

COUNCIL AGENDA COMMITTEE
August 5, 2013

Present: Mayor Appelbaum; Council Member Morzel; Council Member Cowles; Deputy City Manager Paul Fetherston; City Attorney Tom Carr; Deputy City Attorney David Gehr; City Clerk Alisa Lewis; Deputy City Clerk Alisa Darrow; Chief Financial Officer Bob Eiche; and Director of Energy Services Heather Bailey

CAC was called to order at 8:00 AM.

1. Special Meeting – August 5, 2013

a. Board and Commission Interviews – 5 PM to 6 PM*

City Clerk Alisa Lewis made note that interviews would be held in the Fishbowl Conference Room.

1. CALL TO ORDER AND ROLL CALL*

- Special Presentation from Boulder County Health Department regarding the impacts of Marijuana on youth.

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE*

There will be no open comment, all items will be addressed as public hearings

3. CONSENT AGENDA*

None

4. POTENTIAL CALL- UP CHECK IN*

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

ORDER OF BUSINESS

5. PUBLIC HEARINGS - All ballot related items will be handled in TWO public hearings (Items A-C will be handled in one public hearing and Items D and E in a second public hearing)

- A. Second reading and consideration of a motion to adopt **Ordinance No. 7910, submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, **the question of amending section 98, “Term of bonds-disposal of bonds,”** of the Charter of the City of Boulder **to authorize negotiated or private sales of bonds** and setting forth related details
- B. Second reading and consideration of a motion to adopt **Ordinance No. 7914 submitting to the registered electors** of the City of Boulder at the general municipal coordinated

election to be held on Tuesday, November 5, 2013 **the question of** amending Charter section 130 and other related Charter sections removing **the requirement that individuals be City electors to serve on City Boards** and setting forth related details

- C. Second reading and consideration of a motion to adopt **Ordinance No. 7915 submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, **the question of** extending Ordinance 7907, **the moratorium on accepting and processing applications for drilling permits on City of Boulder open space properties and on any city permits or use review of new mining industry uses involving oil and gas extraction** and setting forth related details

City Attorney Tom Carr noted that a memo would be going out to staff and Council regarding required behaviors during the election and proper use of funds by those people in relation to the election. He stated that the city looked at it from a view of public confidence and not having the appearance of swaying voters. Mr. Carr also recommended continuing all ballot items to August 20, 2013 so that all ballot related items would be approved at the same time allowing council to then set the order of the ballot.

- D. Second reading and consideration of a motion to adopt **Ordinance No. 7912 and Ordinance 7913 submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, **the issues of whether the City of Boulder should: 1) extend and dedicate to open space, transportation and general government services a 0.33 cent sales tax; and 2) impose a new 0.15 cent sales tax to be dedicated to transportation** and setting forth related details

- E. Second reading and consideration of a motion to adopt **Ordinance No. 7916 submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, **the issue of** whether the City of Boulder taxes should be increased by **an excise tax of up to 10 percent of the average market value of unprocessed recreational marijuana from a recreational marijuana cultivation facility and a sales and use tax of up to 10 percent on recreational marijuana** and setting forth related details

Mayor Appelbaum asked that the starting rate of 5% in the first year for both the sales and excise taxes be included in the ballot title for item 5D for clarification purposes. Mr. Carr responded that he would have a colored handout for Council at the meeting. Mayor Appelbaum noted that one outcome that was possible would be that, the bolded language around programs that the revenues might be used for, could be stricken from the final version that Council would pass.

CAC decided that all presentations would occur first, with time for Council questions in between. Once all the presentations and questions are complete, the public hearings will be held.

