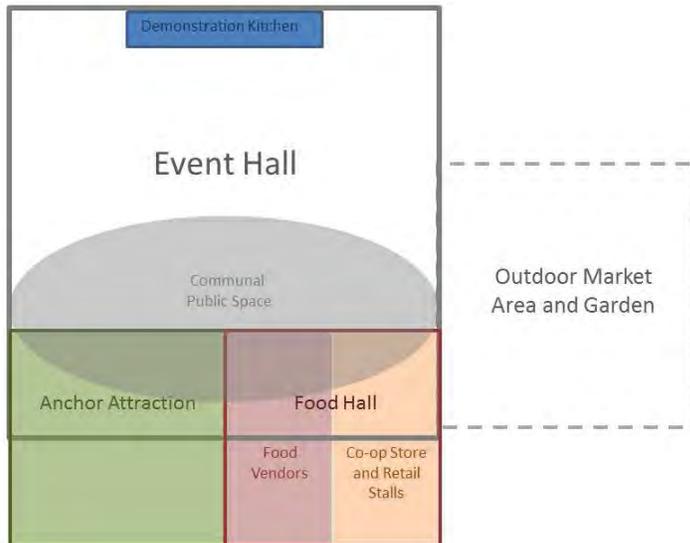
The Market Hall could have three additional retail permanent stalls for complementary food businesses such as a butcher, baker, and cheese maker. If not used for permanent retail, these stalls could potentially be used as retail incubation spaces that allow for pop-up stores and/or new retailers to test concepts. These stalls would be specifically open to businesses within the natural products industry.

Specific Elements

- Farmers' Market Co-op store of 1,000 to 1,500 square feet.
- 3 stalls of approximately 800 square feet each.
- Entrance from street separate from entrances to the large hall, as well as internal access.
- Likely shared access and entrance with the Food Hall to provide potential audience without having to draw in customers.

5. FOOD HALL

Overview



The food vendors proposed would be co-located in a food hall setting within the Market Hall building. This chapter provides an assessment of the viability of including a food hall concept within Boulder's Market Hall. An overview of the emergence of gourmet food vendors is provided, as well as an assessment of the prepared food vendors at the Boulder County Farmers' Market, and examples of the emerging private market and food hall trend in the US and Colorado.

The emergence of small scale, gourmet prepared food vendors is a growing

trend nationally. This trend is partly an evolution out of food courts and street food carts that provide cheap, easy food options in shopping mall and office park environments. This type of vendor has transitioned to more gourmet food trucks and food carts that are not only in dense employment areas, but also serving as stand-alone destinations. The food truck or cart is a cheaper and more flexible way for aspiring chefs and restaurateurs to enter the market. These food trucks and food carts have become more prevalent in recent years and located in a wide variety of settings including at major events (beer festivals, music festivals, and farmers' markets).

Many of these vendors have increasingly come together and co-located on certain days and times to create a larger collection of food vendor options. This co-locating strategy has turned into a major destination and/or event. Food truck vendors in Denver created a "Justice League of Street Food" group that held large street food parties that attracted hundreds of attendees. The City of Denver has also capitalized on this trend to help activate their Civic Center Park. Civic Center Eats is a twice weekly gathering of food truck vendors in Civic Center Park during the lunch time hours during the summer months. Now in its 11th year, Civic Center Eats is a wildly popular gathering that has helped increase usage of Civic Center Park.

The success of the food trucks events has led to more permanent opportunities for these types of vendors, but they are more often locating in permanent venues that are similar to their casual food truck meet ups. There is an emerging food hall trend where collectives of small prepared food vendors are housed in one location around a common, shared space. These food halls are often part of a larger, market hall type setting.

National Market and Food Halls

Private market and food halls are becoming more prevalent within the US. Modeled after the traditional market halls found in Europe and in the US, these markets are private enterprises with many of the same aims as public markets halls. These halls, whether they have a mixture of vendor types or are completely prepared food driven, have common attributes that drive their appeal and feasibility. These common attributes include:

- The use of common seating area and amenities.
- Flexible vendor sizes and configurations.
- A variety of options for visitors (vendors/retailers/restaurants) to drive mutually beneficial traffic.
- A mission to create a sense of community and place which is used to set them apart from more traditional retail stores and restaurants and hopes to serve as a community gathering place.

There are several examples nationally that illustrate this growing trend. Two examples are described below to show the variety of types and configurations.

Eataly

Modeled after a concept started in 2007 in Italy, Eataly in New York City near Madison Square Park was opened in 2010. Eataly was spearheaded by chef and TV personality Mario Batali. The 50,000 square foot market is dubbed by its creators as a grocery store with tasting rooms. The concept, focused on Italian food and wine, mixes a traditional market/grocery store with a restaurant or multiple restaurants all under one roof. The market is mixture of fresh food and produce, packaged goods, and food vendors (the tasting component) all managed and operated by one entity. The single management and ownership is unlike a traditional market hall.



Krog Street Market

Dubbed as a "epicurean epicenter", the Krog Street Market is a 30,000 square foot market and food hall in the Inman Park neighborhood of Atlanta. The market includes five restaurants and a variety of smaller prepared food vendors and merchants including a florist, cheesemaker, butcher, bakery, and other similar tenants. The success of this market and other similar concepts in Atlanta has spurred the growth of similar markets and food halls.



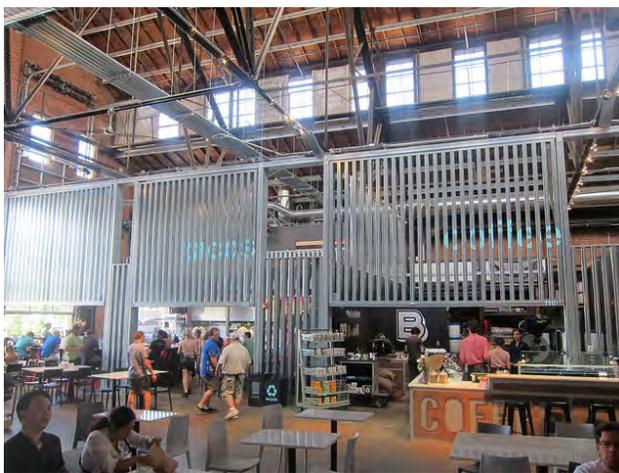
Figure 4
Krog Street Market Floor Plan



Local Food Halls

The market and food hall trend has emerged in Denver with a handful of halls recently opened or under construction. Unlike the national examples described above, some of the halls locally are completely food focused and for some, specifically prepared food focused. Below are four examples of private market and food halls open or under construction in the Denver metro area. These examples provide a blueprint for the vendor mix, sizing, and structure that Boulder could replicate for portions of the Market Hall program.

The Source



The Source is an artisan food market in the RiNo neighborhood on the edge of downtown Denver. The Source is located in a 26,000 square foot former foundry built in the 1880's. The vision of the developers was to create a collective of food artisans and retailers that offer a variety of goods and services that can drive visitation throughout the day. The Source has two full service restaurants (approximately 3,000 square feet each), a bakery, coffee shop, flower shop, wine shop, tap house, cheese and specialty food store, and a central cocktail bar. The shops and restaurants line the large common space with the cocktail bar in the middle. Retailer stalls range from 600 to 2,000 square feet with garage doors that roll up when the stores open and close to

lock in the space while they are closed. The 5,000 square foot tap house was originally planned to be a tasting room and brewing space for Crooked Stave Brewery, but brewing logistics issues prevented actual brewing from taking place on site. The Source also has a small collection of office users on mezzanine level above the vendor stalls. The office spaces are home to a bank, photography studio, a food oriented non-profit, art gallery and design firm.

The success of The Source has led its developers to create a plan for a boutique hotel to be built adjacent to The Source. The hotel is planned to have a brewery space for New Belgium Brewery, based in Fort Collins. New Belgium will use the brewery and tasting room as the location of their pilot brewing program. The pilot program is a way for New Belgium to test new beers and concepts before they are produced at larger quantities in Fort Collins. This type of tenant and concept could be good fit as the anchor use to the Boulder Market Hall. The City could identify a Boulder based brewer wanting a presence in downtown Boulder to manage a similar concept.

Avanti Food and Beverage

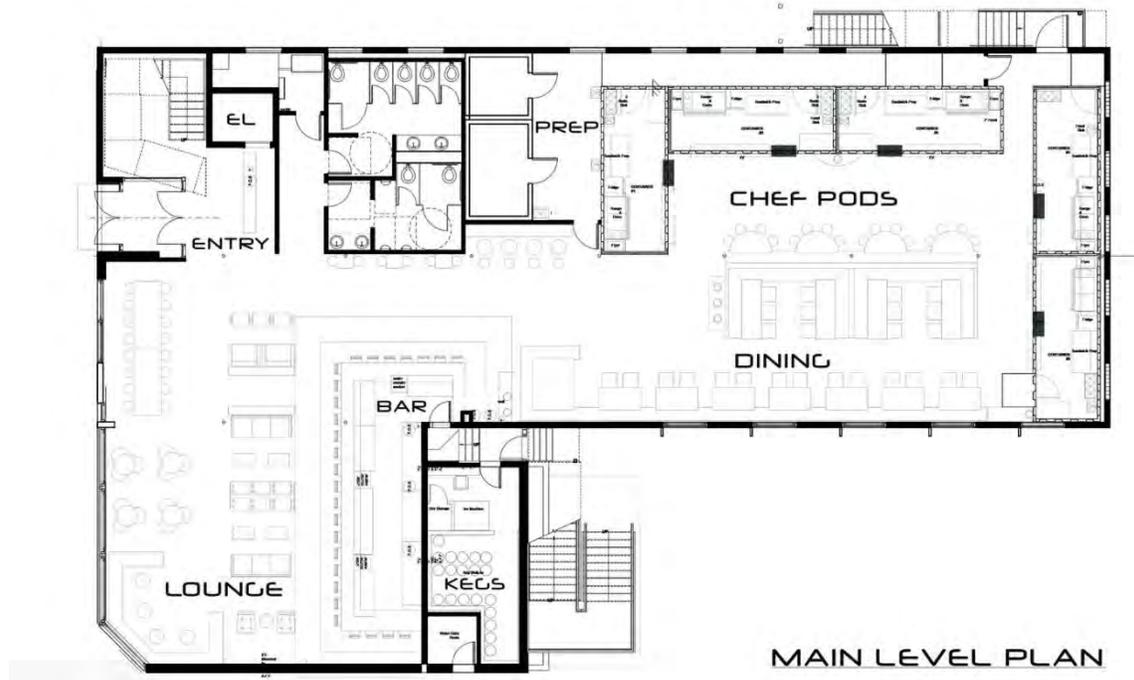


Avanti Food and Beverage is a food hall that opened in Denver's LoHi neighborhood in 2015. Avanti is essentially a modern, upscale food court. Avanti is a collection of eight separate prepared food vendors split between two floors and centered on common dining space with an adjoining bar. The developers think of Avanti as the answer to the question of "where should we go to eat?" The concept is to serve as a restaurant incubator as Avanti

offers aspiring chefs the opportunity to test concepts at substantially lower cost than opening a new restaurant.

The vendors are located in a series of "chef pods," repurposed shipping containers that total about 160 square feet each. Each pod is equipped with cooking ranges, flat grills, press tables, storage and refrigeration. As well, there is a common food prep, dishwashing and storage area shared by all of the vendors. The vendors pay in upfront investment fee of \$10,000 to \$15,000 and then pay flat monthly rental fee and contribute a small percent of sales. The leases are initially planned to be short, one to two years, in order to create turnover and hopefully grow the vendors into permanent restaurants elsewhere. The management entity also provides mentoring and business plan aid to vendors to help them grow their concept.

Figure 5
Avanti Food and Beverage Floor Plan



Source: Meridian 105 Architecture, Archdaily.com

Figure 6
Avanti Food and Beverage Chef Pod



Central Market in RiNo

Central Market is a 12,000 square foot market hall type enterprise that is under construction in Denver's RiNo neighborhood. The market is planned to have 12 tenants including a coffee shop, creamery, two restaurants, chocolate shop, bakery, fish market, butcher, and other food vendors. The market tenants are being curated by Jeff Osaka, a Denver area chef and restaurant owner. The vendor stalls at Central Market are planned to range from 250 to 1,400 square feet.

Stanley Marketplace

Stanley Marketplace is a massive, 140,000 square foot market and event hall. It is located on the southern edge of the Stapleton redevelopment in northeast Denver. The Stanley is located in a repurposed industrial building that was used to manufacture ejector seats. It is planned to have 50 local businesses located within it, as well as a variety of event spaces. Six large concept restaurants and 10 other smaller food vendors are among the 50 tenants, including sister locations for several local restaurant chains including Denver Biscuit Company and Comida. A brewery and separate beer garden restaurant are also planned. Additional uses include a day care, three different fitness concepts, eight boutique retailers, office space, a wine making concept, salon, and barber shop.

Farmers' Market Prepared Food Vendors

The Boulder County Farmers' Market is a mixture of three vendor types; producers (farmers and ranchers), packaged (value add food products), and prepared (food prepared to be consumed on-site). This third group, prepared, ranges from 8 to 15 vendors and on average about 20 percent of the total sales of a typical Saturday market. There are 14 prepared food vendors at an average Saturday market and an average of 11 vendors at a Wednesday market. The number of producer and packaged vendors on a given market day vary by a much greater amount. Prepared food vendors, on average, account for about 20 percent of sales on a Saturday market and over 30 percent on Wednesday market. The average sales per vendor for all three types of vendors drops dramatically for a Wednesday market from the Saturday market, as Wednesday sales are about a third of Saturday sales. However, prepared vendors actually see an increase in sales per visitor on Wednesday market days compared to Saturday markets. For the other vendor types, average sales per visitor drop by almost half. The Boulder County Farmers' Market has a waiting list for prepared vendors. A growing trend for markets is prepared vendors pushing out and/or taking the space from traditional farmers' market vendors, as they are able to afford higher lease/stall fees and have a more consistent demand.

The prepared food vendors appear to have a consistent level of demand from visitors regardless of market day. Obviously, the more visitors the better the sales for vendors, but the strong sales performance on Wednesday markets, relative to the other vendor types, demonstrates that there is a demand for prepared vendors that is not driven completely by people seeking fresh foods. While the fresh foods sold by producer vendors is obviously the primary reason people visit the market, the stronger sales from these vendors (most in total sales, sales per vendor and sales per visitor of the three type) shows that there is set of visitors to the market that spend their money primarily on prepared foods. The Boulder County Farmers' Market limits the number of prepared food vendors to ensure ample space for other vendor types, which more directly align with their mission. Expanding the opportunity for the prepared food vendors is an opportunity to

accommodate demand from vendors for space at the market that the BCFM would prefer to keep for producer and packaged vendors. As well, these vendors generate a consistent demand year round that can help drive traffic to the Market Hall on multiple days of the week and still remain complementary to the Farmers' Market on market days. The outreach efforts for this project also identified that additional prepared food vendors were seen as less of a threat to surrounding businesses than other permanent vendors, as the restaurants in and around Pearl Street are performing well and in many cases target a different price point and provide a different type of food experience.

Conclusions

Given demand and the mission of the Market Hall, prepared food vendors are a good fit as tenants of the building. There is growing demand for communal restaurant experiences. A Food Hall can capitalize on this demand and provide a more affordable, permanent space for aspiring chefs to grow within Boulder. The Food Hall concept would work well in this type of space, and provide both revenue and customer traffic throughout the week.

Specific Elements

- 6 - 8 vendor stalls of approximately 200 square feet each.
- Back of house common area for shared prep, food storage, supplies, dish cleaning, and maintenance.
- Common dining area with tables and chairs, with shared access from tasting room within/adjoining the large hall.
- Entrance from street separate from entrances to the large hall, as well as internal access.

6. FINANCIAL ANALYSIS

Overview

This section of the report presents preliminary Market Hall utilization forecasts and estimated operating costs and revenues. EPS first estimated the number of community and private events that could potentially be accommodated in the event hall based on availability, given its primary commitment to expanded Farmers' Market functions. Total Market Hall revenues were then estimated based on competitive lease rates for the permanent tenants and average rental rates for events by type. Operating costs were estimated based on staffing and operations levels at comparable facilities.

Lease Rates

Downtown and citywide lease rates for office and retail space were tabulated from Co-Star data. In 2015, average triple net retail lease rates in downtown Boulder were \$35.69 per square foot, which was 45 percent higher than the citywide average of \$24.58 as shown in **Table 5**. These rates provide a benchmark for calculation of lease rates for permanent retail uses within the market hall as further detailed below.

Table 5
Boulder Retail Space, 2015

Description	Rentable Building Area (RBA)	NNN Rent Overall	Vacancy Rate (%)
City of Boulder	6,379,000	\$24.58	1.7%
Downtown	868,452	\$35.69	1.7%

Source: CoStar; Economic & Planning Systems

H:\153086-Boulder Market Hall Feasibility\Data\153086- City and Downtown Retail.xlsx\Table- City Downtown Comparison

The market hall is also recommended to include a limited amount of office space. Co-Star office lease rates for the City are shown in **Table 6** below. The average base lease rate in the city is \$19.47 per square foot, but is 50 percent higher in downtown at \$29.20 per square foot as shown. There is demand for office space in Boulder, particularly in the Downtown area. Vacancy rates are low at 3.3 percent indicating that office space within the Market Hall can generate revenue for the building.

Table 6
Boulder Office Space, 2015

Description	Rentable Building Area (RBA)	Office Base Rent Overall	Vacancy Rate (%)
City of Boulder	10,477,071	\$19.47	5.2%
Downtown	711,520	\$29.20	3.3%

Source: CoStar; Economic & Planning Systems

H:\153086-Boulder Market Hall Feasibility\Data\153086- Boulder City CoStar Office.xlsm]T-Downtown Comparison

Utilization Forecasts

The event hall is recommended to be a multi-use space whose primary purpose is to provide a location for a year-round Farmers' Market including an expansion of the existing outdoor market in the summer season and a smaller indoor venue for a winter season market. The Farmers' Market is estimated to rent the hall for 86 days per year. This includes two days per week for the current 34 week outdoor market season (Wednesday and Saturday), assuming a Wednesday season extended to the length of the Saturday season, and one day per week for the 18 week winter season, as shown in **Table 7**.

Table 7
Event Space Utilization and Revenue Estimates

Function Type	# of Functions	Rental Rate	Hall Revenues
Farmers' Market			
Farmers' Market - Regular Season	68	\$100	\$6,800
Farmers' Market - Winter Season	18	\$100	\$1,800
Private			
Private Functions	50	\$3,000	\$150,000
Community			
Community/Non-Profit Functions	24	\$1,000	\$24,000
Kitchen Only			
Kitchen Use	<u>24</u>	\$500	<u>\$12,000</u>
Total All Functions	184	---	\$194,600

Source: Economic & Planning Systems

H:\153086-Boulder Market Hall Feasibility\Models\153086- Budget Model.xls]Function Forecast

The Farmers' Market is expected to pay a nominal rate of \$100 per day for each day it uses the event hall, or \$6,800 for the summer season and \$1,800 for the winter season for a total of \$8,600 as shown.

When not used for Farmers' Market activity, the hall is planned to be available for community, education, or private events which are largely expected to be weddings and other banquets and receptions utilizing the hall and outdoor patio. The greatest demand for the hall is expected to be for weekend nights in the summer and early fall and again on weekends during the holiday season from Thanksgiving until New Years. Conservatively, this is estimated to generate 50 private events per year at a supportable rental rate of \$3,000 per night (assuming a 4 hour rental period), generating \$150,000 per year.

Based on the comparable market halls, the building would also be used on a less frequent basis, and largely during the week, for community and non-profit events which are estimated at two times per month or a total of 24 events per year. These users would be most related to the food and education mission of the Market Hall. A reduced rental rate of \$1,000 per event is assumed for the non-profit and community uses, generating \$24,000 per year.

Private and community events renting the event hall would hire their own caterer and use the demonstration kitchen for this purpose. At other times, the demonstration kitchen would be available for rental for cooking classes and educational food demonstration events. With a conservative figure of two times per month for these events, additional revenue of \$12,000 per year would be available.

Market Hall Revenues

Market Hall revenues will be derived from commercial leases of space for the permanent tenants in addition to the event revenue described above. The lease assumptions by type of space are described below and summarized in **Table 8**.

Table 8
Market Hall Annual Revenue Estimates

Revenue	Alternative 1			Alternative 2		
	#/Size	Rate	Amount	#/Size	Rate	Amount
Lease Space						
Anchor Tenant	4,000 Ft	\$22 per sq ft	\$88,000	6,000 Ft	\$22 per sq ft	\$132,000
Food Vendors	6 Stalls	\$20,000 per stall	\$120,000	8 Stalls	\$20,000 per stall	\$160,000
Farmers' Market Co-op	1,000 Ft	\$15 per sq ft	\$15,000	1,500 Ft	\$15 per sq ft	\$22,500
Permanent Retail	0 Stalls	\$20,000 per stall	\$0	3 Stalls	\$20,000 per stall	\$60,000
Office Space	2,500 Ft	\$25 per sq ft	\$62,500	5,000 Ft	\$25 per sq ft	\$125,000
Subtotal			\$285,500			\$499,500
Hall Rentals						
Farmers' Market	86 Days	\$100 per day	\$8,600	86 Days	\$100 per day	\$8,600
Private Events	50 per year	\$3,000 per event	\$150,000	50 per year	\$3,000 per event	\$150,000
Community/Non-Profit Events	24 per year	\$1,000 per event	\$24,000	24 per year	\$1,000 per event	\$24,000
Kitchen Rentals	24 per year	\$500 per event	\$12,000	24 per year	\$500 per event	\$12,000
Subtotal			\$194,600			\$194,600
Total Revenue			\$480,100			\$694,100

Source: Economic & Planning Systems

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Market Hall Revenue

Anchor Tenant – The brewery, distillery, or winery anchor is programmed for 4,000 to 6,000 square feet including production and sales space. The supportable gross lease rate is estimated at \$22 per square foot, based on a survey of other brewery lease rates in the Boulder and Denver markets and a premium associated with a location generating additional business from the adjacent food vendors and market hall activity. The space is provided below downtown retail rents to be attractive to a new or unique business and not as a location for a branch for a well-established existing business. This tenant would generate \$88,000 per year in lease revenues under Alternative 1 and \$132,000 per year under Alternative 2 as shown.

Food Vendors – The permanent food vendors are small food truck type operations that provide a variety of food options in a food hall adjacent to the anchor bar. A critical mass of 6 to 8 vendors is assumed in the two alternative program options as shown. The lease rate of \$20,000 per stall is based on a 10 percent lease on estimated annual gross sales of \$200,000 per vendor resulting in a total of \$120,000 per year for Alternative 1 and \$160,000 for Alternative 2.

Farmers' Co-op Store – The Boulder County Farmers' Market is programmed to operate a year-round store selling the prepared food products of Farmers' Market vendors and other Boulder area food producers. The store would be 1,000 square feet in Alternative 1 and 1,500 square feet in Alternative 2 and would pay a subsidized gross rent of \$15 per square foot. The restrictions on what the store would sell are expected to result in below average sales per square foot and hence the need to provide a lease rate at below market prices.

Permanent Retail Vendors – The Market Hall program has an optional element in Alternative 2 of three additional permanent food tenants – a retail incubator, a shared natural foods retail space, or vendors such as a butcher, baker, and cheese producer. The lease revenues are programmed similar to the food vendors to encourage the inclusion of new entrepreneurial businesses which would not be in direct competition with existing area retailers. The additional three tenants at \$20,000 per business would generate \$60,000 per year in Alternative 2.

Office Space – The recommended development program includes 2,500 square feet of office space in Alternative 1, primarily for the Farmers' Market to be located in the hall building to be fully integrated into the market and educational components of the project. At a subsidized gross rate of \$25 per square foot this space would generate \$62,500 per year. Alternative 2 has an additional 2,500 square feet of space that is assumed to be leased to a similar non-profit tenant at the same rate, generating \$125,000 in annual income as shown.

Total annual revenues are estimated at just over \$480,000 for Alternative 1 and nearly \$695,000 for Alternative 2 as shown.

Operating Costs

Annual ongoing operating costs include personnel to manage the hall, education and programming expenses, and common area maintenance costs including utilities, security, and maintenance. The operating staff requirements for the hall were derived from existing halls and other market hall feasibility studies, and are shown in **Table 9**.

Table 9
Market Hall Annual Staffing Expenditure Estimates

	FTE	Annual Salary	# of Emp.	Total
Salary				
Executive Director	1.00	\$80,000	1.0	\$80,000
Event and Marketing Manager	1.00	\$55,000	1.0	\$55,000
Clerical	0.50	\$40,000	0.5	\$20,000
Maintenance	2.00	\$40,000	2.0	\$80,000
Security	0.50	\$40,000	0.5	<u>\$20,000</u>
Salary Total				\$255,000
Benefits				
Full-Time Benefits (% of Salaries)		30%		\$64,500
Part-Time Benefits (% of Salaries)		15%		<u>\$6,000</u>
Benefits Total				\$70,500
Total Salary and Benefits				\$325,500

Source: Economic & Planning Systems

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The market hall is estimated to require 5.0 FTE including a full-time executive director, full-time event and marketing manager, half-time bookkeeper, two full-time maintenance staff, and a half time security person. Total annual salaries are estimated at \$255,000 with an additional \$70,500 in benefits resulting in total personnel costs of \$325,500 as shown.

Expenses – A key operating assumption for the Market Hall is that it is intended to provide a strong educational component to promote healthy food and living. An estimated \$50,000 to \$75,000 per year is therefore included for this activity. Other operating expenses for the market hall include facility expenses such as garbage removal, maintenance and repairs, supplies and utilities, as well as office costs, legal and professional services, and insurance. Costs were derived from existing market halls and other feasibility studies, and are summarized in **Table 10**.

Table 10
Market Hall Annual Total Expense Estimates

Expenses	Factor Method	Factor	Alt. 1	Alt. 2
			19,200 SqFt	29,500 SqFt
Personnel Expenses				
Payroll Expense	---	---	\$255,000	\$255,000
Employee Benefits	---	---	\$70,500	\$70,500
Subtotal			\$325,500	\$325,500
Operating Expenses				
Education/Programming	---	---	\$50,000	\$75,000
Office	Cost per Sq. Ft.	\$0.55	\$10,560	\$16,225
Legal/Professional	Cost per Sq. Ft.	\$0.25	\$4,800	\$7,375
Insurance	Cost per Sq. Ft.	\$0.55	\$10,560	\$16,225
Garbage	Cost per Sq. Ft.	\$0.65	\$12,480	\$19,175
Facility Maintenance / Repairs	Cost per Sq. Ft.	\$0.85	\$16,320	\$25,075
Facility Supplies	Cost per Sq. Ft.	\$0.45	\$8,640	\$13,275
Utilities	Cost per Sq. Ft.	\$3.00	\$57,600	\$88,500
Subtotal			\$170,960	\$260,850
Total Expenses			\$496,460	\$586,350

Source: Economic & Planning Systems

H:\153086-Boulder Market Hall Feasibility\Models\153086- Budget Model.xls\Expend

Operating Expenses and Revenues

Based on these estimations, the market hall is projected to have a net deficit of approximately \$16,000 under Alternative 1, and a net revenue of close to \$108,000 under Alternative 2, as shown in **Table 11**. Based on the scope of the planning numbers used, these projections can both be considered approximately break-even operations. The income projections presented in this report are for a stabilized year; occupancy and rental income will not be 100 percent in the first few years, which will likely result in operating losses.

Table 11
Stabilized Revenues and Expenses

Net Revenue	Alternative 1	Alternative 2
Revenue		
Retail Rent	\$223,000	\$374,500
Office Rent	\$62,500	\$125,000
Hall Rentals	<u>\$194,600</u>	<u>\$194,600</u>
Total Income	\$480,100	\$694,100
Expense		
Payroll Expense	\$255,000	\$255,000
Employee Benefits	\$70,500	\$70,500
Education/Programming	\$50,000	\$75,000
Office	\$10,560	\$16,225
Legal/Professional	\$4,800	\$7,375
Insurance	\$10,560	\$16,225
Garbage	\$12,480	\$19,175
Facility Maintenance / Repairs	\$16,320	\$25,075
Facility Supplies	\$8,640	\$13,275
Utilities	<u>\$57,600</u>	<u>\$88,500</u>
Total Expenses	\$496,460	\$586,350
Net Revenue	(\$16,360)	\$107,750

Source: Economic & Planning Systems

H:\153086-Boulder Market Hall Feasibility\Models\153086- Budget Model.xls\Market Hall Proposed Budget

Conclusions

The Market Hall is approximately a break-even operation in a stabilized year. Alternative 1 is projected to have a moderate deficit; the additional elements in Alternative 2 provide both more attraction for customers and visitors, as well as additional revenue. The revenue generated by Alternative 2 is not substantial enough to contribute to towards the capital construction costs of the facility and should be used for on-going purpose. To build the Market Hall, a variety of alternative funding sources will be needed.

7. MANAGEMENT AND OWNERSHIP

Overview

Historically, public markets were often started and managed by cities, but today most cities are getting out of the market business and supporting other management models to keep their public markets fresh, relevant and more efficiently operated.

There are range of options for the development and management of a public market. In the past, the most prevalent form of public market was one that was publicly owned and operated by the City. As food production and distribution systems changed, many of the historic markets went into decline and most closed. Of the historic markets that remain, most are still owned by the City but operated by nonprofit corporations with strong community and stakeholder representation.

Some public markets are still owned and operated by the City. But an encouraging shift has seen many cities transfer management and stewardship of their market to not for profit corporations who are more effective at fulfilling the potential of public markets as centerpieces to grow their local economy and food communities. Simultaneously, cities are once again establishing new public markets with management by a not for profit corporation as the most preferred option.

The establishment of Boulder's public market is part of an ongoing evolution with deep roots in the community from pioneering open space legislation to the still-growing Boulder County Farmers' Market and the myriad successes of Boulder's natural food entrepreneurs. New partners, such as those from the academic and health/wellness communities are increasingly interested in collaborating and they can bring additional energy and assets to broaden the impacts of this evolution.

The following recommendations outline a collaborative approach for the development, implementation and ongoing management of Boulder's Public Market:

Building Ownership

Recommendation – City of Boulder

Public markets are valued civic amenities that operate in public spaces and serve public goals. It is entirely appropriate that the City of Boulder continue to own the property and lease it to a nonprofit corporation. The terms of the agreement would be spelled out in a Lease and Services document. It is also recommended that the market open debt free and aim to be operationally self-sustaining. Fundraising would be a joint effort of the City and the nonprofit corporation.

As owner of the property, the City would be able to establish the lease and operating terms that best guarantee the goals of the market. In effect, the not for profit would be fulfilling the wishes of the public expressed through an operating agreement, or lease, with the City. This way the City gets the public market it wants and is unburdened from the full, ongoing responsibility.

The public market should raise all of its capital and start-up costs, as the market should not be expected to carry debt, but ought to contribute any operating surplus into a capital reserve fund or to implement additional public programs. While there are no dedicated public funding sources

for public market capital costs, the many new markets that are opening indicate ample funds are competitively available and markets are increasingly seen as a good public investment. Many funders who might not give money to a City are more willing to give money to public market projects that are run by dedicated not for profit management.

The City would never be out of the loop – it can remain an influential partner and best guarantor of the public interests by establishing the foundations of what Boulder's public market should be. The City can also decide what ongoing roles and responsibilities it would have and formalize them as part of the lease agreement.

Management

Recommendation – Community based independent nonprofit corporation

Developing and managing a public market requires dedicated management, committed to fulfilling Boulder's public goals as well as being fiscally responsible.

The spectrum of management in public market's today consists of the City, nonprofit corporations and to a lesser extent private corporations. Cities are getting out of the market management business and in most cases turning over this responsibility to nonprofit corporations. Privately operated 'public' markets are rare, however the new 'food halls', tenanted with the more profitable prepared food vendors, are being developed by for profit businesses.

A not for profit corporation is best suited to take on the development and operating challenges of a public market in Boulder, especially because of its ability to fundraise, create partnerships and deliver positive outcomes to build the health of the community, increase local food security and continue fostering the local food and agricultural economies.

The Board of the nonprofit should be community based and may include members from the City of Boulder and the Market Hall Working Group. The number of board seats typically range from six or seven members to over twenty, so there is a lot of latitude and examples that have worked well. This is a decision best made by the City and Market Hall Working Group. The board should not be seen as over dominated by any group and should be comprised of seats that best serve the market goals.

The responsibility of managing a public market obviously involves the rigors of normal property management. In addition to this base responsibility are perhaps the two most important jobs – leasing and promotion. If you get the right tenants and position the market as a desirable and useful public place of gathering and commerce – the market will be on solid ground. A successful public market is hardly just about a nice building – it is the overall experience that both reflects and surpasses people's expectations that will make it a cherished institution for the long haul.

Two of the most important jobs for management are:

Tenant Recruitment – There are a variety of leasehold options that will appeal to a wide audience of potential tenants from small scale, experimental startups to seasoned entrepreneurs. The faces behind the stalls need to reflect the community – the market should be seen as a place of opportunity for anyone willing to work within the public goals that build community health and the local food economy. The outreach for leasing needs to run concurrently with the project's development and it is essential that this responsibility is prioritized. Often, the manager or director of the market takes on this task. Establishing the right mix of products and people is an

alchemical process one that creates a whole larger, much larger than the individual pieces. As the market should be set up as a nonprofit corporation, leasing decisions can be based on what will make the market a strong community asset and fulfill the public goals rather than what would make the most money.

Promotions – Most markets do not have large amounts in their budgets for advertising and marketing. The answer to this challenge is to magnify the effectiveness of limited funds through promotions that generate publicity, social media and word of mouth. The tenants should be very involved in the promotions and collaborate with management both during the inception and execution.

As a rule, any kind of promotion is making the market customer a better market customer. As there is always a desire to do more in this category, it would be advisable to work side by side with the tenants to establish this budget on an annual basis. Advertising and marketing costs are essentially passed through as an operating expense. Ergo, if the tenants want to promote more they will understand their financial obligation and agree up front about what is the best approach.

Additionally, a nonprofit corporation is best able to achieve following:

Operational Objectives

- Set high standards of fairness, maintenance and integrity
- Run Boulder's Public Market efficiently and cost-effectively
- Grow the Market, Reinvest in the Market

Public Objectives

- Coordinate public and private interests
- Sustain the Market as a public gathering place

District and Community Development Objectives

- Leverage the Market as a catalyst for the Civic Area
- Establish partnerships and collaborations

Next Steps and Implementation Strategy

This report outlines the basic feasibility, concept and development process for a public market – yet, there is still much to be done. The City should continue in its role as convener of the process to build understanding and support for the market. Prior to addressing any proposed development timeline, the City should initiate a more robust public engagement to understand how a public market can best play out in Boulder as follows:

- Refine Program, Mission
- Cultivate Partnerships and Sponsors
- Continue discussions with potential tenants
- Refine the business plan
- Investigate various implementation phasing options
- Understand the financial/fundraising obligations
- Explore City and nonprofit partnership

Once a focused consensus emerges, the following series of events and next steps can begin:

- Create working design concept
- Outline a draft business plan
- Establish the Not for Profit Corporation

The Not for Profit Corporation would hire an executive director. The Executive Director could be hired earlier and could help with any or all of the initial tasks. Funding would need to be raised for this position. It may be a good investment to have a paid, dedicated person to oversee and drive this process. The next steps for the newly formed organization would be to:

- Hire additional staff
- Complete Development and Implementation Plan
- Negotiate a Lease and Service Agreement with City of Boulder
- Hire architect and complete market design
- Set and approve budgets for the project's development
- Set and approve budget for ongoing market operations
- Set Timeline
- Enlist program partnerships and sponsors
- Continue Fundraising
- Tenant Outreach, Leasing and Coordination
- Oversee construction
- Open and operate the public market project

Funding Strategy and Sources

Today, new public markets are being developed with creative combinations of federal, state, and local funding. The City of Boulder in partnership with the nonprofit public market has the opportunity to jointly build a broad base of support to make this proposed project.

Even the so called biggest or best markets in the country have been and continue to be recipients of public funds. In fact, the citizens of Seattle recently approved nearly \$70 million in a voter referendum to pay for a complete overhaul of their beloved Pike Place Market's infrastructure including seismic upgrades.

The true success of a market is not measured by its cash flow – it is the catalytic role they play in creating valued places, strengthening the local economy and building community that is their greatest asset. There is a long list of 'benefits' – jobs, social gathering place, cultural asset, nutrition, wellness, etc. – that are worth more than money.

Recommendations

- The proposed Boulder Public Market should raise all development, start-up and capital costs (and any projected operating shortfalls) and not use cash flow as a financing method.
- Operational sustainability should be the goal, with any surplus used to further support the mission and/or establish a capital reserve fund.

Sources

Today, markets are drawing on a wide array of funding sources from federal, state and local sources as well as from foundations, corporations, sponsors, individuals and partnerships. While there are precious few allocated dollars for markets – there are competitive and active sources of funding. The following sources have provided funding for public markets in recent years:

Economic Development Administration (Department of Commerce)

Apply directly to appropriate EDA regional office to discuss proposals and obtain additional information. The EDA has recently awarded grants to markets up to \$1,000,000.

USDA

The USDA has been providing more and more grants for markets, from planning new markets, fixing up old ones and helping establish community based food programs. A central part of their mission is, of course, to help farmers and the County's commitment to farming and ranching and the continuing growth of the Boulder County Farmers Market will add strength to any request.

The USDA website for market funding opportunities is:

<http://www.ams.usda.gov/farmersmarkets/Consortium/FMCResourceGuide.pdf>

Department of Health and Human Services

HHS has provided grants to market projects for predevelopment planning and also for construction through the following programs:

- Community Food and Nutrition Program (Office of Community Services, OCS)
- Community Economic Development (CED)

OCS and HHS are more apt to fund lower income communities, so this may be a challenging 'ask' for Boulder.

