

BOULDER CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Tuesday, December 4, 2012
6 p.m.
FINAL AGENDA

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

- A. Items relating to the certification of the 2012 Special Municipal Coordinated Election held on November 6, 2012

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 **October 16, 2012 City Council meeting minutes**
- B. Consideration of a motion to approve the **November 1, 2012 City Council meeting minutes**
- C. Consideration of a motion to accept the **October 30, 2012 City Council Study Session summary regarding Homelessness Services Update and Related Issues**
- D. Consideration of a motion to **approve** the City Manager's signature, Jane Brautigam, on the **Intergovernmental Agreement between the City** of Boulder, City of Longmont, **and the County** of Boulder to cooperate **in the operation of** their respective **bomb squads**
- E. Second reading and consideration of a motion to adopt **Ordinance No. 7883 approving supplemental appropriations to the 2012 Budget**

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

- F. Consideration of a motion to adopt a **resolution amending the 2012 Downtown Commercial District Fund** (formerly CAGID Fund) **Budget**

Consideration of a motion to adjourn from the Central Area General Improvement District (CAGID) Board of Directors and to convene as the University Hill General Improvement District (UHGID) Board of Directors.

- G. Consideration of a motion to adopt a **resolution amending the 2012 University Hill Commercial District Fund** (formerly UHGID Fund) **Budget**

Consideration of a motion to adjourn from the University Hill General Improvement District (UHGID) Board of Directors and reconvene as the City Council.

H. Introduction, **first reading** and consideration of a motion to order published by title only an **ordinance amending** Chapter 3-12, "**Climate Action Plan Excise Tax**," B.R.C. 1981 to amend the expiration date, and setting forth related details

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

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

ORDER OF BUSINESS

5. **PUBLIC HEARINGS**

A. Consideration of a motion to approve the **Guiding Principles for Collaborative Place Management and Fiscal Sustainability of the Colorado Chautauqua**

B. Second reading and consideration of a motion to adopt **Ordinance 7876 or 7881 respectively, amending** Title 6, "Health Safety and Sanitation," Chapter 4, "**Regulation of Smoking**," B.R.C. 1981, including the addition of a definition of "Mall," and a new section 6-4-5.5, "**No Smoking on the Mall**," B.R.C. 1981 and setting forth related details

6. **MATTERS FROM THE CITY MANAGER**

A. Next steps for **revision of Inclusionary Housing and other housing policies**

7. **MATTERS FROM THE CITY ATTORNEY**

A. **Amendment 64 code impacts**

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

A. Potential Call-ups

1. **Landmark alteration for 403 Mapleton**

2. Call up of a site review for a multi-family, mixed-use development at 5460-5485 Spine Road

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. **ADJOURNMENT**

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AGENDA ITEM – 1A



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 4, 2012

AGENDA TITLE

Items relating to the certification of the 2012 Special Municipal Coordinated Election held on November 6, 2012:

1. Motion to adjourn from the Boulder City Council and convene as the General Canvassing and Election Board for the City of Boulder Special Municipal Coordinated Election.
2. Roll Call of the General Canvassing and Election Board.
3. Administration of oath and signing of same by Board members.
4. Consideration of a motion nominating the Mayor to chair the Board.
5. Submission to the Board by the Secretary of the following:
 - i. Certificate of the official ballot.
 - ii. Certificate of the official Public Notice of the November 6, 2012 Election.
 - iii. Certificate of election returns.
6. Public Hearing
7. Consideration of a motion that the abstract and result sheets be approved and signing of same, if approved.
8. Motion to adjourn from the General Canvassing and Election Board for the Special Municipal Coordinated Election and reconvene as the Boulder City Council.

PRESENTER/S

Jane S. Brautigam, City Manager

Paul J. Fetherston, Deputy City Manager

Alisa D. Lewis, City Clerk and Director of Support Services

EXECUTIVE SUMMARY

The City of Boulder Charter Section 32 provides for the certification of election results stating that council shall serve as the General Canvassing and Election Board. The city clerk/secretary for the General Canvassing and Election Board will present the Board with all official election documents for review and signature. After conducting a public hearing, the board shall consider a motion approving the abstract of votes and shall sign the official documents.

Suggested Motion Language:

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

Motion to approve the abstract and result sheets for the 2012 Special Municipal Election.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: The special election allowed for the community to decide on four (4) ballot measure, two of which directly effect city revenues through sales tax.
- Environmental: Over 60% of registered voters are permanent mail ballot registries. Mail ballots assist in reaching Transportation and Climate Plan goals by eliminating the need for voters to drive to polling places.
- Social: Local elections allow direct participation in government by diverse community members.

OTHER IMPACTS

- Fiscal: the conduct of elections is included in the approved budget of the City Clerk’s Office.
- Staff time: Administration of the city election is part of the normal work plan for the City Clerk’s Office.

The following documents will be presented to the General Election and Canvassing Board for certification at the meeting:

- A. Oath of Canvassing Board
- B. Certificate of General Canvassing and Election Board
- C. Certificate of the Official Ballot
- D. Certificates of the Official Public Notices of the November 3, 2009 Election
- E. Certificate of Election Returns

**CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
October 16, 2012**

1. CALL TO ORDER AND ROLL CALL

Mayor Appelbaum called the regular October 16, 2012 City Council meeting to order at 6:00 p.m. in Council Chambers.

Those present were: Mayor Appelbaum and Council Members Ageton, Becker, Cowles, Jones, Karakehian, Morzel, Plass, and Wilson.

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE 6:05 p.m.

- 1) Dwayne Schossow, representing the Old Hire police and fire pensions – asking for a 10% cost of living pension increase and to raise retiree benefits equal to that of widows.
- 2) Angelique Espinoza, representing the Chamber of Commerce – supported ballot measures 2A, 2C and 2D.
- 3) Karey Christ-Janer thanked Council for giving the community, council and staff the opportunity to spend more time looking at municipalization metrics. She also stressed the importance of DSMs.
- 4) Rob Smoke, 26 year city or county resident – regarding disposable bags and MMJ fees, should go to a vote of the people.
- 5) Gary Horton, representing Boulder Tomorrow – also supported the manager’s recommendation to pull consideration of the municipalization metrics.
- 6) Stacy Balcom, proclaimed the art fair she initiated for the Boulder Creek Festival was violated by the city of Boulder as the city had not followed city, state and federal tax laws to compete with her. She claimed that the city stole her vendor e-mail list and aided the owner of the Boulder Creek Festival - spoke to the harassment by the Boulder Police Department, the District Attorney and the City of Boulder.
- 7) Roger Koenig – expressed disappointment in the municipalization metrics as presented noting that the financial risk analysis was not presented.
- 8) Gabriel Conners – spoke to many items on the agenda including the bag fees, Medical Marijuana fees, Homeless resource officer and the municipalization metrics.
- 9) Lenny Frieling, County resident, municipal judge and long time advocate – regarding Medical Marijuana indicated that state law could be over regulating (showed the state regulation book which was ½ inch thick). Noted that Boulder is doing a great job.
- 10) Marta Turnbull – spoke to opposition to closing medical marijuana grow facilities if they don’t have distribution centers in the city.

COUNCIL/STAFF RESPONSE

City Manager Brautigam

Spoke in appreciation of the Old Hire Police Association and noted that Bob Eichen was on their board and had been working with them to increase bonds to shore up their pensions. She noted that it was a very complex issue and that a study session was planned in the 2nd quarter of

2013 to discuss the issue further.

Council Member Morzel asked City Manager Brautigam if by 2013, the Council wanted to make adjustments in the budget for the Old Hire Police, would there be room in the budget.