6. MATTERS FROM THE CITY MANAGER*

None

7. MATTERS FROM THE CITY ATTORNEY*

None

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL*

A. Potential Call-Ups

None

9. PUBLIC COMMENT ON MATTERS (15 min.) Public comment on any motions made under Matters.*

10. FINAL DECISIONS ON MATTERS Action on motions made under Matters.*

11. DEBRIEF (5 Min.) Opportunity for Council to discuss how the meeting was conducted*

12. ADJOURNMENT*

2. Regular Meeting – August 6, 2013

a. Reception to recognize Municipalization Working Groups – 5 PM to 6 PM

CAC agreed that staff would plan the reception around the overflow seating at Staff Agenda Meeting.

b. Third Party Evaluator Report – August 15 ETA, Linda Kushner will be present on August 6 for questions and RL Willoughby on August 20*

c. Overflow seating

Ms. Lewis noted that staff was planning overflow seating for the meeting.

FINAL AGENDA

1. CALL TO ORDER AND ROLL CALL*

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

Special Presentation by David Frederick regarding the 2012 CAFR*

- A. Consideration of a motion to approve the City Council Meeting **Minutes from June 10, 2013***
- B. Consideration of a motion to approve the City Council Meeting **Minutes from June 18, 2013***
- C. Consideration of a motion to accept the **Study Session summary from June 11, 2013** regarding the 2013 Work Plan Update*
- D. Consideration of a motion to accept the **Study Session summary from July 23, 2013** on Boulder's Energy Future Municipalization Exploration Project*
- E. Consideration of a motion to adopt a **resolution appointing BKD, LLP for the 2013 Annual Audit***
- F. Consideration of a **motion accepting the 2012 CAFR and independent auditor reports***
- G. Introduction, **first reading** and consideration of a motion to order published by title only, an **emergency ordinance adopting Supplement No. 117**, which codifies previously adopted Ordinance Nos. 7892, 7895, 7901, 7904, 7905, 7908 and other miscellaneous corrections and amendments, as an amendment to the Boulder Revised Code, 1981

Mr. Carr commented that there was no requirement for a second reading for emergency ordinances and suggested that Codification ordinances be adopted by emergency without requiring a second reading. CAC agreed.

Council Member Cowles commented that he had a difficult time finding the ordinances on the new website. CAC agreed that Ryan Parsons from IT would schedule time with Council Members to go over the new website. Ms. Lewis commented that this would also be addressed as a portion of Council orientation after the election.
- H. Consideration of a **motion to approve the disposal to the State of Colorado, the Colorado Department of Transportation, of Open Space and Mountain Parks land** and temporary easements, including a land exchange, **to accommodate the U.S. 36 Managed Lanes Project Phase 2. This is a disposal of open space land** under City Charter Section 177*
- I. Consideration of a **motion to approve the disposal of Open Space and Mountain Parks land described as two permanent easements** on 6,405 square feet (.15 acres) **and four temporary construction easements** on 18,500 square feet (.42 acres) **to Public Service Company of Colorado** for an underground natural gas pipeline and a valve set **on the Jewel Mountain Open Space land at the immediate northwest corner of State Highway 72 and 93. This is a disposal of open space land** under City Charter Section 177*

J. Consideration of a **motion to change Study Sessions scheduled for October 8, 22 and October 29 to business meetings***

K. Consideration of a **motion to call a special meeting of the Boulder City Council to consider the Hogan-Pancost Annexation on October 3, 2013***

4. POTENTIAL CALL- UP CHECK IN

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

ORDER OF BUSINESS

5. PUBLIC HEARINGS - *There will be TWO public hearings (Items A-B will be handled in one public hearing and Items C & D in a second public hearing)*

- A. Second reading and consideration of a **motion to adopt Ordinance No. 7917 finding that the conditions precedent to formation of an electric power and light utility of Charter Section 178(a) have been satisfied**, and setting forth related details and acceptance of the summary of the July 23, 2013 presentation by PowerServices, Inc.
- B. Second reading and consideration of a **motion to adopt Ordinance No. 7918 authorizing the acquisition of property interests owned by Public Service Company of Colorado d/b/a Xcel Energy by negotiation and purchase or through the power of eminent domain** and setting forth related details

Ms. Bailey reviewed the format for presentations, questions and the public hearings.