Colorado Fresh Food Financing Fund

Colorado Fresh Food Financing Fund (CO4F) improves access to healthy food in underserved Colorado communities by financing grocery stores and other forms of healthy food retail. The seed funding for CO4F comes from The Colorado Health Foundation, which developed this initiative based on research on food access barriers in Colorado communities and national Fresh Food Financing best practices. CO4F is partnering with the Colorado Enterprise Fund (CEF) to finance small and innovative fresh food concepts. The Colorado Housing and Finance Authority (CHFA) serves as the fund administrator and manages the allocation of grants and loans. The CO4F offers both loans and grants. CO4F financing uses include:

- Business start-up and expansion costs
- Opening a new store
- Keeping a store open under new ownership
- New or upgraded equipment and displays
- Land assembly
- Developing an innovative business concept

The program is aimed at helping increase access to healthy foods to underserved areas. Boulder and the Civic Area likely does not meet this definition but could explore this program. The funding of the Market Hall may be seen as an innovative business concept that could be replicated elsewhere in the state. This program has also struggled to find viable projects to fund so maybe be looking for creative endeavors to help.

Partnerships and Sponsors

One of the most promising trends in markets today is the emerging interest of sponsors whose missions overlap with the public market.

Synergies with the health and wellness sector are proving to be particularly effective. For instance, in Flint MI a pediatric health clinic collocated with the public market as a way to connect the dots with our choices about food, eating and personal health.

The broader environmental community is another potential sponsor group that naturally fits in with the market. At the new Public Market in Boston, a conservation group sponsors the annual programming of 'The Kitchen at Boston Public Market'. From their website:

"The Kitchen is a gathering place for all to share and learn about the healthy bounty of Massachusetts. It is the center of community education, programming and interaction, featuring engaging workshops, programs, tours and events that are relevant and accessible to the Boston community."

Opportunities for capital funding and ongoing operating support can be explored with potential sponsors and partners.

Other sources that have historically supported markets:

- Community Development Block Grants (for capital grants)
- Federal, State, County or City direct Appropriation
- State Cultural Resource Funds
- State Trust Funds or other special purpose state funds
- Catholic Campaign for Human Development
- Local and national foundations
- Local corporations and individuals
- Fundraisers

Many markets have had successful fundraisers (dinners, tastings, raffles, etc.) with some raising over six figures. Fundraisers have been successfully organized to build capital support as well an ongoing support once the market is open. Some markets also have “Friends of the Market” volunteers who lead annual fundraising efforts.

Interim Strategy Option

While the planning process continues, it would be useful to do some fun, low-cost experiments that will help inform the feel of the overall project – i.e. start a night market, do pop-markets and work with potential public market vendors to test their products and hone their concepts:

- It is important to build enthusiasm for the project from potential vendors and customers – and participatory activities are more apt to enlist positive support than a planning process.
- This experiential approach will connect people, grow the market culture and provide learning opportunities. Going ‘live’ now will add credibility, publicity and momentum.
- It will take some initial funding, but not very much, and may be appealing to any number of funders – who would like to see the market come alive sooner than later.



Appendices



“Since the involvement of the Local Foods working group in July and August of 2014, the Civic Area team and its consultants have been working on the 1st phase implementation of the Civic Area Plan which is focused on parks improvements. Boulder citizens approved an \$8.7M bond in November of 2014 to help implement this phase of the plan, for with construction is slated to begin in the summer of 2016. At the same time, we are beginning to focus on the next phase of the plan, which includes a possible year-round venue for local foods and local goods (including natural products and locally made products) that would supplement the existing outdoor Farmers’ Market as well as advance regional local foods policy. That’s why I am writing to ask that you lend your expertise regarding the proposed year-round public market hall.”

-Excerpt from intro letter to Market Hall Working Group Members

Civic Area Market Hall Working Group participants:

- Mayor Suzanne Jones, Boulder City Council
- Lentine Alexis, Skratch Labs
- Allen Lim, Skratch Labs
- Mark Retzloff, Alfalfa's
- Ann Cooper, BVSD
- Arron Mansika, Naturally Boulder
- Peter-Christian Olivo, Blackbelly
- Jennifer Kemp, Boulder County Parks & Open Space
- Kathay Rennels, Colorado State University
- Lenny Martinelli, Three Leaf Concepts
- Michael Memsic, Sanitas Brewing Company
- Paul Houle, University of Colorado Boulder
- Pete Newton, University of Colorado Boulder
- Sean Maher, Downtown Boulder, Inc
- Sylvia Tawse, Fresh Ideas Group
- Dan Hayward, Savory Spice Shop
- Jonathan Kates, Foodies Outdoor Markets
- Rachel Arndt, Boulder County Public Health
- Kathey Pear, Foodies Outdoor Markets
- Brian Coppom, Boulder County Farmers' Markets
- Christian Toohey, Boulder County Farmers' Markets
- Jim Toohey, Boulder County Farmers' Markets
- Richard Foy, Boulder County Farmers' Markets



City of Boulder Floodplain Terminology

The City of Boulder regulates floodplains along Boulder Creek (and throughout the City) through the City Code, Sections 9-3-2 through 9-3-8. The 100-year floodplain through the Civic Area is defined by zones, with varying restrictions on development activities:

1. **100-Year Floodplain** – this is the area that is susceptible to being inundated by a flood event that has a one percent chance of occurring in any year. Structures built in this area are required to either be elevated above the flood protection elevation or floodproofed.
2. **Conveyance Zone**— this is the portion of the floodplain required for the passage or conveyance of the one-hundred-year flood. For work in the Conveyance Zone (grading, non-habitable structures, etc.) a “no rise” criterion applies and a floodplain study is necessary to confirm.
3. **High Hazard Zone**— consists of portions of the floodplain where an unacceptably high hazard to human safety exists defined as those areas where the product number of flow velocity (measured in ft./sec.) times flow depth (measured in feet) equals or exceeds four, or where flow depths equal or exceed four feet.

Floodplain mapping is used to help identify the highest risk areas in the city and set boundaries for flood insurance and regulations. The mapping is based on complex models with many variables and assumptions. Climate change is not factored into the mapping and the mapping does not predict maximum flood limits.

Flood Protection Elevation – This is the elevation that structures built within a floodplain must be elevated or floodproofed to. In the 100-Year Floodplain this is 2 feet above the water surface elevation of a 100-Year Flood.

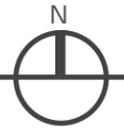
KEY FEATURES

NORTH SIDE

1. A new 2-story building (approx. 50,000 sf) can fit that could replace the existing Library North Bldg., currently located in the High Hazard Flood Zone (HHZ). (This assumes that the north wing of the library is not landmarked & existing library functions are consolidated elsewhere.)
2. The new building is located in Ineffective Flow Area, outside of the HHZ.
3. The main Assembly Space elevated to about 12.5' above Flood Protection Elevation (FPE), is located at Terrace level-Level 2. This space could be used for assembly uses (up to 500 seats) or for other community events.
4. Bridges connect Terrace level to the future Civic Use Pad over Canyon Blvd. and to Arapahoe Ave. over Boulder Creek.
5. Building Entry at Level 1 is 2' below FPE and flood protected.
6. Community spaces/restaurant elevated to FPE on Level 1.
7. HC Parking and Service Access located below building on grade. The elevation is less than 18" above 100 yr. flood level.

SOUTH SIDE

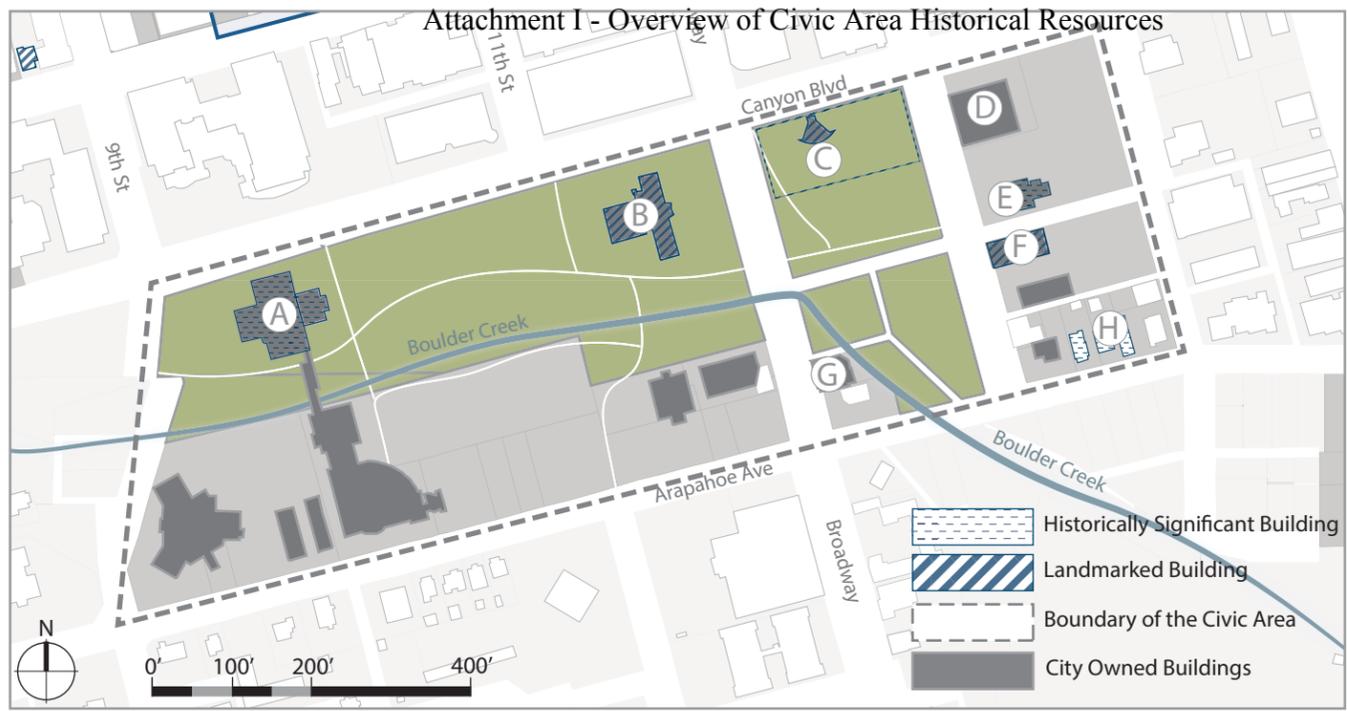
1. New Gregory Creek Drainage Channel diverts flow to creek and makes area west of Library subject to Boulder Creek flood elevations and not Gregory Creek.
2. New 5 level parking structure can be located 30' west of Library with about 400-500 parking spaces. The size depends on whether the garage goes underground and if it extends to the building on the west. The existing 14-unit housing would need to be relocated.
3. A 40' deep, 3 level garage wrap to south is shown that could step down Arapahoe to maintain transparency at sidewalk. Floor level is above FPE so no impacts on storefront requirements. Total wrap sf is about 15,000sf.
4. New building, attached to west of garage with courtyard facing west. Total of about 50,000 sf. The building is subject to Boulder Creek FPE and fronts on the corner of 9th and Arapahoe.
5. New Library Addition to east of Library faces Arapahoe and new park with library and park support functions. It is separated from library by plaza. The new building could have 2 and 3 story areas with a total of about 22,000 sf.





Historic Resources in the Civic Area

The Civic Area has a rich history, including Frederick Law Olmsted, Jr.'s 1910 plan for improvements to Boulder, which was the genesis for the formation of Central Park in the early 1920s and the Boulder Creek Greenway and path system in the 1980s. In addition to Olmsted, the area was shaped by other prominent designers including several members of "a group of first-rate modern architects." Glen Huntington, James Hunter, and Hobart Wagener, as well as nationally-known landscape architect Saco R. DeBoer. The Glen Huntington Band Shell survives as a rare and prominent example of Art Deco, while the Municipal Building and Public Library present a distinctly mid-century modern civic identity with a regional flair befitting Boulder's natural setting.



Publicly Owned Buildings



A
North Wing of the Library, 1961
900 Canyon
Potentially Eligible for Local Landmark Designation

- Designed by James Hunter ten years after the completion of the Municipal Building.
- Surveyed in 1995; found to be significant for its association with Hunter and the history of libraries in Boulder, and for its Modern (Formalist) design.



B
Boulder Municipal Building, 1951
1777 Broadway
Individual Landmark (2008)
Potentially Eligible for Listing in the State Register of Historic Places

- Designed by James Hunter; addition in 1962 by noted modernist architect Hobart Wagener.
- Featured in a 1953 issue of Progressive Architecture; Hunter described the building as "an effort to gain maximum monumentality with the minimal mass."
- Significant as a prominent visual feature along Broadway and for its association with the history of local government in Boulder.



C
Glen Huntington Band Shell, 1938
Individual Landmark (1995)
Potentially Eligible for Listing on the State and National Registers of Historic Places

- Designed by Glen Huntington, architect in association with landscape designer Saco DeBoer
- Rare and prominent example of the Art Deco style in Boulder
- Significant for its role in the social and cultural life of the city
- One of only two WPA-era band shells in Colorado



D
Midland Savings and Loan/Atrium Building, 1969
1300 Canyon
Pending Landmark Designation Application
Potentially Eligible for Local Designation and Listing on the State Register of Historic Places

- Designed by Hobart Wagener, noted Modernist architect
- Midland Savings and Loan was located here from 1969-1984
- Large interior wall expanses to accommodate the collection of modern art
- Use of local stone, pyramidal hipped roof, the high quality of craftsmanship, and the integration of interior and exterior spaces.
- Has been occupied by city offices since 1995



E
Dushanbe Teahouse, 1997
1770 13th Street
Potentially Eligible for Local, State and National Designation

- Gift of friendship between sister cities Boulder and Dushanbe, Tajikistan, located in the former Soviet Union. Only "chaikhona" (Central Asian/Tajik) Teahouse in the Western Hemisphere.
- Over 40 Tajik artists and master-craftsmen constructed the Teahouse in 1988, and then shipped it to Boulder in 200 crates.
- From 1997-1998, with the assistance of Tajik artists, the city constructed the teahouse in its current location.



F
City Storage and Transfer Building (BMoCA), 1906
1750 13th Street
Individual Landmark (1992)

- Constructed for use as a warehouse until the 1970s.
- Example of early 20th century warehouse architecture.
- The building was purchased by the City of Boulder in the 1970s and used for storage before opening as the Boulder Center for Visual Arts (now BMoCA) in 1976.

Privately Owned Buildings



H
1321 Arapahoe, Music Shop
Residential, converted to commercial use; c. 1910
Surveyed in 1994
 Although altered, house is representative of the small vernacular houses dating from the early twentieth century in Boulder - hipped roof, porch, and double-hung windows



1327 Arapahoe
Constructed c.1905
Surveyed in 1994
 Well preserved example of the Classic Cottage style popular during the early twentieth century in the US - hipped roof, the front gable with circular window and wood shingles, and the classical columns of the porch. Associated with William and Sarah Bryant, members of Boulder's small African-American community



1703 14th, Apartment Building
Constructed in 1911
Surveyed in 1994
 Significant as one of the early twentieth century boardinghouses/apartments in Boulder, double-hung windows, pattern concrete block construction



G
Yocum Building, 1907
1724 Broadway
Structure of Merit (1997)
Historically Significant

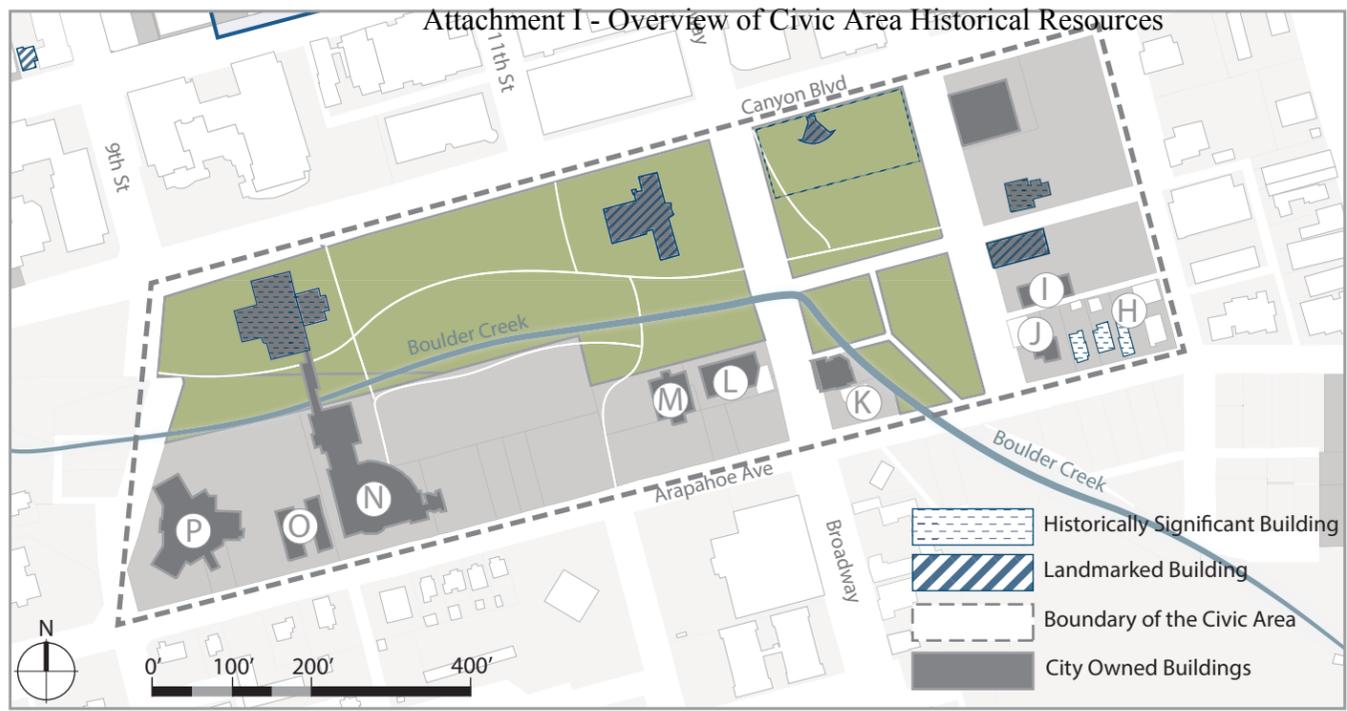
- Structure of Merit recognition does not carry regulatory review.*
- Constructed as a photography studio
- (Daniel and Pearl Yocum) Yocum's Photography Studio by from 1932-1972 (20,000 portraits of Boulder residents)
- Remodeled in 1975 by Charles Haertling for use as his architectural office.
- Significant for its association with Yocum and Haertling.



Non-Historic Resources in the Civic Area

These buildings are located within the boundaries of the Civic Area and are not considered eligible for local landmark designation.

March 2016



Privately Owned Buildings

H



Privately Owned Commercial Building, 1925
1705 14th St.
Surveyed in 1994

- Alterations to this building have diminished its historic integrity.
- Rusticated concrete block construction with a wood facade.
- This building was occupied by Richmond and Belle French in 1928.

J



Privately Owned Commercial Buildings, 1937
1708-1710 13th St.
Not considered eligible for local landmark designation

- Occupied by the Higgins Motor Company in 1938.
- New brick façade with plate glass windows and inset entrance.
- Extent of alterations have diminished its historic integrity.

K



Gas Station, 1958
1201 Arapahoe
Not considered eligible for local landmark designation

- Constructed in 1958 as Standard Oil Company service station with flat roof and enameled panels.
- Significantly altered in the 1980s with the application of a brick veneer and introduction of a mansard roof.
- Alterations have diminished its historic significance

Publicly Owned Buildings

I



City Offices
1750 13th St. (2 buildings)
Not considered eligible for local landmark designation

- Currently used for city offices
- Alterations to these buildings have diminished their historic integrity.

L



Park Central, 1974
1739 Broadway
Not considered eligible for local landmark designation

- Constructed above Mustard's Last Stand in 1950.
- Site of lumber yard and gas station prior to existing building
- Built by the New Britain Company. Occupied by the City of Boulder by 1979.
- Example of 1970s Brutalism

M



New Britain, 1971
1101 Arapahoe
Not considered eligible for local landmark designation

- Constructed in 1971 by the New Britain Company for use as city offices.
- Architectural features include plate glass windows, exterior stair, and mansard roof

N



Main Library, South Wing, 1992
1001 Arapahoe
Not considered eligible for local landmark designation

- Designed by Midyette/Seieror & Associates with Eugene Adbury in 1992.
- Large glass Atrium, stone & curtain wall construction

O



951 Arapahoe Ave, c. 1955-1960
Not considered eligible for local landmark designation

- Two multi-unit buildings constructed c.1955-1962
- 2-story brick building originally constructed as a 9-unit motel.
- Damaged by fire in 1977

P



West Senior Center, 1985
909 Arapahoe
Not considered eligible for local landmark designation

History of the Civic Area

March, 2016

I: Early History

The history of Boulder's Civic Area reflects the city's growth and development with its landscape and associated features as physical embodiments of an evolving cultural landscape. Located in the heart of the city, bounded between 14th and 9th streets on the east and west, and by Canyon Boulevard and Arapahoe Avenue on the north and south, the development of the current-day Civic Area has been shaped by Boulder Creek, which bisects the park. From Boulder's establishment as an industrial mining supply and agricultural center, to its position today as an internationally renowned center of research, education, and environmental conservation, the city's Civic Center continues to evolve with its past in mind.

Archaeological sites along Boulder Creek reveal Native American use and occupation in the area for many thousands of years. When the first white settlers came to Boulder in 1859 they chose to camp near the creek and soon built houses along its banks. W.C. Willits' 1888 Map of Boulder shows a number of buildings constructed in Smith's addition which was platted in what is now the Civic Area, with additional residential, commercial and industrial buildings constructed through the early decades of the twentieth century. Flooding has been a perennial



Rathbone Sisters Brass Band Performing at Camp Bentley (now Central Park) in Boulder September, 1895

issue along the creek and a May 1894 photograph not only shows the effects of the catastrophic deluge that occurred that year, but also reveals that the area south of Canyon (then Water Street) between Broadway and 13th Street, had been fenced and was, apparently, functioning as a park.

A series of photographs from 1895 show festivities at what is now Central Park (then known dubiously as Cigarette Park), sponsored by the Knights of Pythias including a performance by the Rathbone Sisters Brass Band. The park was converted into



Joseph Sturtevant Photograph of Flood of 1894 taken from south-east corner of Broadway and Canyon (Water Street). Note treed and fenced park area at right



1899 Sturtevant Photograph of the Denver & Interurban Bridge crossing Boulder Creek in location of 11th Street Footbridge.

a military camp for the weekend as a number of martial events took place. The September 13th, 1895 issue of *The Daily Camera* reported that the event was the “best Boulder has ever seen” and that a “Boulder band made sweet music . . . amid the cheering of hundreds of spectators”.¹

II: The Olmsted Plan

The genesis of today’s Civic Area really begins with Frederick Law Olmsted, Jr.’s 1910 plan, “The Improvement of Boulder.” Olmsted’s vision for the city included creating a creek park to, “give a piece of recreation ground worth a great deal to the people.” In 1900 Boulder was a university town of 6,000 with an agricultural-based economy and several heavy processing mining related mills located along the creek.

A shanty-town known as the “Jungle” was located along the south side of creek between 10th and 11th Streets. Just north of the Jungle, the Denver and Interurban Rail line connected Boulder and Golden, crossing the creek where the 11th Street foot bridge is now located. Starting in the 1870s newspaper accounts mention a number of brothels being located along the 1000 block of Railroad Street (Canyon Boulevard) as well as the infamous “Bon-Ton House” which stood near where the band shell is now located.²

At least partly in response to the conditions along Boulder Creek, the Boulder Improvement Society reformed in 1903, after having become less active since its initial formation in 1890, “to make Boulder more healthful, more beautiful and in every

¹ Boulder Daily Camera, September 13th, 1895 p.2

² Charles Sanford Gladden – *Early Boulder Series, No.5 Ladies of the Night*, 1979 p.21

way more desirable . . .”³ In 1908 the renowned landscape architect and planner Olmsted was brought to Boulder from Boston by the group to draw up a plan to make recommendations for improvements to the city including “the control and beautification of the creek.”⁴

Olmsted envisioned a continuous belt of parks and trails along the creek, which would not only beautify the city, but also prevent flood damage by keeping development away from the flood plain. Olmsted’s vision for the city included creating a creek park, and recommended the establishment of a municipal center to replace existing city offices, which he observed as “makeshift, neither convenient nor by any means worthy of the community.”⁵

In 1921, the Boulder Tribune reported that the Jungle had been removed and that “squatters” along Boulder Creek had relocated to other parts of town or left Boulder.⁶ The removal of the shanty town appears to have prompted a lease to the city of land along the rail by the Colorado and Southern Railway as well as donation of land along the creek to the city for a park by Mrs. C.A. Butsch and coinciding with the removal of several dilapidated buildings in the area. In 1928 the Tribune proclaimed that the acquisition of land for the park had resulted in a transformation of an area that had been a



Edward Tangen Photograph of the Jungle just located between 10th and 11th Streets on the south side of Boulder Creek

³ Lynn I. Perrigo in *A Municipal History of Boulder 1871-1946*, 1946. P.216

⁴ *Ibid.*, p217

⁵ Frederick Law Olmsted, Jr., *Report for the Improvement of Boulder*, 1910, pg. 103

⁶ *Boulder Tribune*, July 29th, 1921



Glen Huntington Band Shell December, 1941

“red light district” and “a disgrace to the city.”⁷ Photographs of the park from the 1920s show a number of improvements including pathways, picnic tables, the planting of trees and construction of flood control devices along the creek and ditch.

Olmsted’s plan continued to shape the Civic Area through the twentieth century, with the construction of the Municipal Building in the 1950s and the realization of the Boulder Creek Path system in the 1980s, greatly enhancing the public’s use and enjoyment of the park.

III: The City Beautiful and the Band Shell

The impulse to improve public lands was likely inspired, at least in part, by the then popular City Beautiful movement that advocated for natural, healthy, and attractive communities. A reaction to the often crowded and unhealthy urban conditions of nineteenth century America, it sought to improve a city’s quality of life by creating grand parks and civic areas for all walks of life. One outgrowth of the City Beautiful appears to have been advocating for construction of band shells as amenities to provide public performance space in city parks. The Boulder Lion’s Club’s construction of the Central Park Band Shell in 1938, after designs by local architect Glen Huntington and Denver-based landscape architect and planner Saco DeBoer, was a realization of Olmsted’s vision of “a special type of recreation ground”⁸ for Boulder. Immediately,

⁷Boulder Daily Camera, April 13th, 1928

⁸Olmsted, pg. 17.

the compound arch Art Deco design became a focal point for public events in the city including musical concerts, cultural programs, educational presentations and civic gatherings of all types.⁹

In 1944 the City Planning and Parks Commission again employed DeBoer to develop plans for the Civic Area that included a Municipal Building to house the various functions of city government. De Boer developed several preliminary schemes for the area, including an emergency flood plain, enhanced recreation areas, the construction of boulevards, and relocation of the rail depot. All of the proposals were influenced by City Beautiful concepts of monumental grandeur and all called for construction of the Municipal Building in its current location at the southwest corner of Broadway and Canyon Boulevard.



1910 Olmsted Plan of Boulder

⁹Front Range Research Associates, Inc. 1995 Boulder Bandshell Historical Study, pgs. 9-10



1946 Saco DeBoer Rendering of Proposed Civic Area

IV: Modern Civic Space

As Boulder continued to grow following World War II, a global, more futurist spirit embodied in Modernist design began to grow in popularity. The first public manifestation of this impulse occurred in the Civic Area with commissioning of noted local architect James M. Hunter to design the Municipal Building in 1952. Nine years later, in 1961, Hunter was again commissioned to design the Boulder Public Library in 1961, creating a strong axial connection between it and the Municipal Building.

The modern composition of buildings and conscious spatial relationship from the library on the west to the band shell at the east was extended further in 1969 with the construction of The Midland Savings and Loan Building (Atrium Building), designed by renowned local architect Hobart Wagener. As with the Boulder Public Library and the Municipal Building, the Midland Savings and Loan Building represents a mixing of modernist concepts with a palette of local materials which creates a strong interior/exterior relationship of space connecting to Central Park.

V: Global Community

The Civic Area's status as the civic and cultural heart of Boulder was further established in the 1970s with the conversion of the 1906 City Storage and Transfer to the Boulder Museum of Contemporary Art and in 1998 with the assembly of the Dushanbe Teahouse and development of its garden. A gift to the people of Boulder from its sister city, Dushanbe, Tajikistan in 1987 (then a republic of the Soviet Union), the building is truly unique as the only Central Asian teahouse in the Western Hemisphere. The presence of the Farmer's Market along 13th Street, along with the continuing improvement of multi-modal paths through the Civic Area have greatly added to the success that this place is today.

Taken as a whole, the cultural resources of the Civic Center Area not only tell the story of Boulder's growth from a small mining supply town to a dynamic twenty-first century city, but they also survive as representations of the deep, and still evolving, value the community puts on the connection of the natural and built environment.



Boulder Municipal Building shortly after its construction in 1952



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 5, 2016

AGENDA TITLE: Update on the implementation of the Black Bear Protection Ordinance (Ordinance No. 7962)

PRESENTER/S

Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning Housing & Sustainability
Susan Richstone, Deputy Director of Planning, PH&S
Greg Testa, Police Chief
Lesli Ellis, Comprehensive Planning Manager, PH&S
Valerie Matheson, Urban Wildlife Conservation Coordinator, PH&S
Kara Mertz, Environmental Action Project Manager, PH&S
Tom Trujillo, Boulder Police Department Commander
Jennifer Riley, Code Enforcement Supervisor
Janee Boswell, Animal Control Supervisor

EXECUTIVE SUMMARY

The purpose of this memo is to provide council with an update on the implementation of the Black Bear Protection Ordinance (Ordinance No. 7962, adopted by City Council on March 18, 2014).

This memo includes information on:

- the phased approach to implementing Ordinance No. 7962;
- 2015 urban bear activity in comparison to the past six years;
- waste disturbances by bears and waste cart monitoring; and
- the development of a black bear study in partnership with Colorado Parks and Wildlife (CPW).

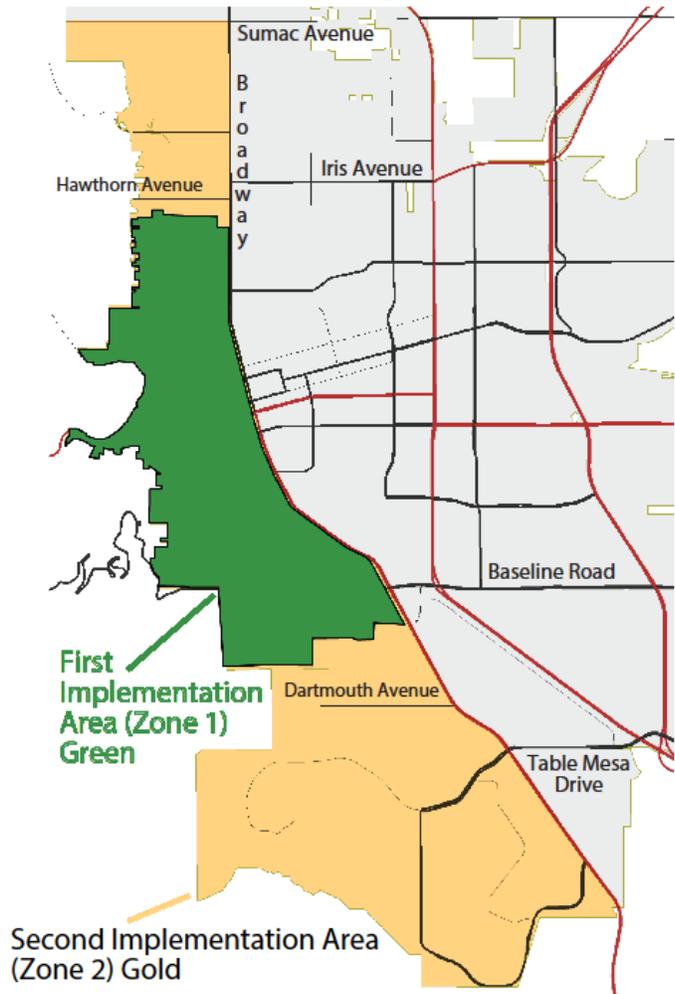
Ordinance No. 7962 requires trash and curbside compost containers to be secure from bears at all times within the Secure Trash Regulation Zone. Implementation efforts began in the spring of 2014 and include the following three phases:

- **Phase I-** single family residences with approximately 6,000 trash and compost carts in Zone 1, effective Oct. 1, 2014.
- **Phase II-** commercial and multifamily units comprised of an estimated 580 dumpsters in all of the Secure Trash Regulation Zone, and single family residences with an estimated 8,700 trash and compost carts in Zone 2, effective June 15, 2016.
- **Phase III-** all public waste containers in the entire Secure Trash Regulation Zone in coordination with the implementation of the Universal Zero Waste Ordinance effective date to be determined.

Specific patterns identified in the 2015 urban bear report and monitoring data include:

- Bears had knocked over and strewn trash from a similar number of carts in 2015 (five carts) as compared to 2014 (four carts), and considerably fewer than in 2013 (116 carts) and 2012 (142 carts), and
- The proportion of bear reports east of the Secure Trash Regulation Zone (Broadway) was greater in 2015 than previous years.

Bear Protection Ordinance Secure Trash Regulation Zone



Though bear activity east of Broadway increased in 2015, staff is not recommending an expansion of the Secure Trash Regulation Zone in response to the past year. 2015 was

the first bear season the ordinance was implemented and a difficult year for bears to find food in natural areas across the Front Range due to a natural food crop failure.

The city and CPW staff are working together to develop a study to gain additional information about how and when bears use the urban area. The goal of the study is to improve human-bear coexistence by better understanding how black bears use the urban area of Boulder.

No council action is requested but staff will be available on April 5, to answer questions.

BACKGROUND

Bear Protection Ordinance

On March 18, 2014 council adopted Ordinance No. 7962 requiring trash and curbside compost containers to be secure from bears at all times in most of the city west of Broadway. (See March 18, 2014 City Council agenda item titled: Consideration of a motion to adopt on third reading Ordinance No. 7962

<https://documents.bouldercolorado.gov/WebLink8/0/doc/125025/Electronic.aspx>.)

Implementation at the time of the ordinance adoption included a phased approach, hiring additional enforcement staff, and monitoring the effectiveness of the ordinance and bear behavior. For more information on the background of the ordinance see *Attachment A*.

ANALYSIS

This section includes information about the efforts made, and the information gathered through each phase of Ordinance No. 7962 implementation. The information is organized by each of the three phases of implementation, and includes information on:

- phase timeline, area, and waste containers involved;
- education and enforcement efforts; and
- urban bear activity and waste cart monitoring.

Phase I ordinance implementation (June – Dec. 2014)

Phase I of Ordinance No. 7962 implementation began in the spring of 2014 and included single family residences in Zone 1. During the months of June through September 2014, approximately 3,100 trash, and 2,900 curbside compost bear-resistant carts were put in use at single family residences in Zone 1. This phase also involved: notifying landowners, residents, and property managers about the ordinance requirements, working with local trash haulers to establish a feasible cart distribution and compliance timeline, focused education and enforcement, and monitoring the effectiveness of the ordinance, and bear behavior.

Education and Enforcement

In June 2014, the city mailed 9,392 informational postcards (*Attachment B*) to residents, property managers and landowners that were responsible for waste management in the approximate 7,000 residences and business in Zone 1.

In Sept. 2014, staff began monitoring bear-resistant cart use. (See Waste cart monitoring section below.) Staff observed a pattern of bear-resistant cart misuse (i.e., lids not being latched) and developed an educational door hanger to reinforce the importance of latching the carts (*Attachment B*). These door hangers were distributed by Code Enforcement staff and Boulder Bear Coalition volunteers at locations where cart misuse was observed. On Oct. 1, ordinance enforcement began. Between Oct. 1 and Dec. 1, 2014, Code Enforcement issued 245 warnings. Most of the warnings were for cart misuse, but some were for not storing waste in a bear-resistant cart or enclosure. All properties where warnings were issued voluntarily complied, and the city issued no summonses.

Urban bear activity

Reported bear activity from 2009 through 2013 showed only one report of a bear west of Broadway and north of Sumac (Wonderland Lake). In 2014, the pattern of activity looked different with several bear reports north of Sumac and west of Broadway (*Attachment C*). The number of reports north of Sumac was greater (13 reports) than in previous years (8 reports total 2009 to 2013).

In 2014 there were factors independent of secure trash and compost containers that contributed to less urban bear activity. These factors included: (1) good natural and domestic fruit tree production (though some of the drainages and fruit producing vegetation west of town were scoured by the flood of 2013); and (2) a lower number of bears in the area in 2014 because four habituated bears were killed in Boulder in 2013 which lowered the number of bears in the area in 2014.

Waste cart monitoring

In 2012 and 2013, (prior to Ordinance No. 7962 requiring trash to be secure from bears) the City of Boulder partnered with Colorado Parks and Wildlife (CPW) to monitor trash violations including trash being strewn by bears in the area that is now encompassed by the Secure Trash Regulation Zone (for 2013 Bear Education and Enforcement Pilot Final Report including waste cart monitoring route and methods visit: www.boulderwildlifeplan.net “Background”). In the fall of 2014 staff monitored the same route to compare trash storage practices prior to and after the implementation of Ordinance No.7962. The monitoring route included 612 single

family homes and was conducted for 12 days in 2014, and compared to 12 days of monitoring data collected in the fall of 2012 and 2013.

Staff monitoring (**Table I**) and community reports suggest there were fewer trash cart disturbances in 2014 compared to previous years. Staff received feedback from the community that alleys west of Broadway looked substantially cleaner and have had less trash strewn.