City Manager Brautigam stated there were reserve funds available that could be drawn from and indicated it would take away from savings. This would be an ongoing expense. The pension employees would have to vote on amendments to the pension plan to enable the city to assist.

3. CONSENT AGENDA 6:40 p.m.

- A. CONSIDERATION OF A MOTION TO APPROVE THE AUGUST 7, 2012 CITY COUNCIL MEETING MINUTES**
- B. CONSIDERATION OF A MOTION TO APPROVE THE AUGUST 21, 2012 CITY COUNCIL MEETING MINUTES**
- C. CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE AUGUST 28, 2012 STUDY SESSION ON THE BOULDER PRIMARY EMPLOYER STUDY**
- D. CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE SEP. 11, 2012 STUDY SESSION ON THE 2013 RECOMMENDED BUDGET**
- E. CONSIDERATION OF A MOTION TO APPROVE THE MUNICIPALIZATION CHARTER REQUIREMENT METRICS**

This item was removed by Council Member Wilson and rescheduled with consensus by city council to the November 15 meeting.

- F. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NOS. 7866, 7867, 7868 AND 7869 AMENDING:**
 - 1) SECTION 9-3-2, "FLOODPLAINS," B.R.C. 1981 IN ORDER TO MEET REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM;**
 - 2) SECTION 9-3-3, "REGULATIONS GOVERNING THE FLOODPLAIN," B.R.C. 1981 IN ORDER TO MEET REQUIREMENTS OF THE COLORADO WATER CONSERVATION BOARD;**
 - 3) SECTION 9-3-4, "REGULATIONS GOVERNING THE CONVEYANCE ZONE," B.R.C. 1981, TO ADD STANDARDS RELATED TO RISES IN FLOOD ELEVATIONS ON PUBLIC LAND AND EASEMENTS; AND**
 - 4) SECTION 9-16-1, "DEFINITIONS," B.R.C. 1981 TO MODIFY THE CONVEYANCE ZONE DEFINITION.**
- G. CONSIDERATION OF A MOTION TO ADOPT AN EMERGENCY ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF BOULDER, COLORADO (ACTING THROUGH ITS WATER UTILITY ENTERPRISE AND WASTEWATER UTILITY ENTERPRISE), OF ITS WATER AND SEWER REVENUE REFUNDING BONDS, SERIES 2012, IN A PRINCIPAL AMOUNT OF \$24,325,000.00 FOR THE PURPOSE OF PROVIDING FUNDS (A) TO ADVANCE REFUND A PORTION OF CERTAIN PREVIOUSLY ISSUED BONDS OF THE CITY AND (B) TO PURCHASE A SURETY BOND FOR DEPOSIT IN THE RESERVE FUND AND (C) TO PAY NECESSARY, INCIDENTAL AND APPURTENANT EXPENSES IN CONNECTION THEREWITH, INCLUDING THE COST OF ISSUANCE**

OF THE 2012 BONDS; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE 2012 BONDS, THE MANNER AND TERMS OF THEIR ISSUANCE, THE MANNER OF THEIR EXECUTION, THE METHOD OF PAYING THEM AND THE SECURITY THEREFORE; PROVIDING FOR THE COLLECTION AND DISPOSITION OF GROSS INCOME DERIVED FROM THE OPERATION OF THE MUNICIPAL SANITARY SEWER SYSTEM AND THE MUNICIPAL WATER SYSTEM; PROVIDING FOR THE PAYMENT OF THE 2012 BONDS FROM THE NET INCOME OF THE WATER SYSTEM AND SANITARY SEWER SYSTEM; PROVIDING OTHER DETAILS CONCERNING THE 2012 BONDS, THE WATER SYSTEM, THE SANITARY SEWER SYSTEM, AND FUNDS APPERTAINING THERETO INCLUDING, BUT NOT LIMITED TO, COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY AND PROVIDING THE EFFECTIVE DATE HEREOF.

H. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE AMENDING TITLE 6, “HEALTH SAFETY AND SANITATION,” CHAPTER 4, “REGULATION OF SMOKING,” B.R.C. 1981, INCLUDING THE ADDITION OF “MALL” AND A NEW SECTION 6-4-5.5, “NO SMOKING ON THE MALL,” AND SETTING FORTH RELATED DETAILS

This item was introduced as presented with the additional request to have a second option presented at second reading by Council Member Becker regarding penalties as outlined in the handout from the City Attorney.

Mayor Appelbaum considered this to be a friendly amendment to include two options for consideration on second reading with the additional option including the handout to council.

Council Member Morzel asked how the boundaries were decided and why it was just the pedestrian mall and not the East and West ends of Pearl Street. She also asked what would be involved in an expanded ban to include the Southern area and the Municipal Campus from 6th street to 14th street and perhaps the Boulder Creek Path. She also requested on second reading, to learn more about the ban in Arvada where they extend a ban on smoking in to all the city parks, open space and public areas and what it would take to adopt a similar ban.

City Attorney Tom Carr said there was no legal restriction to expanding the ban. Although Council would need to determine if further outreach would be appropriate.

I. INTRODUCTION, FIRST READING AND CONSIDERATION OF AN ORDINANCE AMENDING CHAPTER 6-14, “MEDICAL MARIJUANA,” B.R.C. 1981, INCREASING FEES IN SECTION 4-20-64 “MEDICAL MARIJUANA BUSINESSES,” B.R.C. 1981, AND SETTING FORTH RELATED DETAILS

Mayor Appelbaum asked City Attorney Tom Carr if the items listed in the packet regarding medical marijuana should be addressed at second reading.

City Attorney Tom Carr agreed that that any issues raised would be considered as second reading questions.

Council Member Plass asked if it was constitutionally defensible for a landlord to enter the premise of a medical marijuana business.

Council Member Becker asked what parts of the ordinance go to which courts and why.

J. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN EMERGENCY ORDINANCE ADOPTING SUPPLEMENT NO.114, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 7850, 7852, 7853, AND THE COUNCIL PROCEDURE APPENDIX AND OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE BOULDER REVISED CODE, 1981

Council Member Becker moved, seconded by Council Member Wilson, to approve Consent Agenda items 3A through 3J with item 3E removed and 3H directed to come back at second reading with two options on November 15, 2012. The second option with the additional version as presented to state, “(b) the maximum penalty for a first or second conviction within two years, based on date of violation of this Section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based upon the date of the first violation, the general penalty provisions of Section 5-2-4, “General Penalties,” B.R.C. 1981, shall apply.”

The motion carried 8:0, Council Member Cowles was absent at 7:05 p.m.

4. POTENTIAL CALL- UP CHECK IN 7:07 p.m.

No interest was expressed in the call-up of items 8A-1 or 8A-2.

ORDER OF BUSINESS

5. PUBLIC HEARINGS 7:08 p.m.

***Items 5A through 5G had one public hearing* 7:08 p.m.**

Presentation of this item was provided by City Manager Brautigam and Chief Financial Officer Bob Eiche. The city budget is approximately \$255M which is divided into two budgets, an Operating Budget which is approximately \$221M and a Capital Budget which is approximately \$33.5M. The federal government is infusing approximately \$10M for transportation. The city gets approximately 40% of funding from Sales and Use Taxes.

City Expenditures include Transportation, Public Safety Services and many other services including Open Space and Mountain Parks. The Budget Summary is to allocate available funding in 2013 according to community and council priorities, to increase the General Fund reserve requirement to 15% and to invest in the City’s infrastructure. In 2013 an extra pay period is on the calendar (27 instead of 26), this occurs approximately every 11 years due to the passing of leap years and is an impact to the budget.

