

COUNCIL AGENDA COMMITTEE
October 21, 2013

Present: Mayor Appelbaum; Council Member Morzel; Council Member Plass; City Manager Jane Brautigam; Deputy City Manager Paul Fetherston; City Attorney Tom Carr; Deputy City Attorney David Gehr; City Clerk Alisa Lewis; Deputy City Clerk Alisa Darrow

CAC convened at 8:00 AM.

1. October 22, 2013 – Final Agenda

A. Reminder – 5:00 PM Start*

AGENDA

1. CALL TO ORDER AND ROLL CALL*

- A. Science Tuesday Presentation – Netzero Copenhagen, Søren Nørgaard Madsen, Senior Sustainability Advisor, City of Copenhagen**

Mayor Appelbaum asked who would be introducing the speaker and making opening remarks. City Clerk Lewis noted that staff would provide the Mayor with that information prior to the meeting.

- 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. Consideration of a motion to approve the City Council Meeting Minutes from October 1, 2013***

- B. Introduction, first reading** and consideration of a motion to order published by title only an **ordinance** varying requirements of Title 9, “Land Use Regulations,” Title 10, “Structures,” and Chapter 6-6, “Protection of Trees and Plants,” B.R.C., 1981, **to allow** for the **relocation of two historic residential structures from 1220 and 1243 Grandview Avenue and 905 Marine Street**, variations include reduction of setbacks, an increase in density above the allowed density, and modifications of building codes, tree removal mitigation requirements, and fee payments

CAC agreed that second reading of this item would be a public hearing on November 19, 2013.

C. Consideration of a motion to **amend the Benson Annexation Agreement for the 1215 and 1235 Tamarack properties** (Lots 10 and 11, Block 5, Moore's Subdivision), #LUR2013-00036, to modify the requirements pertaining to the construction of 12 ½ Street between Upland and Tamarack Avenue, 1215 and 1235 Tamarack Avenue are within the Residential-Low 2 (RL-2) zone district*

D. Consideration of a motion **approving the proposed 2014 budget, operating plan and board nominations for the Downtown Boulder Business Improvement District***

4. **POTENTIAL CALL- UP CHECK IN**

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

ORDER OF BUSINESS

5. **PUBLIC HEARINGS**

A. Continuation of second reading and consideration of a motion to:

1. Amend on second reading and **adopt Emergency Ordinance No. 7938** amending Chapter 6-3, "Trash Recyclables and Compostables," and Title 9, "Land Use Code," B.R.C. 1981, **to reduce impacts of hospitality establishments on neighboring properties** and setting forth related details; and
2. Adopt **Ordinance No. 7939** amending section 4-2-4, "State Law Procedures Apply," B.R.C., 1981, **to modify the 500-foot Rule to allow Beer and Wine licenses only** and setting forth related details; and
3. Adopt **Ordinance No. 7940 removing Sections 2-3-3, "Beverage Licensing Authority," and replacing with a new Section 4-2-12, "Beverage Licensing Authority," amending 4-2-3, "Authority to Issue City Licenses," 2-6-3, "Creation, Jurisdiction, and Powers of Municipal Court," 2-6-4, "Judges,"** B.R.C. 1981, and setting forth related details

Mayor Appelbaum suggested Council discuss the items individually before a motion was made as had been done in the past.

Council Member Plass suggested discussing the land use issues and the 500' rule issues separate from the BLA structuring.

Mayor Appelbaum commented that he was not sure where other Council Members stood on the alcohol ordinances but would ask that council be prepared to note its position early in the discussion to alleviate long debate if all were on board with a specific direction.

Council Member Plass noted that other Council Members were attempting to find a compromise specifically related to The Hill and there would likely be in-depth discussion about options.

City Clerk Lewis asked the Mayor to announce that the public hearing was held on October 15, 2013 and had been closed.

This item was scheduled for 1 ½ hours.

B. Second reading and consideration of three **ordinances** all **to implement** and comply with the requirements of **Amendment 64** to the Colorado State Constitution as follows:

1. **Ordinance No. 7929 amending Section 6-14, “Medical Marijuana,”** B.R.C., 1981; and
2. **Ordinance No. 7930 adding a new Chapter 6-16, “Recreational Marijuana,” and a new Section 4-20-67, “Recreational Marijuana Businesses,”** B.R.C., 1981; and
3. **Ordinance No. 7931 amending Section 5-10, “Marijuana Offenses,”** B.R.C., 1981

Council Member Plass asked how long the staff presentation would take.

City Attorney Carr indicated it could be brief and then have staff available to answer any questions.