Phase II ordinance implementation (Feb. 2015- Dec. 2016)

Phase II of Ordinance No. 7962 implementation includes changing approximately 580 dumpsters in use in the Secure Trash Regulation Zone to bear-resistant dumpsters and changing approximately 4,400 trash carts and 4,300 curbside compost carts with bear-resistant carts at single family residences throughout Zone 2. Residents in Zone 2 began receiving their fully-automated, retrofitted, bear-resistant carts in February 2015. Some residents, particularly older adults, expressed concerns with the weight of the carts when moving them to and from the curb. City staff and Western Disposal explored ways to accommodate all residents and as a result, Western began testing lighter versions of the cart and the city pushed back the enforcement date from June 15, 2015 to June 15, 2016. This change allowed the city and Western Disposal to fully examine options for increasing the usability of bear-resistant carts and dumpsters, and allowed residents who were challenged by the weight of the new carts to use their regular, non-bear resistant carts for up to one year without receiving a fine. Western Disposal tested and certified lighter versions of the fully automated 32, 64 and 96 gallon bear-resistant retrofitted carts at the [Grizzly and Wolf Discovery Center](#) in Montana in 2015.

There have been two ordinance exemption requests from multifamily units (Presbyterian Manor and Juniper Townhomes HOA). The exemptions were requested due to potential challenges for some residents with physical impediments using the heavy lids on bear-resistant dumpsters. Staff has not pursued ordinance exemptions as council specifically considered challenges with the use of bear resistant containers during the ordinance development and allowed for covered enclosures. Staff is working with these properties to explore options for trash enclosures.

Phase II also includes focused education and enforcement, and monitoring urban bear activity and waste carts to evaluate the effectiveness of the ordinance.

Education and Enforcement

The City of Boulder partnered with Colorado Parks and Wildlife to educate residents within the enforcement area about the ordinance and the bear resistant containers. CPW volunteers were provided with educational door hangers by the city (**Attachment B**) to distribute to households where volunteers observed violations such as bins not being

latched or closed properly, overflowing garbage or compost, broken containers, or containers that were not bear resistant. Over 300 residences were provided with these door hangers over the course of more than 20 volunteer days. Additionally, University of Colorado's office of Off Campus Housing distributed postcards about the ordinance and the importance of properly using bear-resistant dumpsters to returning students as part of their move in packets and welcome bags.

For 2015, 952 trash violations were issued in the Secure Trash Regulation Zone. There were 321 summonses issued; most were for cart misuse, and some were for not storing waste in a bear-resistant container. Code Enforcement utilized a comprehensive enforcement approach that included enforcement of four different trash regulations that pertain to how waste containers must be stored, and when containers can be put out for collection. Some properties were cited for a combination of violations for not securing trash. Though properties within the Secure Trash Regulation Zone are not required to obtain bear-resistant dumpsters until June 15, 2016, properties that have obtained them are expected to use them correctly (dumpsters left in the open position are subject to a summons). Staff have received concerns from some residents who store waste containers in alleys and experience unauthorized use of their waste containers. In these instances, residents claim unauthorized users are accessing the containers and leaving them unsecured. Examples include: trash carts unlatched by dog walkers to dispose of dog waste; people rummaging through trash, and illegal use of dumpsters. Some properties have unique challenges that need to be addressed in complying with the requirements. In these instances staff works with the community to better understand the obstacles to compliance with the ordinance. Solutions that have worked for some properties include: storing carts off the alley, locking dumpsters, reporting illegal dumping when it occurs, constructing a trash enclosure or structure on the property (requires exploring zoning requirements for construction), and communicating with the adjacent property and possibly sharing trash costs and responsibility if the placement of the dumpster benefits adjacent residents too.

2016 efforts will include:

- continued focused education in partnership with CU off campus housing, area property management companies, to ensure student move-in packets, and welcome bags, include information about secure trash requirements;
- continued educational efforts in partnership with CPW, and the Boulder Bear Coalition to provide information about secure trash options to residents within and outside the Secure Trash Regulation Zone if there is a pattern of bear activity east of Broadway or north of Sumac in 2016;
- enforcement of dumpsters in the Secure Trash Regulation Zone and residential carts in Zone 2 will begin on June 15, 2016; and

- an additional Code Enforcement officer is expected to be hired in May 2016 to enforce Ordinance No. 7962 in addition to enforcing other laws that pertain to quality of life issues.

Urban bear activity

Reported bear activity from 2009-2014 showed very little activity east of Broadway, but in 2015 there was a greater proportion of bear reports east of the Secure Trash Regulation Zone than in previous years particularly in the area east of 19th street west of 28th street. In 2015 the police dispatch records for bear calls was included in the database, greatly increasing the number of reports being plotted on the Reported Bear Sightings map for that year (***Attachment D***). For 2015, the additional bear report source creates the appearance of increased bear activity in 2015; however, it is important to note the actual number of reports in 2015 from our historic sources (reports to CPW, Open Space and Mountain Parks staff, and Urban Wildlife Coordinator) was 116 which is in keeping with the number of reports from previous years (57-167 reports).

The city will continue to monitor and evaluate activity beyond the Secure Trash Regulation Zone to determine whether 2014 and 2015 observations of bear activity beyond the Secure Trash Regulations Zone will continue and thus necessitate expansion of the regulation area in the future. It is important to note 2016 will be the first year of enforcement for the entire Secure Trash Regulation Zone (including dumpsters and single family resident carts). The environmental conditions, including a lack of natural food sources for bears in 2015 may have been more of a driving force for bear activity east of Broadway than an indicator that the area where trash is secured is not large enough. For these reasons, city and CPW staff are not recommending expansion of the Secure Trash Regulation Zone at this time. Staff's assessment is there is not enough information obtained from one season of bear activity in the midst of implementing a new waste storage program to identify changes in bear behavior as a result of the program.

Partnership with Colorado Parks and Wildlife (CPW) to better understand how bears are using the urban areas of Boulder in 2016

CPW has proposed working with the City of Boulder on a study of Black Bear use within city limits. The study would involve putting three to five Global Positioning System (GPS) Collars on bears that are using the urban area, for the next three years. The study is not expected to produce statistically significant results but rather provide anecdotal information about how individual bears use the urban area. Having a better understanding of how bears use the urban area will allow for more informed policy development and help the community protect bears, community members and improve overall human-bear co-existence. Specific study objectives include:

- Determine bear locations and movement patterns.
Much of the city policy development is based on resident reports of bear presence, however, much of the urban bear activity goes unreported and likely unnoticed.
- Determine temporal patterns (night/day) to better understand and inform the community on normal bear behavior.
- Determine locations where bears are in frequent close contact with humans to help us determine identify locations where human bear conflicts are more likely and where proactive education efforts would be effective at minimizing human conflicts.
- Determine what percentage of time collared bears spend in the city- to better understand how bears function across the landscape.
- Determine if there are den sites within the city to identify what types of physical features facilitate and/ compatible with bears denning.
- Verify the reliability and consistency of community reports compared to actual bear locations to determine how often bears are reported in town and to evaluate if that is a reliable way to measure bear activity.
- Help to determine if the coverage area of the trash storage ordinance is appropriate and over time if the pattern of usage is shifting from west of Broadway to east of Broadway.
- Identify movement corridors within the city and locations where bears immigrate/emigrate from the city.

On Nov.16, 2015, staff provided the Open Space Board of Trustees (OSBT) an update on preliminary aspects of the study. One board member expressed concern for the misconception in the community that reporting a bear would result in a “strike” meaning the bear would get moved or euthanized if reported. Staff clarified that the circumstance that has become known as a “strike” is when a bear’s activity or location triggers CPW to relocate an animal, and bears are generally not relocated a second time. Hundreds of reports of bear activity are received by the city and CPW, and euthanizations and relocations are relatively rare events. Another board member expressed support for ensuring that animals involved in the study (collared animals) would not be more likely relocated or euthanized due to involvement in the study.

Waste cart monitoring (for additional information on monitoring route and methods see Phase I ordinance implementation (June – Dec. 2014) section)

The monitoring route in the Secure Trash Regulation Zone included 612 single family homes and was conducted for 12 days in 2015, and compared to 12 days of

monitoring data collected in the fall of 2012, 2013, and 2014. The monitoring route was established in 2012 and is being used to compare trash storage practices prior to and after the implementation of Ordinance No.7962.

The monitoring showed fewer trash carts knocked over and strewn in after implementation began 2014 (four carts) and 2015 (five carts), compared to 2013 (116 carts) and 2012 (142 carts) (see **Table I**).

All of the residences along the monitoring route had bear-resistant trash and compost carts, however, there were 96 observations of unlatched trash carts, and 161 observations of unlatched compost carts. In these cases the carts were not overflowing, the lid had just not been pushed down to engage the locking mechanism. In addition to the five trash containers that trash strewn by bears (shown in Table I) there was on compost cart and two recycling carts that had also been strewn by bears. In addition, there were 15 observations of carts that were visibly broken.

Table I. Number of observed trash violations* at 612 residences in the Bear Ordinance Secure Trash Regulation Zone during 12 monitoring days between Sept. 16, and Oct. 30, over the past four years.

Year	Total Trash Violations	Unique Addresses	Bear-Caused Violations (Trash Strewn)	Percent of Total Caused by Bears
2012	145	113	142	97.9%
2013	120	71	116	96.7%
2014	42	35	4	11.6%
2015	8	7	5	62.5%

**violations include B.R.C. 6-3-3, and B.R.C 6-3-5(a)(1) requiring trash to be stored in containers that are not overflowing, and their contents are not scattered by animals*

Phase III ordinance implementation

For Phase III, distribution of public waste containers is being coordinated with the implementation of the Universal Zero Waste Ordinance (Ordinance No. 8045 accepted by council on June 16, 2015).

The city is exploring design options for bear-resistant public compost and trash receptacles while assessing the city’s needs for additional recycle and compost bins to

comply with the Universal Zero Waste Ordinance. This assessment will take the form of a strategic assessment of new bin needs as well as an identification of areas where trash cans may no longer be needed. Findings of this strategic assessment will guide the timeline and prioritization for capital investments and final implementation to secure public waste containers from bears.

NEXT STEPS

- Develop timeline for “Phase III” of implementation which will include transitioning all city managed public waste containers in the entire Secure Trash Regulation Zone. This date is expected in 2017 but has not yet been determined.
- Environmental Advisory Board (EAB) update April 6, 2016. (EAB was provided information in a memo on March 9, but no staff discussion took place at that time.)

ATTACHMENTS

- A:** Supplemental Background section
- B:** Educational Materials: Postcard and Door hanger
- C:** Map of 2014 Reported Bear Sightings compared to 2009-2013
- D:** Map of Reported Bear Sightings 2009-2015

BACKGROUND

Bear Protection Ordinance

On March 18, 2014 council adopted Ordinance No. 7962 requiring trash and curbside compost containers to be secure from bears at all times in most of the city west of Broadway (see March 18, 2014 City Council agenda item titled: Consideration of a motion to adopt on third reading Ordinance No. 7962

<https://documents.bouldercolorado.gov/WebLink8/0/doc/125025/Electronic.aspx>).

Implementation at the time of the ordinance adoption included the following elements:

- a phased approach beginning with alleys where waste containers are stored 24 hours a day, 7 days a week, and experience the most visible trash disturbances by bears;
- hiring two additional Code Enforcement staff to support the new ordinance in addition to enforcing existing quality of life ordinances; and
- monitoring the effectiveness of the ordinance, changes in enforcement, violations, and bear behavior.

Phased implementation

Due to the large area included in the ordinance and thousands of trash and compost containers that need to be changed or modified, the ordinance is being implemented and enforced in a phased approach. The phased approach identifies two sub-areas, or zones within the entire Secure Trash Regulation Zone. The first implementation area was the highest priority for securing waste from bears and includes properties with trash pick-up in alleys (Zone 1). The second implementation area includes the remainder of the properties in the Secure Trash Regulation Zone (Zone 2).

The phased approach includes the following locations, and timeline:

- **Phase I**- single family residences in Zone 1, effective Oct. 1, 2014.
- **Phase II**- commercial and multifamily units (dumpsters) in the entire Secure Trash Regulation Zone, and single family residences in Zone 2, effective June 15, 2016.
- **Phase III**- all public waste containers in the entire Secure Trash Regulation Zone, effective date to be determined.

Hiring additional Code Enforcement staff

In 2014, two additional Code Enforcement positions were created to execute the enforcement of Ordinance No. 7962 in addition to enforcing other laws that pertain to quality of life issues. The positions included one officer and one administrative assistant.

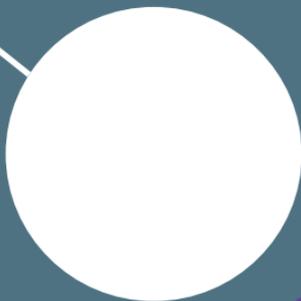
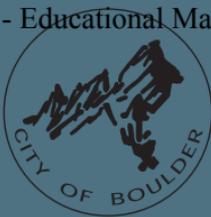
Monitoring ordinance effectiveness, violations, and bear behavior

For the past seven years the city has been maintaining a database of reported bear sightings and the attractants associated with the bear activity. The number of reported bear sightings varies

from year to year and is not considered a representation of actual bear activity because much of the urban bear activity goes unreported. The bear report database is helpful in providing information about the pattern of urban bear activity over time and was used in establishing the Secure Trash Regulation Zone. In addition, in 2012 and 2013, the city, in partnership with Colorado Parks and Wildlife (CPW), monitored compliance with trash ordinances and bear activity in waste containers along an established monitoring route in western Boulder as part of the Black Bear Education and Enforcement Pilot. (For final report visit: www.boulderwildlifeplan.net “Background”.) In 2014 and 2015, city staff continued monitoring trash violations and bear-resistant cart misuse along the same monitoring route established for the Pilot, to help evaluate the effectiveness of the ordinance.

Factors that cloud interpreting cause and effect change in bear behavior

Urban bear behavior in Boulder can be highly variable from year to year and is dependent on a variety of dynamic environmental factors. For example, in wet years with no late spring freeze, food production in natural areas is high, and pressure on bears to search for human-based food sources in town is lower. Similarly, prior to 2008 (and particularly in 2007) bear activity in south Boulder seemed to be greater than bear activity in north Boulder. That pattern of behavior seems to have shifted in recent years but not necessarily due to any programmatic or environmental change. Sometimes individual bears and their offspring have a preference for an area and these individual preferences change over time. For these reasons, the city cannot look at one season of bear activity after initiating a new waste storage program and identify changes in bear behavior resulting from the program.



PROTECT BOULDER'S BEARS

NEW CITY ORDINANCE

Your trash and compost must be secured at all times until it is collected by a trash hauler.

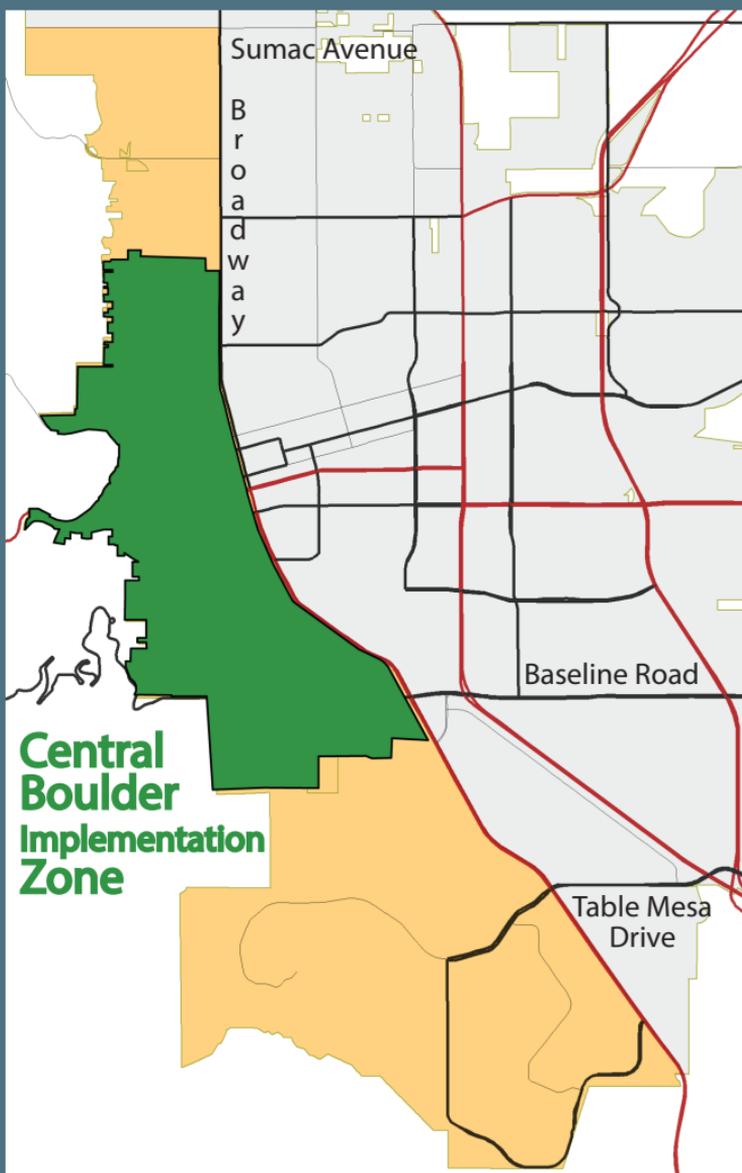
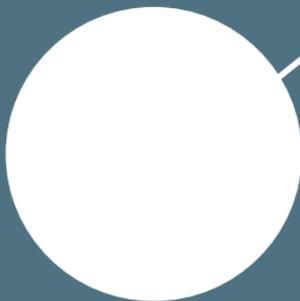
SECURE YOUR WASTE

All containers, dumpsters or enclosures must be bear-resistant.

OR

Waste must be stored in a house, garage, shed or other structure.

Storage requirements are available at www.boulderwildlifeplan.net. Waste haulers will provide details about the options and services.



Secure Trash Regulation Zone

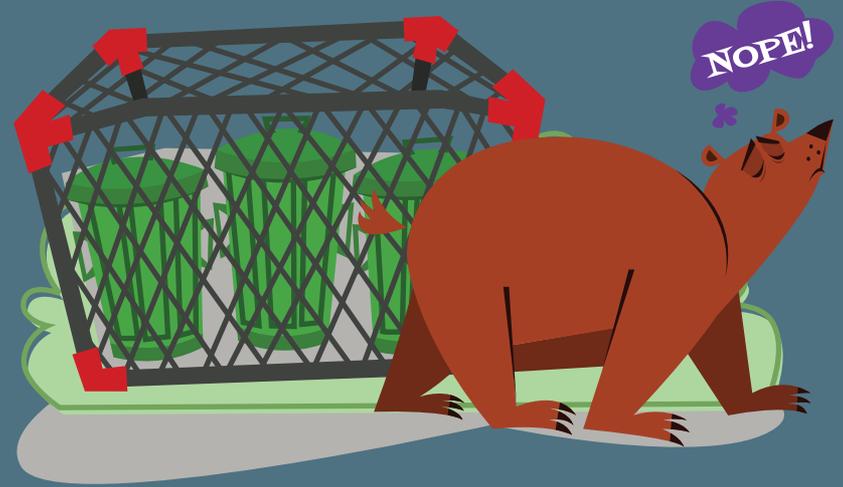
The ordinance applies to all properties west of Broadway to the western city limits, south of Sumac Avenue to the southern city limits.

In summer 2014, implementation of the new storage requirements will begin in central Boulder, including areas where waste is collected from alleys.

The fine for a first offenses is \$250. Code enforcement officers may issue tickets in-person or give citations to property owners via email, mail, or printed notification.



PROTECT BOULDER'S BEARS



NEW CITY OF BOULDER ORDINANCE

Your trash and compost must be secured at all times until it is collected by a trash hauler.

All containers, dumpsters or enclosures must be bear-resistant.

Storage requirements are available at www.boulderwildlifeplan.net.

Waste haulers will provide details about the options and services.

Secure Trash Regulation Zone (Gold)

The ordinance applies to all properties west of Broadway to the western city limits, south of Sumac Avenue to the southern city limits.

First Trash Implementation Zone (Green)

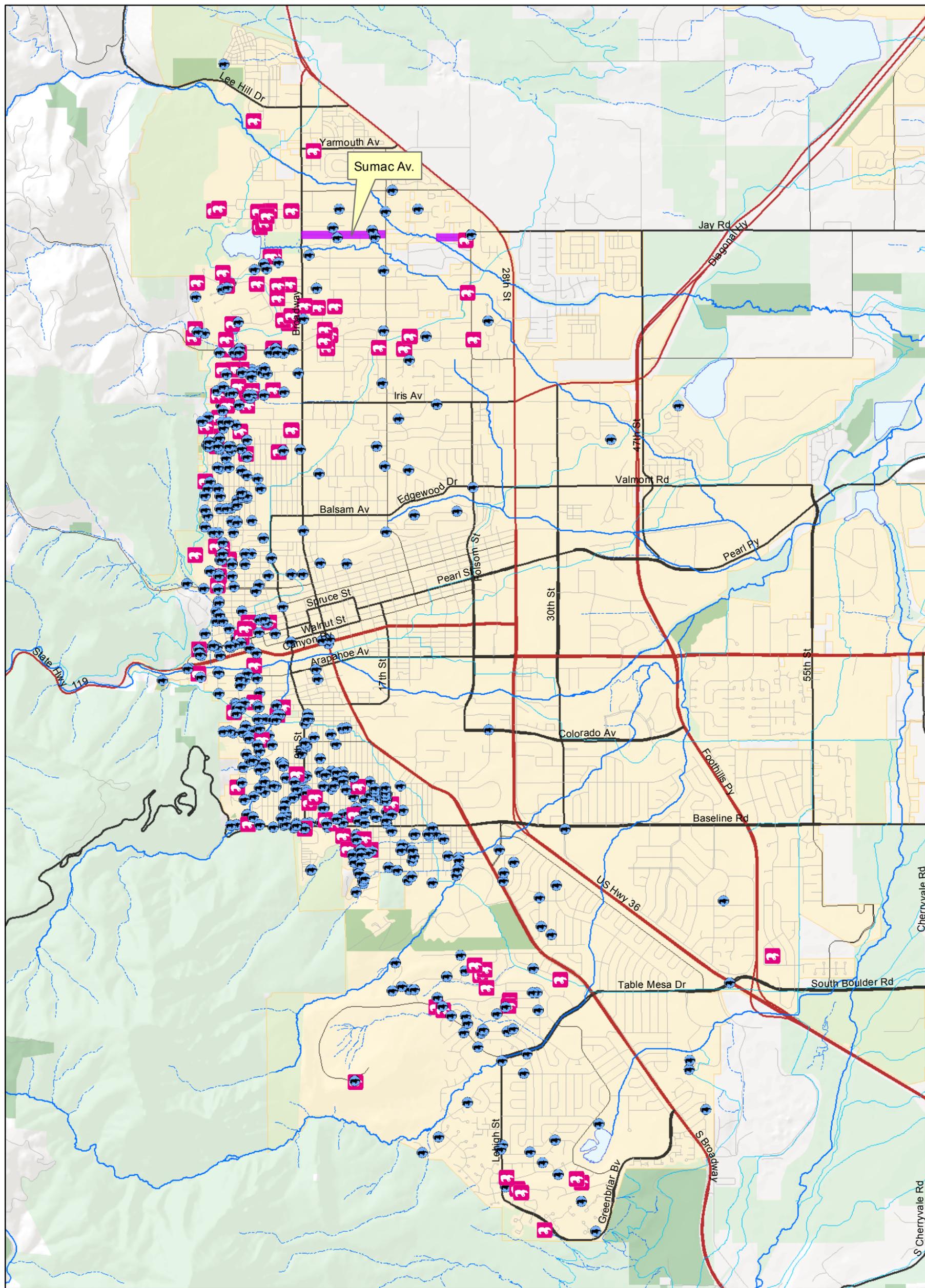
Implementation of the new storage requirements will begin in summer 2014.

The fine for a first offenses is \$250. Code enforcement officers may issue tickets in-person or give property owners citations via email, mail, or printed notification.



Reported Bear Sightings 2009 - 2014

Within City of Boulder Limits

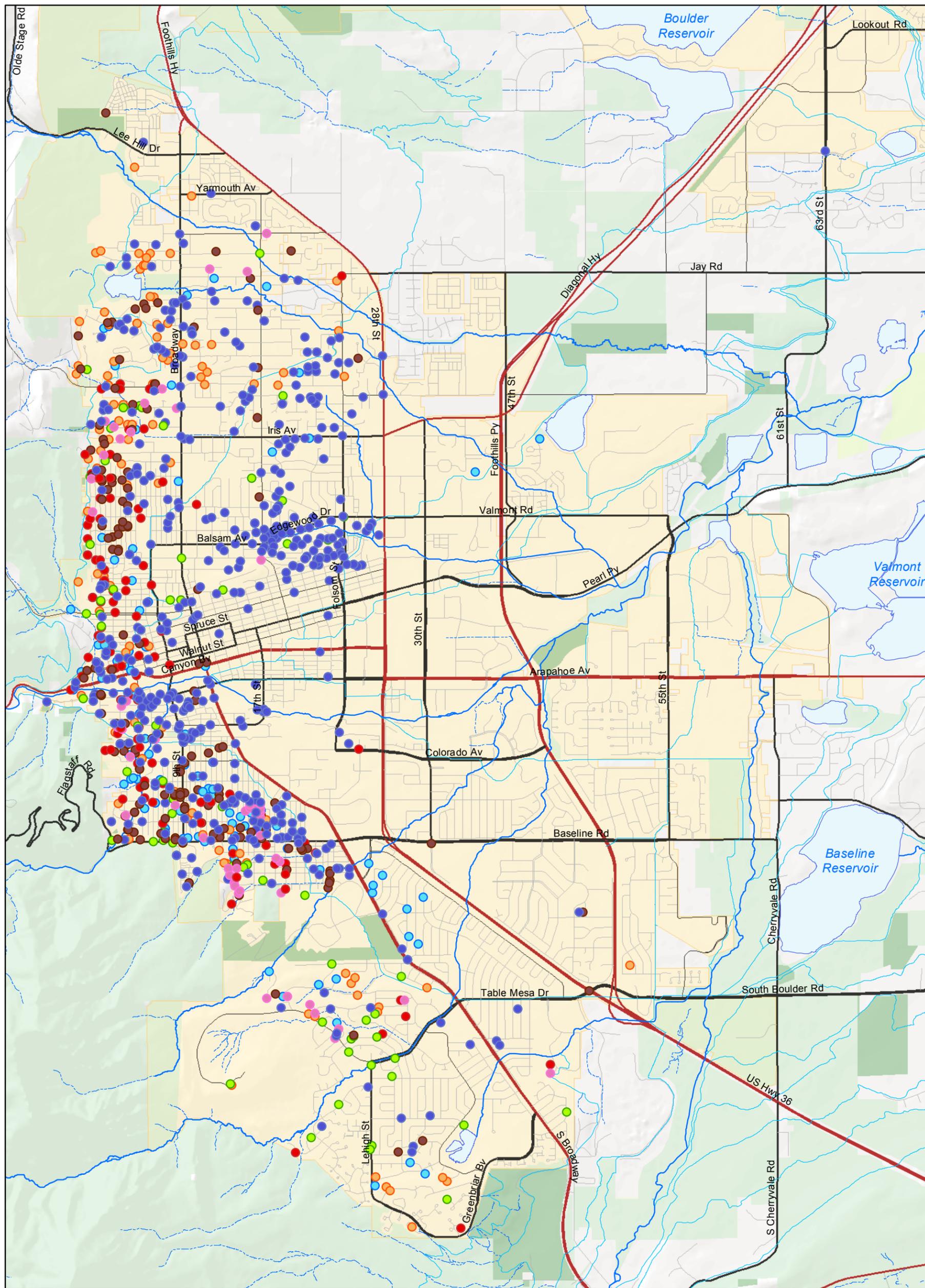


Bear Sightings	Major Lakes	Alley	Creek
Year	City Limits	Highway	Creek, Intermittent
2014	Open Space and Mountain Parks Property	Local Street	Ditch
2009-2013	Conservation Easement	Major Road	
Sumac Avenue	Fee Property	Minor Road	
	Miscellaneous Easement		

Urban Wildlife Management Plan

Reported Bear Sightings 2009 - 2015

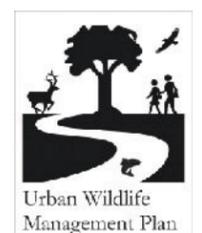
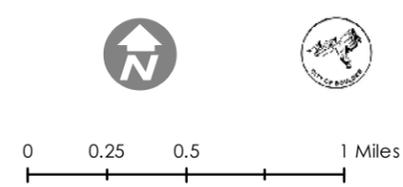
Within City of Boulder Limits



- Bear Sightings by Year**
- 2009- 72 reports
 - 2010- 101 reports
 - 2011- 57 reports
 - 2012- 167 reports
 - 2013- 118 reports
 - 2014- 127 reports
 - 2015- 538 reports*

- Major Lakes
- City Limits
- Open Space and Mountain Parks Property
- Conservation Easement
- Fee Property
- Miscellaneous Easement
- Alley
- Highway
- Local Street
- Major Road
- Minor Road
- Creek
- Creek, Intermittent
- Ditch

*Includes 422 calls to Police Dispatch





TO: Mayor and Members of City Council
FROM: Jordan Matthews, City Clerk's Office
DATE: April 5, 2016
SUBJECT: Information Packet

1. CALL UPS

None

2. INFORMATION ITEMS

- A. Camping Ban Statistics
- B. Sister City 2016 Annual Reports

3. BOARDS & COMMISSIONS

- A. Board of Zoning Adjustment – November 12, 2015
- B. Design Advisory Board – January 27, 2016
- C. Environmental Advisory Board – January 6, 2016
- D. Environmental Advisory Board – February 3, 2016
- E. Library Commission – February 10, 2016
- F. Open Space Board of Trustees – March 9, 2016
- G. Planning Board – February 18, 2016
- H. Planning Board – March 3, 2016

4. DECLARATIONS

- A. Attention Homes Day – April 7, 2016
- B. Denver's Dia del Nino Weekend – April 23-24, 2016
- C. Earth Week – April 18-24, 2016



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Linda Cooke, Presiding Judge
James Cho, Court Administrator

Date: April 5, 2016

Subject: Information Item: **Camping Ban Statistics**

EXECUTIVE SUMMARY

Research done by court staff indicates that over 3,000 citations were issued for a violation of the Camping ordinance from 2009-2015. In 84% of those cases, Camping was the only violation cited in the ticket. In all but 20 cases, the defendant was summonsed to appear in court. Of the 20 who were arrested rather than being summonsed, there were aggravating circumstances which are set forth more fully in the attached memorandum. On average, 41% of violators appear for court on their court dates. If they pled guilty, the consequence typically was community service and a referral to Bridge House. For those that did not appear for court, warrants were issued for their arrest. On average, less than half of those with warrants for Camping have been arrested on those warrants, which have no effect outside Boulder County. Sentences following arrest and incarceration are typically in the 1-2 day range. The overwhelming majority of Camping violations are committed during the six month period from April through September (67%); peak months are July, August, and September.

More detail is provided in the attached Response to City Council Request for Information Regarding Camping Cases. The attachment included in this Information Packet has already been posted to HOTLINE.

BACKGROUND

At the City Council meeting on Tuesday, February 2, 2016, council members unanimously agreed to authorize staff to compile statistics regarding prosecution and incarceration of individuals for violation of § 5-6-10, "Camping or Lodging on Property Without Consent"

B.R.C. 1981. As the entity where all Camping citations are filed, the Municipal Court performed this research.

Attachment A to this memorandum is the list of questions asked by City Council and the answers provided by the court.

NEXT STEPS

Judge Linda Cooke will provide a presentation on this topic as part of her quarterly Municipal Court update to City Council on April 5, 2016.

ATTACHMENTS:

A. Response to City Council Request for Information Regarding Camping Cases

RESPONSE TO CITY COUNCIL REQUEST FOR INFORMATION REGARDING CAMPING CASES

At the city council meeting on Tuesday, February 2, 2016, council members unanimously agreed to authorize staff to compile statistics regarding prosecution and incarceration of individuals for violation of § 5-6-10, "Camping or Lodging on Property Without Consent" B.R.C. 1981. As the entity where all Camping citations are filed, the Municipal Court performed this research.

The results of the research are discussed in more detail, below. But first, the court has answered Council's questions regarding sentencing practices for Camping convictions.¹

1. *Can a person who receives a citation solely for violating the City's camping ban ordinance be sentenced to jail time based on the current letter of the law?*

Yes, under the letter of the law, the person could be sentenced to jail for camping. However, defendants who appear for court on their court dates and plead guilty are sentenced to community service, and not to jail.

2. *What is the practice of our municipal court regarding sentencing for a single violation of the camping ban in which that is the only citation in a contact?*

For first time violators, the court typically imposes a fine and suspends it as a warning after educating the individual about the local camping ordinance. For other violators, if the person appears for court on the assigned court date, the general practice is to sentence the person to community service. Often the community service will be suspended if the person goes to Bridge House and engages with services appropriate to their circumstances.

If the person does not appear for court, then a warrant is issued for the person's arrest. Once arrested, they will be seen in court at the jail. If a person pleads guilty at that time, s/he is typically given credit for time served. For 90% of these violators, the sentence was 1-2 days in jail.

3. *What is the practice of our municipal court regarding sentencing of an individual who has violated the camping ban ordinance multiple times, but who otherwise has no other charges filed?*

For repeat violators, the practice is similar to that outlined above for anyone who is not a first time violator: if the person appears for court on the assigned court date, the general practice is to sentence the person to community service. The amount of the community service may be more substantial for multiple offenders than for others. Often the community service will be suspended if the person works with Bridge House and engages with services appropriate to their circumstances.

If the person does not appear for court, then a warrant is issued for the person's arrest. Once arrested, s/he will be seen in court at the jail. If a person pleads guilty at that time, s/he is typically given a short jail sentence for each camping citation. The overall mean jail sentence for all violators sentenced to jail for camping is 1.81 days.

¹ The answers to the following questions are based on typical sentences. There may be sentences in individual cases that depart from the answers provided.

Not surprisingly, the Boulder Police Department issues the overwhelming majority of these citations. In addition, OSMP rangers and officers with the University of Colorado Police Department also issue these citations if they occur in locations within their jurisdiction. The court reviewed tickets issued from 2009 to 2015. Of these camping violations, Boulder Police issued 74%, OSMP issued 18%, and CUPD issued 8%. What follows are answers to the specific questions posed by Council:

- 1. The number of tickets issued for violation of the camping ban, for which the camping ban violation is the only citation issued for that contact.***

	2009	2010	2011	2012	2013	2014	2015	Totals
Camping only	467	318	296	809	302	266	261	2,719
% of total	90%	88%	82%	88%	73%	73%	84%	84%

- 2. The number of tickets issued for violation of the camping ban, for which the camping ban violation is one of multiple citations issued for that contact.***

	2009	2010	2011	2012	2013	2014	2015	Totals
Camping + Other	53	43	64	114	113	96	51	534
% of total	10%	12%	18%	12%	27%	27%	16%	16%

- 3. How many of the contacts in #1 and #2 above resulted in subsequent failure to appear (FTA) warrants (wxts) issued, broken down by the criteria of #1 and #2 above?***

	2009	2010	2011	2012	2013	2014	2015	Totals
Camping only	290	181	173	457	192	151	160	1,604
Camping + Other	27	16	39	54	71	60	33	300
% FTA wxts	61%	55%	59%	55%	63%	58%	62%	59%

- 4. How many of any FTA warrants issued as a result of camping ban citations (broken down by the criteria of #1 and #2 above) resulted in any jail time for the cited party?***

	2009	2010	2011	2012	2013	2014	2015	Totals
Camping only	151	83	85	204	78	55	49	705
Camping + Other	13	8	17	29	49	23	13	152
% of wxts result = jail	52%	46%	48%	46%	48%	37%	32%	45%
% of all cases result = jail	32%	25%	28%	25%	31%	22%	20%	26%

- 5. How many individuals experienced jail time as a result of a citation issued for a camping ban in which that is the only citation issued for that contact (no other warrants for that individual leading to the jail time)?***

The court found only 20 cases from 2009-2015 where a defendant appears to have been arrested at the time s/he was contacted and charged with camping, and subsequently sentenced to jail. Of these 20 cases, 12 of them had active warrants on other cases from either the Boulder Municipal Court or another court. Of the 8 who were arrested and jailed for their camping citations, 3 received two or more tickets within 24 hours, and 4 had multiple prior camping convictions. Only one defendant had no warrants, previous FTAs, or a prior criminal history; however, that defendant lied about his identity multiple times during his contact and, as a consequence, was taken to the jail to be booked and fingerprinted so as to confirm his identity.

6. How many separate individuals have received citations for violating the camping ban?

During this seven-year period, there were a total of **3,253** camping violations filed in the municipal court. These violations were committed by **1,697** unique individuals. Two-thirds of the **1,697** unique individuals received only one citation for camping. One-third, or **557** individuals, received more than one citation and accounted for about two-thirds (over 2,100) of all the camping citations issued from 2009-2015. The number of violations per individuals in this group of **557** ranged from 2 to 29.