Priority Based Budgeting (PBB) helps identify what to fund first based on the community outcomes valued by the city. These valued outcomes included; environmental sustainability, a healthy and socially thriving community, a community that is accessible and connected, economically vital and safe, and a community that has good governance.

There is a PBB Peer Review Group Process to identify ratings. The programs are ranked and divided into four4 quartiles and appropriate funding is then allocated.

Boulder's Energy Future was outlined and presented showing the \$1.9 million Utility Occupation Tax allocated in 2013 to legal services, consulting services and the Executive Director.

Old Hire and Fire Pensions would need additional time at the study session referenced earlier by the City Manager because of the complex nature and tough discussion required for the separate plans.

Council Questions:

Council Member Morzel supported a 15% reserve. She asked if the 27 pay-period would be handled in the future through amortization.

Chief Financial Officer, Bob Eichem confirmed that was being done.

Council Member Ageton asked specifically about the \$303,000 for backfill and if the city had to backfill positions for major city projects. She asked whether the request for use of General Funds had ever taken place before. She also expressed concern that the voters may have thought the ballot measure that passed covered the costs for the project. She then asked if staff had considered placing a cap on the amount on funds which the General funds could be used for backfill purposes.

City Manager Brautigam answered that dollars needed for backfill could vary with each year. City Manager Brautigam responded that a specific request had not happened in the past and while backfill monies have been used temporarily for projects, it occurs intermittently. She gave the example of focusing dollars in the City Attorney area which had taken some employees out of their regular roles. Backfill is needed to perform the duties of the employees that have been removed to complete special duties outside of their normal duties. Flexibility as to where the backfill dollars would go is necessary. No caps for backfill were discussed, but staff would be responsible for monitoring and ensuring that spending be accountable.

Council Member Karakehian stated that many departments were not used to the allocation of time and tracking dollars. He was also concerned about using the General Fund to support the exploration and municipalization alternatives.

City Manager Brautigam indicated that the percentage of time spent throughout the year on specific projects and dollars spent, would be tracked and provided to council at the end of the year. The gross estimates of time and dollars information could not be prospective. It would be retrospective reporting.

Council Member Wilson noted that Police Chief Beckner agreed to combine some of the officers from the Hill and Pearl Street Mall and asked if there were enough uniformed officers available to cover the needs of the city.

Police Chief Beckner stated that the model used to assigned police officers from both areas had been going on for approximately 18 years. The current staffing level had been at the current level for approximately 16 years. As bar closings occur, problems have continued from the mall area up to the Hill. A staff analysis was conducted and confirmed that more police presence was needed at bar closing time. The concept of a Power Shift would shift more police force on the street at the back end of the Swing Shift. This gives the Police Chief more flexibility to move officers around as needed. Officers are not being added for next year. The number of supervisors would not change and he expressed that staffing was adequate. The police system of Educate, Warn and Enforce seems to be work well in this community.

Council Member Ageton pointed to attachment E of 5A, and asked about the two-year fixed term position for a Homeless Resource Officer and asked why it was moving to an ongoing position.

Budget Manager, Peggy Bunzli stated it was a typo that had been fixed. It was intended as an ongoing position from the beginning.

At the conclusion of Council Questions the public hearing was opened:

- 1) Angelique Espinoza – regarding the General Fund expense for municipalization, indicated it was policy decision for council but stressed the importance of keeping the process transparent and accountable.

There being no other speakers the public hearing was closed.

Council was directed to the green handout that proposed the order of motions for the budget. Council Member Ageton suggested that item 5A (6) be addressed prior to the adoption of the budget. Council concurred.

5A – 6 CONSIDERATION OF A MOTION TO APPROVE USE OF THE GENERAL FUND TO EXPLORE MUNICIPALIZATION AND ALTERNATIVES.

Council Member Morzel moved, seconded by Council Member Jones to direct the city manager to use necessary General Fund resources to support the exploration of municipalization and alternatives. The motion carried 7:1, Council Member Karakehian opposed, Council Member Cowles was absent at 8:30 p.m.

A. CONSIDERATION OF THE FOLLOWING ITEMS RELATING TO THE 2013 BUDGET:

- 1) **PUBLIC HEARING ON THE PROPOSED 2013 CITY OF BOULDER BUDGET; AND**
- 2) **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7871 THAT ADOPTS A BUDGET FOR THE CITY OF BOULDER, COLORADO, FOR THE FISCAL YEAR COMMENCING ON THE FIRST DAY OF JANUARY 2013 AND ENDING ON THE LAST DAY OF DECEMBER 2013 AND SETTING FORTH DETAILS IN RELATION THERETO; AND**
- 3) **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7872 THAT ESTABLISHES THE 2012 CITY OF BOULDER PROPERTY TAX MILL LEVIES WHICH ARE TO BE COLLECTED BY THE COUNTY OF BOULDER, STATE OF COLORADO, WITHIN THE CITY OF**

BOULDER IN 2013 FOR PAYMENT OF EXPENDITURES BY THE CITY OF BOULDER, STATE OF COLORADO, AND SETTING FORTH DETAILS IN RELATION THERETO; AND

- 4) **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7873 THAT APPROPRIATES MONEY TO DEFRAY EXPENSES AND LIABILITIES OF THE CITY OF BOULDER, COLORADO, FOR THE 2013 FISCAL YEAR OF THE CITY OF BOULDER, COMMENCING ON THE FIRST DAY OF JANUARY 2013, AND ENDING ON THE LAST DAY OF DECEMBER 2013, AND SETTING FORTH DETAILS IN RELATION THERETO;**
- 5) **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7874 THAT AMENDS CHAPTERS 3-8, 3-9 AND 4-20 B.R.C. 1981 CHANGING CERTAIN FEES AND SETTING FORTH DETAILS IN RELATION THERETO; AND**

Council Member Plass moved, seconded by Council Member Morzel to:

1. Adopt Ordinance No. 7871 that adopts a budget for the City of Boulder, Colorado, for the fiscal year commencing on the first day of January 2013 and ending on the last day of December 2013 and setting forth details in relation thereto.
2. Adopt Ordinance No. 7872 that establishes the 2012 City of Boulder property tax mill levies which are to be collected by the County of Boulder, State of Colorado, within the City of Boulder in 2013 for payment of expenditures by the City of Boulder, State of Colorado, and setting forth details in relation thereto.
3. Adopt Ordinance No. 7873 that appropriates money to defray expenses and liabilities of the City of Boulder, Colorado, for the 2013 fiscal year of the City of Boulder, commencing on the first day of January 2013, and ending on the last day of December 2013, and setting forth details in relation thereto.
4. Adopt Ordinance No. 7874 that amends Chapters 3-8, 3-9 and 4-20 B.R.C. 1981 changing certain fees and setting forth details in relation thereto.

The motion carried 8:0, Council Member Cowles was absent at 8:31 p.m.

- 6) **CONSIDERATION OF A MOTION TO APPROVE USE OF THE GENERAL FUND TO EXPLORE MUNICIPALIZATION AND ALTERNATIVES.**

This item was addressed prior to item 5A 1-5.