Council Member Cowles commented that he would like something in writing regarding the timeline for municipalization and the timing of Council meetings as well as task force and working group meetings. Mr. Carr commented that members of the task force would be available to answer those questions at the meeting. Ms. Bailey responded that minutes of all the meetings were available on the web, but she could have staff put together a high level timeline for the meeting. Mayor Appelbaum asked that staff also include their work in the timeline requested and noted that staff should feel comfortable informing Council as to how the working groups and task force functioned.

Ms. Bailey commented that staff acted as facilitators and noted that staff agreed to proceed with a unified front and was consistent in sending the message from the city. She did not want to put them in an awkward position. She expressed concern about giving too much detail since staff was directed to continue working with Xcel Energy, Inc. on a partnership model. Council Member Cowles noted that he wanted to clear up misinformation around how the groups were functioning and what information was available and when.

Mayor Appelbaum asked that staff email the task force report to Council that was included in the July 23, 2013 packet. He also asked that the report from Xcel Energy, Inc. be included as well. CAC agreed.

Mayor Appelbaum asked the CAO to provide direction to Council about what they can and cannot say regarding the third party evaluation. He expressed concern that the word “apparently” might infer that Council did not have total confidence in the information received. Ms. Bailey noted that the written report from the third party evaluator would be available on August 15, 2013.

- C. Second reading and consideration of a **motion to adopt Ordinance No. 7919 setting the ballot title for an initiated amendment to the Boulder Charter**, and setting forth related details
- D. Second reading and consideration of a **motion to adopt Ordinance No. 7920 submitting to the registered electors** of the City of Boulder at the general municipal coordinated election to be held on Tuesday, November 5, 2013, **an alternative ballot question** amending the City Charter to **address** issues presented by **the proposed initiated Charter amendment** that adds a new section 188 **on limitations on electric utility debt** and setting forth related details

Mayor Appelbaum suggested the ballot title be changed if a number was proposed as a maximum amount to be spent to carryout municipalization. Council Member Morzel commented that she did not want to attach a number to the ballot question. Mr. Gehr recalled a confidential memo Council had received regarding litigation, and suggested discussing a bond limit before anything else. The decision on the bond limit would determine the outcome of the ballot language and title. Council Member Cowles recalled disclaimers that Xcel Energy, Inc. had used in a report they had sent out and suggested that the same type of disclaimers be used in regard to numbers the city proposed as part of the ballot question.

6. MATTERS FROM THE CITY MANAGER*

None

7. MATTERS FROM THE CITY ATTORNEY*

None

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups

1. **Landmark alteration certificate** to demolish a non-contributing building at **1023 Walnut St.** in the Downtown Historic District and in its place construct a new four story commercial building to be connected via a bridge to the proposed building at 1048 Pearl St. Information Packet Date: July 30, 2013 Last Opportunity for Call-Up: August 6, 2013*
2. **Vacation of a utility easement in the Kalmia Estates Subdivision** Information Packet Date: July 16, 2013 Last Opportunity for Call-Up: August 6, 2013*

B. Appointments to Boards and Commissions

Ms. Lewis suggested making the appointments at the beginning of the meeting rather than at the end. CAC agreed to leave it on the agenda where it was scheduled.

9. **PUBLIC COMMENT ON MATTERS** (15 min.) Public comment on any motions made under Matters.*

10. **FINAL DECISIONS ON MATTERS** Action on motions made under Matters.*

11. **DEBRIEF** (5 Min.) Opportunity for Council to discuss how the meeting was conducted*

12. **ADJOURNMENT***

3. Study Session – August 13, 2013 – 5 PM to 9 PM

a. Draft Historic Preservation Plan (5-6 PM Dinner Discussion)*

b. CIP (6-8 PM)*

c. Regional Transportation Issues (8-9 PM)*

4. Calendar Items

a. November 5 – Election Night (Reschedule or Cancel)

CAC agreed to cancel the November 5, 2013 meeting and reschedule the meeting for November 12, 2013 with the understanding that it may be cancelled.