Since Council has also verbalized some interest in teasing out the number of camping citations issued to “travelers” passing through Boulder, as opposed to Boulder’s resident homeless population, the court compiled the following data regarding seasonal trends:



	2009	2010	2011	2012	2013	2014	2015	% all years
Winter month avg (Oct-Mar)	29	22	26	50	25	11	16	33%
Summer month avg (Apr-Sept)	58	39	34	104	44	49	36	67%



INFORMATION PACKET MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Patrick von Keyserling, Public Information Officer
Lynnette Beck, City Clerk
Heidi Leatherwood, Deputy City Clerk

Date: April 5, 2016

Subject: 2015 Sister City Annual Reports

EXECUTIVE SUMMARY

The purpose of this Information Packet item is to provide Council with the 2015 Annual reports submitted by the Sister City Committees. Boulder sister city relationships are governed by Council Resolution No. 631, which establishes affiliation criteria and requires annual reports from each organization verifying compliance with the resolution. Section 2 of Resolution 631 outlines the criteria for establishing and maintaining sister city relationships:

The City of Boulder establishes the following criteria for sister city recognition:

A) In order to assure that sister city affiliations are genuinely reflective of the community and are managed by citizen organizations with resources adequate to the task, sister city affiliations shall:

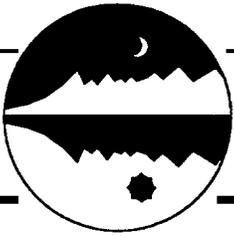
- 1) Have and maintain Section 501 (c) (3) status.*
- 2) Have and maintain a Boulder-based board of directors, with the board elected by the membership, and with no member of the board being a part of any commercial venture in the sister city.*
- 3) Establish membership criteria, but membership may not be denied based upon race, religion, nationality, membership in a minority group, membership in a particular social group or because of the expression of unpopular political opinion.*
- 4) Have and maintain an annual budget, a work plan, and a fund-raising report.*

- 5) *Annually submit a status report to the City Council by the first of March of each year which shall show compliance with items A(1), A(2), A (3), A(4) and the policies set forth in Section 1.*
- 6) *Make the elements required in A(3), A(4) and A(5) available to the public.*

Attached please find the 2015 annual organizational reports submitted by Boulder’s seven sister city organizations. The Annual Sister City Dinner was held on March 29, 2016.

Attachment A:	Tajikistan	Boulder-Dushanbe Sister City
Attachment B:	Kenya	Boulder-Kisumu Sister City Committee
Attachment C:	Nicaragua	Boulder/Jalapa Friendship City Project
Attachment D:	Tibet	Boulder-Lhasa Sister City Project
Attachment E:	Mexico	Boulder-Mante Sister City Committee
Attachment F:	Japan	Boulder-Yamagata Friendship City Committee
Attachment G:	Cuba	Boulder-Yateras, Cuba Sister City Organization

Any comments or questions may be directed to Heidi Leatherwood (303) 441-3019 or email leatherwoodh@bouldercolorado.gov



Boulder • Dushanbe Sister Cities

2015 Annual Report

Board of Directors

Stephanie Martz, President
 Jeffrey Magnuson, Vice-President
 Miriam Allen, Secretary
 Matt Vawter, Treasurer
 Noal Amir
 Adam Amir
 Lydia Lawhon
 Aldona Siczek
 Sanam Yakshibaeva
 Rett Ertl
 Jack Reppy
 Sophia Stoller
 Peter J. Stoller
 Joseph F. Stepanek

Boulder-Dushanbe Sister Cities is an all-volunteer, non-political 501(c) (3), charitable organization. Membership is open to all regardless of race, religion, nationality and political beliefs.

City of Boulder Resolution 631 Compliance

Boulder-Dushanbe Sister Cities (BDSC) maintains compliance with all provisions of Resolution 631:

- 501(c) (3) Status
- Membership Requirements
- Boulder-based Board of Directors
- Financial Reporting
- Work Plan reporting

2015 Highlights

- March 7 – 15, 2015. BDSC applied for and received Open World funds to host a delegation of Tajik Maternal and Child Health professionals. Six Obstetricians/Gynecologists from Tajikistan were hosted by six local families. Boulder County Public Health was the primary sponsor with participation and support from Boulder Valley Women's Health, the People's Clinic, Wilderness Early Learning Center, the Birth Center, Boulder Community Hospital, Avista Women's Care, Safehouse and Community Food Share. The itinerary and photos are attached.
- Recruited a new Board of Directors President, Vice President and Treasurer.
- Hosted Kamila Tovbaeva from the Boulder-Dushanbe Friendship Center in Dushanbe in May. She was able to visit with colleagues in the Denver area and C U campuses to learn more about programs available to international students. She also met with YMCA of the Rockies regarding summer internship programs, and explored options for having CU students teach English at the Friendship Center.
- Supported the work of Board Members Adam and Noal Amir for their travel and folk-film projects in Kyrgyzstan and Tajikistan. Adam and

Past President's Circle

Mary Axe
 Jancy Campbell
 Mary Hey
 Marcia Johnston
 Don Mock
 Vern Seieroe, A.I.A.
 Joseph F. Stepanek
 Peter J. Stoller

275 Brookside Ct.
 Boulder, CO 80302
 U.S.A.
 303-444-3196
www.boulder-dushanbe.org

Noal created a video for BDSC describing the work of the Friendship Center in Dushanbe.

- Attended Navruz at the Boulder-Dushanbe Teahouse.

2016 Work Plan

- Begin supervision of the construction of the fence surrounding the Friendship Center in Dushanbe.
- Continue work with City Council to seek Landmark status for the Teahouse (interior, exterior and gardens)

2016 Meeting Dates

- January 20, 2016
- February 25, 2016
- April 28, 2016 (est.)
- May 26, 2016 (est.)
- June 23, 2016 (est.)
- July 28, 2016 (est.)
- August 25, 2016 (est.)
- September 29, 2016 (est.)
- October 27, 2016 (est.)
- November 17, 2016 (est.)
- December 15, 2016 (est.)

Attachments A – Resolution 631 Requirements: 501(c)(3) Certificate of Good Standing, Membership Requirements, Board of Directors, Financial and Fundraising Report

----- Forwarded message -----

From: **Colorado Department of State** <entity.subscribe@sos.state.co.us>

Date: Sat, Mar 28, 2015 at 4:38 PM

Subject: Document Filed for BOULDER-DUSHANBE SISTER CITIES - 19871572683

To: ALDONA.ALINA@gmail.com



A Message from the Colorado Secretary of State

This email is notification that the following document has been filed for BOULDER-DUSHANBE SISTER CITIES : Report

For more information, please review the record by visiting our website, www.sos.state.co.us. Select "Business Organizations" on the left and then click on "[Search](#)". You can search for the record by entering either the record name or ID number.

If the ID number is used to search, the website will immediately display the Summary page for the record. If the name is used to search, the website will display a list of search results. Find the correct record and select the ID number to proceed to the Summary page. From the Summary page, you can choose to view additional information.

Thank you for using the Colorado Secretary of State's online services!

Subject: Registration Renewal Approved (Charity). BOULDER-DUSHANBE SISTER CITIES
From: Colorado Department of State <charitable@sos.state.co.us>
Sent: 10:53pm, Sunday, April 5, 2015
To: A.SICZEK@ATT.NET
CC: CONFIRMATION OF APPROVED CHARITABLE SOLICITATIONS
FILING

REGISTRATION (RENEW)
CHARITABLE ORGANIZATION

NAME: BOULDER-DUSHANBE SISTER CITIES
Permanent Registration Number: 20093007162
Filing Number of Document: 20153010162
Renewal Due Date: 08-15-2016

The registration renew that you filed with the Colorado Secretary of State's office has been approved.

Organizations that filed with actual financial figures will need to renew their registration on or before 15th day of the fifth month after the close of the organization's next fiscal year.

Please store the registration number along with your user ID and password in a safe place, as you will need this information to make any changes or updates to your charitable solicitations filings in the future. This registration number has been permanently assigned to your organization, but its status can change from 'Good' to 'Delinquent' or 'Suspended,' if the organization fails to replace estimated financial information with actual figures, renew its registration, or file a solicitation campaign financial report on time as required by the Charitable Solicitations Act (Title 6, Article 6, C.R.S.). The registration can also be revoked, if necessary. The filing number is the number assigned to this specific document, so future filing numbers will be different from the permanent registration number.

For your convenience, we have included a summary statement of the information provided on the online registration form.

If you have any questions, please contact:

Charities Program Staff
Office of the Secretary of State
[\(303\)894-2200](tel:(303)894-2200) Option 2
charitable@sos.state.co.us

REGISTRATION TO SOLICIT CONTRIBUTIONS IN COLORADO IS SEPARATE FROM THE FILING OF PERIODIC REPORTS WITH THE SECRETARY OF STATE'S BUSINESS DIVISION.

REGISTRATION (RENEWAL)
CHARITABLE ORGANIZATIONS

Organization names and addresses

1. Organization's name: BOULDER-DUSHANBE SISTER CITIES

2. Organization's principal address and all other Colorado addresses:

Street address: 1252 CHINOOK WAY

City: BOULDER

County: BOULDER

State: CO

Zip: 80303

Country: United States

Street address: 275 BROOKSIDE CT

City: BOULDER

State: CO

Zip: 80302

Country: United States

3. Describe the organization's exempt purpose:

OUR PRIMARY PURPOSE IS TO PROMOTE THE SISTER CITY PEOPLE-TO-PEOPLE RELATIONSHIP WITH DUSHANBE, TAJIKISTAN.

4. FEIN (Federal Employer Identification Number): 74-2346071

5. Has the organization applied for or been granted IRS tax exempt status?: Yes

Date of application or date of determination letter:03/19/1987

If granted, exempt under: 501(C)(3)

Are contributions to the organization tax deductible?: Yes

6. List the NTEE code(s) that best describes your organization:

ARTS,CULTURE & HUMANITIES

7. Outside service provider helping your organization with state charity office filings:

Name of Service Provider:

Name of contact person:

8. All other names under which this organization intends to solicit: N/A

9. Name of the custodian of organization's financial records:

Name: ALDONA A SICZEK

Street address: 1252 CHINOOK WAY

City: BOULDER

State: CO

Zip: 80303-1411

Province:
Country: US

10. Names of officers, directors, trustees, and key employees of the charitable organization:

Name: STEPANEK, JOSEPH
Email: JCVSTEP@INFIONLINE.NET

Name: STOLLER, PETER
Email: PETERSTOLLER@YAHOO.COM

Name: ALLEN, MIRIAM
Email: MALLEN1060@AOL.COM

Name: QUARLES, LETO
Email: IPHEGENIA@HOTMAIL.COM

Name: SICZEK, ALDONA
Email: A.SICZEK@ATT.NET

Name: STOLLER, SOPHIA
Email: SOPHIASTOLLER@YAHOO.NET

Name: DIXON, LYDIA A
Email: LYDIAADIXON@GMAIL.COM

Name: HERMANS, ADAM P
Email: A.HERMANS@COLORADO.EDU

11. Name of Authorized Official who signed this Registration Statement:

Name: SICZEK, ALDONA A Date: 03/28/2015

Annual Financial Statement (Renewal)
Charitable Organization

Financial information is actual.

This financial report covers the fiscal year beginning 01/01/2014 and ending 12/31/2014.

Organization information

1. Organization's name: BOULDER-DUSHANBE SISTER CITIES

2. Federal Employer Identification Number (FEIN): 74-2346071

3. Organization's principal address:
 Street address: 1252 CHINOOK WAY
 City: BOULDER
 State: CO
 Zip: 80303
 County: BOULDER
 Country: US

Fiscal year ends: 12/31

If incorporated, date incorporated: 05/21/1984
 State of incorporation: CO

If not incorporated:
 Type of organization:
 Date established:
 State established:

4. Has the organization applied for or been granted IRS tax exempt status?: Yes
 If 'YES', date of application or date of determination letter:03/19/1987
 Tax exempt code: 501(C)(3)
 Are contributions to the organization tax deductible: Yes

5. NTEE codes that describe your organization:
 ARTS,CULTURE & HUMANITIES

Financial Summary as of most recent fiscal year end:

6. Revenue(Amounts Received During the Year):

Contributions:	\$587.44
Government Grants:	\$0.00
Program Service Revenue:	\$5,655.44
Investments:	\$33.34
Special Events and Activities:	\$0.00
Sales:	\$0.00
Other:	\$0.00
Total Revenue:	\$6,276.22

7. Expenses(Amounts Paid Out During the Year):

Program Services: \$6,796.86
Administration - Management and general: \$622.54
Fundraising: \$0.00
Total Expenses(sum of expense items listed above): \$7,419.40

8. Summary of Balance Sheet as of Fiscal Year End:

Total Assets, End of Year: \$41,126.50
Total Liabilities, End of Year: \$0.00
Fund Balance, End of Year(Total Assets - Total Liabilities): \$41,126.50

Professional Fundraisers:

9. Paid Solicitors, professional fundraisers and Commercial Coverture

Other Information:

10. Fundraising Professionals:

Outside professional fundraiser fees: \$0.00

11. Is your organization related (other than by association with a statewide or nationwide organization) through membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization?: No

If 'YES', the name of the organization: N/A

Is this an exempt organization?: No

12. Did your organization solicit any contributions or gifts that were not tax deductible? Yes

If 'YES', did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible? Yes

13. List the states with which you are registered to conduct solicitations or from which you have been granted an exemption:

Colorado

14. Name of Authorized Official who signed this Annual Financial Statement:

Name: SICZEK, ALDONA A Date: 03/28/2015

BYLAWS OF
BOULDER-DUSHANBE SISTER CITIES, INC.
A NONPROFIT COLORADO CORPORATION

Approved as of this 26th day of April, 2010

ARTICLE I Offices

Section 1.1 **Principal Office.** The principal office of the corporation in the State of Colorado shall be located at P.O. Box 4864, Boulder, Colorado 80306. The corporation may have such other offices, either within or outside of the State of Colorado as the Board of Directors may require and designate from time to time.

Section 1.2 **Registered Office.** The registered office of the corporation, required by the Colorado Nonprofit Corporation Act to be maintained in the State of Colorado, may be, but need not be, identical with the principal office in the State of Colorado.

Section 1.3 **Objectives and Purposes.** The Objectives and Purposes of the corporation are to promote the mutual exchange of knowledge and culture between the people of Boulder, Colorado and the people of Dushanbe and other towns and cities, Republic of Tajikistan, to achieve greater international understanding in the interest of world peace.

ARTICLE II Membership

Section 2.1 **Classes of Membership.** There shall be the following classes of Voting Membership to include individuals who are active participants in the purposes and objectives of the corporation: a) **Individual.** Individual membership shall include individuals who have paid current annual dues; b) **Household.** Household membership shall include two (2) or more individuals from the same family unit residing in the same household who have paid current annual dues; c) **Lifetime.** Lifetime membership shall include individuals, either through the payment of lifetime membership dues or by designation of the Board of Directors, whose membership will extend until their death or until the termination of the corporation; and d) **Past Presidents.** Past Presidents, in recognition of their service to the corporation, shall be granted Lifetime membership. Unless specified otherwise, "Voting Members" in these Bylaws only refers to Members who are currently paid up with their dues pursuant to Section 2.2 of this Article II or who are Lifetime or Past President members.

There shall be the following classes of Non-Voting Membership to include individuals or organizations who share interests in the purposes and objectives of the corporation: a) **Honorary.** Honorary memberships may be extended pursuant to a resolution of the Board of Directors in recognition of service to the corporation. b) **Contributing.** Contributing Members shall be those individuals, organizations or firms who currently financially support the program of the corporation with contributions other than annual dues in such amount as the Board may periodically determine.

Section 2.2 **Dues, Membership Terms, Benefits.** a) The annual dues memberships shall be set from time to time by the Board of Directors. The term of **Individual** and **Household** membership shall be one calendar year (January 1 to December 31). For annual membership dues paid before June 1st of the current calendar year, the membership term shall be to the end of the current calendar year. For annual membership dues paid on or after June 1st of the current calendar year, the membership term shall be to the end of the next calendar year. If annual membership is not renewed within two months following the end of the calendar year (by February 28th), such delinquency shall constitute termination of membership.

b) At the discretion of the Board of Directors, **Lifetime** membership may be granted to individuals, and the dues for such memberships be set and the term of such memberships shall be for the lifetime of the individual or until the termination of the corporation.

c) At the discretion of the Board of Directors, **Contributing** membership may be granted to individuals or organizations and the term of such recognition shall be specified.

Section 2.3 **Annual Meetings.** The Annual Meeting of Members shall be held each calendar year in November at such date and such place to be designated by the Board of Directors and specified in the notice of such meeting.

Section 2.4 **Special Meeting.** Special meetings of the Members may be called by the President or may be called upon the request of two of the Directors or five Members.

Section 2.5 **Notice of Annual and Special Meetings.** a) Notice of each annual meeting of the membership shall be given not less than five days before the day on which the meeting is to be held. Each notice shall state the time, place and purpose of the meeting, and, if such notice be a notice of a special meeting, it shall also state by whose order the meeting is called.

Section 2.6 **Quorum.** For the Annual General or Special Meetings of Voting Members, the lesser of 50% of the Voting membership, or twenty (20) Voting members, shall constitute a quorum.

Section 2.7 **Voting.** Each Voting Member present at a meeting shall be entitled to one (1) vote. For **Household** memberships, two (2) votes may be cast on behalf of that membership, provided that each of those two votes is cast by a separate adult household member. All elections shall be determined and all questions decided by a majority vote of the Voting Members present, except as otherwise provided in these Bylaws.

ARTICLE III Board of Directors

Section 3.1 **General Powers.** The business and affairs of the corporation shall be managed by its Board of Directors.

Section 3.2 **Performance of Duties.** A Director of the corporation shall perform his or her duties as a Director, including his or her duties as a member of any committee of the board upon which he or she may serve, in good faith, in a manner he or she reasonably believes to be in the best interests of the corporation, and with such judgment as an ordinarily prudent person in a like position would use under similar circumstances.

Section 3.3 **Qualifications, Election, Tenure and Number.** a) Directors shall be elected by the current Voting Members at the Members' Annual Meeting, at which meeting the Board of Directors may offer a slate of nominees for Directors. In recommending such a slate, the Board may consult with non-Board Members. Directors may also be nominated by current Voting Members at the Annual Meeting.

b) To be a nominee for Director, a person must be a Voting Member. Every Director must be a Voting Member throughout his or her term.

c) Directors' terms shall be two years, and the terms are renewable. The Board of Directors shall make reasonable efforts to assure that one-half of the Directors' terms expire in even-numbered years and the other Directors' terms expire in odd-numbered years.

d) The number of Directors of the corporation shall in no case be less than five. Subject to this limitation, the number of Directors shall be fixed by resolution of the Board of Directors, and may be increased or decreased by resolution of the Board of Directors, but no decrease shall have the effect of shortening the term of any incumbent.

Section 3.4 **Regular Meetings.** The Board of Directors shall provide, by resolution, the time and place for the holding of regular meetings without other notice. Such Board resolutions and notices may also be transmitted by regular or via electronic means.

Section 3.5 **Special Meetings.** Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. The person or persons authorized to call special meetings of the Board of Directors may fix any place in Boulder as the place for holding any special meeting of the Board of Directors called by them.

Section 3.6 **Notice.** Written notice of any special meeting of Directors shall be given as follows:

a) By mail or by electronic means to each Director at his or her business address at least three days prior to the meeting; or

b) By personal delivery or via electronic means at least twenty-four hours prior to the meeting to the business address or residence address of each Director, or in the event such notice is given on a Saturday, Sunday or holiday, to the residence address of each Director.

Section 3.7 **Quorum.** One third (1/3) of the currently set number of Directors, fixed by or pursuant to Section 3.3 of this Article III, shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. When the number calculated for a quorum is a fractional number, the number for a quorum is set as the next highest integer number. If less than a quorum is present at a meeting, a majority of the Directors present may convene the meeting for informational discussions, but Directors may take no formal actions or votes at such meeting.

Section 3.8 **Manner of Acting.** Except as otherwise required by law or by the Articles of Incorporation, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 3.9 **Informal Action by Directors.** Any action required or permitted to be taken by the Board of Directors or by a committee thereof at a meeting may also be taken without a meeting if a

consent, in writing or via electronic means, of a majority of Directors, setting forth the action so taken to be ratified at the next regular meeting of the Board of Directors.

Section 3.10 Participation by Electronic Means. Any Director or any committee designated by such Board may participate in a meeting of the Board of Directors or committee by means of telephone or computer conference or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Such participation shall constitute presence in person at the meeting.

Section 3.11 Vacancies. Any vacancy occurring in the Board of Directors may be filled by appointment by the remaining Board of Directors. The term of such appointments shall be only until the next annual meeting of the Members, at which time the Directors appointed may run for election.

Section 3.12 Resignation. Any Director of the corporation may resign at any time by giving written notice, including by electronic means, to the President or the Secretary of the corporation. The resignation of any Director shall take effect upon receipt of notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 3.13 Removal. Any Director or Directors of the corporation may be removed at any time, with or without cause, in the manner provided in the Colorado Nonprofit Corporation Act.

Section 3.14 Compensation. Directors as such shall not receive any stated salaries for their services; but nothing herein shall preclude any Director from serving the corporation in any other capacity and receiving reasonable compensation therefore.

Section 3.15 Presumption of Assent. A Director of the corporation who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his or her dissent shall be entered into the minutes of the meeting or unless he or she shall file his or her written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by regular or electronic mail to the Secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

ARTICLE IV Officers

Section 4.1 Number. The officers of the corporation shall be President, Vice President, Secretary and Treasurer. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 4.2 Election and Term of Office. All officers of the corporation shall be elected by the Board of Directors each year at the first meeting held after the annual meeting of Members.

If the elections of officers are not held at such meetings, such elections shall be held as soon thereafter as practicable. Each officer shall hold office until his or her successor shall have been duly elected and shall have qualified or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter provided.

Section 4.3 **Removal.** Any officer or agent may be removed by the vote of not less than 2/3 of the Board of Directors (not simply 2/3 of a quorum) whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 4.4 **Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the un-expired portion of the term.

Section 4.5 **President.** The President shall be the chief executive office of the corporation and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the corporation. He or she shall, when present, and in the absence of a President of the Board, preside at all meetings of the Members and of the Board of Directors. He or she may sign, with the Secretary or any other proper officer of the corporation thereunto authorized by the Board of Directors, deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases wherein the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 4.6 **Vice President.** The Vice President (or in the event there be more than one vice president, the vice presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall, in the absence of the President or in the event of his or her death, inability or refusal to act, perform all duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors. From time to time the Board may determine that a Vice President may be appointed Co-President.

Section 4.7 **Secretary.** The Secretary shall: (a) keep the minutes of the proceedings of the Members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents the execution of which on behalf of the corporation under its seal is duly authorized; (d) keep a register of the post office address of each Member which shall be furnished to the Secretary by such Member; and (e) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

Section 4.8 **Treasurer.** The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the corporation; (b) receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article V of these Bylaws, and (c) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Board of Directors.

Section 4.9 **Assistant Secretaries and Assistant Treasurers.** The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

Section 4.10 **Executive, Advisory and Committee Chairs.** The President may appoint, with the approval by a majority of the Board, Executive, Advisory and Committee Chairs, whose composition, terms and duties will be periodically determined by the Board.

Section 4.11 **Bonds.** If the Board of Directors by resolution shall so require, any officer or agent of the corporation shall give bond to the corporation in such amount and with such surety as the Board of Directors may deem sufficient, and pay or reimburse for, conditioned upon the faithful performance of their respective duties and offices.

Section 4.12 **Salaries.** The officers shall serve without salary.

Section 4.13 **Loans to Officers and Directors.** No loans shall be made by the corporation to any Officer or Director.

ARTICLE V Committees and Boards Serving the Board of Directors

Section 5.1 **Appointment.** The Board of Directors by resolution adopted by a majority of the Board, may designate two or more of its Members to constitute an executive committee, a regular committee, and/or an advisory board. The designation of such committee(s) and board(s) and the delegation(s) thereto of authority shall not operate to relieve the Board of Directors, or any Member thereof, of any responsibility imposed by law.

Section 5.2 **Authority.** These committee and boards, when the Board of Directors is not in session, shall have and may exercise all of the authority of the Board of Directors except to the extent, if any, that such authority shall be limited by the resolution appointing these committees and boards and except also that any committee or board shall not have the authority of the Board of Directors in reference to amending the Articles of Incorporation, adopting a plan of merger or consolidation, recommending to the Members the sale, lease or other disposition of all or substantially all of the property and assets of the corporation otherwise than in the usual and regular course of its business, recommending to the Members a voluntary dissolution of the corporation or a revocation thereof, or amending the Bylaws of the corporation.

ARTICLE VI Contracts, Loans, Checks and Deposits

Section 6.1 **Contracts.** The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 6.2 **Loans.** No loans shall be contracted on behalf of the corporation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 6.3 **Checks, Drafts. Transfers.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation shall be

signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 6.4 Deposits. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select.

Section 6.5 Gifts. The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest or devise for: the general purposes of, or, for any special purposes of the corporation.

ARTICLE VII Indemnification and Insurance

Section 7.1 Indemnification of Directors The corporation shall indemnify Directors of the corporation in their capacities as Directors, with “D and O” insurance, pursuant to the procedures set forth in, and to the fullest extent authorized by, Colorado law as the same exists or may hereafter be amended. The right to indemnification provided herein shall be a contract right and shall include the right to be paid by the corporation in accordance with Colorado law for expenses incurred in advance of any proceeding's final disposition.

Section 7.2 Indemnification of Officers, Employees and Agents. The corporation may indemnify officers, employees and agents of the corporation to the same extent as is permitted for Directors under Colorado law (and to a greater extent if consistent with law). No such indemnification shall be made without the prior approval of the Board of Directors and the determination by the Board of Directors that such indemnification is permissible.

Section 7.3 Insurance . The corporation may purchase and maintain insurance, at its expense, to protect itself and any Director, Officer, employee and agent of the corporation or another company, partnership, joint venture, trust, or other enterprise against any expense, liability or loss whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under Colorado law.

Section 7.4 Rights. The foregoing rights of indemnification shall not be exclusive of other rights to which any Director, Officer, employee or agent may be entitled as a matter of law.

ARTICLE VIII Nondiscrimination

The Officers, Directors, Committee Members, employees and persons serving this corporation shall be selected entirely on a nondiscriminatory basis with respect to age, sex, race, religion, political opinion, national origin, dress, and sexual orientation.

ARTICLE IX Books and Records

The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Board of Directors and committees and boards having any of the authority of the Board of Directors. All such records, and the corporation’s Archives, shall be open to the public at such time and place as mutually agreed.

ARTICLE X Fiscal Year

The fiscal year of the corporation shall end on the last day of December in each calendar year.

ARTICLE XI Corporate Seal

The Board of Directors may provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the corporation and the state of incorporation and the words "CORPORATE SEAL."

ARTICLE XII Waiver of Notice

Whenever any notice is required to be given under the provisions of these Bylaws or under the provisions of the Articles of Incorporation or under the provisions of the Colorado Nonprofit Corporation Act, or otherwise, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the event or other circumstance requiring such notice, shall be deemed equivalent to the giving of such notice.

ARTICLE XIII Amendments

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted by a majority of the Directors present at any meeting of the Board of Directors at which a quorum is present, or by a quorum of Voting Members present at an Annual Meeting, or Special Meeting.

CERTIFICATE

I hereby certify that the foregoing Bylaws, consisting of 9 pages, including this page, constitute the Bylaws of Boulder-Dushanbe Sister Cities, Inc., adopted by the Board of Directors of the corporation effective as of this 26th day of April, 2010.

Signed by Secretary

Miriam Allen

BDSC BOARD LIST 2016

Adam Amir adam.hermans@gmail.com 778-686-2688
4211 Doncaster Way Vancouver, British Columbia V6S 1W1

Noal Amir noalamir@gmail.com 778 686 2688
4211 Doncaster Way Vancouver, British Columbia V6S 1W1

Joe Stepanek jcvstep@infionline.net 303-544-0881
720 11th St. Boulder, Co 80302

Aldona A. Siczek ALDONA.ALINA@gmail.com 303-494-6439 (H)
1252 Chinook Way Boulder, Co 80303

Leto Quarles iphigenia@hotmail.com or letovarlesmd@gmail.com 303-502-6241
417 Pearl St. Boulder, Co, 80302

Sophia Stoller sophiastoller@yahoo.com 303-444-3196 (H) 720-771-3149 (C)
764 Sunshine Canyon, Drive, Boulder, CO 80302

Peter Stoller peterjstoller@yahoo.com 303-444-3196 (H) 720-771-3002 C
764 Sunshine Canyon, Drive, Boulder, CO 80302

Miriam Allen mallen1060@aol.com 303-443-5912
275 Brookside Ct. Boulder, Co. 80302

Lydia Lawhon lydiaadixon@gmail.com 307-699-1582
276 Sky View Dr. N Nederland, CO 80466

Sanam Yakhshibaeva lasanamka@gmail.com 33 6 95650810
27 Allée Vivaldi, Paris 75012 France

Matt Vawter Matt_Vawter@yahoo.com 720-206-4182...
.2830 Ellison Place, Boulder, CO 80304

Stephanie Martz smartz15@hotmail.com 720-382-0688
1509 S. Proctor Ct Superior, Co. 80027

Jeffrey Magnuson jemag@verizon.net 202-441-7182
740 Parchal Dr. Lafayette, Co 80022

Jack Reppy jrepp303@gmail.com,

Rett Ertl rettertl@hotmail.com 303-494-9164
6691 Lakeview Dr. Boulder, Co. 80303



OPEN WORLD PROGRAM

**Sponsored by the
Open World Leadership Center**

**Maternal and Child Health / Women's Health
March 7 – 15, 2015**

Tahmina Muhidindjanovna Jaborova
Rano Makhkamovna Rahmatova
Dilbar Muhabatshoevna Ismailova
Nigina Murodjonovna Hasanova
Sarvinoz Fayzalievna Ganieva
Malika Salimzhanovna Makhkambaeva, Facilitator

Farida Asadova - Translator

Boulder, Colorado, USA

**Host organization:
Boulder County Public Health
Stephanie Martz
3450 Broadway, Boulder CO 80304
Tel. 303-441-1142, smartz@bouldercounty.org
Cell: 720-382-0688**

**And
Boulder Dushanbe Sister Cities
Sophia Stoller
764 Sunshine Canyon Drive, Boulder CO 80302
Tel. 720-771-3149, sophiastoller@yahoo.com**

**Administered by
World Services of La Crosse, Inc.**

FOR OFFICE USE ONLY

Date Received:

Version:

Description of host organization:

Boulder County Public Health works to protect, promote, and enhance the health and well-being of all people and the environment in Boulder County. Under the direction of the Boulder County Board of Health, the department's 200+ staff and numerous volunteers and interns provide services to address the diverse public health needs of the community in these divisions:

- Communicable Disease Control & Emergency Preparedness
- Community Health (Adolescents & Teens)
- Environmental Health
- Family Health (Pregnancy, Infants & Children)

Boulder-Dushanbe Sister Cities is a volunteer organization with a community Board of Directors. The organization is formed to “cultivate our friendship with our Tajik friends in Dushanbe” and to “...continue our efforts to help, whenever possible, make the gift of the Friendship Center to be operational and successful.”

Saturday, March 7, 2015

2:35pm Arrival Denver International Airport

United Airlines Flight 735 from Washington, Dulles
 Stephanie Martz – smartz15@hotmail.com, 720-382-0688
 Joe Stepanek – jcvstep@infonline.net, 303-544-0881
 Sophia Stoller – sophiastoller@yahoo.com, 720-771-3149

Pick up at Denver International Airport and liaison with host families.

Sunday, March 8, 2015

3:45pm – 5:45pm Tour of Boulder / Banjo Billy

Hotel Boulderado
 2115 13th Street, Boulder CO

90 minute tour by bus of Boulder to learn about current traditions, crazy folk lore and the history that formed this old mining supply town. Drop off at 720 11th Street (see below.)

6:00pm Welcome Party

720 11th Street (NE corner of 11th and Baseline)
 Boulder, CO
 Joe and Caroline Stepanek
jcvstep@infonline.net
 303-544-0881

Welcome dinner for Tajik delegates, host families, Board members from Boulder-Dushanbe Sister Cities and Boulder County Public Health, presenters, and community members.

Monday, March 9, 2015

8:30am Meet at Boulder Dushanbe Teahouse

*1770 13th St.
Boulder, CO 80302
303-442-4993
Lenny Martinelli – lenny@threeleafconcepts.com*

Distribution of final agenda to delegates. Orientation to agenda.

10:00am – 11:30 am Boulder Community Health

*4747 Arapahoe Avenue
Karen Frank, CNM, MS, IBCLC
303-956-8942*

Tour of the Family Birth Center and discussion about the hospital's lactation program and the Baby Friendly Hospital Initiative.

12:00 – 1:30 pm Tour of Private OB/Gyn practice and lunch

*Avista Women's Care
90 Health Park Drive, Louisville, CO
Suite 290
Esther Burke*

Tour of private OB/Gyn practice and lunch with the doctors at the hospital cafeteria.

1:30pm- 2:00pm Avista Adventist Hospital

*100 Health Park Drive, Louisville, CO 80027
Haley Vondersaar
770-315-4807*

2:00pm Church Ranch Breast Care Center

7233 Church Ranch Blvd, Westminster, CO 80021

Tour of breast care clinic including 3D mammography technology.

4:00pm – 5:00pm Shopping in Westminster, Broomfield or Louisville

5:00 pm Host Families pick up delegates at Teahouse

Evening with host families

Tuesday, March 10, 2015

8:30am Meet at Boulder Dushanbe Teahouse

1770 13th St.

Boulder, CO 80302

303-442-4993

Lenny Martinelli – lenny@threeleafconcepts.com

9:00am – 10:45am Nurse Family Partnership

Sundquist Building, Sundquist Room

3482 Broadway Street

Boulder, CO 80304

Liza Patrick

<http://www.bouldercounty.org/family/pregnancy/pages/nfpindex>

303-881-3778

The Nurse Family Partnership is a nation-wide program that provides direct nursing support for first-time mothers in their home. We will review the Nurse Family Partnership (NFP) program model using a visual representation developed by the NFP National Service Office. We will share our assessment tools and handouts, and explain to delegates how our data is entered into the national system.

10:45am – 11:30am Introduction to Boulder County Public Health

3450 Broadway, Auditorium

Boulder, CO 80304

Jeff Zayach, Boulder County Public Health Director

jzayach@bouldercounty.org

<http://www.bouldercounty.org/dept/publichealth>

303-441-1456

Introduction to Local Public Health in America/Colorado:
Presentation about how Public Health is structured in the USA;
workforce/disciplines of public health workers in America

11:30 am – 1:30 pm Lunch at Boulder County Public Health with Genesis/Genesister Staff
3450 Broadway, Auditorium

2:00 – 4:00pm Genesis (Teen Parenting Program)
3450 Broadway, Auditorium Boulder, CO
Jody Scanlon
jscanlon@bouldercounty.org
<http://www.bouldercounty.org/family/pregnancy/pages/genesservices>
303-441-7529

Presentation on teen pregnancy in America and why it is a public health issue.

GENESIS staff includes social workers, parent educators and a nurse, provide case management of teen mothers to assist them through their pregnancy and in the early parenting years. In small groups delegates will shadow home visits to program clients.

4:00 – 6:00pm Genesister (Younger sister of teen mothers)
3482 Broadway
Boulder, CO
Jody Scanlon
jscanlon@bouldercounty.org
<http://www.bouldercounty.org/family/youth/pages/genesister>
303-441-7529

Observation of sexual health education workshop

6:00 – 7:00pm Community Presentation Preparation and Dinner for Delegates
Alfalfa's Market
Community Room
1651 Broadway
Boulder, CO 80302
720-420-8400

Stephanie Martz
smartz15@hotmail.com
720-382-0688
Joe Stepanek
jcvstep@infonline.net
303-544-0881
Sophia Stoller
sophiastoller@yahoo.com
720-771-3149

7:00pm – 9:00pm Delegate Presentation to the Boulder Community

Presentation by Tajik delegates on Tajikistan and the status of maternal and child health in Tajikistan. Audience/invitees will include Boulder-Dushanbe Sister Cities members, all hosts, with spouses, Boulder County Public Health employees and Board of Health members.

Wednesday, March 11, 2015

8:00am **Meet at Boulder Dushanbe Teahouse**

*1770 13th St.
Boulder, CO 80302
303-442-4993
Lenny Martinelli – lenny@threeleafconcepts.com*

8:30 – 10:00am **Birth Center of Boulder**

*2800 Folsom Street, Boulder
303-443-3993
<http://.birthcenterofboulder.com>*

Visit to a birth center offering midwifery based prenatal, labor and delivery and post partum care including water birth.

10:00am to noon **Safehouse Progressive Alliance for Nonviolence**

*(Outreach Center)
835 North Street, Boulder
Anne Tapp
<http://www.safehousealliance.org>
303-449-8623*

Safehouse Progressive Alliance for Nonviolence (SPAN) offers support and services that provide healing, hope and opportunity to adults, youth and children who have been impacted by domestic or dating violence. We will start at the Outreach Center and then drive to a confidential safehouse location to meet with residents.

12:00 am – 1:30 pm **Lunch**

*Breadworks or Moe's
Boulder, CO*

2:00pm – 3:00pm HIV/Hepatitis C Testing and Harm Reduction

*Sundquist Building, Salon de Dialogos
3482 Broadway Street
Boulder, CO 80304
Patty Brezovar
pbrezovar@bouldercounty.org
<http://www.bouldercounty.org/family/disease/pages/hivandstiiindex>
<http://www.bouldercounty.org/family/disease/pages/syringeexchange>
303-413-7533*

Discussion about HIV in Boulder County. Opportunity to observe testing and counseling session with clients. Show and tell of harm reduction program targeting injecting drug users.

3:00pm – 4:00pm WIC (Women, Infants, Children) – Maternal and Child Nutrition

*Sundquist Building, Salon de Dialogos
3482 Broadway Street
Boulder, CO 80304
Melinda Morris
mmorris@bouldercounty.org
<http://www.bouldercounty.org/family/pregnancy/pages/wicindex>
303-441-7509*

Discussion about nutrition in the context of maternal and child health. Site visit to WIC program.