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

- B. CONSIDERATION OF A MOTION TO ADOPT THREE RESOLUTIONS PERTAINING TO THE 2013 BUDGET OF THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT FUND):**
 - 1) **A RESOLUTION CONCERNING THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT FUND), ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2013;**

- 2) **A RESOLUTION ESTABLISHING THE 2012 CITY OF BOULDER CENTRAL AREA GENERAL IMPROVEMENT DISTRICT PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE 2013 FISCAL YEAR, AND SETTING FORTH DETAILS IN RELATION THERETO;**
- 3) **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT FUND) FOR THE 2013 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO.**

Council Member Morzel moved, seconded by Council Member Plass to:

1. Adopt CAGID Resolution No. 246 concerning the City of Boulder Downtown Commercial District Fund (formerly known as the Central Area General Improvement District Fund), adopting a budget for the fiscal year beginning January 1, 2013;
2. Adopt CAGID Resolution No. 247, establishing the 2012 City of Boulder Central Area General Improvement District Property Tax Mill Levy for payment of expenditures, in part, of the District during the 2013 fiscal year, and setting forth details in relation thereto;
3. Adopt CAGID Resolution No. 248, appropriating money to defray the expenses and liabilities of the City of Boulder Downtown Commercial District Fund (formerly known as the Central Area General Improvement District Fund) for the 2013 fiscal year and setting forth details in relation thereto;

The motion carried 8:0, Council Member Cowles was absent at 8:34 p.m.

Consideration of a motion to adjourn from the CAGID Board of Directors and to convene as the University Hill General Improvement District (UHGD) Board of Directors was approved by acclamation.

- C. CONSIDERATION OF A MOTION TO ADOPT THREE RESOLUTIONS PERTAINING TO THE 2013 BUDGET OF THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT FUND):**
- 1) **A RESOLUTION CONCERNING THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT FUND), ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2013;**
 - 2) **A RESOLUTION ESTABLISHING THE 2012 CITY OF BOULDER UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE 2013 FISCAL YEAR, AND SETTING FORTH DETAILS IN RELATION THERETO;**
 - 3) **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT FUND) FOR THE 2013 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO**

Council Member Morzel moved, seconded by Council Member Wilson to:

1. Adopt Resolution No. 183, concerning the City of Boulder University Hill Commercial District Fund (formerly known as the University Hill General Improvement District Fund), adopting a budget for the fiscal year beginning January 1, 2013;
2. Adopt Resolution No. 184, establishing the 2012 City of Boulder University Hill General Improvement District Property Tax Mill Levy for payment of expenditures, in part, of the District during the 2013 fiscal year, and setting forth details in relation thereto;
3. Adopt Resolution No.185, appropriating money to defray the expenses and liabilities of the City of Boulder University Hill Commercial District Fund (formerly known as the University Hill General Improvement District Fund) for the 2013 fiscal year and setting forth details in relation thereto;

The motion carried 8:0, Council Member Cowles was absent at 8:34 p.m.

Consideration of a motion to adjourn from the UHGID Board of Directors and convene as the Boulder Municipal Property Authority Board of Directors was approved by acclamation.

D. CONSIDERATION OF A MOTION TO ADOPT A RESOLUTION FORMALLY ADOPTING THE 2013 BUDGET FOR THE BOULDER MUNICIPAL PROPERTY AUTHORITY.

Council Member Karakehian moved, seconded by Council Member Jones to adopt a Resolution No. 133 formally adopting the 2013 budget for the Boulder Municipal Property Authority. The motion carried 8:0, Council Member Cowles was absent at 8:34 p.m.

Consideration of a motion to adjourn from the Boulder Municipal Property Authority Board of Directors and convene as the Forest Glen Transit Pass General Improvement District Board of Directors was approved by acclamation.

E. CONSIDERATION OF MOTION TO ADOPT THREE RESOLUTIONS PERTAINING TO THE 2013 BUDGET OF THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT FUND:

- 1) **A RESOLUTION CONCERNING THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT, ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2013;**
- 2) **A RESOLUTION ESTABLISHING THE 2012 CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE 2013 FISCAL YEAR, AND SETTING FORTH DETAILS IN RELATION THERETO;**
- 3) **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER FOREST GLEN TRANSIT PASS GENERAL IMPROVEMENT DISTRICT FOR THE 2013 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO**

Mayor Appelbaum moved, seconded by Council Member Jones to:

1. Adopt Resolution No. 40, concerning the City of Boulder Forest Glen Transit Pass General Improvement District, adopting a budget for the fiscal year beginning January 1, 2013;
2. Adopt Resolution No. 41, establishing the 2012 City of Boulder Forest Glen Transit Pass General Improvement District Property Tax Mill Levy for payment of expenditures, in part, of the District during the 2013 fiscal year, and setting forth details in relation thereto;
3. Adopt Resolution No. 42 appropriating money to defray the expenses and liabilities of the City of Boulder Forest Glen Transit Pass General Improvement District for the 2013 fiscal year and setting forth details in relation thereto;

The motion carried 8:0, Council Member Cowles was absent at 8:35 p.m.

Consideration of a motion to adjourn from the City of Boulder Forest Glen Transit Pass General Improvement District Board of Directors and convene as the Boulder Junction Access Commission General Improvement District - Parking Board of Directors was approved by acclamation.

F. CONSIDERATION OF A MOTION TO ADOPT THREE RESOLUTIONS PERTAINING TO THE 2013 BUDGET OF THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – PARKING FUND:

- 1) **A RESOLUTION CONCERNING THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – PARKING FUND, ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2013;**
- 2) **A RESOLUTION ESTABLISHING THE 2012 CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – PARKING PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE 2013 FISCAL YEAR, AND SETTING FORTH DETAILS IN RELATION THERETO;**
- 3) **A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – PARKING FUND FOR THE 2013 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO.**

Council Member Morzel moved, seconded by Council Member Plass to:

1. Adopt Resolution No. 6, concerning the City of Boulder, Boulder Junction Access Commission General Improvement District – Parking Fund, adopting a budget for the fiscal year beginning January 1, 2013.
2. Adopt Resolution No. 7, establishing the 2012 City of Boulder, Boulder Junction Access Commission General Improvement District – Parking Property Tax Mill Levy for payment of expenditures, in part, of the District during the 2013 fiscal year, and setting forth details in relation thereto.
3. Adopt Resolution No. 8, appropriating money to defray the expenses and liabilities of the City of Boulder, Boulder Junction Access Commission General Improvement District – Parking Fund for the 2013 fiscal year and setting forth details in relation thereto.

The motion carried 8:0, Council Member Cowles was absent at 8:35 p.m.

Consideration of a motion to adjourn from the Boulder Junction Access Commission General Improvement District - Parking Board of Directors and convene as the Board of Directors of the Boulder Junction Access Commission General Improvement District – Travel Demand Management was approved by acclamation.

- G. CONSIDERATION OF A MOTION TO ADOPT THREE RESOLUTIONS PERTAINING TO THE 2013 BUDGET OF THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT FUND:**
- 1) A RESOLUTION CONCERNING THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT FUND, ADOPTING A BUDGET FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2013;**
 - 2) A RESOLUTION ESTABLISHING THE 2012 CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT PROPERTY TAX MILL LEVY FOR PAYMENT OF EXPENDITURES, IN PART, OF THE DISTRICT DURING THE 2013 FISCAL YEAR, AND SETTING FORTH DETAILS IN RELATION THERETO;**
 - 3) A RESOLUTION APPROPRIATING MONEY TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF BOULDER, BOULDER JUNCTION ACCESS COMMISSION GENERAL IMPROVEMENT DISTRICT – TRAVEL DEMAND MANAGEMENT FUND FOR THE 2013 FISCAL YEAR AND SETTING FORTH DETAILS IN RELATION THERETO; and**

Council Member Jones moved, seconded by Council Member Karakehian to:

1. Adopt Resolution No. 5, concerning the City of Boulder, Boulder Junction Access Commission General Improvement District – Travel Demand Management Fund, adopting a budget for the fiscal year beginning January 1, 2013.
2. Adopt Resolution No. 6, establishing the 2012 City of Boulder, Boulder Junction Access Commission General Improvement District – Travel Demand Management Property Tax Mill Levy for payment of expenditures, in part, of the District during the 2013 fiscal year, and setting forth details in relation thereto.
3. Adopt Resolution No. 7, appropriating money to defray the expenses and liabilities of the City of Boulder, Boulder Junction Access Commission General Improvement District – Travel Demand Management Fund for the 2013 fiscal year and setting forth details in relation thereto.