Mayor Appelbaum noted that there would likely be additional question in addition to those listed by staff. He noted that one concern would be about the limit on plants in a grow operation and another being the ownership requirements being proposed.

Council Member Morzel recalled discussions with growers and stated that the size and type of the plant was selected based on the end product and therefore, some growers elect to grow smaller plants. She was concerned about the limits on plants impacting grow operations that would prefer to grow smaller plants.

City Attorney Carr asked that Council be candid and clear in their discussion and requests for passing the final ordinance. CAC agreed that no word smithing should take place but rather clear direction be provided on the desired policy outcomes.

Council Member Plass noted that Council Member Cowles had requested that Lewis Koske be invited to speak for five minutes about the limit on plants and RFID(Radio Frequency Identification) tagging of products being transported.

City Attorney Carr commented that no such program was being put in place yet and that the limit on plants had nothing to do with the ability of enforcement to count the plants. He noted that it had more to do with chemicals used and the odor of a grow facility.

CAC agreed that Mr. Koske may be invited on October 29, but he would not be specifically invited to this meeting.

Mayor Appelbaum asked that staff be prepared to answer what would happen if the taxes on recreational marijuana did not pass, both at the state and city level, and how the city would pay for staffing and licensing of the new businesses.

City Attorney Carr suggested that staff bring information on current taxes on medical marijuana and what they cover and the various scenarios around state and local taxes on recreational marijuana. Staff would also provide the previous revenue projections that had been presented to Council.

Council Member Plass also asked for information as to what steps would be taken if the taxes did not pass. He asked what decisions staff would ask Council to make if that happened.

CAC agreed that the presentation would be relatively short, presenting new information and answering first reading questions. CAC also agreed to set an expectation that the council question portion after the staff presentation last no more than 30 minutes.

This item was scheduled for 3 hours.

Note: CAC requests that council make final decisions on both alcohol and marijuana issues tomorrow night so that both can come back as consent items with emergency adoption on October 29.

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. October 29, 2013 – Preliminary Agenda

A. 4:30 Sister City Dinner*

B. Recognition of Staff and Various Groups Related to Flood Cleanup and Recovery Work

City Clerk Lewis asked if Council was asking for a declaration to be read to recognize partner agencies that assisted in flood recovery and cleanup.

City Manager Brautigam suggested that in addition, a system be put in place for businesses to contact the city and time be given to them to come to Council in the future to make a short presentation and be recognized if a group/business was missed in the acknowledgement on October 29.

Council Member Morzel asked that it be acknowledged in the declaration that cleanup and recovery efforts are not ending and will continue for a long period. She did not want the recognition to imply that efforts had ceased.

Clarification was provided that the Declaration thanking staff and community volunteer groups for flood disaster response and recovery would be agenda item 1B.

PRELIMINARY AGENDA

2. CALL TO ORDER AND ROLL CALL*

A. Flood Cleanup and Recovery Update*

7. 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.*

8. CONSENT AGENDA (to include first reading of ordinances) Vote to be taken on the motion at this time.*

A. Consideration of a motion to approve the City Council Meeting **Minutes from October 15, 2013***

B. Consideration of a **Motion to approve the Historic Preservation Plan***

C. Consideration of a **Resolution approving** an amended and restated **Fire and Police Money Purchase Pension Plan and Trust Agreement** of the City of Boulder and authorizing the City Manager to execute it on the city's behalf*

D. Consideration of a Motion to adjourn from City Council and convene as the Boulder Municipal Property Authority Board of Directors; and*

Consideration of a **Resolution approving** and authorizing the **issuance of Boulder Municipal Property Authority Lease Purchase Revenue Note**, Series 2013A in the aggregate **principal amount of \$5,000,000** and approving and authorizing a Lease Purchase Agreement **for the purchase of 221 acres** of land and water rights located at **8323 Valmont Road**, Boulder, CO from Energy Resources Technology land, Inc. (**ERTL**) for **Open Space** and Mountain Parks purposes; and*

Consideration of a Motion to adjourn from the Boulder Municipal Property Authority Board of Directors and re-convene as City Council.*

E. **(TENTATIVE)** Second Reading Ordinance No. 7941 approving E-Bike Pilot Program

City Attorney Carr noted that OSBT (Open Space Board of Trustees) had requested that motorized bicycles not be allowed on paved pathways that cross an open space property. He also noted that the current code was complicated in how it determined how open space funds were allowed to be used and for what types of expenditures. He noted that this complicated the pilot project and would require a more in-depth discussion.

Council Member Plass wondered if they could limit where the electric bicycles were allowed during the pilot program.