4:00pm to 5:00pm Shopping at Marshalls or Ross

5:00 pm Host Families pick up delegates at Teahouse

Evening with host families

Thursday, March 12, 2015

8:30am Meet at Boulder Dushanbe Teahouse

*1770 13th St.
Boulder, CO 80302
303-442-4993
Lenny Martinelli – lenny@threeleafconcepts.com*

10:00am – 12:00 Community Food Share (Louisville CO)

Feeding Families Program
650 S. Taylor Ave. (park on north side)
Louisville, CO
Anne Shanahan
ashanahan@communityfoodshare.org
<http://communityfoodshare.org>
303-652-3663 x.217

Site visit to a local food bank and discussion about hunger in America

12:00 – 12:40

Lunch

Chipotle
375 S. McCaslin Blvd.
Louisville CO

1:00 – 5:00

Boulder Valley Women’s Health

2855 Valmont Road
Boulder, CO 80301
Susan Levy
Ruth Weinberg
Linda Johnson
susan@bvwhc.org
<http://boulderwomenshealth.org>
303-442-5160

Boulder Valley Women’s Health Center provides reproductive and sexual health care, including family planning and gynecological services, to adults and teens at clinic locations in Boulder and Longmont. Discussion on clinical care (1:00-2:00pm) Pending client permission, delegates may be able to observe clients receiving services from an OB/GYN (2:00pm – 6:00pm.)

5:00pm

Host Family Pick up at the Teahouse

7:00pm

Salsa or Swing Dancing

Avalon
6185 Arapahoe Road
Boulder, CO 80303
303-441-8303

Host Families Welcome!

Friday, March 13, 2015

8:30am Meet at Boulder Dushanbe Teahouse

1770 13th St.
Boulder, CO 80302
303-442-4993
Lenny Martinelli – lenny@threeleafconcepts.com

Casey Middle School group to meet with Tajik delegates.

Lee Lazar
lee.lazar@bvsd.org

9:45am – 10:15 Child Health Promotion

Sarah Scully
Teahouse
sscully@bouldercounty.org
<http://www.bouldercounty.org/family/pregnancy/pages/chp>
303-413-7502

Overview of BCPH's role in assuring safe, developmentally appropriate, high quality child care facilities including a site visit to a child care facility regulated by BCPH.

10:15am – 12:00 Wilderness Early Learning Center

2845 Wilderness Place, Boulder
<http://www.theacornschool.org>
303-938-8233

Visit to an early childhood center including a Head Start program.

12:00 – 1:00pm Lunch

3 Margaritas
3390 28th St. Boulder

1:00pm Behavioral Health and Centering Pregnancy Program

People's Clinic
2525 13th St.
Boulder, CO 80304
Lynn Scheidenhelm
Simon Smith
Misae Vela Brol, NP
<https://clinica.org>
303-650-3036 x. 1360

Presentation and open discussion about the Centering Pregnancy and Parenting Group Visit program model.

3:00 – 5:00 **Delegate Debrief, Evaluations, Group Photo**
2525 13th Street, Large Conference Room (2nd Floor)

5:00pm **Pick up at the Teahouse**

Saturday, March 14, 2015

TBD **Denver Museum of Nature and Science**
Silk Road Exhibit, IMAX and other exhibits
2001 Colorado Blvd.
Denver, CO 80205

7:00pm **Farewell Dinner**
1509 S. Proctor Court
Superior, CO
Stephanie Martz
720-382-0688

Pizza party for delegates, host families, distinguished guests and presenters.

Sunday, March 15, 2015

10:00am **Drop Off Denver International Airport**
1:05pm Delta Flight 1916 to Atlanta

Additional Unscheduled Activities (if there is time)

Children with Special Needs
BCPH Boston Site
1030 Boston Avenue
Longmont, CO 80501
Lori McLean
lmclean@bouldercounty.org

<http://www.bouldercounty.org/family/pregnancy/pages/csnprogram>
303-441-6137

Overview of BCPH's program to help families with a special needs child:
infant and child health development and the needs of infants born with
special health care needs.

Immunization Clinic (Mondays and Wednesdays)

529 Coffman, Suite 200

Longmont, CO 80501

Chris Shepherd

cshepherd@bouldercounty.org

<http://www.bouldercounty.org/family/pregnancy/pages/immunizationindex>

303-678-6160

Observation of immunization clinic

Boulder Dushanbe Sister Cities

2015 Annual Statement

Income	
Events and Fundraising	4,918.74
Membership Dues	361.52
Total Income	\$5,280.26
Expenses	
Accounting	143.27
Bank Charges	50
Educational Programs	2,000.00
Events and Hosting	3,499.49
Printing, Publishing, Supp	160.84
Registration	20
Travel	1,700.00
Web site & domain	206.98
Total Expenses	\$7,780.58
Net Operating Income	\$ -2,500.32
Other Income	
Interest Earned	31.67
Total Other Income	\$31.67
Net Other Income	\$31.67
Net Income	\$ -2,468.65

ASSETS	
Current Assets	
Bank Accounts	
Cyber Cafe Bank Accounts	17,750.70
Operation Bank Accounts	20,603.63
PayPal	303.52
Total Bank Accounts	\$38,657.85
Total Current Assets	\$38,657.85
TOTAL ASSETS	\$38,657.85
LIABILITIES AND EQUITY	
Liabilities	
Total Liabilities	
Equity	
Opening Balance Equity	44,058.04
Retained Earnings	-5,400.19
Net Income	0
Total Equity	\$38,657.85
TOTAL LIABILITIES AND EQUITY	\$38,657.85

Boulder Kisumu Sister City

2015 ANNUAL REPORT

Boulder Kisumu Sister City is an all-volunteer, non-political 501(c)(3), charitable organization.

Membership is open to all regardless of race, religion, nationality and political beliefs.

CITY OF BOULDER RESOLUTION 631 COMPLIANCE

Boulder Kisumu Sister City maintains compliance with all provisions of Resolution 631:

- **501(c)(3) Status IRS Status**

Boulder Kisumu Sister City has maintained a 501(c)(3) status, as a private, non-profit corporation.

- **Membership Requirements**

Membership in Boulder Kisumu Sister City is not denied based upon race, religion, nationality, membership in a minority group, membership in a particular social group, or because of the expression of unpopular political opinion.

- **Boulder-based Board of Directors**

Darryl Brown, President
Sarah Summers, Vice President
Sally Brown, Secretary- Treasurer
Kimberly Smith, Member at Large
Barbara Paradiso, Member at Large

- **Financial Reporting**

RECEIPTS

Membership Dues 500.00
TOTAL \$500.00

DISBURSEMENTS

Boulder Kisumu Projects \$0
Bank Fees - \$36.00
Website – \$214.22
TOTAL \$250.22

Year End TOTAL \$12,255.81

2014 HIGHLIGHTS

1. **Project – February 2013 – Women’s Empowerment Project with Kisumu Winam Rotary**

- a. **Results** – Winnie Opar reports successful chicken/egg program continues.
- 2. Project – Oasis of Hope School**
 - a. **Partner** - Boulder Rotary, Winam Rotary Club and the Ogra Foundation.
 - b. **Results** – Haggai Kadiri reporting that there are now 2 school books for every 3 children and they are hoping for support in 2016 for more books to be able to provide one book for every one child.
- 3. Project - February 2013 – Young County Change Makers Library**
 - a. **Partner** – Young County Change Makers
 - b. **Results** - Brian Megano reports that books for Form 1 – Form 4 were purchased for a slum library are being used daily by slum children in an after school program..

2016 WORK PLAN

Paul Achayo, Kisumu County Assembly member will travel to the US. The Kisumu Boulder Sister City (Committee in Kisumu) is working with the Winam Rotary club to try to help the Rotary Club complete some long overdue Reports that are preventing Rotary from assisting us with any grants.









2015 ANNUAL REPORT

The **Boulder Jalapa Friendship City Projects** is an all-volunteer, non-political 501(c)(3), charitable organization. Membership is open to all regardless of race, religion, nationality and political beliefs.

CITY OF BOULDER RESOLUTION 631 COMPLIANCE

Boulder Jalapa Friendship City Projects maintains compliance with all provisions of Resolution 631:

- 501(c)(3) Status
- Membership Requirements
- Boulder-based Board of Directors
- Financial Reporting
- Work Plan reporting

2015 HIGHLIGHTS

- 1-FCP has been working on refurbishing the the village of El Trapiche Water System, working with the Benito & Frances C. Gaguine Foundation of Juneau, Alaska and the Boulder Valley Rotary Global Grant to purchase materials and build water tanks and lay pipe to bring fresh clean water to over 1,000 people.
- 2- Partnership with UC Denver Design build for Student Service Learning project with the school of Architecture,
- 3- Art & Cultural exchange events in May 2015 with schools and community groups in Boulder.
- 4-Former FCP board member Narayan Shrestha recognized by Boulder City Council for his service.
- 5- FCP organizing a fundraiser to support earthquake victims in Nepal at Nomad theater June 1st.

FUPROSOMUNIC

FCP started working with Solar Women of Nicaragua (registered as FUPROSOMUNIC in Nicaragua) Solar Women of Nicaragua is a non-profit organization in Nicaragua which provides training in the construction, care and use of solar cookers. During the construction workshops, Nicaraguan women learn the carpentry skills needed to build the cookers and they also

participate in workshops on other issues such as nutrition, environmental education, child care and gender.

Project FE: Fostering Education

Project FE provides scholarships, mentorship and community service opportunities to youth in the Jalapa Valley. We currently support the education of rural students by connecting them to sponsors in the United States and fostering a support network to build confidence, community engagement and leadership skills.

CU Denver School Of Architecture

20 CU Denver students worked for 2 weeks on remodeling the community building into. Preschool (Dec. 28-Jan. 12, 2016)

Delegations in 2015

March 2015 visit of Sofia and Jeff Orrey.

April of 2015 board member and water engineer Mark Van Nostrand visited the El Trapiche site to inspect and plan for the rebuild.

May: visit of Marlon Moreno in Boulder: teaching Primitivista art in Casey MS, Shining Mountain Waldorf School, Columbine Elementary school, Intercambio and Spanish Institute, performing music and sharing poetry and culture at Innisfree Poetry Bookshop and Cafe, Crest view Elementary and Shining Mountain Waldorf School.

May: visit of Xuchialt artists from Leon in Jalapa, meeting with Karla Pozo, the library director and Jalapa artists.

September 2016: U C Denver professors: Phil Gallegos, Joe VandenBurg visit to Jalapa.

November board members Barbara Bowerman, Greg Bowles and Philip Wegener visited the Jalapa Valley to inspect all the projects, scout out future projects and meet with locals. They documented the progress of all working projects and took many photographs & videos to show

December: UC Denver: Chusli Project, Water tank visit, delivery of nursing kits to nursing students of Project FE donated by Laura Spicer donors. Plus they met with the Ocotol Rotary to help arrange the transfer of funds from the Boulder Valley Rotary.

January 2016: John and Cindy Gaguine visit Nicaragua.

Doug Cospers visit in Nicaragua and visit to Jalapa:

1. delivery of water filters to Project FE families, FCP / Pueblos Unidos office.
2. Delivery of preschool material donations (puzzles and educational material).

2016 WORK PLANS

1. Presentations at CWA in April: presentation about climate change in Jalapa, Nicaragua: Tue. April 5, 5-7pm by former Jalapa mayor Orlando Zeledon in City council study session, April 7, 6:30-8pm: Experiencing Nicaragua. Bringing together individuals, NGOs and groups to share their experience in Nicaragua, Jalapa and beyond.
2. Finishing el Trapiche water system.
Bringing Jalapa artists to Americas Latino Eco Festival in October 2016 and working with Boulder High on developing a mural project celebrating the sister city (in Boulder and in Jalapa).
3. Helping to develop a Rotary Club in Jalapa.
4. Art and culture exchange with schools and community groups (October 2016)
Bringing Jalapa artists to Boulder to share art and culture.
5. New infrastructure project in conjunction with UC Denver Design Build.
6. Collaborations with El Porvenir for future water projects in the Jalapa Valley.
7. Connecting Boulder Community Hospital with Jalapa Hospital.

2016 MEETING DATES

MEETINGS ARE HELD THE SECOND THURSDAYS OF EACH MONTH AT THE MAIN BOULDER LIBRARY, UNTIL FURTHER NOTICE.

BOARD MEMBERS:

MERCEDES ALVAREZ	CATERINA, NICARAGUA
ZUZA BOHLEY	BOULDER
GREGORY BOWLES	CATERINA, NICARAGUA
GARY MILLS	BOULDER
FRANCOISE POINSATTE	BOULDER
TASIA POINSATTE	WASHINGTON DC
SOFIA ORREY	BOULDER
MAYA FRIEDLI SCHROEDER	BOULDER
PHILIP WEGENER	BOULDER
MARK VAN NOSTROM	BOULDER

FCp's 505c3 document, Two pages, links here,
<https://goo.gl/photos/LzPSzyzK8HJnYFwr9>
<https://goo.gl/photos/3YCHYheunc8Ct1Ej7>

Facebook page: <https://www.facebook.com/FriendshipCityProjects/?ref=hl>

Attachments A – Resolution 631 Requirements: 501(c)(3) Certificate of Good Standing, Membership Requirements, Board of Directors, Financial & Fundraising Report

Financial Report 2015 Boulder-Jalapa Friendship City Projects

Bank Account as of January 1, 2015		\$13,663.20
Total Deposits 2015		\$21,978.20
		<u>\$35,641.40</u>
Includes:		
Water Tank construction		\$19,888.20
Project FE Scholarships		\$ 2500
Medical Kits		\$ 500
Water Filters		\$ 500
Nicaraguan Artist Visits		\$ 804
Operational Expenses		\$ 5600
		<u>\$29,792.01</u>
Total Expenses		\$29,792.01
		<u>\$35,641.40</u>
Remaining Balance	-	\$29,792.01
		<u>\$ 5849.39</u>

Internal Revenue Service
District Director

Attachment C- Jalapa
Department of the Treasury

Date:

JUL 27 1984

Friendship City Projects
P.O. Box 7452
Boulder, Colorado 80302

Employer Identification Number:
52-1328597
Accounting Period Ending:
December 31
Foundation Status Classification:
170(b)(1)(A)(vi) & 509(a)(1)
Advance Ruling Period Ends:
December 31
Person to Contact:
EO TECHNICAL ASSISTOR
Contact Telephone Number:
(214) 767-3526
EO:7213:309:LKS

Dear Applicant:

Based on information supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

Because you are a newly created organization, we are not now making a final determination of your foundation status under section 509(a) of the Code. However, we have determined that you can reasonably be expected to be a publicly supported organization described in section 170(b)(1)(A)(vi) & 509(a)(1).

Accordingly, you will be treated as a publicly supported organization, and not as a private foundation, during an advance ruling period. This advance ruling period begins on the date of your inception and ends on the date shown above.

Within 90 days after the end of your advance ruling period, you must submit to us information needed to determine whether you have met the requirements of the applicable support test during the advance ruling period. If you establish that you have been a publicly supported organization, you will be classified as a section 509(a)(1) or 509(a)(2) organization as long as you continue to meet the requirements of the applicable support test. If you do not meet the public support requirements during the advance ruling period, you will be classified as a private foundation for future periods. Also, if you are classified as a private foundation, you will be treated as a private foundation from the date of your inception for purposes of sections 507(d) and 4940.

Grantors and donors may rely on the determination that you are not a private foundation until 90 days after the end of your advance ruling period. If you submit the required information within the 90 days, grantors and donors may continue to rely on the advance determination until the Service makes a final determination of your foundation status. However, if notice that you will no longer be treated as a section 509(a)(1) organization is published in the Internal Revenue Bulletin, grantors and donors may not rely on this determination after the date of such publication. Also, a grantor or donor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act that resulted in your loss of section 509(a)(1) status, or acquired knowledge that the Internal Revenue Service had given notice that you would be removed from classification as a section 509(a)(1) organization.

1100 Commerce St., Dallas, Texas 75242

Letter 1045(DO) (Rev. 10-83)

If your sources of support, or your purposes, character, or method of operation change, please let us know so we can consider the effect of the change on your exempt status and foundation status. Also, you should inform us of all changes in your name or address.

As of January 1, 1984, you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more you pay to each of your employees during a calendar year. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, you are not automatically exempt from other Federal excise taxes. If you have any questions about excise, employment, or other Federal taxes, please let us know.

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

You are required to file Form 990, Return of Organization Exempt from Income Tax, only if your gross receipts each year are normally more than \$25,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, when a return is filed late, unless there is reasonable cause for the delay.

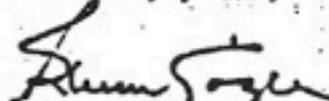
You are not required to file Federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter, we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, a number will be assigned to you and you will be advised of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

Because this letter could help resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,


Glenn Cagle
District Director

Letter 1045(DO) (Rev.

BOULDER-LHASA SISTER CITY PROJECT

www.boulder-tibet.org

776 Cottage Lane, Boulder, Colorado 80304-0758 U.S.A.
303-443-9863 info@boulder-tibet.org

ANNUAL REPORT FOR CY2015 24 February 2016

Boulder-Lhasa Sister City Project is an all-volunteer, non-political, 501(c)(3), charitable organization. Membership is open to all regardless of race, religion, nationality, and political beliefs.

City of Boulder Resolution 631 Compliance

Boulder-Lhasa Sister City Project maintains compliance with all provisions of Resolution 631:

- 501(c)(3) Status
- Membership Requirements
- Boulder-based Board of Directors
- Financial Reporting
- Work Plan reporting

Board of Directors

The BLSCP Board of Directors is Boulder-based, with the board elected by the membership, and with no member of the board being a part of any commercial venture in Lhasa. The current Board of Directors is:

Bill Warnock	President
Carol Delker	Vice President
Carrie Hartman	Secretary
Stanley Goldberg	Treasurer

2015 Highlights

VISITING LHUNGtSE, APRIL 30-MAY 5

Lhungtse is a teen-age Tibetan girl who lives in Kham on the Tibetan Plateau (Yajiang County in western Sichuan Province of China) with her mother and brother. Because her father passed away in 2004, her mother has been working for eleven years as a farmer to support her family of three. Around 2007, Lhungtse began losing her vision in both eyes and also started suffering from headaches and seizures. In



Lhungtse in 2010 in her home village with Dr. Li Tiaoying (right) and a village leader (left)

2010, Dr. Li Tiaoying, Sichuan Centers for Disease Control and Prevention (SCDC), Chengdu, Sichuan, diagnosed Lhungtse to have a serious case of neurocysticercosis (NCC).

This disease results from fecal-oral contamination from human carriers of another very serious preventable parasitic disease called taeniasis. The risk factors for taeniasis include eating undercooked pork, the use of free-ranging pigs, lack of latrine facilities, lack of meat inspection, poor hygiene, and a poor economy. NCC caused many cysts deep in Lhungtse's brain. The cysts caused hydrocephalus, for which there is an abnormal accumulation of cerebrospinal fluid (CSF) in the ventricles of the brain. The hydrocephalus caused increased intracranial pressure inside

Lhungtse's skull. This increased intracranial pressure caused Lhungtse's headaches and damaged her optic nerves. This damage caused Lhungtse's total blindness.

2013 - Lhungtse's Brain Surgery Thanks to generous donations from many of you and others, Lhungtse received ventriculoperitoneal (VP) shunt brain surgery on 5 September 2013 at Sichuan Provincial People's Hospital in Chengdu. BLSCP raised \$13,000 before her surgery and \$6,091.71 afterwards to pay for all of the hospital costs and related expenses.

April 28 - Chengdu BLSCP members Bill Warnock and Shari Mayer arrived in Chengdu on April 26 to meet with Lhungtse's doctors and then travel to Kangding to spend six days with Lhungtse and her family. Bill and Shari used personal funds to pay for all travel costs. On April 28, we met with Dr. Li and Dr. Zeng Xian Rong, the neurologist who had examined Lhungtse on February 9. An electroencephalogram (EEG) showed some abnormalities in the electrical activity in Lhungtse's brain, which were apparently caused by calcified lesions at the sites of dead parasitic cysts. Dr. Zeng prescribed oxcarbazepine, one 300 mg tablet, twice each day, to help control the partial seizures that Lhungtse has experienced since her surgery in 2013. Dr. Zeng asked us to let her know how Lhungtse was responding to this medication. She also asked us to arrange tests for Lhungtse's white blood cell count, blood platelets, and liver function, which are indications of tolerance for taking oxcarbazepine.



Meeting Lhungtse's doctors on April 28 in Chengdu: Dr. Li Tiaoying, Shari Mayer, Bill Warnock, Dr. Zeng Xian Rong (left to right)



Bill, Lhungtse, Shari, Lhungtse's mother, Lhungtse's brother

learned that Lhungtse had been forgetful sometimes, experienced some chest pains, and worried very much about the future of her and her family. We left the school with Lhungtse and spent the night at a hotel in Kangding.

May 1-3 - Tagong Before departing Kangding for the three-day International Labor Day weekend, we took Lhungtse to the Ganzi Prefecture Hospital for some blood tests and arranged for

April 30 - Kangding Our excellent Kham Tour was provided by Conscious Journeys. Our excellent tour guide, driver, and interpreter/translator was Tenpa Tenzin. Lhungtse's mother and brother arrived from Yajiang and went with us to Ganzi Prefecture Special School to meet with Lhungtse and one of her top teachers. We learned that Lhungtse was still experiencing a short-term paralysis of the jaw and hands from time to time. This paralysis was lasting for 2-3 minutes, did not include any shaking or loss of hearing, was accompanied by some kind of image moving behind her eyes, and sometimes caused Lhungtse to fall down. These episodes were reportedly occurring several times each week and sometimes twice in one day. However, Lhungtse apparently had not suffered any injuries when falling down. We could not confirm whether Lhungtse was fully complying with the prescribed oxcarbazepine dosage every day. We also



Lhungtse in Tagong

an electrocardiogram (EKG) and another blood test to be taken on the morning of May 4. We then drove northwest of Kangding around 70 miles to the village of Tagong. We stayed at Khampa Cafe and Guesthouse, which was opened in May 2010 by Angela Lankford, who is from Westcliffe, Colorado. Angela has recently sold this business to a Czech man named Max. She is now building an eco-lodge around 6 miles outside of town. We visited Angela there and also toured Lhagang Monastery.

May 4-5 - Kangding After finishing the tests at Ganzi Prefecture Hospital and eating breakfast on May 4, we returned Lhungtse to Ganzi Prefecture Special School. We met with one of the top administrators, who thanked us for our efforts to help Lhungtse. He said that the school has the same goal of helping disabled students to become independent. He said that the school now has a total of 93 blind and deaf students and hopes to expand the enrollment by several hundred in the future and also include other disabilities. He explained that the school normally requires its students to be physically fit and that Lhungtse requires extra support from the staff and other students. He was fearful that people could blame the school if Lhungtse died or became injured while enrolled at the school. He and some teachers were surprised that Lhungtse had experienced no seizures during the four days with us.



Lhungtse (standing on left) and her close friend Droma (standing on right) practicing massage therapy

Lhungtse's mother returned to her home in Yajiang to hunt for caterpillar fungus, which is a significant source of income for many Tibetans. Shari and I remained at the school during the afternoon to attend Lhungtse's massage therapy training class. The school has hired a blind massage teacher, who is providing potential vocational training to around 15 students.

On May 5, Shari and I returned to the school with Tenpa, our driver, guide, and interpreter/translator, and visited the afternoon massage therapy class again. After class ended, Tenpa provided some excellent advice and encouragement to Lhungtse. I told Lhungtse's close friend Droma that we are very happy that they are friends. Then they went off together to the cafeteria for dinner, and we left the school.

May 7 - Chengdu Dr. Zeng, the neurologist, agreed to an early morning meeting with us in her office at Sichuan Provincial People's Hospital. Although Dr. Zeng has some fluency in English, Tenpa agreed to join this meeting so that he could also discuss Lhungtse's situation in Mandarin Chinese. Dr. Zeng examined the hospital reports for Lhungtse's blood tests and EKG and concluded that they were all normal. She concurred with our suggestions that stress may be the cause of Lhungtse's chest pains and also may be a trigger for some of Lhungtse's partial seizures. Dr. Zeng prescribed that Lhungtse should increase her dosage of oxcarbazepine to one 300 mg tablet, three times each day, for one month, after which Dr. Zeng requested a report on Lhungtse's response to the increased dosage. She said that Lhungtse would need to take this medicine for some time, so we purchased a 100-day supply of 300 tablets at the hospital pharmacy. Dr. Zeng also wrote and signed a note for the school administrators, which indicated that Lhungtse is under her medical care.

Since Tenpa was scheduled to drive back to Kangding on the following day, he offered to take the medicine and note to the school. Shari and I traveled from Chengdu back to our homes on the following day. I understand from Tenpa that Lhungtse started the increased dosage of medicine



Enjoying dinner together at the Elephant Restaurant in the Tibetan quarter of Chengdu: Bill; Shari; Tenpa; Kush (Kunchok Sherab), Trip Coordinator for our Conscious Journeys Kham Tour

around May 13. We are hopeful that the medicine will lessen her partial seizures.

Lhungtse's Continuing Medical Expenses BLSCP received some donations in December 2014 for Lhungtse and a 2015 BLSCP Health Mission. These funds have been used to pay \$463.06 for the costs of medical examinations in February, blood and EKG tests in early May, and the new supply of medicine.

VISITING LHUNGTSE, NOVEMBER 12-17

November 9 & 10 - Chengdu BLSCP members Bill Warnock and Shari Mayer arrived in Chengdu on November 9 to meet with Lhungtse's doctors and then travel to Kangding to spend six days with Lhungtse and her mother. Bill and Shari used personal funds to pay for all travel costs. On November 9, Bill met for dinner with Dr. Li and Dr. Zeng Xian Rong, who is Lhungtse's neurologist. Dr. Zeng prescribed for Lhungtse to continue taking an anti-convulsant called oxcarbazepine, one 300-mg tablet, three times each day. She also asked us to arrange blood tests again for Lhungtse to check her tolerance for taking oxcarbazepine. On November 10, Bill purchased an additional 300 tablets of oxcarbazepine with BLSCP funds. Dr. Zeng requested for Lhungtse to come to Chengdu on the afternoon of either 22 or 29 February 2016 for check-ups by Dr. Liao, who is her neurosurgeon, and by Dr. Zeng.



Lhungtse's mother & Bill

November 12-17 -

Kangding Our excellent Kham Tour was again provided by Conscious Journeys. Our excellent tour guide, driver, and interpreter/translator was again Tenpa Tenzin. Before seeing Lhungtse at Ganzi Prefecture Special School, we chatted with her mother about our hope to identify potential vocational opportunities for Lhungtse. Her mother replied, "That will be good, but more important is the fact that Lhungtse is alive. Without her brain surgery in 2013, by now she would probably be dead."



Shari & Lhungtse's mother

On November 12 & 13, we visited Lhungtse at her school. She is happier and more confident compared to our previous visit in April-May 2015. In her dormitory room she was very pleased to show us how she can make her bed and also demonstrate for us several repetitions of one of her physical exercises. She explained that her cue for taking her medicine is when she finishes washing her eating bowl after each of her three daily meals. When we were leaving the school for the weekend, she insisted on having no assistance for negotiating the two long flights of stairs from the school courtyard down to our vehicle.

As we were driving to a restaurant for lunch, Lhungtse told us, "I am so happy to be with you!" Then Tenpa asked her, with a smile, "What do you mean?" She replied, "Life right now is smooth."

On November 14 & 15, we spent time with several local friends.

On the morning of November 16, we took Lhungtse to Ganzi Prefecture Hospital to give some blood for testing. Then we returned Lhungtse to Ganzi Prefecture Special School and met with the Headmaster. He said that in 2016 the school is planning to open a massage shop in downtown Kangding, where students from the school's massage training class will be able to earn money for providing massages.

In the afternoon, Lhungtse's mother returned to her home in Yajiang, and Tenpa went to the hospital to obtain the results for Lhungtse's blood tests, which were all normal.

On November 17, I sent Lhungtse's blood tests results to Dr. Zeng in Chengdu, and we returned to Ganzi Prefecture Special School. We met with the head teacher, who gave us several updates about Lhungtse:

1. Since Lhungtse returned to school around October 6, she had actually had several seizures. However, most of them were minor and lasted only around one minute.
2. The school is doing the best that it can to monitor Lhungtse, but it is impossible to know for sure if she takes three tablets of her medicine every day.
3. Lhungtse does OK with daily life functions and playing with other students. However, she is still not accomplishing much in her classes and studying.
4. She does have a reasonably good usage of Chinese Mandarin and Sichuan dialects.
5. She appears not to like the massage training class much.



Lhungtse at lunch



Enjoying a Tibetan dinner in Kangding with several local friends

Lhungtse's Future Except for her total blindness caused by the parasitic disease, Lhungtse is reasonably healthy. She has made considerable progress following her brain surgery in 2013. So far the ventriculoperitoneal (VP) shunt in Lhungtse's brain has been working well. We hope and pray that her shunt system will not have any complications, such as mechanical failure, obstructions, or infections.

We hope that Dr. Zeng will be able to test her cognitive ability during her examination in February 2016. In addition to the massage training now at Ganzi Prefecture Special School, we are developing several other potential vocations for Lhungtse.

Fund-raising / Contributions (CY2015)

Solar Electricity Program	0.00
Parasite Medical Program	1,970.00
Namling County Schools Project	0.00
Lhasa Kungshon Language School	0.00
General Use	895.00
Membership Dues	<u>160.00</u>
TOTAL	\$ 3,025.00

2016 Work Plan **HEALTH MISSION**

We are considering a health mission in rural Lhasa Prefecture. This activity is under development and not yet defined.

COMMUNITY OUTREACH

BLSCP will continue to be a resource for the Boulder community, by providing outreach activities on our programs in Tibet and information regarding the geography, climate, high-altitude effects, travel accommodations, and culture of Tibet. BLSCP will maintain and update its own Web site at **www.boulder-tibet.org**. BLSCP will continue to participate in Boulder Sister City Alliance, which is an effective, informal organization of Boulder's seven sister city organizations.

2016 Budget (estimated)

RECEIPTS

Solar Electricity Program	0.00
Parasite Medical Program	1,000.00
Namling County Schools Project	0.00
Lhasa Kungshon Language School	0.00
General Use	500.00
Membership Dues	<u>200.00</u>
TOTAL	\$ 1,700.00

DISBURSEMENTS

Solar Electricity Program	0.00
Parasite Medical Program	1,000.00
Namling County Schools Project	0.00
Lhasa Kungshon Language School	0.00
Operating Expenses	500.00
Community Outreach	<u>200.00</u>
TOTAL	\$ 1,700.00



BOULDER MANTE SISTER CITIES COMMITTEE

P O Box 1426
Boulder, Colorado 80306

<http://boulder-mante.org>

ANNUAL REPORT

February 29, 2016

“Our Sister City relationship is a long-term relationship—
“We are filled with concern for the safety of your citizens and would like to reiterate our desire
to continue our friendship and mutual support” Norris Hermsmeyer, Chair

Background: The Boulder Mante Sister City relationship is an outgrowth of an annual medical campaign to Ciudad Mante, Mexico developed by Boulder Community Hospital (BCH) and several outreach programs with Boulder Rotary and First Presbyterian Church in Boulder. Boulder City council approved the relationship on Dec. 7, 1999. A formal proclamation uniting the cities of Mante and Boulder was signed in Mante in January, 2000 and again in Boulder on July 7, 2000 at Folsom Stadium.

Medical Mission suspended: Shortly after the medical team had been in Mante in 2010, reports became available of drug related gang activity in the Mante area. Boulder Community Hospital began monitoring the situation in Mante later that spring. In the summer of 2010, David Gehant, President of Boulder Community Hospital cancelled the 2011 mission. Updates from our contacts in Mante indicate the situation continues to be hazardous for residents and potential visitors to the city.

Visitors from Mante: From Oct. 7-13, the Boulder Mante Sister City committee was able to host two guests from its corresponding committee from Mante, Mexico. One of our guests was Dr. Guillermo Sainz, a family doctor and the other was Luis Alberto Cruz, an architect, owner of the local television station and past President of the Mante Rotary Club.

Their purpose in visiting Boulder was to reignite the sister city relationship in Mante by taking back stories and video about Boulder to share with the residents of Mante. During their visit, they were able to tour several Boulder schools, Boulder Community Health, the Municipal Complex, First Presbyterian Church, and a variety of other points of interest. Of particular interest was visiting the Mante mural on the north side of the Dairy Center, the Sister City Plaza

at Broadway and Canyon and the Sister City Peace Garden between the Municipal Building and the Boulder Library.

Our Mante guests wanted to offer to Boulderites that the door was open for people to return to Mante. They stated the height of the criminal activity occurred about five years ago. For the last two years, conditions have changed dramatically. People now enjoy normal routines including shopping, visiting and going to events in the evening. As an example of current conditions, it was noted that Rotary had hosted some 18 youth exchange students in recent years with no safety issues. Guillermo was particularly interested in having guests return to Mante for fishing for black bass. Alberto and Guillermo agree. Mante is not paradise, but it's as safe as any place in Mexico these days.

During their stay in Boulder, the following topics were discussed.

- Reigniting the teacher exchange between the two communities. It was noted that several teachers still remain in touch by email.
- Our guests viewed the “city in a suitcase” created by the Boulder Museum of History which has many items from Mexico that can be loaned out to student and scouting groups who wish to learn about Mante and Mexico. Alberto and Guillermo are interested in creating a “city in a suitcase” about Boulder which could be circulated in Mante.
- Guillermo reported that the dental equipment purchased by Boulder resident donations and a grant from Rotary have been incorporated into service in Mante and are valuable tools for dentistry in Mante.
- The Mante guests were introduced at Boulder Rotary, where that club was reminded of the many Rotary grants that had been completed to equip the hospital, rehab facilities and clinics in Mante. The Boulder Club was reminded that they are sister clubs with Mante Rotary.
- Our Mante guests were introduced to Dr. Rob Vissers, the new CEO of Boulder Community Health. A discussion followed about smaller medical teams returning to Mante and the possible assistance Boulder Community Health might provide in equipping the new rehab facility in Mante. This could possibly be in connection with Project Cure.
- The Mante guests expressed an interest in the short term for help with speech therapy and audiology screening

As a result of this visit, it seems possible for a small delegation from Boulder to visit Mante in the near future for assessment and reconnection of our two communities and committees.

City in a Suitcase: In collaboration with the Boulder Museum of History a trunk of typical clothes, toys and souvenirs from the Mante, Mexico area has been assembled and loaned out to education venues such as scout troops and classrooms in the Boulder Valley School District.

Administration: In conformance with the requirement of the City of Boulder resolution 631, the following information is provided.

A (1) Copy of Dept. of Treasury letter stating determination of status of organization under section 501©3 is available for inspection upon request.

A (2) List of Board members:

Norris Hermsmeyer, President	Jean Bedell, Vice President
Pam Hyink, Secretary	Rich Lopez, Treasurer
Chan Mortimer	Celeste Landry
Jesper Frant	Sharon Trumpeter
Elfa Rodriguez	Jeannie DeMarinis
Andrew Moschetti	Gary Kahn
City Council Liaison: Mary Young	

A(3) By-laws of the Boulder Mante Sister City Committee state that membership is open to anyone with an interest in the work of the committee and membership shall not be denied to anyone based on race, religion, nationality, membership in a minority group, membership in a particular social group or because of expression of unpopular political opinions.

A(4) Financial report:

Starting balance, Jan 1, 2015	\$7213.54
Ending balance, Dec. 31, 2015	\$7213.54

Re: Boulder Sister City Organization 2016 Annual Report**The BOULDER/YAMAGATA CITY FRIENDSHIP COMMITTEE****Sakura Day 2015:**

On April 26, the 9th annual cherry tree planting project took place in Harlow Platts Community Park and Viele Lake. The Urban Forestry section of the Parks and Recreation Department along with many citizen volunteers took part in the event. This day they planted 23 more cherry trees to replace those damaged trees.



Over the 8 years the sakura project has planted over 200 cherry trees. Many earlier planted trees have matured enough to blossom. Unfortunately very unusual extreme temperature changes in the fall of 2014 has killed nearly all including the eight trees planted by the Sistercity Plaza.

2016 WORK PLAN:

Organizing and implementing a trip to Japan in April 17- 27, including visit to our sister municipalities of Yamagata and Takayama, Denver's sister city.

Respectfully submitted,
Yoko Tamaki Brandt
March 3, 2016

Financial report:

01/02/2015	Opening Balance	
	\$	1,712.83
	Miscellaneous expenses	
	\$	-87.52
	Colorado Secretary of State file report	
	\$	-60.00

01/04/2016	Closing Balance	\$ 1,565.31
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Committee Member Volunteers: Yoko Tamaki Brandt
Kato Eiko, India Wood, Connie Holder, Peter Pollock,
Leslie Durgin, Cliff Harald, David and Susan Everhart





2015 Annual Report

The Boulder-Cuba Sister City Organization is an all-volunteer non-political 501(c) (3) charitable organization. Membership is open to all regardless of race, religion, nationality, political beliefs.

- City of Boulder Resolution 631 Compliance**
 Boulder-Cuba Sister City Organization maintains compliance with all provisions of Resolution 631 regarding: (1) 501(c)3 status; (2) board of directors; (3) membership; (4) financial responsibility. Documents are available for public inspection by contacting Kathleen Hennessey 2835 LaGrange Circle, Boulder, CO 80305.

Highlights of the year 2015 include:

Organizing two trips to Cuba, that included visits to our sister municipality of Yateras. We started the year with a people-to-people trip to Havana and eastern Cuba in January. The delegation consisted of 18 travelers. In Yateras we presented a very large painting of Boulder done by the students at BCSIS, to the Yateras cultural center. The painting was done on a sheet and was inspired by the visit of two artists and two musicians from Guantanamo province to Boulder the previous year who did a workshop on painting sheets at the Boulder school. We left some paints and sheets in Yateras and hope that the children there will do a similar painting that we can bring back to Boulder. Because of community interest we did another trip in October, this time with 14 participants. On both trips we carried donations of school supplies, over the counter medical supplies, guitar strings, reading glasses, books and other things that are appreciated by the residents of our sister municipality.