The motion carried 8:0, Council Member Cowles was absent at 8:37 p.m.

Consideration of a motion to adjourn from the Boulder Junction Access Commission General Improvement District – Travel Demand Management Board of Directors and reconvene as the City Council was approved by acclamation.

- H. SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7870 AMENDING TITLE 6, “HEALTH, SAFETY AND SANITATION”, B.R.C. 1981, REGARDING THE ESTABLISHMENT OF A FEE ON ALL DISPOSABLE PLASTIC AND PAPER CHECKOUT BAGS DISTRIBUTED AT FOOD STORES.**

Executive Director of Community Planning and Sustainability, David Driskell presented this item noting that the initiative came from the community. According to a recent study, Boulder used between 20 and 33 million plastic bags in 2011. This was a significant contaminant at the recycling facility. On May 15, 2012 the direction to develop a fee on disposable plastic and paper checkout bags at food stores was given by council.

TischlerBise was hired to conduct a Fee Nexus Study to determine the many costs with a demonstrated nexus, calculate the level of the fee based on applicable costs and calculate the retailer portion.

City costs included implementation, administrative and enforcement costs, development and implementation, an educational outreach campaign, develop and produce store signage and the purchase and distribution of reusable bags to the community.

Bag Use Projections; 2012 estimated bag use at applicable stores are 14.3 million. The estimated reduction trend of the use of single use bags are 50% after year one, 75% after year two, 85% after year three, 85% total reduction after year four. Ireland has seen a plateau effect after year four.

The final result of the fee study resulted in a 20 cent bag fee. Current fee in California is a 10 cent bag fee. Washington DC has a 5 cent bag fee in place.

The feedback received in a recent web-based survey indicated 453 responses in favor of an ordinance with 203 responses opposing the ordinance. Over 100 web and e-mail comments were received between March and October. At two public meetings a large majority of attendees were in favor of the ordinance. There was a split between a ban/fee and a fee/fee.

At the conclusion of Council Questions the public hearing was opened:

- 1) Tatjana Kunz – Asked council to reconsider implementing bag fee sooner than in 4 years.
- 2) Neshama Abraham – Spoke in support of ordinance that provides environmental metrics.
- 3) Eric Lombardi – Was very proud of the community for doing something bold about the environmental impacts and would like to see more of this in the future.
- 4) Daniel Ho, Junior Fairview Net Zero Club – Spoke in support of the bag ordinance and thanked council for their quick action on the issue.
- 5) Jaumie Zhu, Fairview Net Zero Club – Spoke in support of the bag ordinance and advocated a review every 2 years and asked council to authorize staff to review again in Oct. 2014.
- 6) Angela Fei, Fairview Net Zero Club – Spoke to Making Waves Ocean Symposium held at CU, and the increasing ocean pollution that has resulted from use of plastic bags.
- 7) Jenny Kim, Fairview Net Zero Club – Spoke in support of bag ordinance and thanked city council.
- 8) Vivian Chen, Fairview Net Zero – Spoke in support of bag ordinance and was concerned that not enough stores would be effected. Would like to see this shift effect more stores.
- 9) Qi Liao, Fairview Net Zero – Spoke in support of bag ordinance.
- 10) Ruthie Wu, Fairview Net Zero – Spoke in support of bag ordinance and asked

council to do more.

- 11) Leigh Cushing, Eco Cycle – Asked council to vote in favor of bag fee ordinance and to put Boulder on the map as being leaders in environmental issues, shifting culture from single use to re-use.
- 12) Margie Belcastro – Spoke against bag ordinance as government should not legislate her choices.

There being no other speakers the public hearing was closed.

Council Member Plass moved, seconded by Council Member Morzel to adopt Ordinance No. 7870 amending Title 6, “Health, Safety and Sanitation”, B.R.C. 1981, regarding the establishment of a fee on all disposable plastic and paper checkout bags distributed at food stores.

Council Member Wilson moved, seconded by Council Member Becker to amend the bag fee from 20 cent bag fee to 10 cent bag fee for proposed Ordinance No. 7870 amending Title 6, “Health, Safety and Sanitation”, B.R.C. 1981, regarding the establishment of a fee on all disposable plastic and paper checkout bags distributed at food stores. The motion carried 5:3, Council Members Jones, Morzel and Plass opposed, Council Member Cowles was absent at 10:21 p.m.

Vote was taken on the motion as amended to adopt Ordinance No. 7870 amending Title 6, “Health, Safety and Sanitation”, B.R.C. 1981, regarding the establishment of a fee on all disposable plastic and paper checkout bags distributed at food stores, as amended with a 10 cent bag fee. The motion carried 7:1, Council Member Karakehian opposed, Council Member Cowles was absent at 10:27 p.m.

Mayor Appelbaum moved, seconded by Council Member Ageton to suspend the rules and continue the meeting. The Vote passed 7:1, Council Member Karakehian opposed, Council Member Cowles was absent at 10:28 p.m.

6. MATTERS FROM THE CITY MANAGER 10:28 p.m.

A. US PRO CYCLING CHALLENGE UPDATE

City Manager Brautigam stated that the CU school study indicated the race made an impact on the City. The Sales and Use tax and economic return on investment from the race had not yet been determined however.

The owner of the Pro Cycle Challenge is not ready to release proposals for cities for the 2013 race. More information may be available by November 2012. Ms. Brautigam indicated there was a meeting scheduled with Mountain Parks and Open Space to get feedback from them as to impacts, if any, on Boulder from the race. More information on that will be available on November 1st, 2012.

Council Member Wilson stated the worst impact on Boulder from the race was chalk messages on the county roads.

7. MATTERS FROM THE CITY ATTORNEY 10:36 p.m.

None.

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL 10:36 p.m.

A. POTENTIAL CALL-UPS

1) PEARL PARKWAY MULTI-USE PATH IMPROVEMENTS PROJECT CEAP

2) REQUEST TO VACATE AN EXISTING 25-FOOT DRAINAGE EASEMENT AT 1600 COMMERCE ST. TO ALLOW FOR BALL AEROSPACE CAMPUS EXPANSION

B. COUNCIL EMPLOYEE EVALUATIONS

Council Member Wilson's presentation on behalf of the CAC, was rescheduled for November 15, 2012.

C. APPOINTMENT OF RETREAT COMMITTEE AND DISCUSSION REGARDING POTENTIAL RETREAT DATES

City Clerk, Alisa Lewis presented this item noting that the annual council retreat was typically held in late January but, due to New Years Day holiday falling on Tuesday, the meetings in January were all shifting by one week. Therefore, staff was recommending that the retreat be pushed back to Feb.1 and 2, 2013. Another choice was the last weekend in January, 2013. Council indicated it would look at schedules and provide feedback to City Clerk, Lewis. Council Member Becker, Morzel and Jones expressed interest in serving on the committee. Council voiced its approval and appreciation.