5. Additional items from CAC Members

a. Xcel Energy, Inc. efforts regarding municipalization

Council Member Cowles commented that Xcel was spending a great deal of money to spread misinformation. He suggested that the city take the guide to municipalization and send it out to every water utility customer in the city of Boulder. He wanted to ensure that citizens had access to accurate information on municipalization. Mayor Appelbaum and Council Member Morzel suggested bringing it up under matters at the August 5, 2013 meeting.

b. Al Bartlett

Council Member Morzel noted that she was working on a letter for Mr. Bartlett and would be requesting Council input.

6. Debrief – July 30, 2013

Mayor Appelbaum and Council Member Morzel complimented staff on their presentations.

CAC adjourned at 9:35 AM.

*There were no comments on this item

Post Scripts to CAC –

**CIP tour - internal staff group has recommended that we skip a tour this year.

**August 27 TMP discussion will be moved to the August 13 study session which will allow one hour for Historic preservation dinner 5-6, CIP 6-7, Regional Transportation Issues 7-8pm and TMP update 8-9 pm

**BOULDER CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Tuesday, August 6, 2013**

6 p.m.

5 p.m. to 6 p.m. – There will be a special reception held in the municipal building lobby to recognize

the work of citizens and staff on working groups related to municipalization

FINAL AGENDA

1. CALL TO ORDER AND ROLL CALL

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B. Consideration of a motion to approve the City Council Meeting **Minutes from June 18, 2013**

C. Consideration of a motion to accept the **Study Session summary from June 11, 2013** regarding the 2013 Work Plan Update

D. Consideration of a motion to accept the **Study Session summary from July 23, 2013** on Boulder's Energy Future Municipalization Exploration Project

E. Consideration of a motion to adopt a **resolution appointing BKD, LLP for the 2013**

Annual Audit

F. Consideration of a **motion accepting the 2012 CAFR and independent auditor reports**

G. Introduction, **first reading** and consideration of a motion to order published by title only, an **emergency ordinance adopting Supplement No. 117**, which codifies previously adopted Ordinance Nos. 7892, 7895, 7901, 7904, 7905, 7908 and other miscellaneous corrections and amendments, as an amendment to the Boulder Revised Code, 1981

H. Consideration of a **motion to approve the disposal to the State of Colorado, the Colorado Department of Transportation, of Open Space and Mountain Parks land** and Packet Page 1

temporary easements, including a land exchange, **to accommodate the U.S. 36 Managed Lanes Project Phase 2. This is a disposal of open space land** under City Charter Section 177

I. Consideration of a **motion to approve the disposal of Open Space and Mountain Parks land described as two permanent easements** on 6,405 square feet (.15 acres) **and four temporary construction easements** on 18,500 square feet (.42 acres) **to Public Service Company of Colorado** for an underground natural gas pipeline and a valve set **on the Jewel Mountain Open Space land at the immediate northwest corner of State Highway 72 and 93. This is a disposal of open space land** under City Charter Section 177

J. Consideration of a **motion to change Study Sessions scheduled for October 8, 22 and October 29 to business meetings**

K. Consideration of a **motion to call a special meeting of the Boulder City Council to consider the Hogan-Pancost Annexation on October 3, 2013**

4. POTENTIAL CALL- UP CHECK IN

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ORDER OF BUSINESS

5. PUBLIC HEARINGS

Introduction – Jane

Presentation by the City of Boulder/Xcel Energy Task Force – Sam Weaver and Pete Lorenzen (10 minutes)

Summary Presentation of July 23 work session and updates – Heather Bailey (15 min)

Third Party Review Wrap-up – Jane (5 min)

Presentation of Condemnation Ordinance – Kathy Haddock (5 minutes)

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B. Second reading and consideration of a **motion to adopt Ordinance No. 7918 authorizing the acquisition of property interests owned by Public Service Company of Colorado d/b/a Xcel Energy by negotiation and purchase or through the power of eminent domain and setting forth related details**

Public Comment

Presentation of Ballot Measures – David Gehr

C. Second reading and consideration of a **motion to adopt Ordinance No. 7919 setting the ballot title for an initiated amendment to the Boulder Charter, and setting forth related details**

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Public Comment

Packet Page 2

6. MATTERS FROM THE CITY MANAGER

None

7. MATTERS FROM THE CITY ATTORNEY

None

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups

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