Boulder, painted by students at BCSIS, being presented to Yateras.



Bocusco officers Spense and Kate with President and Vice President of Yateras with some of the donations from Boulder.

On both trips we learned about the traditional music and dance of Yateras, the changüí, and were entertained by the Danza Libre dance troupe from Guantánamo whose members visited Boulder in 2014

Other highlights of 2015 include: Spense Havlick, founder and current president of Bocusco receiving the Daily Camera's Pacesetter Lifetime Achievement award for his many contributions to the Boulder community.

2016 Work Plan: In 2016 we will continue our mission of bringing Cuba to Boulder and taking Boulder to Cuba. We have a delegation to Cuba scheduled for late October in which we plan to present a PowerPoint presentation in Yateras about Boulder and about sister cities in general; and we have begun a year-long series in Boulder entitled "Rediscovering Cuba" featuring speakers, films, cuisine or other events having to do with Cuba. Our first presentation was January 26, 2016 when Cuban physician Dr. Gisele Coutin presented "**Public Health in Cuba: An Overview**" to an overflow crowd.



Dr. Gisele Coutin Marie, physician and biostatistician from Havana, discusses the Cuban health system and some of the challenges it currently faces to a standing room only crowd. (Jan 26).

Meeting Dates

We have approximately 4 public meeting a year. All meetings will be posted on our website: www.bouldercuba.org

At the public meeting on May 19, 2015 new officers and board members were elected. No officer or member of the board is a part of any commercial venture in Yateras. Officers of the Board for 2015-2016 are:

Spense Havlick, President

David Dent, Vice President

Gerra and Bradford Lewis, co-secretaries

Terry Lindenberg and Kate Hennessey, co- treasurers

The next public meeting will be Monday, March 14, 2016, and the next public meeting with election of officers will take place in June 2016.

Fundraising and Financial report:

Our fundraising consists of membership dues, donations, and any extra money left from our trips after all bills are paid.

Our current balance is \$24,034.73

CITY OF BOULDER
BOARD OF ZONING ADJUSTMENT
ACTION MINUTES
November 12, 2015, 5 p.m.
1777 Broadway, 1777 West Conference Room

Board Members Present: Michael Hirsch (Chair), David Schafer (V. Chair),
Ellen McCready, Jill Grano

Board Members Absent:

City Attorney Representing Board: Erin Poe

Staff Members Present: Brian Holmes, Robbie Wyler, Cindy Spence

1. CALL TO ORDER:

M. Hirsch called the meeting to order at 5:01 p.m.

2. BOARD HEARINGS:

A. Docket No.: BOZ2015-11

Address: 4500 19th Street #54 (located on Blueberry Circle)

Applicant: Suraj Man Shrestha

Setback Variance: As part of a proposal to place a mobile home on a lot within Boulder Meadows, the applicant is requesting a variance to the front (north) setback from a street for the proposed mobile home. In a mobile home park context this setback is measured from the edge of the street pavement, and this case the resulting front setback will be approximately 5.5 feet where 10 feet is required. Section of the Land Use Code to be modified: Section 9-7-13, BRC 1981.

Staff Presentation

R. Wyler presented the item to the board.

Applicant's Presentation

Suraj Man Shresth, 3450 Penrose Pl., Ste. 160, the applicant, presented the item to the board.

Board Questions:

R. Wyler and S. Shrestha answered questions from the Board.

Public Hearing

Barbara Turner, 4500 19th St., #53, spoke in opposition of the project and gave a short presentation.

Board Discussion

- **M. Hirsch** stated that according to the procedural rules, under Section III, Subsection 3, proper plans will be submitted. He questioned if the plans submitted were accurate. He stated that in the past, a “true survey” would be submitted, and one was not for this project. In addition, he stated that typically the gas line should have an easement for repairs and that a proper survey would show that. He questioned if the submitted drawings were accurate and if a blanket easement existed.
 - **R. Wyler** stated that he did not recall if the easement in question would be an active easement. He stated that he would need more history of the gas line, but that the request was to not cover the gas line with the mobile home.
 - **S. Shrestha** stated that he could push the mobile home back to the gas line; however the home could not cover the gas line. He stated that the mobile home park manager placed the stakes on the property as pictured in the presentation.
- **M. Hirsch** stated that the mobile home park manager is not a registered surveyor. He questioned if the mobile home could be pushed back further from the proposed location.
- **D. Schafer** questioned if the measurements on the submitted drawings were accurate and the amount of the variance requested is truly 5.5 feet. He questioned the expectation of the mobile home park manager to conduct a survey compared to a residential submittal.
 - **R. Wyler** explained that while for some applications, staff may receive architectural drawings with measurements. If drawings were submitted in which an architect did not draft, staff would need to make a professional determination based on the provided pictures. This was done in this circumstance. He stated that they did go to the proposed site and did measurements. Staff used the provided site plan and concluded that that the proposed variance would be “no less than 5.5 feet”. He stated that the applicant could not place the mobile home less than five feet from the street as it would not meet the requirements. Staff did come to the conclusion that it would be “no less than 5.5 feet” from the edge of the asphalt.
 - **B. Holmes** stated that the measurement would be to the edge of the asphalt to the corner of the mobile home. He did state that the gas line location would still be an unresolved issue.
- **M. Hirsch** stated that a true survey may assist with the gas line issue and benefit the applicant.
 - **S. Shrestha** stated that the utility company did come out to the property. He stated that the yellow lines in the photographs submitted were drawn by the utility

company and the park manager. In addition, when the mobile home would be put in place and if the corner would be dark, he suggested that a light could be installed if that is a concern. He stated that the curve depicted on the site plan drawing may not be accurate; however he stated that he provided photographs to display the curve.

- **M. Hirsch** stated that while the proposed mobile home would be close to the sidewalk, it would be in keeping with the other homes in the neighborhood in regards to setbacks. He stated that the criteria in question (h)(1)(D), "hardship caused by the owner", would be a concern. He stated that the owner purchased the home prior to the lot and this could be under consideration.
- **J. Grano** suggested that perhaps the subject of a sensor light being installed on both edges of the home at the corner be considered at approval.
- **E. McCready** stated that there have been other variances before BOZA, on more than several occasions, when homes would be closer to the sidewalk than what is proposed at this time. The proposed location would not be unusual for this area. She stated that the one item the applicant did not produce would be the location of the gas line. She questioned if the mobile home would need to be of the proposed size. She asked if a shorter mobile home could be placed on the lot or could the proposed mobile home be placed farther back and would it be significant.
- **J. Grano** stated that after her personal experience, the proposed size of the mobile home (76 feet) would be a desirable size. She stated that there are not many larger lots within Boulder Meadows. In addition, she stated that smaller trailers are difficult for families. She stated that mobile home parks fill a larger need for affordable housing within the community.
- **E. McCready** questioned what the alternatives would be. In regards to the parking requirement, she questioned if it would limit the proposed site of the mobile home. She suggested that an alternative could be to rotate the mobile home location and cover the parking pad.
- **M. Hirsch** stated that if the location were rotated, the two foot distance would be lost from the gas line.
- **E. McCready** stated that in order to obtain the full ten foot requirement, the proposed mobile home would need to be significantly shorter. She stated that she would not have an issue with criteria #5. She stated her concern would be with the creation of the hardship.
- **D. Schafer** agreed and stated that the hardship would be for the applicant to have to purchase a smaller home or locate a new lot.

- **M. Hirsch** stated that the Board understands the need for this type of housing unit. Stated that the Board is regulated by the criteria that is put forward.
 - **R. Wyler** explained how staff looked at the “hardship” criteria. He stated that the property (mobile home) had already been purchased. Staff determined that the purchased mobile home could not be put in Boulder Meadows or possibly anywhere else within Boulder and this was put into consideration. He stated that the deterring factor would be criteria (h)(1)(D), “hardship caused by the owner”. He stated that while this would not be considered a new construction of a house or addition, staff determined this would not necessarily be a hardship, but efforts have been made to find another location. He stated that staff came to the conclusion that they would be in support of the requested variance.

- **J. Grano** asked the applicant if there is currently a family waiting for this mobile home.
 - **S. Shrestha** stated that he is currently working with a family to move in who lost their home.
 - **E. Poe** informed the Board that a similar situation did occur in the past. An applicant had built something in violation of setbacks and then came to the city. She stated that situation could be similar to an already purchased house. She explained when the city reviewed the prior case, they removed that aspect and looked at the situation as if the home had not been built. She suggested the Board review the current proposal as if the home had not already been purchased and the hardship did not apply. She stated that the hardship would go back to the lot size or the physical attributes to the location.

- **D. Schafer** agreed with **E. Poe**.
 - **B. Holmes** stated that the hardship would be the irregular partial cul-de-sac configuration and the presence of the gas line. He stated that those did not create themselves.

- **E. McCready** stated that if the mobile home was shorter and pushed back, may still not look like it belonged on the site. She stated that she would be in support of how the proposed mobile home would sit on the site. Although the proposed mobile home would be a larger home than others, she stated that it would still look proportional.

- **M. Hirsch** stated that the proposed mobile home would only be slightly larger than others within the neighborhood.
 - **B. Holmes** stated that a great amount of variability exists in the proposed park and in mobile home parks in general. The 10 foot standard was created to accommodate an ideal circumstance; however this proposal may not qualify as an ideal circumstance.

- **E. McCready** stated that the existing bump out of the corner does not appear to be a thoroughfare and cars would not be speeding. The proposed location appears to be a “safe spot”, lighting aside.
- **M. Hirsch** suggested that a condition of lights installed and maintained into the future could be applied. He stated that the Board should treat mobile home parks the same as other neighborhoods.
- **J. Grano** stated that the Board should view this as a proposed construction and agreed with the previous comments of **E. Poe**.
 - **E. Poe** stated, in regards to the proposed lighting condition, that there would be a concern that the condition would continue on into the future. She stated that there could be interference with future residents. She cautioned that if a condition were put in place that it would apply forever.
- **M. Hirsch** suggested that the condition specify a low bollard that shines downward for the lighting.
- **J. Grano** suggested reflectors.
- **M. Hirsch** stated that he would like to see a survey regarding the proposed 5.5 foot distance or more. In addition, he stated that he would like confirmation that an easement does not exist. He stated that the applicant would be required to maintain both the 5.5 foot variance and the two foot measurement from the gas line.
- **E. McCready** stated that two feet would be a preference from the gas line and that it could be located closer. She also stated that the variance would need to be 5.5 feet and “no closer than” from the asphalt.
- **M. Hirsch** stated that the surveyor could do the research to see if an easement exists.
 - **S. Shrestha** informed the Board that the mobile home could be placed as close to the gas pipeline as needed. In addition, he informed the Board that the mobile home park will do an inspection to make sure that the home would be located 5.5 feet from the pavement; otherwise it would not pass the inspection.
- **D. Schafer** stated that a survey may be redundant. He stated that he would be inclined to state that the location of the mobile home must comply with 5.5 feet from the pavement.
- **M. Hirsch** agreed.
 - **S. Shrestha** assured the Board that State of Colorado and City of Boulder inspectors would check the measurements.

- **B. Holmes** explained that as a condition of approval of the mobile home permit, the measurements for the setback variance must be done, from the edge of the pavement to the edge of the structure. In regards to the gas line if the Board is in favor of pursuing the issue, he suggested that if there is a conflict regarding the existence of an easement, it could be verified beforehand. If there would be a known easement it should be located on a Platte map. He stated that in this case, it may be that the location of the gas line is known.
- **E. McCready** stated, in regards to making a contingency based on an easement, that it might incur additional hardship on the applicant. If an easement currently exists and it would be discovered that existing homes are within the easement, and it is not a problem as this time, to disallow this applicant from doing the same, could create a hardship and not be able to place any type of home in the lot.
 - **B. Holmes** stated that if it would be determined that a clear violation exists, that it would be made known.
- **D. Schafer** stated that the point of the Board's discussion should be about the relation of the home to the street. He stated that the easement is not within the Board's preview. He stated he would be inclined to put state conditions to ensure that the home is represented as it pertains to the street. He stated that the proposed light would not even be a point of necessity. He stated that the proposal would be consistent with the development patterns in this region. He stated that he did not witness many existing motion sensor lights and that if a light were installed it could cause a nuisance.
- **M. Hirsch** state that a contingent would not need to be done as the 5.5 feet is what was requested.
 - **B. Holmes** stated that the compliance would be staff's responsibility and they would follow through.
- **D. Schafer** stated that he has gone full-circle regarding the hardship issue. He stated that the applicant would be trying to fit the proposed mobile home into some unusual circumstances and that creates the hardship.
- **M. Hirsch** agreed with **D. Schafer**.

Motion

On a motion by **J. Grano**, seconded by **D. Schafer**, the Board of Zoning Adjustment approved (4-0) the application (**Docket 2015-11**) as submitted.

3. GENERAL DISCUSSION:

A. Approval of Minutes:

On a motion by **E. McCready**, seconded by **D. Schafer**, the Board of Zoning Adjustments voted 4-0 to approve the October 8, 2015 minutes.

B. Matters from the Board

- **E. McCready** suggested striking the “Disclosure” portion on the minutes under “Board Hearings” beginning with the November 12, 2015 Minutes. The Board was in agreement.
- **E. McCready** informed the Board that her term was getting close to ending. She stated that her last month of attendance with BOZA would be February 11, 2015. She reminded the Board that the March BOZA meeting may only have three members, since BOZA currently has a vacancy. **B. Holmes** stated that he would continue this matter under “Matters from Planning and Development Services”.

C. Matters from the City Attorney

There were no matters from the City Attorney.

D. Matters from Planning and Development Services

- **B. Holmes** addressed **E. McCready’s** departure from BOZA. He stated that postings for vacant seats on BOZA would be posted in January 2016 and should be filled by March 2016.

4. ADJOURNMENT:

There being no further business to come before the board at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 6:19 P.M

APPROVED BY

A handwritten signature in black ink, appearing to be 'B. Holmes', written over a horizontal line.

3.10.16

DATE

CITY OF BOULDER
DESIGN ADVISORY BOARD MINUTES
January 27, 2016
1777 Broadway, 1777 West Conference Room

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/>

DAB MEMBERS PRESENT:

Jamison Brown, Chair
Michelle Lee
David McInerney
Jeff Dawson
Jim Baily
Bryan Bowen, Planning Board Ex-Officio Member

DAB MEMBERS ABSENT:

STAFF PRESENT:

Sam Assefa, Senior Urban Designer
Kalani Paho, Urban Designer

BOARD DISCUSSION:

1. Approval of Minutes

The board approved the October 14, 2015 DAB Retreat and the December 9, 2015 DAB minutes.

2. Downtown Urban Design Guidelines (DUDG): Board Review and Recommendation

K. Paho provided a brief summary of the 2016 draft update the DUDG, including the working group's review process. She also explained that additional comments and feedback were provided by individual board members since the conclusion of the working group process and the Joint Boards meeting.

BOARD COMMENTS:

- **B. Bowen** requested that all comments from DAB, Landmarks Board and Planning Board members be included for Planning Board to review at the February 4, 2016 meeting.
- **J. Brown** suggested that the map which highlights the "Interface Zone" should shade out the downtown section more so that the interface zone stands out more.
(Attachment A, Page 24, Figure 13)
- The board discussed photos of buildings included in the document as examples asking whether some aspects of the buildings design or materials may be contradictory to the

guidelines. There was also concern by some board members whether the images would be taken by applicants as acceptable but may be in fact in contradiction. **K. Pahoa** explained that it was difficult to find buildings that meet all the guidelines, but the intent of the photos included is to highlight certain aspects of the buildings' design or material, and not the entire building. The board agreed that the inclusion of photos was an improvement from having diagrams. **K. Pahoa** informed the board that the inclusion of the photos would need to be finalized before February 16, 2016 when the DUDG is presented to City Council.

- **B. Bowen** speculated the Planning Board may have additional comments or suggestions prior to the DUDG going to council, or just accept the work done by the working group. He questioned how additional concerns or questions would be addressed if there were any, and suggested perhaps they could be included as an addendum to the council memo.
- **S. Assefa** suggested packaging the responses from the working group, which comprised of the three boards, and providing the addendum to the Planning Board before they make their recommendation.
- The board agreed that update of the DUDG was a great improvement over the previous document and they want to see it move forward. In addition, it was agreed that placing all the responses and comments into the City Council packet would create a good record of what was discussed and reviewed.
- **B. Bowen** suggested that a motion be made that DAB recommends to City Council the approval of the updated DUDG with instructions to staff to gather comments between now and the City Council meeting of February 16, 2016, with the ability to make minor edits between now and then and to collect the substantive comments for future revisions.

MOTION:

On a motion by **J. Dawson** and seconded by **M. Lee**, the Design Advisory Board voted 5-0 to recommend to City Council the approval of the updated DUDG with instructions to staff to gather comments between now and the City Council meeting of February 16, 2016, with the ability to make revisions to minor edits but to collect the substantive comments for future revisions.

3. Board Matters

- **S. Assefa** updated the board regarding the status of the Form-Base Code Pilot (FBC) and that it is tentatively scheduled for review by Planning Board on February 25, 2016. He suggested presenting a draft FBC for DAB's review and comment at the February meeting.
- **J. Brown** informed the board that he would be attending the next Planning Board meeting on January 28, 2016 to represent DAB for the Reve Project. He asked the board members to review the DAB minutes in which the Reve Project was reviewed

and if they have any questions or comments to let **J. Brown** know.

- **S. Assefa** discussed the matter of taking minutes during the review of projects. A summary will be prepared by the Chair of the discussion for the applicant and Planning Board. It would be helpful if the review focuses on the guidelines to assist staff and the overall feel if DAB approved of the project.

APPROVED BY:

Board Chair

DATE

DRAFT

**CITY OF BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING SUMMARY**

NAME OF BOARD/COMMISSION: Environmental Advisory Board

DATE OF MEETING: January 6, 2016

NAME/TELEPHONE OF PERSON PREPARING SUMMARY: Sandy Briggs/303-441-1931.

NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:

Environmental Advisory Board Members Present: Tim Hillman, Brad Queen, Karen Crofton, Steve Morgan and Morgan Lommele.

Staff Members Present: Jonathan Koehn, Brett KenCairn and Sandy Briggs.

Community Member Present: Stephen Fenberg

MEETING SUMMARY:

❖ **Energy Future Update: Municipalization**

- The board asked several questions regarding service areas and how power will get to customers residing in these different areas. The concept of “wheeling” was defined and the Doctrine of Regulated Monopoly was explained as to why the PUC can’t regulate certain ways for the power to flow.
- **K. Crofton** asked about scenario planning in case municipalization doesn’t happen. A discussion ensued about what things would cause the city to “take the off ramp” and what other ideas are on the table in lieu of creating a local utility. The following were identified as the reasons the city would stop pursuing it:
 - Being unable to meet the \$214 million acquisition cap
 - The PUC says we can’t go forward
 - The time frame expands and the community says no to additional funding
 - The city chooses to stop pursuing it because something changes legislatively that renders it unnecessary
- It was clarified that there is an approximate 50/50 effort with pursuing municipalization versus numerous other avenues for reaching the city’s goals.
- **K. Crofton** mentioned that this kind of information is what’s wanted and informative to people when communicating the plan to the community. Stressing that the efforts will not go to waste regardless of what happens is important.
- **T. Hillman** reminded the board that the community is already on board and has voted for the Carbon Tax on numerous occasions. He also asked about where interested community members would go to obtain information about the Climate Caucus and how to get involved.
- **B. Queen** reminded the board that the perceived loss of value of something is powerful regardless of the actual amount.

❖ **Climate Commitment Community Engagement Process**

- The board agrees that the emission reduction conversation is no longer resonating with the general public and there is no feeling of personal urgency.

- The board also agreed that people need to do things that are tangible and understand what their actions are creating in a real, everyday sense.
- The board posed the following questions, although they understand there isn't any hard data available yet:
 - How much of an investment is needed over the next 30 years to move things forward?
 - What daily choices and priorities need to be adjusted to encourage total energy systems transformation?
 - How will the ratio shift in terms of money being spent on clean energy versus fossil fuels?
- **K. Crofton** stressed that messaging needs to come first and the metrics need to support the messaging. Issues relating to security, resiliency and reliability have recently begun being brought more tangibly to people and need to be personally integrated before metrics are created.
- **B. Queen** suggested that getting to the root of the core rationale behind any opposition would be very effective in building trust with the city and turning opposers into willing participants, especially within the business community.
- **M. Lommele** suggested that creating a network of respected peers who can work as community champions would be useful as peer-to-peer influence is highly effective.
- Some board members suggested that just “dropping the hammer” and telling people what to do might be at least as effective as the proposed engagement strategy, if not more.

1. CALL TO ORDER

Environmental Advisory Board Chair **T. Hillman** declared a quorum called the meeting to order at 6:06 pm.

2. APPROVAL OF MINUTES

On a motion by **M. Lommele**, seconded by **S. Morgan**, the Environmental Advisory Board voted 5-0 to approve the December 9, 2015 meeting minutes.

4. PUBLIC PARTICIPATION

None.

5. PUBLIC HEARING ITEMS

None.

6. DISCUSSION ITEMS

❖ **Energy Future Update: Municipalization (Koehn)**

Regional Sustainability Coordinator, Jonathan Koehn, updated the board on the status of the City's municipalization efforts and how they synchronize with the Climate Commitment Community Engagement efforts that are also moving into full swing in early 2016. The alignment of Climate Commitment and energy work are critical components of the city's 2016 work plan.

He provided key points to set context and reviewed milestones and core objectives of the efforts. He also described how thinking has shifted across the nation from just greenhouse gas (GHG) emissions reduction and purchase of renewable energy credits to communities

positioning themselves to take advantage of the numerous opportunities that exist. This includes how to invest with local systems and businesses to drive innovation and keep these investments local.

He explained the involvement of the Public Utilities Commission (PUC) and their role in relation to the city and Xcel. Their job is to ensure system safety, reliability and integrity for all ratepayers. Their decisions are seen as guidance, not losses, and the latest ruling has solidified the possibility and set the boundaries for the city to move forward.

He further described how the city's rate structures could be creatively different from Xcel's current model, provided reliability metrics and explained the probabilistic analysis that had already been completed.

He clarified the "rent versus own" aspect of purchasing the infrastructure and informed the board that while there is a \$214 million cap in the charter, this isn't as huge as it seems when you amortize the numbers against what we're already paying in rates.

He stressed the importance of ensuring greater reliability for certain circuits that aren't performing at the level they should be. In particular, he mentioned the feeder that includes the city's water treatment facility. This is critical infrastructure for the city that lost power several times during the floods in 2013, among others. It's been recognized as Xcel's worst performing circuit in the State of Colorado.

He went on to posit that a customer driven energy services marketplace business model could make the city less of a utility and more of a service provider selling a commodity. Therefore, a free marketplace for companies to become directly involved with consumers could exist.

He concluded by informing the board about the formation of a Climate Policy Coalition and Climate Caucus that are active on the legislative front and that staff is also remaining creative and innovative in thinking about other ways to achieve the city's goals.

He suggested to the board that since the city needs to align around specific and quantitative targets and determine what areas should be measured and what metrics are needed, the EAB could be directly instrumental in creating part of this work plan by providing their input.

❖ **Climate Commitment Community Engagement Process (KenCairn)**

Senior Environmental Planner, Brett KenCairn, encouraged an open discussion with the board regarding the current status of Boulder's Climate Commitment and next steps in 2016 to engage the community.

He informed the board there a growing body of evidence that talking about reducing greenhouse gas (GHG) emissions is ineffective in instigating action. Therefore, as the ideas in the draft document are taken out into the community, the questions are now how to stimulate conversations around other targets and goals and make it relevant to day-to-day concerns.

He mentioned that while there isn't a large amount of resistance to the Climate Commitment plan, there is also not much movement of the "emissions needle".

He further explained that we're in a time of transition regarding public rhetoric as to what the problem is versus the symptom. The symptom is climate change. And it is now happening.

The problem is a system that burns fossil fuels emitting carbon into the atmosphere.

People's sense of the problem is in flux and we need a new set of metrics. And to determine these metrics, we need to ask the community a useful set of questions that will assist them in making a psychological transition through the various issues over the long term.

He requested feedback from the board regarding community engagement in terms of the right

things to do and ask and/or if there is anything missing. Focus groups are planned to be part of this, and the board's input on what types of groups to engage was also requested. Next steps include laying groundwork that will create road mapping tools to assist people with developing their own energy asset transition plans. The core of this stage revolves around survey questions that will provide guidance for staff about what people want and need to know. The action phase will kick in around May after the culmination of Earth Day events.

7. OLD BUSINESS/UPDATES

None.

8. MATTERS FROM THE ENVIRONMENTAL ADVISORY BOARD, CITY MANAGER AND CITY ATTORNEY

- Upon a motion by **K. Crofton**, seconded by **B. Queen**, the board unanimously voted 5-0 to approve and submit the Annual Letter to City Council as currently written.
- **B. Queen** will attend the City Council Study Session on Tuesday, January 12 as representative of the EAB to answer any questions and/or offer any requested clarifications regarding the annual letter.
- The board agrees that proactively soliciting and advocating for certain candidates to apply to the board is important and an effective way to ensure an applicant pool that fills the need for varied expertise among members.

9. DEBRIEF MEETING/CALENDAR CHECK

The annual retreat will be on February 3, 2016 from 5-8 pm. Heather Bergman will facilitate. **M. Lommele** will be unable to attend. She will provide any thoughts to share with the board at the retreat prior to that date.

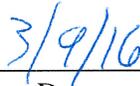
10. ADJOURNMENT

Environmental Advisory Board adjourned at 8:04 pm.

Approved:



Chair



Date

**CITY OF BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING SUMMARY**

NAME OF BOARD/COMMISSION: Environmental Advisory Board

DATE OF MEETING (RETREAT): February 3, 2016

NAME/TELEPHONE OF PERSON PREPARING SUMMARY:
Sandy Briggs, 303-441-1931.

NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:

Environmental Advisory Board Members Present: Tim Hillman, Brad Queen and Karen Crofton.

Environmental Advisory Board Members Absent: Steve Morgan and Morgan Lommele.

Staff Members Present: David Driskell, Brett KenCairn and Sandy Briggs.

Facilitator: Heather Bergman

1. **Welcome & Introductions**
2. **Meeting Objectives/Desired Outcomes**
 - ❖ Debrief accomplishments of 2015
 - ❖ Board goals and focus areas for 2016

3. **Review “Homework” Responses**

Review and discuss emailed responses regarding 2015 lessons learned and goals for 2016.

- **What worked? Elements in 2015 that were effective and successful:**
 - ❖ Meeting format and structure are much smoother and more productive now.
 - ❖ Preparation for and passing of the Building Performance Ordinance was touted.
 - ❖ Appreciation for staff consistency and patience with adapting to argumentative situations and internalizing and addressing concerns was expressed.

What didn't work?

- **Lessons from 2015 to be more successful in 2016:**
 - ❖ Be more specific with metrics and measurements to more effectively impact policy development.
 - ❖ Identify and celebrate accomplishments.
 - ❖ Add more to the process by not allowing politics to take precedence over valid data.
 - ❖ Better integration between boards.
 - ❖ Make board feedback more actionable and part of the solution.
 - ❖ Continue with staff proactively providing information to the board with sufficient time for review and more clearly conveying their objectives for board presentations.
 - ❖ Foster Council's greater understanding and interest in EAB's annual letter.
 - ❖ Present feedback differently in order to be received more clearly.

As **H. Bergman** recently facilitated the City Council retreat, she provided some insight regarding Council member conversations around Board & Commission input. She informed the board that they are looking more closely at Boards & Commissions' feedback and suggesting potential Town Hall-style meetings in 2016. She also shared that joint board meetings are desired and encouraged in order to leverage knowledge and expertise across disciplines. She suggested staff and Council shouldn't be the only voices out there and relevant information added by boards and commissions should also get out to the community.

She further mentioned that if she is invited back to facilitate the Council retreat again in 2017, she will inform them that Boards & Commissions aren't 100% satisfied with how their information is being represented. Since this is always an issue and it's difficult for Council to honor Boards & Commissions' feedback while also getting their own work done, Council is considering offering more specific guidance as to how boards should approach writing their annual letters.

4. 2016 City Council Priorities & Staff Work Plan

Executive Director of Planning, Housing + Sustainability, **D. Driskell**, reported on City Council's recent retreat, and reviewed areas of action and major work efforts.

- ❖ Detailed work plan information from three departments was shared:
 - Planning, Housing + Sustainability
 - Human Services
 - Transportation
- ❖ Growth, development, housing and the Boulder Valley Comprehensive Plan (BVCP) were the main areas of discussion.
- ❖ Net Zero Codes are one of the main goals and energy codes typically need to drive them.
 - Consultants are being brought on to assist with code updates and begin to strategize the path to Net Zero.
- ❖ Discussions regarding redevelopment of the Boulder Community Hospital site that will model sustainability principles are just beginning.
- ❖ The launch of community engagement around the Climate Commitment document will be offered as a conversation, not announcement. And as an all-in effort to do it together.
- ❖ The city has been awarded two grants to assist with Whole Systems Transformation and Thermal Decarbonization strategies.
- ❖ Education and technical assistance around implementation of the Building Performance Ordinance and Universal Zero Waste Ordinance are ramping up.
- ❖ The Boulder Energy Challenge is aiming towards second round later this year.
- ❖ Integrated pest management not having a lot of action right now.
- ❖ Greater use of dashboards and metrics will be utilized to determine if the city is the right path.
 - Two are being developed. One from the City Manager's Office expected to roll out at the end of February, the other from Climate + Sustainability that will include a more detailed drill-down to specific city programs and metrics.
- ❖ Discussions are ongoing regarding the BVCP:
 - It is a 20-year view, not a statement of ultimate destiny.
 - Vision-driven planning.
 - Flexible and malleable.

- Housing options are a large part of it that attempt to strike a balance with what everyone wants and needs.
- There will be open houses and joint board meetings to engage the community and other boards in the discussion and decisions that are more participatory.
- The city is getting better comprehensive planning tools that will quantitatively evaluate and comparatively assess a whole series of different variables, but is still working on figuring out how they will best integrate and evolve to support the vision.

B. KenCairn informed the board that the Climate Commitment Ecosystems piece will take a larger priority in 2016. This will rejuvenate conversations around neonicotinoid, bring forward information regarding climate effects on local species and seek to more closely evaluate the impacts of consumption.

He further noted that the messaging around climate action will begin to emphasize more metrics that are concrete and where the goal is to do more of them—more renewable energy, more energy productivity, more sequestration, etc... while still recognizing an overall emissions reduction goal.

5. 2016 EAB Priorities in Relation to Council Priorities & Work Plan

How does the board want to integrate with and support city work efforts in 2016?

- ❖ Be more involved with dashboard creation and how to help analyze gaps that could potentially lead to policy reevaluation.
 - Have discussions around content and related analytics.
 - Help to review and create more reasonable reporting metrics for the general public.
- ❖ Have greater influence regarding the BVCP.
- ❖ Further incentivize areas of the Zero Waste plan to create similar successes to the bag ordinance.
- ❖ Aggregate impacts across strategic areas to determine if the city is on the right trajectory.
 - Show the community how it all adds up and fits together.

Which project or issue areas should be the board's highest priorities?

- ❖ Climate Commitment engagement with the community and across boards.
- ❖ Dashboard creation.

6. Operation Issues for Board Discussion

EAB mission update:

- ❖ The board determined there was no immediate need to change the mission statement.

Meeting structure/format:

- ❖ There was agreement that meeting rhythm and structure is working more smoothly and effectively now.
- ❖ Feedback and question format will depend on each presenter's preference.
- ❖ The board chair will ensure all members are getting their space to speak and will

maintain regular time checks.

- ❖ A study session format will be conducive to productive discussions when appropriate, as long as there is still some structure.

Board recruitment:

- ❖ Some members have reached out to colleagues to encourage them to apply.
- ❖ The board agrees the EAB would benefit from a member with strong ties to the business community.

7. Review/Create Draft 2016 Board Calendar

The following tentative meeting agenda schedule was outlined:

- ❖ March:
 1. Climate Commitment Community Engagement Process
 2. Climate + Sustainability Dashboard Metrics
 3. Discuss Expectations of Board Members and Ideas for April's Joint Board Meeting
- ❖ April:
 1. Joint Board Meeting – Climate Commitment Convening
- ❖ May:
 1. Engaging Community Conversations Around Climate Commitment
- ❖ June:
 1. Climate Impacts and Ecological Footprint of Consumption
- ❖ 3rd & 4th Quarters:
 1. Ecosystem Management/Impacts of Climate Change

8. Next Steps/Action Items

- ❖ **S. Briggs** will coordinate with other Board Secretaries to schedule a joint meeting in April with available relevant boards.
- ❖ **T. Hillman** and **M. Lommele** will determine and refine ideas to bring to the table for the joint meeting.
- ❖ It was requested the March meeting be postponed from the 2nd to the 9th. **S. Briggs** will check calendars with the absent board members and inform everyone of the meeting date once confirmed.
- ❖ **M. Lommele** will succeed by seniority to the EAB co-chair position.

Approved:

Chair



3/9/16
Date

**CITY OF BOULDER
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING
MINUTES**

Name of Board/ Commission: Library Commission	
Date of Meeting: February 10, 2016, Main Library, 1001 Arapahoe Ave.	
Contact Information Preparing Summary: Suzi E Lane, 303-441-3106	
Commission Members Present: Alicia Gibb, Tim O’Shea, Paul Sutter, and Joni Teter	
<p>Library Staff Present: David Farnan, Director of Library & Arts Jennifer Phares, Deputy Library Director Suzi Lane, Administrative Specialist II</p> <p>City Staff Present: Aimee Schumm, eServices Manager Hillary Dodge, Meadows Manager</p> <p>Public Present: Dick Shahan Nikki Rashada McCord Juana Gomez</p>	
Type of Meeting: Regular	
Agenda Item 1: Call to Order and Approval of Agenda	[6:00 p.m., Audio 0:20]
The meeting was called to order at 6:00 pm Agenda approved.	
Agenda Item 2: Public Comment	[6:01 p.m., Audio 0:28]
McCord addressed agenda item 6e regarding armed security officers. She read her submitted handout. Paul read an email from Joel Koenig, regarding parking.	
Agenda Item 3: Consent Agenda	[6:07 p.m., Audio 6:51]
Approval of Jan. 6, 2016, meeting minutes	
Commissioner Teter requested a change of language on page 3, in the section entitled <u>Public Comments Reopened</u> , regarding transgender bathrooms. Add the word <u>Main</u> in front of Library. Commissioner Sutter requested a change of language on page 5, item 5, where it states: Sutter: Hire quality security officers, or to keep the officers we have. Change this to read: <u>Armed security officers tend to be a higher quality and receive higher training.</u>	
Sutter motioned to approve the minutes, O’Shea seconded. Approved 3-0, 1-abstention	
Agenda Item 4: Meeting Room Updates	[6:09 p.m., Audio 9:13]
Aimee Schumm attended the meeting on behalf of Eileen McCluskey. <ul style="list-style-type: none"> • Teter questioned the policy regarding the 180 minute meeting room reservation time limit per month as applied to sponsored programs and groups engaged in library business, especially the BLF. • Schumm said that the 180 minutes is our baseline. As we start this program, we are going to reevaluate this in six months to see if we can raise or lower that amount, depending on meeting room occupancy rates and how many people are taking advantage of the reservation system. Library-related business is something that is booked through staff as they have more control over how many minutes are given to a particular group. Library-sponsored events get priority and additional meeting time. We started with 180 minutes, and we can adjust as necessary. Sponsorships go through a different process so staff would be 	

involved in reserving the rooms.

- Sutter suggested saying something along the lines of, "This policy does not apply to sponsored programs."
- Teter said that the sponsorship agreement does not address planning meetings. The sponsorship agreement addresses the program, so any meetings you have about planning, updates, or any of those are not addressed.
- Sutter referenced page 14, the second bullet point, wondering if that is necessary given that the study room policy is right beneath it. It states that the study rooms cannot be reserved, but then there's also confusion about the branch libraries and study rooms, which can be reserved. He is inclined to strike that parenthetical phrase. Include a bullet point saying that study rooms at the Main Library cannot be reserved, or something along those lines. A link to the kind of equipment and connectors required may be helpful, so all the information is embedded into the software along with the image of each room.
- Schumm said that she was not certain she could do that, but will look at her options
- Teter thought there is still some confusion about the connector piece, A/V support, anything we could do to clarify that for people would be helpful.

Sutter motioned to approve the revised policy with changes from the commission, Teter seconded and the policy was approved unanimously.

Agenda Item 5: Library Master Plan Update

[6:19 p.m., Audio 19:26]

- Farnan said that the master plan project scope is much narrower and the Request for Proposal will be out relatively soon.
- Phares said that after evaluating each phase, staff will move on to next steps and possibly hire a consultant for phases 1, 2, and 4. Staff may bring in experts from the library or related fields for Phase 3. Teter asked how facilities review is being handled.
- Farnan said that staff is going to do that review mostly in-house. The Facilities and Asset Management (FAM) Division of the Public Works Department has an updated study. They need to do some analysis on the current buildings, and this notion of the replacement cost and whether they are continually operating at an efficient level, which kind of plays into owned facilities and rented facilities. The city's FAM Division has done quite an extensive analysis of all the buildings, but we need them to look at it in a slightly different way and from a financial perspective as well. Staff should have an update next month with regard to the facilities study on the Main Library renovations, and David will have that for commission to review and then it will be posted online.