D. POTENTIAL PRACTICAL PROBLEMS POSED BY AMENDMENT 64

Mayor Appelbaum stated the Metro Mayors Caucus may take a position on Amendment 64, the statewide legalization of marijuana that would allow any person 21 years of age or older to possess one once or less of marijuana and individuals could grow up to six plants with three of them being mature plants. This would not change medical marijuana laws or affect medical marijuana facilities. If this amendment passes the same medical marijuana licensing regime would stay in place. If the city wanted to allow this, the city would be required to adopt its' own regulatory scheme for legal marijuana. There was no funding identified for regulatory bodies. There is an excise tax the state would be required to impose. This amendment does not comply with TABOR requirements. It is on the ballot. CML has taken an opposing position on the amendment because of the practical problem associated with the legalization of marijuana being in the state constitution. How this legalization could affect cities was something that would need to be addressed. Local governments could opt out by a vote of the people. There is no limit as to how much marijuana a dispensary could stock or, how much a grow facility can grow.

If amendment 64 passes, there is a possibility that the feds could seek an injunction similar to Arizona law.

Boulder could ban licensed facilities. It could ban use in public and it could ban the use by anyone under 21 years of age. There were 220 arrests made in Boulder in 2011 and

216 arrests made in 2012 for public use of marijuana, these number are not likely to change with the passing of this amendment.

Mayor Appelbaum asked council if they wanted the Mayor to weigh in on the subject with the Metro Mayors.

Council Member Plass stated he would have a hard time supporting it and offered that the Mayor weigh in reflecting such.

The rest of the council agreed.

9. **PUBLIC COMMENT ON MATTERS** 10:57 p.m.
None

10. **FINAL DECISIONS ON MATTERS** 10:57 p.m.
None

11. **ADJOURNMENT** 10:57 p.m.

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED ON October 16, 2012 AT 10:57 p.m.

APPROVED BY:

ATTEST:

Alisa D. Lewis,
City Clerk

Matthew Appelbaum,
Mayor

**CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
Thursday, November 1, 2012**

1. CALL TO ORDER AND ROLL CALL

Mayor Appelbaum called the special November 1, 2012 city council meeting to order at 6:00 PM in Council Chambers.

Those present were: Mayor Appelbaum and Council Members Ageton, Becker, Jones, Karakehian, Morzel and Wilson. Council Member Cowles arrived at 6:28 PM. Council Member Plass was absent.

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE 6:00 PM

1. Jasmine Johnson / Sirisha Gudavalli / Julia Jenak (pooled time) - Net Zero Club, spoke in support of bag ban and spoke of marine pollution due to plastic bags
2. Lizzy Dresselhaus - Net Zero Club, spoke in support of bag ban
3. Kyle Christensen - Net Zero Club, spoke in support of bag ban
4. Fred Rubin - Remove 3E from the consent agenda, does not support bag fee
5. Dan Bench - Beekeeper, spoke of colony collapse and ban of chemicals to protect pollinators
6. Lee Pappas - Net Zero Club, spoke in support of bag ban
7. Jerry Allen - Spoke in favor of Amendment 64
8. Ruthie Wu - Net Zero Club, spoke in support of bag ban and fee
9. Elizabeth Allen - removed her name, no longer wishes to speak
10. Mary Lou Chapman - President of Rocky Mountain Food Association, spoke against bag fee and ban, some items may cause stores to lose their food stamp license, provided federal regulation information to city attorney
11. Katrina Tracy / Emma Alcantor - Boulder High sophomores, spoke in support of developing the Civic Center area. They currently do not feel safe there because of the homeless population. They want more light, benches, music, art, water features and the incorporation of Native American Indians in the theme
12. Gabriel Conners - Spoke in support of helping the bee population, giving bags to people with food stamps and open data to better streamline economic development

Staff Response:

City Attorney Tom Carr stated the current ordinance does not require food store owners to give green bags to food stamps users. It doesn't prohibit them from doing so, if they choose to.

Council Member Wilson stated he was a beekeeper and shares Dan Bench's concern about colony collapse. The city does not use the chemicals in the parks and open space and the city does not have the authority to ban the chemicals.

3. CONSENT AGENDA 6:34 PM

- A. CONSIDERATION OF A MOTION TO APPROVE THE SEPTEMBER 4, 2012 CITY COUNCIL MEETING MINUTES**
- B. CONSIDERATION OF A MOTION TO APPROVE THE OCTOBER 9, 2012 SPECIAL CITY COUNCIL MEETING MINUTES**
- C. CONSIDERATION OF A MOTION TO APPROVE THE OCTOBER 23, 2012 SPECIAL CITY COUNCIL MEETING MINUTES**
- D. CONSIDERATION OF A MOTION TO APPROVE A TWENTY YEAR LEASE FOR A RIGHT-OF-WAY ENCROACHMENT (BUILDING CORNICE) FOR THE PROPERTY LOCATED AT 1600 PEARL STREET**
- E. THIRD READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7870 AMENDING TITLE 6, "HEALTH, SAFETY AND SANITATION", B.R.C. 1981, REGARDING THE ESTABLISHMENT OF A FEE ON ALL DISPOSABLE PLASTIC AND PAPER CHECKOUT BAGS DISTRIBUTED AT FOOD STORES**

City Attorney Carr noted an amendment that should have been included in the ordinance in Section 6-15-4 to increase from 20% to 40% the amount of the fee that goes to stores. A fourth reading will be required.

- F. SECOND READING AND CONSIDERATION OF EMERGENCY ORDINANCE NO. 7878, ADOPTING SUPPLEMENT NO.114, WHICH CODIFIES PREVIOUSLY ADOPTED ORDINANCE NOS. 7850, 7852, 7853, AND THE COUNCIL PROCEDURE APPENDIX AND OTHER MISCELLANEOUS CORRECTIONS AND AMENDMENTS, AS AN AMENDMENT TO THE BOULDER REVISED CODE, 1981**
- G. INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY ORDINANCE NOS. 7879 AND 7880 AMENDING THE NEIGHBORHOOD PARKING PERMIT SECTION 4-23-2(A) TO CHANGE THE ORDINANCE TO REMOVE THE SUNSET PROVISION AND MAKE COMMUTER PERMITS A PERMANENT PART OF THE PROGRAM**

Council Member Jones asked if the fees being charged were appropriate for the goals of the program and what were the parking behaviors that are being sought with the program. She thought the Transportation Advisory Board plan had some merit and suggested that a plan be devised rather than the staff recommendation to have the program indefinitely.

Council Member Morzel asked if the sunset provision would adjust for inflation because the cost to administer it would increase over time. With the permanent plan she asked how the plan would be adjusted if more residential permits and commuter permits were needed. She asked about the percentage of commuter permits and wanted to know if the workers were generated within Boulder or outside of Boulder. She asked why the city would not go with Transportation

Advisory Boards' recommendation of monitoring it for 5 years so that commuter permits could be monitored. Parking issues should be analyzed city-wide under a more comprehensive umbrella. She asked why this was being done now when the master plan was incomplete and not expected to be complete for another one to two years.

Council Member Cowles concurred with Council Members Jones and Morzel, stating that he could not see supporting it, as written, with no sunset provision. He stated he'd like to have an analysis from another department that is impacted by this plan.

Council Member Karakehian disagreed to the ban on plastic bags for many cost reasons and had no opinion on paper bags.

Council Member Morzel moved, seconded by Council Member Wilson, to approve Consent Agenda Items 3A through 3G with item 3E amended by changing section 6-15-4 of Ordinance No. 7870 by increasing from 20% to 40% the proceeds to go to stores. The motion carried 8:0 with council Member Karakehian opposed to 3E and Council Member Plass absent. The vote was taken at 6:48 PM.