City Attorney Carr noted that if Council were to allow electric bicycles on paved pathways and specify what those pathways were, OSBT might veto that decision if any of them crossed an open space property.

Mayor Appelbaum noted that it would be difficult for riders to know when they have left one path and crossed on to another.

City Manager Brautigam suggested that Council make a decision as to whether or not to allow the electric bicycle pilot on all pathways because of the complicated nature of trail systems that cross on and off onto open space.

City Attorney Carr asked how important Council felt it was to go forward with the pilot program given all of the complications that should be addressed first.

The CAC agreed that this item would be moved to a public hearing as item 5A. The CAC also requested a map of paved pathways on open space land and suggested a scenario by which the pilot project could move forward with restrictions on Open Space lands, recognizing that enforcement would likely be difficult.

F. **(IF NECESSARY)** Third reading and consideration of a motion to:

1. Adopt on second reading and **adopt Emergency Ordinance No. 7938** amending Chapter 6-3, “Trash Recyclables and Compostables,” and Title 9, “Land Use Code,” B.R.C. 1981, **to reduce impacts of hospitality establishments on neighboring properties** and setting forth related details; and*
 2. Adopt **Ordinance No. 7939** amending section 4-2-4, “State Law Procedures Apply,” B.R.C., 1981, **to modify the 500-foot Rule to allow Beer and Wine licenses only** and setting forth related details; and*
 3. Adopt **Ordinance No. 7940** removing Sections 2-3-3, “Beverage Licensing Authority,” and replacing with a new Section 4-2-12, “Beverage Licensing Authority,” amending 4-2-3, “Authority to Issue City Licenses,” 2-6-3, “Creation, Jurisdiction, and Powers of Municipal Court,” 2-6-4, “Judges,” B.R.C. 1981, and setting forth related details*
- G. **(IF NECESSARY) Third reading** and consideration of three **ordinances all to implement** and comply with the requirements of **Amendment 64** to the Colorado State Constitution as follows:*
4. **Ordinance No. 7929** amending Section 6-14, “Medical Marijuana,” B.R.C., 1981; and*
 5. **Ordinance No. 7930** adding a new Chapter 6-16, “Recreational Marijuana,” and a new Section 4-20-67, “Recreational Marijuana Businesses,” B.R.C., 1981; and*
 6. **Ordinance No. 7931** amending Section 5-10, “Marijuana Offenses,” B.R.C., 1981*
- H. **Consideration of the following items related to the Annexation of Boulder County** properties identified as **6234 Arapahoe, and 1492 Cherryvale** associated with the property commonly **known as the Boulder Jewish Commons** site:*
1. A resolution finding the annexation petition in compliance with state statutes and establishing Dec. 17, 2013, as the date for a public hearing;*
 2. Introduction, first reading and consideration of a motion to order published by title only, an ordinance annexing a 0.74 acre portion of Arapahoe Road from a point at the northwest property line of 6234 Arapahoe extending eastward to a point at the northeast property line north property line of 6234 Arapahoe Road with an initial zoning classification of Residential Medium – 1 (RM-1) per subsection Land Use Code subsection 9-5-2(c)(7), B.R.C. 1981;*
 3. Introduction, first reading and consideration of a motion to order published by title only, an ordinance annexing a 16.4 acre area of land generally located at the northern half of the property at 6234 Arapahoe with an initial zoning classification of Residential Medium (RM-1) and Public (P);*

4. Introduction, first reading and consideration of a motion to order published by title only, an ordinance annexing a 1.8 acre area of land generally located 1492 Cherryvale with an initial zoning classification of Rural Residential - 1 (RR-1);*
5. Introduction, first reading and consideration of a motion to order published by title only, an ordinance permitting an Indoor Recreation or Athletic Facility use at the associated property at 5890 Arapahoe Ave.*

Applicant/Property Owner: Oreg Foundation

9. 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

10. PUBLIC HEARING

CA directed the E-bike item to be moved to a public hearing.

11. MATTERS FROM THE CITY MANAGER

A. Consideration of a motion to adopt the Economic Sustainability Strategy*

8. MATTERS FROM THE CITY ATTORNEY

None

13. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups

None

B. Board and Commission Subcommittee Check-in

This item will be scheduled for 15 minutes.

C. Retreat Committee Update*

This item will be scheduled for 15 minutes.

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

15. FINAL DECISIONS ON MATTERS Action on motions made under Matters.

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

17. **ADJOURNMENT**

3. Calendar Items

4. Additional items

CAC adjourned at 8:51 AM.