Agenda Item 6: Library Commission Update

[6:22 p.m., Audio 22:21]

a. By-laws

Teter stated that we didn't change the numbering system in the charter and thought that was the biggest concern is that the numbers would be off. Also, the suggestion to eliminate secretaries and the officer position, which is consistent with the way other departments have functioned, and the way we are functioning now. The decision was made to take action on the by-laws at the next meeting.

b. Handbook

Sutter will send the updated draft with tonight's revisions to Gibb, Farnan, and Phares for further discussion at the April meeting.

c. Foundation Updates

- Teter said that they had a good retreat January 16. They spoke about their successes and moving forward. They discussed adding members and looking for a certain matrix and attributes. Currently, the foundation has five openings. The consensus is that the foundation wants two more members but can go up to four. She mentioned that David made some preliminary presentations about programs. The foundation is dealing with some new expenses this year, such as administration costs, which will be discussed in February.
- Farnan stated that the Community Partnerships Manager position was posted online two days ago.
- O'Shea stated that an RFP went out for a financial manager Feb. 15, so if you have any suggestions, contact him or Teter to put them in for consideration.

d. Patron Email

No comments

e. Armed Security

- Teter requested that we reconsider our vote from the January meeting to disarm security officers. After talking to library staff and some patrons, there is another side to this issue, and we did not give that consideration. We didn't listen to the side that says "I feel safer with armed guards." Last year, we brought on extra police patrols because negative behavior had risen to a certain level, there is a level of concern and fear among some of our patrons and staff, and a perception that having someone with a gun is helpful, not that they would use the gun. We should spend some time looking at the incident reports and get a sense of what they are.
- Sutter stated that if we are going to consider reopening this, it would be useful to have a clear sense of what we are looking to get out of reopening. In terms of if we want staff feedback or more details on incidents and history. This is an opportunity to see what our responsibility is as a commission.
- Teter said that not all libraries are the same in the sense of dealing with what we are, with a transient population that is at the level we are. Boulder is very attractive to the transient populations. Denver, for example, has security guards at both doors and checks everybody as they go in. It would be helpful to answer the questions about how libraries are coping. Talk with people about their fears regarding disarming guards as well.
- Farnan stated that we need to get more information about what Denver does, to figure out if guns deter crime. The intent is to make our stance clear. Do we want to engage the public? Do we want to ask the staff? We need to balance comments from all, and then the director ultimately makes the decision.
- Phares said that looking at incident reports is just going to tell you what happened, it is not going to tell you if it would have been different if a guard didn't have a firearm. We can give you the answer about reports, which are significantly down this year from where they were last year.
- O'Shea generally supported Teter's assessment. We made a decision without fully appreciating other aspects. I think there's a question that goes beyond what's being discussed which is armed vs. unarmed, and that seems to come down to gun or no gun. I think there are other aspects that I'm not clear on as to non-lethal force, whether that is a taser, pepper spray, or mace included with security. There were some aspects that will be costly to the library for the staffing, some pieces of the puzzle that I just became clearer on after the original conversation.
- Farnan stated that our protocol is to call 911 immediately in escalated situations.
- Sutter is in favor of reopening this issue. I wish that we had spent more time with staff. I am reticent to opening this up to public.
- Farnan pointed out that this meeting is a public process, and we placed a notice in the paper. Also, we can inquire with our current security company if they offer a service that provides non-lethal stopping force. He does not know if they currently provide security officers with pepper spray. We also need to be clear about our intent to have an armed security officer at the cinema program where liquor is sold and served. We pay two security officers overtime, so to be clear on that, whether that's a separate consideration or an equal consideration of the current contract. The City of Boulder will not allow liquor to be served in a civic area, above a certain number of people, without the presence of an armed security officer, so there is this connection between guns and alcohol. We have time to decide, there is no deadline on our current security contract. The difference would be a different contract if we decide to go with unarmed security officers.
- Sutter said that it is very important that the commissioners be unified in our approach to this. His suggestions are 1. Library Commission must be unified to this approach if possible. 2. Open up this issue and look at incident reports, what does "armed" mean? 3. What are our strategies? Let's allow one month to talk to staff, and see how police factor in. Bring this to our next meeting. What we can do to increase safety if we prefer security officers are unarmed?
- Phares will get information from 2015; information on what Denver is doing, options for unarmed officers, incident reports (abbreviated analysis and physical encounters), process for

- enforcing rules when a situation escalates, and any changes since the remodel.
- Farnan will check with other libraries that have gone from unarmed to armed security.

Sutter motioned to suspend recommendation, wait for additional information, and reopen. Teter seconded, and the motion was approved unanimously.

Agenda Item 7: Library and Arts Director's Report

[7:36 p.m., Audio 1:34:56]

a. Update on the Library Security Contract at the Main Library:

Farnan: The security company did inform us that an armed security officer would be required for an environment serving alcohol. That is something we have to take into consideration under our current contract with this company. We could bring in another company for that event or choose other options. I don't think the Boulder Art Cinema will have the numbers for law enforcement, but I can find that out.

b. Update on Research Concerning Gender-neutral Restrooms:

Phares supplied handouts.

Currently, we are at one restroom above the code requirements at the Main Library. We don't understand all of the implications as of yet if code requires the library to provide restrooms accessible by particular genders. At this point, given the costs associated with doing this, we have to set aside more funds for renovating restrooms since it was something that was not in the scope of the Main Library renovation. We have been trying to collect enough money just to do basic renovations of the restrooms. We would need some support from the city in order to accomplish these goals, if that's what we choose to do, putting in gender-neutral restrooms.

Sutter wanted to clarify an important point regarding the useful data that was gathered about how other libraries are dealing with this. It seems like they're dealing with it effectively, passively, by creating family or gender-neutral restrooms that are single use. He thinks it's important that we do some research and find out what other cities are doing and find the best practices and come back with some recommendations, which may have budget implications. If we opt to do this, it's going to mean there's something else we are not going to be able to do. He would like the commissioners to think it through with both cost and code in mind.

c. Update on Boulder Art Cinema Launch:

Cinema's opening soon, so get your tickets. Go to the DBI website to see the list of movies and purchase tickets. The sound check was fantastic with a first-rate system.

d. Update on BLDG 61 Makerspace:

Aimee Schumm, eServices manager: BLDG 61 is having its grand opening soon, and she hopes commissioners will try to attend or volunteer. The Facebook post about the grand opening has been viewed by 9,500 as of yesterday. There were several positive comments. She is in need of several volunteers as the event is much bigger than anticipated.

e. Boulder Library Foundation Grant Requests:

Farnan stated that at the retreat, the foundation made it clear that they were interested in putting somewhat less money in as compared to last year. Last year, the total asked for was half a million. This year, Farnan requested roughly \$325,000 with some add-ons which got to around \$350,000. The Author Speaker Series is the biggest reduction, with surrendering the pursuit of big-name authors. He is currently pursuing a number of grant opportunities, and has some funders on the line. He informed the foundation that he is asking for \$300,000 annually. He does not want to cut any of the programs any further than he has already, as he has made more than \$100,000 in reductions.

Teter noted that one of the expenses the Foundation is adding this year is an electronic donor management system to support fund-raising, replacing the manual Excel spreadsheet system currently used.

f. Civic Area Update:

Farnan had hoped to have more information to share prior to going to City Council. Our opportunity will be attending public meetings. City Council will be looking at different levels of feasibility for the Civic Area. There is the question of public safety for all of our buildings as they are in the flood zone. It's just about planning and the planning process and where we go from here. David encouraged commissioners to attend the public meetings; he will try to make it to the open house on March 28. The city is not ready to share the flood report until they share it with City Council which they will get in the packet a week or so before the meeting. At that point, it will be a public document, and everyone will have access to it. It is a work in progress. [Please note: The date of the Civic Area Open House has changes to April 4, 2016.]

End of Year Report

Farnan noted on the report the remarkable increases in business. We have such a high increase in library users and library card holders, and our program attendance is off the charts. Unbelievable kinds of numbers which come down to the ingenuity and innovation of the staff.

Sutter: I think this million person mark ought to be at the center of our marketing. I think we ought to make it part of the, "let's get a million people to visit the library this year" campaign. It's really a great thing to highlight and is achievable. Let's help highlight to the public, get these numbers out there. I am sharing with my north Boulder neighbors, the NoBo numbers, which continue to be really impressive.

Farnan: Regarding our downward trends. PC use is still holding really strong but we have a 15% drop this year. More customers are bringing their own devices.

O'Shea: I'm interested since you did mention more customers are bringing their own devices, the library as an access point, I think would be relevant numbers.

Farnan: Those numbers are not easy to come by. I want to know exactly the number of unique users we have logging into the free public Wi-Fi.

O'Shea: It could be lumped into the Civic Area Project. I sit on the advisory team, so I'm happy to reinforce that request.

Farnan: It's probably going to be very soon that we would have to report the numbers to the state. We've been lobbying for a number of years to report that usage. We have seen a three thousand percent increase in Wi-Fi use over the last couple years.

Regarding the Swift program; we will be discontinuing our participation. If you have any questions about that, please let me know. We had an 80% decrease in use in the last five years.

Food for Thought

Week-long summer day camp

- Farnan: Merlin Camp would be a fee-based, weekday, all-day (8 a.m.-5 p.m.) camp for kids, and they do not stay overnight and will be operated by the Boulder Bookstore. Costs for this kind of camp typically run \$400-\$500, and the proposition is that we do a couple of weeks in the Druidawn Barron Fantasy Camp at the Main Library. Our take, if they sell out, is in the vicinity of around \$7,000. We promote the program, and we are named as a sponsor. This is a potentially good revenue source for us. City Parks & Recreation Department is earning revenue from camps that are happening right in the creek area underneath the library. I want them to be, in some way, affiliated with us; I want to put our stamp on these programs as well. I think a lot of kids would be excited about the opportunity to be in a camp that is literacy based.
- Sutter voiced concerns regarding what our primary motivation is, that it seems that this is revenue-driven, will take up library space, and the fee is beyond the reach of some people.

- Teter has the opposite opinion. We have a different opportunity here, being creative in the literary realm. As long as we continue with the programs we offer.
- Gibb and O’Shea are supportive and want to try it and see.

Boulder Book Store

- Farnan said that we have multiple requests for access to our newsletter and he has mostly rebuffed them. The Boulder Book Store wanted to get into the Canyon Theater, but we were hoping for more capacity than what they proposed. They asked if we would be willing to promote their event if they slapped our name on as a sponsor, a way to get our name out there. We won't generate any revenue from this; Boulder Book Store will not generate any revenue by having a book talk, but they will generate book sales, and we will not see a percentage of that.
- Sutter: We are being asked if we include, in the newsletter, this information rather than sending additional emails out.
- Farnan: We do not send additional emails out.
- O’Shea: I'm going to err on the side of trying it and see if it does seem like it’s going to draw attention to getting to the million mark.
- Sutter: It seems to me not that different from the community bulletin board policy. This is a one-time thing, but I almost think it would be better to think about in terms of should the newsletter have a section on community events, or community bulletin board. If so, what would the parameters be for including something in there? Is it within the purview of the library newsletter to promote other important literary events around Boulder? Sounds great to me and then how are you going to draw the line, who is going to curate? Those seem to be the important questions. Rather than think about it as simply a partnership with the bookstore but a broader platform for the library building a community of literacy.
- Teter: It seems to me a logical extension of the sponsorship program.
- Gibb: We could monitor it to see how many people drop off the list after that particular newsletter goes out.
- Sutter: I think there could also be a great potential partnership with the University of Colorado. History does an annual lecture, and I would love to advertise that to library patrons.
- O’Shea: I would also have expectations that the bookstore would reciprocate to their social media streams and lists and share their metrics on that.

Farmer’s Market

- Farnan: Some ideas from Seeds include dinner/movie, and cooking classes. The cooking class might offer free attendance to observe, and charge for participation and tasting.
- Sutter: Regarding Seeds and Makerspace; he suggested that the library and the farmers market consider including an option for people when they register, to be able to pay for an additional participant. Then you have a kind of built-in scholarship capacity that might actually accrue substantially enough that you could occasionally offer a free class.

Agenda Item 12: Adjournment

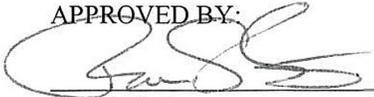
[8:18 p.m., Audio 21:26]

The meeting was adjourned at 8:18 p.m.

Date, Time, and Location of Next Meeting:

The next Library Commission meeting will be held at 6 p.m. on Wed., March 2, 2016, at the Library Canyon Meeting room.

APPROVED BY:

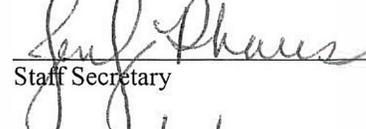


Board Chair

3/15/16

Date

ATTESTED:



Staff Secretary

3/15/16

Date

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
Boards and Commissions Minutes

NAME OF COMMISSION: Open Space Board of Trustees			
DATE OF MEETING: March 9, 2016			
NAME/EXTENSION OF PERSON PREPARING SUMMARY: Leah Case x2025			
NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:			
MEMBERS: Shelley Dunbar, Frances Hartogh, Molly Davis, Kevin Bracy Knight, Tom Isaacson			
STAFF: Tracy Winfree, Jim Reeder, John Potter, Mark Davison, Mark Gershman, Bethany Collins, Deryn Wagner, Phil Yates, Cecil Fenio, Alycia Alexander, Juliet Bonnell, Steve Armstead, Leah Case, Gabe Wilson, Don Damico, Brian Anacker, Luke McKay, Heather Swanson, Lynn Riedel			
TYPE OF MEETING:	<u>REGULAR</u>	CONTINUATION	SPECIAL
SUMMATION:			
AGENDA ITEM 1 – Proclamation Frances Hartogh read a proclamation for Shelley Dunbar.			
AGENDA ITEM 2 - Approval of the Minutes Frances Hartogh moved the Open Space Board of Trustees to approve the minutes from Feb. 11, 2016 as amended. Kevin Bracy Knight seconded. This motion passed unanimously.			
AGENDA ITEM 3 - Public Participation None.			
AGENDA ITEM 4 - Matters from Staff Tracy Winfree reminded the Board about a Joint Board Meeting on April 27 hosted by the Environmental Advisory Board (EAB).			
AGENDA ITEM 5 - Matters from the Board Molly Davis requested a Board retreat once the new Board member has started.			
AGENDA ITEM 6 – Consideration of a motion to approve and recommend that City Council approves the conveyance of an easement to Public Service Company of Colorado for ingress/egress along a portion of the Mesa Trail to provide access to the company’s 9205 Eldorado-NCAR electric transmission line. This is a disposal of Open Space land under City Charter Section 177. Bethany Collins, Property Agent, presented this item.			

This item spurred one motion:

Tom Isaacson moved the Open Space Board of Trustees approve and recommend that the City Council approves the disposal of an interest in Open Space lands pursuant to Boulder City Charter section 177 through the conveyance of an easement to Public Service Company of Colorado for ingress/egress along a portion of the Mesa Trail to provide access to the company's 9205 Eldorado-NCAR electric transmission line, as approved by OSMP and PSCo staff and the City Attorney's Office. Molly Davis seconded. This motion passed unanimously.

AGENDA ITEM 7 – Consideration of a motion to approve and recommend that City Council approves the conveyance of a 10-foot wide nonexclusive easement to Public Service Company of Colorado for an underground electrical line across approximately 1,000 linear feet of the Dover-Blacker Open Space property for the purpose of providing electricity to the Shanahan Ridge neighborhood. This is a disposal of Open Space land under City Charter Section 177.

Bethany Collins, Property Agent, presented this item.

This item spurred one motion:

Tom Isaacson moved the Open Space Board of Trustees approve and recommend that the City Council approves the disposal of an interest in Open Space lands pursuant to Boulder City Charter section 177 through the conveyance of a 10-foot wide nonexclusive easement to Public Service Company of Colorado for an underground electrical line across approximately 1,000 linear feet of the Dover-Blacker Open Space property for the purpose of providing electricity to the Shanahan Ridge neighborhood for the consideration of \$12,500. Kevin Bracy Knight seconded. This motion passed four to zero; Frances Hartogh abstained.

AGENDA ITEM 8 – Consideration of a motion recommending approval of the North Trail Study Area Plan and recommending the North Trail Study Area Plan to City Council for its acceptance.

Steve Armstead, Environmental Planner, presented this item.

This item spurred ten motions:

Shelley Dunbar moved the Open Space Board of Trustees to continue to follow the terms of the lease regarding public access to the Boulder Valley Ranch (BVR) equestrian arena and will concurrently develop options for nearby horse trailer parking and/or seek to provide an equivalent and suitable corral option that will be determined in cooperation with stakeholders that will be vetted and approved in a future public process. The Board recommends that staff proactively address any conflict issues resulting from public access in future lease negotiations. Tom Isaacson seconded. This motion passed unanimously.

Frances Hartogh moved the Open Space Board of Trustees to ask staff to endeavor to develop and bring back to the Board an ecological monitoring program for the North Sky Trail and the Joder Property in light of the important ecological qualities of these properties. Tom Isaacson seconded. This motion passed unanimously.

Tom Isaacson moved the Open Space Board of Trustees affirm the management area designations as shown on page 16 of the North Trail Study Area (TSA) Draft Plan. Kevin Bracy Knight seconded. This motion passed three to two; Frances Hartogh and Molly Davis dissented.

Tom Isaacson moved the Open Space Board of Trustees to support the current access status of the Northern Tier Properties as either open or closed be continued except that the Deluca, Hester, and Campbell Properties be closed May 1 – July 31 for protection of ground nesting Bobolink. Shelley Dunbar seconded. This motion passed three to two; Frances Hartogh and Molly Davis dissented.

Shelley Dunbar moved the Open Space Board of Trustees to amend the language on page 102 of the

North Trail Study Area (TSA) Draft Plan to add the word “important” in front of “note” and eliminate “designated” in the first sentence. Kevin Bracy Knight seconded. This motion passed unanimously.

Frances Hartogh moved the Open Space Board of Trustees to have the following statement be added to the North Trail Study Area (TSA) Draft Plan on page 7: In fairness to the process, it should be acknowledged that three OSBT members voted for the scenario while two voted against. The main point of contention was whether a north-south connector trail should be constructed through the North Foothills HCA. Molly Davis seconded. This motion passed unanimously.

Frances Hartogh moved the Open Space Board of Trustees modify the language on page 36 under primary goal to read: Increase connectivity among North TSA properties while minimizing natural resource impacts to every extent possible. Molly Davis seconded. This motion passed four to one; Kevin Bracy Knight dissented.

Shelley Dunbar moved the Open Space Board of Trustees designate areas surrounding the Wrangler Trail (the trail is designated as Voice and Sight on-corridor) be designated as dogs on-leash as similar management to Wonderland Lake. Tom Isaacson seconded. This motion passed unanimously.

Shelley Dunbar moved the Open Space Board of Trustees approve the North Trail Study Area Plan as amended and recommend that the Boulder City Council approve the North Trail Study Area Plan as amended. Kevin Bracy Knight seconded. This motion passed three to two; Frances Hartogh and Molly Davis dissented.

Tom Isaacson moved the Open Space Board of Trustees to make the following statement: If City Council does not support the North Sky Ttrail, the OSBT recommends that City Council direct staff to revise a plan based on Scenario A as modified by OSBT votes at the Feb and March Board meetings. Shelley Dunbar seconded. Passed three to two; Frances Hartogh and Kevin Bracy Knight dissented.

ADJOURNMENT: The meeting adjourned at 11:31 p.m.

ATTACH BRIEF DETAILS OF ANY PUBLIC COMMENTS:

Many members of the public spoke in regard to the North TSA draft plan.

TIME AND LOCATION OF ANY FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS:

The next OSBT meeting will be Wed. April. 13 at 6 p.m. at 1777 Broadway in the Council Chambers

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
February 18, 2016
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: <https://www.bouldercolorado.gov/>

PLANNING BOARD MEMBERS PRESENT:

Bryan Bowen, Chair
John Putnam
John Gerstle
Leonard May
Liz Payton
Crystal Gray

STAFF PRESENT:

Susan Richstone, Deputy Director of Planning, Housing & Sustainability
Lesli Ellis, Comprehensive Planning Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Sloane Walbert, Planner I
Crystal Launder, Housing Planner
Jeff Yegian, Housing Division Manager

1. CALL TO ORDER

Chair, **B. Bowen**, declared a quorum at 6:09 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **C. Gray** and seconded by **J. Putnam** the Planning Board voted 6-0 to approve the January 28, 2016 minutes as amended,

3. PUBLIC PARTICIPATION

- **Kate Remley**, as a member of the working group for the Downtown Urban Design Guidelines (DUDG) and chair of the Landmarks Board, suggested a few modifications to the vision statement of the revised DUDG. She will email the revisions to staff and the Planning Board.
- **David Biek**, in regards to item 4B (1710 and 1750 29th Street) on tonight's agenda, spoke in support of the project.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

- A. AGENDA TITLE:** Continuation of a Public Hearing to consider a motion to approve findings of fact and conclusions of law for the denial of the application for a Nonconforming Use Review, application no. LUR2015-00073, for the addition of two

bedrooms in the basement of an existing nonconforming duplex at 940 14th St.

Applicant: Lani King, Michael J Hirsch Companies

Owner: 20th Street Apartments 1 LLC and 20th Street Apartments 2 LLC

Motion:

On a motion by L. Payton, seconded by C. Gray, the Planning Board voted 4-2 (B. Bowen, J. Putnam opposed) to approve findings of fact and conclusions of law for the denial of the application for a Nonconforming Use Review, application no. LUR2015-00073, for the addition of two bedrooms and in the basement of an existing nonconforming duplex at 940 14th St.

- B. CALL UP ITEM:** Approval of a Minor Amendment to an Approved Site Plan to install two vendor kiosks and a walk-in cooler made from repurposed shipping containers in the public plaza between 1710 and 1750 29th St. within the Twenty Ninth Street shopping center. The kiosks will be for alcohol service and will include fenced areas with controlled points of entry. The project includes railings, outdoor seating, umbrellas, planters and other landscaping and furniture elements, including a public turf area adjacent to the new vendors. Approval includes an amendment to the Twenty Ninth Street Signage Program to include the central portion of the plaza in the sign program as a Type 4 Storefront type. The project site is zoned Business – Regional 1 (BR-1). Case No. LUR2015-00119.

This item was not called up.

5. DISCUSSION ITEM

- A.** Middle Income Housing Strategy – in preparation for a February 23, 2016 Council Study Session, staff requests feedback from the Planning Board on a recently completed Middle Income Housing Study and the proposed steps to create a middle income housing strategy.

Staff Presentation:

S. Richstone introduced the discussion item regarding Middle Income Housing Strategy.

L. Ellis discussed opportunities to integrate Middle Income Housing Strategy work items into the BVCP update effort.

C. Launder presented the Middle Income Housing Study, recently completed by BBC Research and Consulting.

Board Questions:

C. Launder, S. Richstone, L. Ellis and **J. Yegian** answered questions from the board.

Board Comments:

- The board made comments regarding the areas of focus for the Middle Income Housing Strategy.

- **C. Gray** and **B. Bowen** suggested reviewing more information regarding small, detached homes, small lots and tiny home neighborhoods and the benefits surrounding affordability and future benefits.
- **C. Gray** would like to see mobile home parks and the preservation of mobile home parks added to the areas of focus. In addition, she added that partnering with neighborhoods and neighborhood plans would be necessary to obtain these solutions.
- **B. Bowen** added that looking at land use and using it as a template for development, if the land use pattern is followed explicitly, is inefficient. It is low density and resource intensive. However if community oriented spaces would be created, and let go of micro-suburban patterns of mobile home parks, then the outcome could be highly beneficial and a good solution. A new design tool would need to be created for certain areas.
- **J. Putnam** echoed the earlier board comments that the document was well done and added that it would be important to better understand the generational effects and how senior housing would fit into this strategy. He emphasized that we should make the transition for older Boulder residents easier to move from one affordable category to another for example by changing zoning codes if needed. The city needs to think about how people throughout different stages of life transition from one type of house or situation to another and be able to stay in the city.
- **L. May** added that perhaps the city could play a role in a reverse mortgage structure whereby the ownership reverts back to the city at a more reasonable cost. The tradeoff could be that a person could pull the equity from the property to cover the increased aging needs.
- **C. Gray** added that she would like to see more emphasis/focus on Accessory Dwelling Units (ADU) and Owners Accessory Units (OAU) in regards to community benefit for allowing them in zones where they are not now allowed.
- **B. Bowen** mentioned that housing for seniors in the middle could benefit from age diverse neighborhoods. He suggested by working through the site review criteria or building into the design requirements, placing in writing the design aspects or requirements that would retain families.
- **J. Gerstle** agreed with the prior board comments. He also expressed his opinion that the city should not regard pure ownership as the only desirable relationship for a resident should have with their home, and that other arrangements, such as rentals and cooperatives, could also be acceptable.
- **L. May**, by quoting the following article ("*The Mortgage Mistake*", The New Yorker, dated January 12, 2015), agreed that there is no universal benefit of renting over ownership. The article was forwarded to the board. He stated that the presumption should not be on homeownership, but to look at the broader economic implications.
- **J. Putnam** suggested ensuring that there are both rentals and ownership opportunities for middle income households.
- **L. Payton** added that the missing middle is about homeownership and that there is not enough available within Boulder, but plenty available in surrounding areas. There are rentals available, but not homeownership opportunities. She stated that she supports the focus on homeownership. She added that Colorado University (CU) is a large entity but many of their faculty does not live in Boulder. She questioned staff regarding the housing of CU's staff. Staff informed the board that CU is concerned regarding this issue and evaluating what role they might have in providing housing for employees. If it were done,

it would be more of a rental product rather than homeownership. She suggested that through annexation requests that middle income ownership housing be required. In regards to the implementation of an anti-demolition ordinance, similar to San Francisco, she stated it would be useful in preserving existing affordable housing and should be reviewed. She suggested a survey to developers to determine how height would work with this kind of middle income housing. Finally she reminded the board that Boulder does have an example of small homes on small lots with seniors at Chautauqua.

Staff Presentation:

L. Ellis presented the Range of Potential Land Use Interventions related to the Boulder Valley Comprehensive Plan (BVCP).

Public Hearing:

1. **David Adamson** stated that often there is a concern that with density comes traffic. Middle class housing needs could be met by creating a person that is able to get around without the use of a car. He stated that within his neighborhood they are working together by doing car share, bike share and NPP around their site and think about how to add density without adding traffic.

Board Questions:

L. Ellis, S. Richstone and **J. Yegian** answered questions from the board.

Board Comments:

- The board made comments regarding the range of potential land use interventions related to the BVCP for potential housing.
- **L. Payton** stated that the character should be refined in areas. Change or adding land use categories to facilitate the types of housing that is needed is important. The tradeoffs between housing and jobs and addressing them through land use changes should be considered. She stated that if staff were looking for a metric for the goal of a better balance of incomes then it might be to get back to a distribution of incomes that were present twenty years ago, for example.
- **J. Gerstle** stated that recent discussions have focused on tradeoffs between jobs and housing. He believes, however, that there are many other factors to consider, including streets and parking issues, and that the discussion should not be limited to housing alone.
- **B. Bowen** clarified that figuring out what the overall goal is should be the goal and how do we create a community and Boulder that we envision. Land use code can be beneficial but some can be evasive for us to advance.
- **J. Putnam** suggested exploring community industrial as something that is still needed when looking at areas to put housing. Areas of art could be a tradeoff as well. He stated that there is currently focus on areas of potential change. To help shape discussions regarding OAU and ADUs, it would be beneficial to shape what that would mean and create scenarios to show what it would do for affordability. It would be beneficial to look at what will be affordable in Boulder in 10 yrs.
- **C. Gray** agreed with **L. Payton's** comments. If OAU's, or ADU's, are incentivized in zones where they are not now allowed they should not be allowed to have short term rentals if the goal of expanding OAU's or ADU's is to add to long term rentals. The city

code had incentivized housing in the DT zones by an increased FAR. Several years ago the FAR was also increased for commercial uses in the DT zones. Has this evening the playing field for housing and commercial in DT zones acted as a disincentive for housing downtown? It would be worth analyzing. **C. Gray** also suggested subcommunity planning and outreach to neighborhoods on housing strategy for middle income solutions.

- **L. May** agreed with staff's recommendations. He explained that we need to focus on where is the greatest good on limited resources that we have. The issue of in-commuting should not be confused with the housing issue. Medium and higher density housing should be analyzed. The focus cannot be solely on lower density. Focus on multi-family housing so there is less impact on zoning. He agreed with **J. Putnam's** comments regarding maintaining the light industrial community.

Additional Next Steps:

- **J. Putnam** mentioned that the zoning code needs to be reviewed especially where the types of housing desired are being discouraged.
- **C. Gray** suggested the Planning Board recommend to City Council to focus on creative housing types including smaller homes for the Middle Income Housing Strategy.
- All Board members agreed.
- **C. Gray** suggested adding, under "Range of Potential Interventions", to add the wording to partnership with neighborhoods on housing solutions as outlined in the Boulder Housing Strategy.
- **L. May**, under "Regulatory Interventions", there is a section pertaining to middle income housing bonuses. He pointed out that as long as incentives do not guarantee to be a one-time windfall, they are critical to maintain. The "compatible development" language should be explored and better defined. Occupancy and height limits make sure not to just a bonus to the property owner. A sales tax for affordable housing would be a regressive tax and would ultimately hurt the ones that we are trying to benefit through an affordable housing program.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. BVCP Update

Staff Presentation:

L. Ellis presented the item to the board and the 3-D mapping that is currently accessed from the website.

Board Questions:

L. Ellis answered questions from the board

Board Comments:

- **J. Gerstle** agreed that the potential value of the mapping tool is very high for the BVCP. As long as people are aware of the limitations and errors that may be incorporated within, we should move ahead.
- All Board members agreed.

B. Reve Project Call Up – City Council Update
B. Bowen presented the item to the board.

Board Comments:

- No one had any comments.

C. DUDG Adoption Process – City Council Update
B. Bowen presented the item to the board.

Board Comments:

- **J. Gerstle** recommended that when the Planning Board revisits this item that there is a full agreement on the matter.
- The board proposed to have the Planning Board revisit the DUDG and add revisions at the March 3, 2016 Planning Board meeting and to begin the meeting at 5:00p.m.
- Any board members that have proposed revisions should submit them to Planning Board, Sam Assefa and Kalani Pahoia prior to the meeting.

7. DEBRIEF MEETING/CALENDAR CHECK

A. Planning Board 2016 Retreat Date and Calendar Items

- Planning Board will meet on April 14, 2016 to discuss Form-Based Code at 6:00p.m. On this date, Planning Board would be asked to make a recommendation to City Council on the draft code.
- On March 17, 2016, Form-Based Code will appear under “Matters” as an update for Planning Board.
- The EAB joint meeting regarding climate commitment updates original date of April 6, 2016 is not working out. The EAB board secretary will poll the Planning Board to find an alternate date in April.
- Planning Board will meet on April 28, 2016 to discuss Hogan-Pancost at 6:00p.m. On this date, the annexation will be reviewed.
- The May 19, 2016 Planning Board meeting was canceled. All items were moved to May 26, 2016.
- The board agreed that the retreat would be held on May 6, 2016 at Wild Sage Community House, 12:00-4:00p.m.
 - Subject items will be sent to **C. Spence** to be compiled.
 - The board will discuss the agenda at the March 3, 2016 meeting.
 - Heidi Brinkman, with Brinkman Consulting, will facilitate.

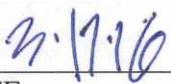
8. ADJOURNMENT

The Planning Board adjourned the meeting at 9:09 p.m.

APPROVED BY



Board Chair



DATE

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
March 3, 2016
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:

Bryan Bowen, Chair
John Gerstle
Leonard May
Liz Payton
Crystal Gray

PLANNING BOARD MEMBERS ABSENT:

John Putnam

STAFF PRESENT:

Charles Ferro, Development Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Jessica Stevens, Civil Engineer II
David Thompson, Civil Engineer II, Transportation
Kalani Pahoia, Urban Designer
Sam Assefa, Senior Urban Designer
Chandler Van Schaack, Planner II

1. CALL TO ORDER

Chair, **B. Bowen**, declared a quorum at 5:03 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **J. Gerstle** and seconded by **L. Payton** the Planning Board voted 5-0 (**J. Putnam** absent) to approve the February 2 and February 4, 2016 minutes as amended,

3. PUBLIC PARTICIPATION

No one spoke.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

- A. Call Up Item: Wetland Map Revision (LUR2016-00005). Boulder Creek Path at 30th Street. This decision may be called up before Planning Board on or before February 24, 2016.

- B.** Call Up Item: Boulder Creek Path Improvements at 30th Street Underpass, Floodplain Development Permit (LUR2015-00120), Wetland Permit (LUR2015-00116). This decision may be called up before Planning Board on or before March 11, 2016.
- C.** Call Up Item: Approval of a Use Review to establish an animal kennel (cat boarding area) within a cat only veterinary clinic at 1915 28th St. in the Business – Regional 1 (BR-1) zone district. Case No. LUR2016-00011

None of the items were called up.

5. PUBLIC HEARING ITEMS

- A.** AGENDA TITLE: Consideration of a motion to adopt the 2016 Update to the Downtown Urban Design Guidelines (Guidelines) incorporating revisions recommended by the Planning Board at its February 4, 2016 hearing. Adoption of the Guidelines will result in inclusion of the DT-4 and DT-5 downtown zone districts in the identified areas where height modifications may be considered through the city's Site Review process, per the height modifications ordinance approved by Council on March 31, 2015.

Staff Presentation:

- S. Assefa** introduced the item.
K. Pahoa presented the item to the board.

Board Questions:

- K. Pahoa** answered questions from the board.

Public Hearing:

- 1. Jamison Brown**, chair of the Design Advisory Board and member of the working group, spoke in support of adopting the DUDG as submitted and explained that there was a consensus of the final version and it was a consensus driven process. He urged the Planning Board to adopt the version of the DUDG as adopted by City Council.
- 2. Kate Remley**, chair of the Landmarks Board and member of the working group, stated that she did not feel the introductory material had been fully vetted by the working group. She asked the Planning Board to change the language in the introductory section. She stated the working group did not see the final document. She asked to restore some of the original language stating it would assist the Landmarks Board in dealing projects that they see on a regular basis.

Board Comments:

- **L. May**, in regards to the staff time involved to make the proposed edits, stated that he appreciates the burden it may impose upon them, but it is the board's job to vet these items and he felt that had not been done properly.
- **C. Gray** stated that that she did not feel pressure from the staff to push the document through. She stated that the committee should take some of the responsibility if discussions did not cover all areas or a final wrap up.
- **B. Bowen** agreed with **C. Gray**.

- **L. Payton** stated that significant language had been removed and the motions to be offered will restore that missing language and that was in the original set of DUDG.
- **J. Gerstle** agreed and added that it is more than wordsmithing that is being proposed.

Motion:

On a motion by **B. Bowen** that the Planning Board adopt the updated Downtown Urban Design Guidelines dated February 16, 2016, as attached to the staff memo dated March 3, 2016. Motion failed. No second.

On a motion by **L. May**, seconded by **L. Payton**, the Planning Board voted 5-0 (**J. Putnam** absent) to make the following modifications to the Downtown Vision Section, Section 2 – The Non-Historic and Interface Areas and Section 3 – Public Realm:

- *ADD 2.1.B (inserted before the currently proposed 2.1.B) “Views: Downtown Boulder is blessed with exceptional mountain views and projects should be designed to preserve access to this extraordinary asset from the surrounding area. The south and west edges of downtown offer the most spectacular views.”*
- *ADD 2.1.C (inserted before the currently proposed 2.1.B) “Sun and Shade: In Boulder’s climate, sun and shade are important design considerations for providing natural light in buildings, and creating appealing pedestrian areas that are ice free and sunny in the winter and shady in the summer.”*

Renumber clauses following these insertions

- *DELETE 2.2.B.3*
- *ADD 3.2.B (inserted before the currently proposed 3.2.B) “Views: Downtown Boulder is blessed with exceptional mountain views and projects should be designed to preserve access to this extraordinary asset from the public realm and surrounding area. The south and west edges of downtown offer the most spectacular views.”*
- *ADD 3.2.C (inserted before the currently proposed 3.2.B) “Sun and Shade: In Boulder’s climate, sun and shade are important design considerations for creating appealing public realm areas that are ice free and sunny in the winter and shady in the summer.”*

Renumber clauses following these insertions

- *CHANGE Downtown Vision (gray bar on the left) bullet point 3 to “Human scale buildings and spaces;”*
- *ADD Downtown Vision (gray bar on the left) bullet point 4 “The preservation and celebration of Boulder’s mountain views from the public realm and surrounding area.”*

- *CHANGE 3.2.C.1, third bullet point **Railings**: “Railing designs should reflect an open, transparent feeling. Visually closed-in railings that “box-in” the extension area are not appropriate. No signage, advertising, goods or merchandise may be placed on railings. Railing design in the Historic District shall be simple.”*
- *ADD "2.1.H **Rhythm**: “Maintain the rhythm established by the repetition of the traditional approximately 25’ facade widths for projects that extend over several lots by changing the materials, patterns, reveals, or building setbacks in uniform intervals or by using design elements such as columns or pilasters.”*
- *ADD 2.1.I **Floor Height**: “Distinguish ground floor height from upper floor heights. Ground level floor to floor height is encouraged to be taller than upper stories.”*
- *ADD 2.1.J **Shade**: “Shade storefront glass by appropriate means such as awnings or recesses.”*
- *ADD to 2.1.E.2 **Parking Lots**: “Surface parking is discouraged.”*
- *MOVE 2.1. (H, I and J) to the 2.2 section that is “Commercial Buildings in the Non-Historic.”*

Board Comments to the Motion:

- **B. Bowen** stated for the record this action damages the integrity of the work process. Specifically some of the points being added were discussed as a group and now are going to be undone as a result of this motion. This is unfortunate and this process should be discussed in the future. He stated that there is a difference of opinion that some felt that the existing DUDG gave a protection of views from the public realm. Others felt that the views from the buildings were to be maximized. We are making a substantive change without public input. In addition, the changing of materials at 25 foot widths, this was discussed at length and it was decided not to be done but now that will be undone. The working group agreed that if views from the public realm are important, then there should be a process to define which ones would be discussed. All buildings impact views. The working group decided that the place in the land use code to discuss height of buildings would be in the zoning. He stated that this motion will be a mistake.
- **C. Gray**, as a member of the working group, stated that they did spend a lot of time discussing the preamble and the document. There was never total agreement on a few items in the preamble and the two landmark representatives expressed this. She was under the impression that there would be final review and approval by the Planning Board and all items that had consensus by the working group would still be reviewed and commented on by the two reviewing bodies - Planning Board and Landmarks. She also suggested that we discuss, at the retreat, PB participation in working groups and the expectation of the delegated PB members to those groups.
- **L. May** stated that the motion is meant to be restorative. Regarding the interpretation of the intent with regard to views, it is about the general access to views from the public realm, the surrounding area of a new building. Not to pertain to the views of people in the

building. He stated that he is attempting to make it more about the public realm. He added that he is not being critical of the process, but the Planning Board needed to have its own review.