4. POTENTIAL CALL- UP CHECK IN 6:48 PM

No interest was expressed in the call up of 8A-1.

ORDER OF BUSINESS

5. PUBLIC HEARINGS 6:50 PM

A. CONSIDERATION OF A MOTION TO APPROVE THE 2013 STATE AND FEDERAL LEGISLATIVE AGENDA

This item was presented by Policy Advisor Carl Castillo, who noted that after the last check in there remained three outstanding issues in the priorities that were before the council for approval: (1) support of civil unions; (2) opposition to corporate personhood legislation; and (3) support for decreasing the influence of corporate money in statewide election.

Policy Advisor Carl Castillo indicated that on September 4, 2012, Council gave a nod of approval on the changes that were presented and those changes had been incorporated in the agenda. Council also suggested additional changes that were highlighted in attachment B of the item. In addition to those changes, some individual council members suggested additional changes that were posted in attachment B.

Looking back at the 2004 state and federal legislative agenda, nine priorities were listed. In 2006, six priorities were identified. In 2010, the state and federal legislative priorities grew, and it was considered to be beneficial for a fast moving council.

Mr. Castillo offered some suggestions. His suggestions were, adding to the priorities, leaving them as they are and create a list of important items to highlight with the legislators. He requested that a point person be identified to handle the state legislative on November 14.

Council Member Ageton asked about his process when receiving questions from council members, and does he run them through the criteria or, do they automatically go on the list? Mr. Castillo stated that he simply adds them to the list.

She asked about the legislation for excessive motorcycle exhaust noise and was that a bill that is going to be offered.

Council Member Wilson recalled covering the motorcycle exhaust noise issue under city ordinances approximately 10 years ago.

Council Member Jones stated most of the issues listed on pages 126 through 128 were discussed at the committee meeting and early study sessions. The importance of civil unions should be highlighted as it is a ripe issue.

Council Member Becker stated how fortunate Boulder is to lobby at the state and federal levels. Legislators look to the city council for direction and things get done because of that.

Council Member Karakehian asked Council Member Cowles about his items, #2 and #3.

Council Member Cowles said that investing corporations with the right of free speech has been equated with the expenditure of money overriding influence in politics.

Council Member Ageton pointed out that the purpose statement is inconsistent with what is really happening. She was troubled that the six criteria continue to be carried, but the criteria are not consistently applied. She would like to see more clarity about what they want to achieve with the legislative agenda so that the purpose statement is consistent with what the council is actually doing. When things are added to the list that are not currently or likely to be on the agenda, the power is diluted from other things. She was not comfortable supporting the addition to allow the enforcement of excessive motorcycle exhaust noise. The train whistling is far more environmentally disturbing.

Council Member Cowles appreciated Council Member Ageton's comments. The current ordinance for motorcycles is based on decibels. He said it's time to elevate this issue as a quality of life issue, which does not diminish the train noise.

Mayor Appelbaum stated he was fine with the items listed. He agreed on highlighting certain issues such as the civil union issue. Internet and mail-order sales taxes needs to be highlighted as well. Cities deserve to have their fair share of taxes. This should be raised on November 14.

There being no speakers, the public hearing was closed.

Council Member Jones moved, seconded by Council Member Becker, to approve the 2013 State and Federal Legislative Agenda as presented with motorcycle noise removed and the direction to raise the following topics at the upcoming legislative breakfast: (1) civil unions; (2) corporate personhood; and (3) Internet sales tax. The motion carried 8:0 with Council Member Plass absent. The vote was taken at 7:34 PM.

B. SECOND READING AND CONSIDERATION OF EMERGENCY ORDINANCE NO. 7877 AMENDING CHAPTER 6-14, "MEDICAL MARIJUANA," B.R.C. 1981, INCREASING FEES IN SECTION 4-20-64, "MEDICAL MARIJUANA BUSINESSES," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS 7:35 PM

This item was presented by Tax and License Manager Mishawn Cook, Senior Assistant City Attorney Kathy Haddock and City Attorney Tom Carr.

The goals of the proposed ordinance were to provide clarity for staff and the Boulder businesses and to increase fees so that the licensing program was paid for from fees. The proposed changes were based on the experiences over the last two years of Medical Marijuana business licensing. The ordinance changes were proposed to be effective when the moratorium expires on 11/9/12. Staff recommended adopting the ordinance with the amendment on the blue handout to make clear that proposed changes were not intended to phase out existing businesses. Staff also recommended that the policy issues listed at end of memo be addressed after the election because the recommendations would be affected by the results of the vote on Amendment 64. Staff held two meetings with medical marijuana business owners on September 7 and October 5, 2012. Except for the changes regarding marijuana infused products and fees, the proposed ordinance amendments clarified what was already required by the city's law. Inspections of marijuana infused product manufacturers revealed that the extraction of marijuana from the plant was being done with butane and heat and other means that created noxious or flammable gases without proper protections. Changes will ensure that there will be core businesses that know the laws and follow the laws. An audit was conducted to analyze the licensing program fees. The licensing program fee was increased to eliminate the subsidization of medical marijuana by the general fund and to make the licensing program more sustainable for the city.

Council questions:

Council Member Cowles asked how many inspections take place at a new facility and what departments would make the inspections when a new application for a new license was submitted. He asked if there are written check-lists that are used during inspections.

Tax and License Manager Mishawn Cook stated that initially one group inspection would be performed by Licensing, Fire, Police and Planning. Follow-up inspections may be required and completed. Different written check-lists are used in all inspections by all departments.

Council Member Jones asked if the same inspection procedures were used for license renewals.

Tax and License Manager Mishawn Cook stated that Licensing does not attend renewal inspections because they are already an operating business.

Council Member Karakehian asked if it makes sense to extend the moratorium until they have had time to learn more about Amendment 64. He also asked if Boulder needs or wants more medical marijuana outlets.

Senior Assistant City Attorney Kathy Haddock stated that if Amendment 64 passes a decision will need to be made about banning medical marijuana and allowing recreational marijuana or banning recreational marijuana and only allowing medical marijuana.

City Attorney Tom Carr stated that Amendment 64 protects and contemplates both the medical system and the recreational system of marijuana as a business. He suspected that if recreational marijuana were permitted that the medical marijuana system would slowly die off. There is no need to issue a moratorium in anticipation of Amendment 64 passing. Under Amendment 64 recreational licenses can actually be banned in the city by ordinance, and that would not affect the existing medical marijuana licenses. The number of MMJ outlets could possibly have a cap on them.

Tax and License Manager Mishawn Cook said that nine federal letters have been sent to nine separate MMJ dispensary locations because of their proximity to schools within 1,000 feet. Boulder is land-locked with the locations of MMJ dispensaries. If new applications were to come in they would have to be in the form of MIPS or grows and not retail locations. This is not done with drinking bars and there are no density requirements.

Council Member Morzel asked if there was a difference in rationale between alcohol and marijuana at the federal level.

Tax and License Manager Mishawn Cook clarified that liquor is governed primarily by state law.

Council Member Jones asked about the \$5,000.00 fine for non-renewal upon the deadline.

Tax and License Manager, Mishawn Cook said the current penalty for not filing for a renewal upon the deadline, is a restriction to renew the license, close shop and wait until the next renewal license process. The fine is large to create a disincentive for missing the deadline, while allowing them a path to stay open if they miss the deadline.