- **L. Payton** stated that with the proposed motion, important language is being restored.
- **J. Gerstle** stated that he supports **L. May's** motion.

On a motion by **L. May**, seconded by **B. Bowen**, the Planning Board voted 5-0 (**J. Putnam** absent) to adopt the revised Downtown Urban Design Guidelines dated February 16, 2016 subject to the following additional information:

- *CHANGE 2.1.B.1 Solar Panels: – DELETE final sentence and REPLACE with “Skylights and solar panels should have low profiles. Skylights should not be visible from the public right-of-way. Solar panels should be as unobtrusive as possible.”*

Friendly Amendment by **B. Bowen**, accepted by **L. May**, the Planning Board passed 5-0 (**J. Putnam** absent) to delete the second sentence currently reading: “*Skylights should not be visible from the public right-of-way.*”

B. AGENDA TITLE: Public hearing and consideration of a Site and Use Review (LUR2011-00071) to redevelop the site located at 4403 Broadway Ave. with a new mixed use development. The western portion of the site, zoned RM-1 (Residential – Medium 1) would include twelve 3-story townhome units divided between two buildings. The eastern portion of the site, zoned MU-2 (Mixed Use – 2), would include three new mixed use buildings containing an additional 16 attached residential units above 9,207 sq. ft. of commercial and restaurant space. The proposal includes a request for a height modification to allow for both townhome buildings and two of the mixed use buildings to exceed the 35 foot height limit for the zone (requested heights range from 36’3” to 43’6”) as well as a request for a 5% parking reduction to allow for 57 parking spaces where 60 are required. The proposal also includes a Use Review request to allow for three restaurants which close after 11:00 p.m., two of which are over 1,000 sq. ft. in floor area. The applicant is seeking to create vested property rights as provided for in section 9-2-19, B.R.C. 1981.

Applicant: Jeff Dawson

Owner: Emerald Investments I, LLC

Staff Presentation:

C. Ferro introduced the item.

C. Van Schaack presented the item to the board.

Board Discussion Regarding Public Process and Notification:

- A minor defect in notification (the sign was only posted on the property for seven days rather than ten days leading up to the hearing as required by the land use code) that does not impair the surrounding property owners’ ability to participate in the public review

process occurred. The board had the ability to stay the hearing if they felt adequate public notice was not provided.

- Board opened it up to the public to see if they felt that proper public notification had or had not been met.
 1. **Eric Ponslet** spoke in support to stay the hearing stating that proper notification was not made to the public in the surrounding area because most of the residents who occupy the residents are not owners, but renters.
- The board discussed the continuation of this item to a later date.

Motion:

On a motion by **C. Gray**, seconded by **J. Gerstle**, the Planning Board voted 2-3 (**J. Putnam** absent) to move forward with the public hearing, to allow public and input and to continue board deliberations at another date after which proper notification could take place and to reopen public input at the March 17, 2016 Planning Board meeting. Motion failed.

On a motion by **B. Bowen**, seconded by **L. May**, the Planning Board voted 4-1 (**J. Putnam** absent) that adequate notification was satisfied and agreed with staff's recommendation. Motion passes.

Staff Presentation:

C. Ferro introduced the item.

C. Van Schaack presented the item to the board.

Board Questions:

C. Van Schaack answered questions from the board.

Applicant Presentation:

Jeff Dawson, with Studio Architecture, the applicant, presented the item to the board.

Board Questions:

Jeff Dawson, the applicant, and **Nader Ghadimi** with Emerald Investments, the owner, answered questions from the board.

Public Hearing:

1. **Catherine Canlin** expressed concern regarding the new height requirement and asked the board to give consideration in terms of noise and height.
2. **Eric Ponslet (pooling time with Lucie Parietti, Liesel Ritchie, Anupam Barlow and Zak Keirn)** spoke in opposition to the project. His focus was the proposed height modifications and spoke in opposition to them.

Board Comments:

Key Issue #1: Is the proposed project consistent with the vision for the area as established in the adopted 1997 North Boulder Subcommunity Plan (NBSP)?

- **L. Payton, C. Gray and L. May** agreed that most of the NBSP guidelines are met except for height.
- **L. Payton** added that the proposed building design does not seem compatible with Violet Crossing across the street to the east. The proposed design seems to be battling with the topography language in the NBSP. In addition, while the plan would be providing housing, it would in fact increase the demand for housing by adding jobs. She stated she could not grant the height modification as there is no public support and that Buildings A, B, #1 and #2 are taller than provided for in the zoning that was established with the NBSP. The transition between the project and the residential neighborhoods is not effective.
- **C. Gray** agreed regarding the issue of height and the transition of height. The internal sidewalks should be more defined.
- **L. May** added that this plan is targeting affluent people and that a diversity of housing and affordability should be provided. In regards to the height proposals, the MU-2 zoning states a clear maximum of two stories and there should be no reason to give an exception. In the residential zone, there is no limit to number of stories; however the proposed third stories on the townhome units would be considered gratuitous space which would increase the cost. He felt that by removing floor area from the third floor of the townhouse units, the units would become more affordable. He added that the project site is a transit rich site and that the amount of parking should be reduced. Driving should not be encouraged therefore parking should be constrained and unbundled.
- **J. Gerstle** stated he has the same concerns regarding the proposed height but he agrees with the vision of the project. He agreed that the commercial space proposed for the ground floors in the MU-2 zone would be reasonable. The project does not have sufficient transition in intensity between Uptown Broadway and the residential area on the south side of Violet. In regards to parking, he agreed with fellow board members regarding unbundling declaring that it would encourage people to not have vehicles and make residences more affordable. He stated this would be necessary.
- **B. Bowen** felt that the project fit the NBSP and he did not have an issue with the proposed height given the site constraints related to grade and floodplain. He mentioned that many of the buildings in Uptown Broadway are 44 to 48 feet in height and that at a maximum height of 43'6" the proposed buildings would still accomplish the desired transition. Street frontage and setbacks make sense. He supports the idea of having mixed uses extending down to the corner of Violet and Broadway. He pointed out that in terms of context, the project would transition to a school (35 foot height limit) and not into residences, and that amore urban edge was therefore appropriate. Regarding the site design and housing diversity, this zoning is disappointing in that it does not provide for outdoor communal space but rather surface parking. In terms of unbundled parking, he suggested behind Building A as a location.
- **L. Payton** added that if the proposed buildings were limited to 35 ft in height, then the parking requirements could change. Height, the missing middle income housing and parking are all tied together. She would be in support of a parking reduction as requested by other board members and unbundling that section that is not tied to the individual townhomes.

Key Issue #2: Is the proposed Site Review consistent with the Site Review criteria as set forth in section 9-2-14(h), B.R.C. 1981?

- **J. Gerstle**, in regards to setback issues, disagreed that a diminished setback would be appropriate. He did not see a valid reason to change.
- **B. Bowen** explained that the 20 foot setback would be too much for townhomes. He referred to townhomes in the Holiday development as examples of successful setbacks under 20 feet. He stated that he agrees with proposed plan and that at tight urban streetscape would work well. In terms of height, he referred to various successful townhome projects that are three-stories along Broadway.
- **C. Gray** agreed with **B. Bowen** regarding setbacks. **L. Payton** did not want to make the setbacks an issue.
- **B. Bowen** suggested a compromise regarding the height issue. Perhaps Buildings 1 and 2 are at issue and Buildings A, B and C are appropriate as planned.
- **L. May** explained that the height exception takes away from the units being affordable. It is less of an issue in the MU zone due to the apartments that would be provided; however, he still feels that the height limit for the MU-2 zone should be respected.
- **C. Gray** stated that she would like to see all buildings conform to the height limit without modifications. Buildings A and B have such a large presence on Broadway.
- **B. Bowen** explained to fellow board members that a good reason to have a one to two foot height exception for Buildings 1 and 2 would be the ability to access a roof deck with a stair. He stated that these would be great amenities for future residents. Head room over a stair cannot exist without violating the height exception. The NBSF does call for building mass along Broadway as a sound mitigation for what lies behind it and should be a consideration in terms of height.

Applicant Rebuttal:

Jeff Dawson, with Studio Architecture, the applicant, responded to some of the items brought up by the board regarding Key Issues 1 and 2. He offered to remove the third story lofts from the end units of each of the townhome buildings to reduce the apparent massing and remove floor area, to reduce the extent of the requested height modification for Building B in order to make it less than or equal to the height of Building A (39 feet), and to unbundle the parking for the apartment units.

Board Questions:

Jeff Dawson, the applicant, answered questions from the board

Board Comments:

- **C. Gray** and **L. Payton** both stated that they would not be inclined to give the height modifications as it would violate the NoBo Plans and does not meet the site review criteria. They would ask the applicants to come back with plans within guidelines. In addition, the project does not transition into the surrounding residential area effectively. They are okay with three stories but only if the buildings are kept within the 35 foot height limit.
- **B. Bowen** mentioned that there would be a strong benefit of having rooftop access in Buildings 1 and 2 for future residents, and that at a minimum there should be a height modification granted to allow for stair landings to provide rooftop access.

- **L. May** agreed with B. Bowen's proposal for Buildings 1 and 2. In regards to the residential zone (Buildings 1 and 2), he would be willing to do the height exception to the extent that a rooftop access is provided. He stated that he would not support a height modification for Buildings A, B and C.
- **J. Gerstle** agreed that the suggestion for Buildings A, B and C to meet the height restrictions but have three stories is reasonable. Regarding Buildings 1 and 2, to allow access to the roof and allow an exception to the height requirement for that purpose would be acceptable. Finally he encouraged the applicant to include basements on Building 1.
- **L. Payton** restated that she did not feel there was an adequate transition from the project to residential.
- The board was not open to a 38 foot height limit to Buildings A, B and C although it is available in the BMS zone to the north.

Key Issue #3: Does the proposed project meet the Use Review criteria as set forth in section 9-2-15(e), B.R.C. 1981?

- **C. Gray** requested that the hours of the proposed restaurant be changed to close at 11:00p.m. rather than 12:00a.m.
- No other board members had issue with the closing time of 12:00a.m. therefore the closing time remained at 11:00p.m.

Architectural Issues:

- **L. May** stated that the street facades were well done, but appeared jumbled on the following elevations: Building A (west and north sides) and Building B (west and east sides).
- **B. Bowen** approved of the back side elevations. He suggested an improvement on Buildings A and B, on the third story of the Broadway side, to wrap with brick rather than use stucco specifically grids 4 through 7 of Building A and grids 1 through 5 on Building B on the east elevations, such brick shall wrap around the corners of those buildings as follows: on Building A including grids A through D on the south elevation, and on Building B including grid B-through E on the north elevation. All board members agreed.
- The board agreed that the overall designs are well done.

Motion:

On a motion by **B. Bowen** seconded by **L. Payton** the Planning Board voted 5-0 (**J. Putnam** absent) to approve the Site and Use Review application LUR2011-00071, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria, and subject to the recommended conditions of approval, with the following modifications:

Add to Site Review Condition 3.a.: *The final site plans shall be revised to show the following:*

- *Buildings A, B, and C shall not exceed the 35 ft height limit; only Buildings A and B, but not C, may have three stories;*

- *Buildings 1 and 2 shall not exceed the zoning district's maximum height, the only elements that may exceed that height limit shall be stairway access from each unit to the roof tops;*
- *The garages behind Building A shall be unbundled parking;*
- *From the proposed concrete path at the north east corner of Building 1, extend a five foot wide pervious path west to 10th Street with a public access easement;*
- *All buildings shall have conduit for future photo voltaic systems from the house panel of each unit to the roof;*
- *One dual cord electrical vehicle charging station to serve unbundled surface spots; and*
- *The brick on the east elevation of Buildings A and B shall extend up to the third floor and replace the stucco, including grids 4 through 7 of Building A and grids 1 through 5 on Building B on the east elevations, such brick shall wrap around the corners of those buildings as follows: on Building A including grids A through D on the south elevation, and on Building B including grid B-through E on the north elevation.*

C. AGENDA TITLE: Concept Plan (case no. LUR2015-00106) proposal to redevelop the properties located at 4801, 4855, 4865 and 4885 Riverbend Rd. within the Riverbend Office Park with a new 76,000 sq. ft., 55 foot hospital building and a 5-story, 467-stall parking structure with accessory office and retail space. The new facility would house BCH's relocated inpatient behavioral health, inpatient rehab and neurology department. The proposal includes consolidating the existing properties into one 2.55-acre project site and rezoning the site from BT-2 (Business – Transitional 2) to P (Public). Changes to the existing access and circulation are also proposed

Applicant: Darryl Brown for Boulder Community Health
 Property Owner: Boulder Community Health

Staff Presentation:

C. Van Schaack presented the item to the board.

Board Questions:

C. Van Schaack answered questions from the board.

Applicant Presentation:

Jackie Attlesley-Pries with Boulder Community Health, and Mary Fiore with Boulder Associates Architects, the owner's representative, presented the item to the board.

Board Questions:

Jackie Attlesley-Pries with Boulder Community Health, Mary Fiore with Boulder Associates Architects, and Vince Porreca, a consultant for BCH, answered questions from the board.

Public Hearing:

No one spoke.

Board Comments:

Key Issue #1: Is the Concept Plan proposal compatible with the goals, objectives and recommendations of the Boulder Valley Comprehensive Plan (BVCP)?

Key Issue #2: Are the proposed Rezoning and amendment to the BVCP Land Use Designation appropriate for the surrounding context?

- The board gave comments regarding the two key issues in terms of compatibility with the BVCP and if the proposed rezoning and amendment to the BVCP Land Use Designation would be appropriate.
- **C. Gray** stated that the zoning and height would be appropriate and supports the parking garage. She supports the parking garage materials. She suggested that some of the design elements be simplified. She also suggested looking at an additional access from 48th Street.
- **L. May** agreed with the community cycles comments sent to the board. A larger area plan should be thought about and not piecemealed. He suggested that the parking should be thought through even more and that the hospital should work harder toward diverting employees and visitors away from parking at the facility. In terms of the architecture, he stated that the garage design is more successful than care facility. He suggested that the design be more organized.
- **B. Bowen** supports the rezoning. He urged the continuation of the maximization of the sight so the hospital can thrive in this location. He suggested that the applicant pursue uses that can be expanded in the public zone and to ask for a setback variance to create an urban medical campus. He asked the applicants to look at how to conserve their energy usage by both sharing and becoming an eco-district or look at renewables. Finally, he suggested looking at resiliency.
- **L. Payton** stated that it does meet the BVCP policies. She does support the height modification request due to the context and approves of the architecture. She offered to the applicant to put an emphasis on the landscaping.
- **J. Gerstle** agrees with the other board members that the project should move forward. He offered that BCH needs to gain more credibility with respect to transportation demand management with its employees. In his opinion, the most effective way to do this would be to stop providing free parking.

Board Summary:

B. Bowen gave a summary of the board's recommendations. Since this is a Concept Review, no action is required on behalf of the Planning Board. Overall, the board was in unanimous support for rezoning for the public and for City Council to allow building to 55 feet in height. The board supported the idea of an ordinance to allow additional commercial uses beyond merely "accessory" uses to create more of a rich, urban village that would support employees, neighbors and guests. The board asked to carefully consider parking and to get more serious about a transportation demand management plan. This can start with monitoring and collecting data. The board expressed a strong interest in renewable energy, EV parking, PV shading on the garage at

the time of construction. They urged to look at eco-districts and to have a plan for resiliency and to have clear goals for sustainability. The architecture needs to be reviewed. There were mixed comments on the design of the hospital building. The materials for both the parking garage and the facility were acceptable. There was clear interest in extending the vision beyond and to a master plan by asking what your future growth plans are. The board suggested that the landscaping should be over and above the standards. **L. May** add that the architecture be more organized. The board supported evolving the architecture in a more organized and refined composition.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Planning Board 2016 Retreat

- The board agreed to table this matter to the March 17, 2016 meeting.

7. DEBRIEF MEETING/CALENDAR CHECK

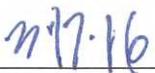
8. ADJOURNMENT

The Planning Board adjourned the meeting at 10:46 p.m.

APPROVED BY



Board Chair



DATE

Attention Homes Day

WHEREAS, in 1966, Attention Homes was founded in the City of Boulder by a First United Methodist Church adult bible study and community leaders to provide *attention not detention* and life-changing resources to youth in crisis; and

WHEREAS, in its 50 year history, the organization has served over 9,000 displaced and homeless youth with community-based financial and volunteer support; and

WHEREAS, Attention Homes leads by its vision of a world where every young person has a safe place to live and the attention they need; and

WHEREAS, Attention Homes has the only youth overnight emergency shelter, day drop in and street outreach program in Boulder County to serve youth in crisis 13-24 years of age; and

WHEREAS, Attention Homes honors its commitment to caring for and understanding each individual's needs, perspectives, and experiences; and

WHEREAS, Attention Homes is resourceful, being thoughtfully responsive to ever-changing needs and circumstances of homeless youth who lack a safety net; and

WHEREAS, Attention Homes is authentic, meeting youth in crisis where they are with integrity and transparency; and

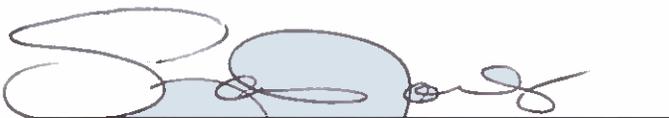
WHEREAS, Attention Homes carries great hope for youth, knowing that people can achieve regardless of barriers; and

WHEREAS, Attention Homes paves the path for youth and young adults, facilitating growth, transformation and leadership.

NOW THEREFORE, BE IT DECLARED by the City Council of the City of Boulder, Colorado, that April 7, 2016 is

Attention Homes Day

and we urge Boulder residents to engage in solutions for youth in crisis, in which all are welcome, safe, and invited to contribute.



Suzanne Jones, Mayor



**Denver's Día del Niño Weekend
April 23-24, 2016**

WHEREAS, on November 20, 1959 the United Nations General Assembly adopted the *Declaration of the Rights of the Child*, which outlines that every child has the right to protection, education, healthcare, shelter and good nutrition; and

WHEREAS, several of the region's top cultural institutions will host a weekend of family friendly, educational programming to celebrate this year's annual "Día del Niño" to celebrate young children throughout the world; and

WHEREAS, metro Denver's Día del Niño Weekend celebrations is the Rocky Mountain region's largest, serving more than 23,000 regional citizens altogether annually; and

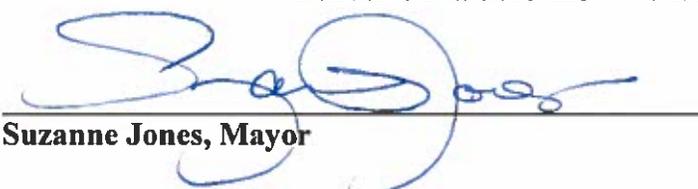
WHEREAS, on Saturday, April 23, the Denver Museum of Nature and Science in partnership with the Mexican Cultural Center and the Consulate General of Mexico and the Museum of Contemporary Art Boulder, will kick off the "Día del Niño" celebration with free admission and a variety of activities for the whole family; and

WHEREAS, on Sunday, April 24, the Denver Art Museum, the Byers-Evans House Museum, the Clyfford Still Museum, the Denver Public Library and History Colorado Center, in partnership with the Mexican Cultural Center, the Consulate General of Mexico and the Denver Art Museum's Latino Audience Alliance will be offering "Día del Niño" for the fifteenth year in a row, which includes free admission, kids dance performances, art making, bilingual tours, and live artists leading activities; and

WHEREAS, these institutions recognize the value in inspiring creativity and critical thinking in children through family programming, performance opportunities, and appealing hands-on activities to celebrate this special day.

NOW, THEREFORE, BE IT DECLARED by the City Council of the City of Boulder, Colorado, that April 23-24, 2016 be known as

Denver's Día del Niño Weekend



Suzanne Jones, Mayor



**Earth Week
April 18-24, 2016**

WHEREAS, an irrefutable body of evidence now confirms that the Earth's climate is changing due to the impact of human activities; such as: burning fossil fuels, non-renewable consumption of resources and degradation of ecological life support systems; and

WHEREAS, these changes are already having significant impacts both globally and locally in growing seasons, extreme weather events, longer fire seasons, temperature increases and other effects; and

WHEREAS, the well-being of future generations depends on our willingness to take action now to transform the systems and actions that are now endangering that future; and

WHEREAS, Boulder has a long history of rising to significant social challenges and creating innovations that improve both our own community and the lives of others; and

WHEREAS, there are hundreds of both small and large initiatives in our community that are working to create a more sustainable future; and

WHEREAS, these initiatives are essential to enabling a transition that sustains and enhances the shared health, economic vitality, environmental quality, and social equity and justice that are essential to Boulder's long-term well-being.

NOW, THEREFORE, BE IT DECLARED by the City Council of the City of Boulder, Colorado, that the week of April 18 through 24 be recognized as

Earth Week

as a forum in which these many important efforts and innovations be given an opportunity to be highlighted and promoted as part of a community-wide collaboration to rise to this challenge and power a vibrant, healthy and sustainable future.



Suzanne Jones, Mayor



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 members 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 message, 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 should any message 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 members agree to email the city manager about issues 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.
- Council members will keep the full council informed on issues from committees, public groups, or other agencies they are following, through Hotline emails, 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 email 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 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 the Mayor and 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 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 position know to their fellow members as soon as possible;
 - focus their communication with other council members on the positive attributes the member brings to the position; and
 - refrain from making any negative remarks about any person seeking election as mayor or mayor pro tem.
- Nominated individuals may make presentations that 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 engender trust from the community and other council members.
- Council members should work to avoid divisiveness by being inclusive during the mayoral selection process.

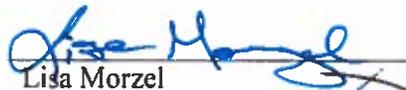
Agreed this 29th day of February, 2016.


Matthew Appelbaum


Aaron Brockett

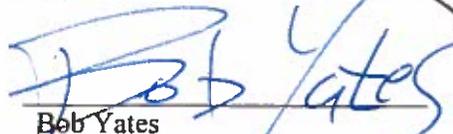

Jan Burton

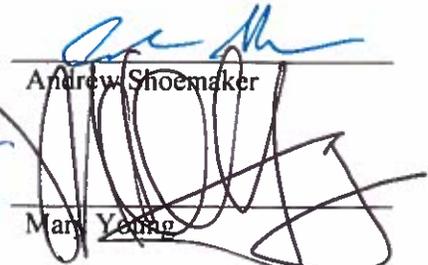

Suzanne Jones


Lisa Morzel


Andrew Shoemaker


Sam Weaver


Bob Yates


Mary Young

City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Project		1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Climate and Energy	Energy Future and Associated Projects	Council	CC: Open Access Transmission Tariff			
			SS: Power Supply	SS (2): Rates, Energy Services, Power Supply	Project update	Project update
		Staff Activities	Budget update	Budget update	Budget update	Budget update
	Climate Commitment	Council	Municipalization Transition Plan	Municipalization Transition Plan	Municipalization Transition Plan	Municipalization Transition Plan
		Staff Activities	Launch action plan	SS: Review interim goals, targets and strategies Energy system transformation; blue print convening	Implementation based on action plan	Implementation based on action plan
Housing/Land Use Planning	Comprehensive Housing Strategy (Housing Boulder)	Council	Briefing	SS (2)		
		Staff Activities	Housing Matters launch event, engagement activities	Draft strategy development	Implementation based on adopted strategy	Implementation based on adopted strategy
	Sustainable Streets and Centers/ East Arapahoe	Council	SS: Direction of preferred scenario	SS : Draft plan and action plan		
		Staff Activities	Develop East Arapahoe action plan	Next Corridor - 30th St or Colorado		
	Resilience	Council	SS	Direction or IP	Direction or IP	Direction or IP
	Boulder Valley Comprehensive Plan	Staff Activities	Develop scoping plan	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
		Council	Issues identification	SS	Direction or IP	Direction or IP
Transportation	Transportation Master Plan Implementation	Council	Update and coordinate with BVCP		Update and coordinate with BVCP	
		Staff Activities				
	Regional Travel	Council		Briefing		Briefing
	Access Management and Parking Strategy (AMPS)	Council			Staff and elected official activities ongoing	
				SS : Review options & Update; including recommendations for TDM tool kit for new development	Council action on TDM Tool Kit for new development	Recommendations including planning code changes
		Staff Activities	Ongoing work plan in 7 focus areas	Ongoing work plan	Ongoing work plan	SS: Review options and update Ongoing work plan
			Alternatives analysis and specific option development		Specific option development/refinements	
	Joint Board workshop & public engagement		Joint Board workshop & public engagement			

City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Project		1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter	
Civic Area	Civic Area Implementation	Council	SS: Parkland Concepts Plan	CC: Approval of Concept Plan			
		Staff Activities	Outreach to community & partners; create delivery plan for spring, summer, fall events	Deliver spring events	Deliver summer activities and events	Review 2015 activation; compare lessons from 2014 and revise for 2016	
			Draft of parkland concept plan options for public workshop, Boards, Council review	Board/Commission input on Concept Plan	Begin detailed design work on park improvements	Complete detailed design work for bidding	
			Develop overall site master plan concepts, begin to formulate major capital projects	Initial feasibility planning on major capital projects	Continue to develop capital projects, identify potential partners, explore financing options	Continue to develop capital projects, identify potential partners, explore financing options	
Local Food	Sustainable Agriculture and Local Foods	Council	IP and local meals for Council Pilot		Council consideration of Local Food Procurement Policy; Review and acceptance of Ag Resources Management Plan	Council consideration of Local Food Procurement Policy; Review and acceptance of Ag Resources Management Plan	
		Staff Activities					
Livability	University Hill Moratorium	Council	SS: Review options		IP		
			CC: Public Hearing and Decision				
		Staff Activities	Recommendation & development of ordinances, changes and recommend other strategies to address Moratorium goals	Follow up on other strategies & coordination with Hill Reinvestment Strategy; incorporate strategies into other work plan			
			Board review & public engagement		Board review & public engagement		
	University Hill Reinvestment Strategy	Council			Direction on 14 th Street redevelopment proposal		SS
					SS: Update on strategy		
		Staff Activities	Residential service district (RSD) pilot program	RSD pilot program	RSD pilot program	RSD pilot program	
			Work plan implementation	Work plan implementation	Work plan implementation	On-going work plan implementation	
			Establish benchmarks and evaluation criteria	Commercial district: Eco Pass Study & Commercial bear dumpsters	Implement volunteer program for clean up	Evaluate existing programs	
			14 th Street Lot public/private partnership redevelopment options re: work force affordable housing	14 th Street Lot public/private partnership redevelopment options re: work force affordable housing	Research options for sustainable governance & funding	Develop options for sustainable governance & funding	
	Stakeholder engagement	Stakeholder engagement	Stakeholder engagement	Stakeholder engagement			
Homeless Action Plan	Council	IP: 2014 Accomplishments	SS: As part of Human Services strategy update		IP - Services and Regional coordination update		
	Staff Activities						
Community Cultural Plan	Council	Council update and input on testing phase	Briefing	SS: Adoption of Community Cultural Plan			
	Staff Activities	Research phase complete. Drafting phase complete. Testing phase begins	Testing phase complete. Certification phase begins	Implementation begins. New public art policy drafting	Public Art Policy drafting		

City of Boulder 2015 Work Plan

(Tentative as of December 16, 2014)

	Projects		1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
Other	Boulder Junction	Council				
		Staff Activities	Ongoing redevelopment coordination	North Side of Pearl and Goose Creek bridge landscaping install. Bridge opens		Depot Square opens
	Capital Projects Activity	Council	Ongoing and Wastewater Collection System Rehabilitation program begins	Ongoing	SS: 2016-2021 CIP	Ongoing
		Staff Activities				
	CityWide Special Events	Council	Report on 2015 City Events			Summary of 2015 City Events
		Staff Activities	Implement new events application and internal review process	Refine systems as needed	Refine systems as needed	Improve events application for new online Landlinks System in 2016
	Community Broadband	Council	SS			SS
		Staff Activities	Broadband Action Group formation and consultant assessment	Consultant assessment continued	Consultant assessment continued	Present findings and recommendations
	Design Excellence	Council	SS: Staff Recommendations design tools/process changes	IP	CC: Draft recommendations/Adopt strategy	
		Staff Activities	Issues identification/ preliminary work on design tools/ process changes	Technical analysis /develop options	Draft recommendations	
			Public engagement	Boards/public engagement	Boards/public engagement	
	Flood-related Annexations	Council				
		Staff Activities	Flood Annexations - Individual	Flood Annexations - Old Tale Rd	Ongoing	Ongoing
	Human Services Strategy	Council		SS		Public Hearing
		Staff Activities				
	Flood Management	Council			IP: Stormwater Master Plan and Wastewater Collection System Master Plan consideration	
		Staff	Stormwater Master Plan and Wastewater Collection System Master Plan updates continue	Stormwater Master Plan and Wastewater Collection System Master Plan updates continue		
	Smoking Ban - Implementation	Council	CC: Second reading			
		Staff Activities	Education campaign	Enforcement begins	Monitor Outcomes	Monitor Outcomes
	Vacation Rental by Owner (VRBO)	Council	SS			
Staff Activities		Research regulations and possible fees or taxes				

COUNCIL MEMBERS

Suzanne Jones	Mayor
Mary Young	Mayor Pro Tem
Matthew Appelbaum	Council Member
Aaron Brockett	Council Member
Jan Burton	Council Member
Lisa Morzel	Council Member
Andrew Shoemaker	Council Member
Sam Weaver	Council Member
Bob Yates	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
Lynnette Beck	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Executive Director for the Department of Planning, Housing Sustainability
Molly Winter	Director of Community Vitality
Heather Bailey	Executive Director of Energy Strategy and Electric Utility Development
Michael Calderazzo	Fire Chief
Joyce Lira	Human Resources Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
David Farnan	Library and Arts Director
James Cho	Municipal Court Administrator
Tracy Winfree	Open Space and Mountain Parks Director
Yvette Bowden	Parks and Recreation Director
Greg Testa	Police Chief
Maureen Rait	Executive Director of Public Works
Cheryl Pattelli	Director of Fiscal Services
Mike Sweeney	Acting Transportation Director
Jeff Arthur	Utilities Director

2016 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel (Castillo – staff alternate)
Boulder County Consortium of Cities	Young, Burton (alternate)
Colorado Municipal League (CML) – Policy Committee	Jones, Appelbaum (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Brockett, Appelbaum (alternate)
Housing Authority (Boulder Housing Partners)	Shoemaker
Metro Mayors Caucus	Jones
National League of Cities (NLC)	Appelbaum
Resource Conservation Advisory Board (RCAB)	Morzel
Rocky Flats Stewardship Council	Morzel, Weaver (alternate) (Castillo – 2 nd staff alternate)
University of Colorado (CU)/City Oversight Committee	Weaver, Yates, Burton
US 36 Mayors/Commissioners Coalition (MCC)	Jones
US 36 Commuting Solutions	Burton, Morzel (alternate)
Urban Drainage and Flood Control District	Young

LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Shoemaker
Boulder Convention and Visitors Bureau	Burton, Yates (alternate)
Colorado Chautauqua Board of Directors	Morzel
Dairy Center for the Arts	Brockett
Downtown Business Improvement District Board	Weaver, Yates

INTERNAL CITY COMMITTEES

Audit Committee	Shoemaker, Yates, Weaver
Boards and Commissions Committee	Appelbaum, Burton
Boulder Urban Renewal Authority (BURA)	Yates
Boulder Valley Comprehensive Plan (BVCP) Process Sub-Committee	Brockett, Weaver
Charter Committee	Morzel, Weaver, Young
Civic Use Pad/9 th and Canyon	Morzel, Young
Council Retreat Committee	Morzel, Yates
Council Employee Evaluation Committee	Morzel, Shoemaker
Housing Strategy Process Sub-Committee	Morzel, Young, Burton
Legislative Committee	Jones, Weaver, Appelbaum
School Issues Committee	Morzel, Shoemaker, Young

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Brockett
Kisumu, Kenya	Morzel
Llaza, Tibet	Shoemaker
Dushanbe, Tajikistan	Yates
Yamagata, Japan	Burton
Mante, Mexico	Young
Yateras, Cuba	Weaver
Sister City Sub-Committee	Morzel, Burton, Young

DRAFT
2016 Study Session Calendar

Date	Status	Topic	Time	Location	Contacts	Materials Due	
3/29/2016		Sister City Annual Dinner	5:30-7	Lobby	City Clerk's Office	na	
		Middle Income Housing Strategy Discussion	7:00-9	Chambers	Jay Sugnet/Edy Urken	03/17/16	
04/12/16		Cultural Grants	6-6:30	Chambers	Matt Chasansky	03/31/16	
		Dev Related Impacts Fees and Excise Taxes	6:30-9:00	Chambers	Chris Meschuk/Lauren Reader	03/31/16	
04/26/16		No Study Session-Council travel to Portland, OR					
05/10/16		Potential Ballot Items and Budget and Long Range Financial Planning Update	6-7:30	Chambers	Peggy Bunzli/Elena Lazarevska	04/28/16	
		Climate Commitment	7:30-9	Chambers	David Driskell/Lauren Reader	04/28/16	
05/24/16		Science Tuesday	5:30-6:00	Chambers		05/12/16	
		North TSA	6:00-7:30	Chambers		05/12/16	
		Boulder Valley Comp Plan	7:30-9	Chambers			
5/31/2016		Canyon Complete Streets Study - Update on the Design Options	6:00-7:30	Chambers	Noreen Walsh/Meredith Schleske	05/19/16	
		TMP Implementation Update- provide a 6 mo check in	1.5 hrs	Chambers	Randall Rutsch, Rene Lopez		
06/14/16		Mid Year Check in for Council Workplan	6:00-7:30	Chambers	Tammye Burnett/Diane Marshall	06/02/16	
		Session on the Development Related Impacts Fees and Excise Taxes	7:30-9:00	Chambers	Chris Meschuk/Lauren Reader	06/02/16	
Council Recess June 15-July 10							
07/12/16		Broadband Feasibility Study Results	6:00-7:30	Chambers	Don Ingle	06/30/16	
		Residential and Commercial Energy Codes: Long Term Strategy	7:30-9:00	Chambers	Kendra Tupper/Lauren Reader	06/30/16	
07/26/16		Briefing: Boulder Energy Future	5:30-6:00	Chambers	Heather Bailey/Heidi Joyce	N/A	
		Homelessness Strategy Draft and Homeless Action Plan Update	6:00:8:00	Chambers	Wendy Schwartz/Linda Gelhaar	07/14/16	
		Check in for 100 Resilient Cities	8-9:00	Chambers	Casey Earp/Dianne Marshall	07/14/16	
08/09/16		Draft 2017 to 2021 Capital Improvement Program	6:00-7:30	Chambers	Peggy Bunzli/Devin Billingsly	07/28/16	
			7:30-9:00	Chambers			
08/23/16		Briefing	5:30-6:00	Chambers		08/11/16	
		Human Services Strategy Draft	6:00-8	Chambers	Tofd Jorgensen/Linda Gelhaar		
			7:30-9:00	Chambers			

DRAFT
2016 Study Session Calendar

8/30/2016		30th and Pearl Redevelopment Options	6:00-7:30	Chambers	Eric Ameigh/Lauren Reader	08/18/16
			7:30-9:00	Chambers		
09/13/16		2017 COB Recommended Budget	6:00-8	Chambers	Peggy Bunzli/Devin Billingsly	09/01/16
		TMP Implementation Update- provide 6 mo update	8-9:00	Chambers	Randall Rutsch/Rene Lopez	09/01/16
9/27/2016		Briefing	5:30-6:00	Chambers		
		2017 Recommended Budget 2nd Study Session if needed	6:00-7:30	Chambers	Randall	09/15/16
		Renewed Vision for Transit Update- detailed info on activities	7:30-9:00	Chambers	Randall Rutsch, Rene Lopez	09/15/16
10/11/16			6:00-7:30			09/29/16
			7:30-9:00			09/29/16
10/25/15		Briefing: Boulder Energy Future	5:30-6:00	Chambers	Heather Bailey/Heidi Joyce	N/A
		Updating council on AMPS.	6:00-6:30	chambers	Jay Sugnet/Ruth Weiss	10/13/16
		Boulder Community Hospital; Broadway Project	6:30-8	Chambers	Joanna Crean/Celia Seaton	10/13/16
11/08/15			6:00-7:30	Chambers		10/27/16
			7:30-9:00	Chambers		10/27/16
11/22/15	Thanksgiving Holiday Week - No Meeting					
11/29/15		Briefing	5:30-6			N/A
			6- 7:30			11/17/16
			7:30-9			11/17/16
12/13/16			6-7:30	Chambers		12/01/16
			7:30-9	Chambers		12/01/16
12/22/15	Christmas Holiday Week - No Meeting					
12/29/15	New Years Holiday Week - No Meeting					