Council Member Wilson had Tax and License Manager Mishawn Cook verify that approximately five of the nine MMJ Dispensaries that received federal letters were within the 1,000 ft. rule.

Council Members Cowels asked if out of the 69 current MMJ businesses in Boulder, are there any of them that have bank accounts or are they a cash only business. He also asked if grow shops were liable for sales and use tax.

Tax and License Manager Mishawn Cook said it was still mostly cash business as banks will not host account holders in the MMJ industry. Originally some banks were business-friendly, but not so much anymore.

The code currently requires that these businesses require bank accounts but, it hasn't been enforced. Grow shops are liable for Use Tax, not Sales Tax, as they are not a retail outlet. There are 27 retail facilities in Boulder. Some of them pay their Sales Tax with cash.

The public hearing was opened:

1. Bill Townsend - Lives in mixed use condo and they don't want medical marijuana to be allowed in their complex, 6-4-17.
2. Brooks Lustig - Co-owner of a medical marijuana business (production in Boulder; retail in Denver), thanked the city for working with them, spoke against banning production-only facilities, \$400,000 annual payroll, 75% of employees live in Boulder and spend their money in Boulder. They also purchase supplies locally.
3. Truman Bradley - Co-owner of facility with Brooks in Boulder (production), spoke against ban on production-only facilities and stated that city administrative costs will go down. He referred to page 218 in packet.
4. Jeff Hadden - Co-owner of facility with Brooks and Truman, spoke against ban on production-only facilities.
5. Anthony O. Novak - Works at a production facility in Boulder (retail space is in Denver), lives in Denver, spoke against ban on production-only facilities.
6. Brian Long - Employee of multiple grow operations, resident of Denver, spoke against ban on production-only facilities.
7. Daniel Keile Ament - Employee of three grow operations, spoke against ban on production-only facilities.
8. Chasten Carpenter - Spoke against part 218 of the packet. The ban on production-only facilities. He recently lost job because of zoning restrictions, currently has four jobs, will lose two more jobs if they are banned.
9. Gabriel Connors - Spoke about allowing production, but making them produce organic, allowing delivery by courier within 1,000 foot range, removing banking issue, \$5,000.00 renewal fee, location of MMJ dispensaries.

There being no further speakers, the public hearing was closed.

Council response:

Council Member Becker asked Truman Bradley why he to choose to build a Boulder grow facility when the dispensary is in Denver. She questioned mixed –use zoning and residential zoning.

Truman Bradley stated that he and his business partner are childhood best friends and graduated from CU. They wanted the dispensary in Boulder too, but could not find an affordable location in a respectable area.

Council Member Morzel, Council Member Becker, Tax and License Manager Mishawn Cook, and Assistant City Attorney Kathy Haddock discussed MMJ facilities adjacent to residence in a condominium complex and grandfathering the uses that currently exist. They also discussed the right to transfer liquor licenses.

Council Member Karakehian wanted an explanation as to why the use taxes were so low on the grow facilities.

Chief Financial Officer Bob Eiche explained that if something is going to be used and is in the end product, then there is no tax on that because it is a manufactured product. If something is a supply that is used up in the process, that will be charged a use tax. Grow facilities won't have an on-going large amount of use tax. There is no tax on manufactured items.

Council Member Wilson urged council to be consistent with what is being enforced at the federal level.

Council Member Jones asked staff why they recommended 500 ft. and not changing it prospectively.

Tax and License Manager Mishawn Cook stated that many more changes would have to have been made to comply with federal law other than the 1,000 ft.

Council Member Cowles asked if staff thought moving the dispensaries from 500 ft. to 1,000 ft. was leading school students to grief.

Tax and License Manager Mishawn Cook replied that no scientific studies have been conducted. However, these facilities should not be selling to students.

Council Member Morzel moved, seconded by Council Member Cowles, to adopt Emergency Ordinance No. 7877 amending Chapter 6-14, "Medical Marijuana," B.R.C.1981, increasing fees in Section 4-20-64 "Medical Marijuana Businesses" B.R.C. 1981 and setting forth related details.

Council Member Wilson moved, seconded by Council Member Ageton, to amend section 6-14-7 (f) (1) to change 500 feet to 1000 feet. The motion failed 3:5 with Council Members Becker, Karakehian and Wilson in favor and Council Member Plass absent. Vote was taken at 8:40 PM.

Vote was then taken on the main motion to adopt Emergency Ordinance No. 7877 amending Chapter 6-14, "Medical Marijuana," B.R.C.1981, increasing fees in Section 4-20-64, "Medical Marijuana Businesses," B.R.C. 1981 and setting forth related details. The motion carried 8:0 with Council Member Plass absent. Vote was taken at 8:50 PM.

Additional questions asked of council:

- 1) Whether to restrict medical marijuana cultivation facilities in the city to only those that also have a center paying sales tax in the city;
- 2) Whether to impose a fee or tax on cultivation facilities that do not operate a center paying sales tax in the city; and

3) Whether to impose a minimum fine amount to reduce the economic incentive to operate medical marijuana businesses in Boulder without obtaining a license.

Council Member Becker said there was no need to restrict to only facilities with dispensaries in the city but should have fees associated.

Council Member Karakehian urged staff to leave it alone.

Mayor Appelbaum agreed with Council Member Becker.

Council Member Cowles was not interested in #2 and supported the grow operations for supporting wind-source.

Council Member Morzel said no to 1, no to 2 and asked if a fee should be imposed on anyone else. Item 3 was a yes but further conversation is needed.

Council Member Wilson: 1 was no, 2 & 3 need more discussion after ballot issues are determined.

Council Member Ageton agreed with Mayor Appelbaum and Council Member Becker on 1 – no, on 2 and 3 should be consistent.

Council Member Jones stated no ban, perhaps fees and be consistent in how we treat all business.

Mayor Appelbaum summarized there is interest in looking further at issue around mixed use. #1 no, #2 was split, wait until after election. There is interest in #3, but it deserves a broader discussion.

C. CONSIDERATION OF A MOTION TO APPROVE THE BOULDER CIVIC AREA GUIDING PRINCIPLES 9:05 PM

This item was presented by Executive Director of Community Planning and Sustainability David Driskell, Senior Planner Leslie Ellis and Michael Banuelos with Communications for public outreach.

The Guiding principles will set the pace for the next phases of the Civic Area effort. The draft principles were handed out for consideration and a motion. Changes could be made in a motion if need be.

Since July the community has given extensive input via the website as well as through traditional outreach. Ninety-four ideas were submitted and thousands of views were logged on the website. Several community partnerships were cultivated. Several kick-off events and workshops took place in July and August to challenge folks and to create a collaboration engine.

Much more technical information is on the website. The area of 9th and 14th Streets and Canyon and Arapahoe is the high hazard 100 year flood zone and the zone that is most closely looked at.

Some of the input Topics included transient population, structures and parking in the high hazard zone, attractive family-friendly atmosphere, Farmers' Market, new performing arts or science museum, Boulder Creek, more park-like amenities such as seating, sculptures, water features gardens and play areas.

The Guiding Principles reflect public input and analysis on a high level. Enhancing existing facilities was part of the focus. New parking or structures would not be added to high hazard zone. New concepts are welcome.

Next steps are a public open house on Dec. 5th, a council meeting on Dec. 18th and an ideas competition Dec. – Jan 2013.

Senior Planner Leslie Ellis requested support by council on the Guiding Principles and was open to changes as council saw fit.

Council Comments:

Council Member Becker asked about the introduction language and why the words "retail" or "commercial" were missing. She asked if this was intentional.

Executive Director of Community Planning and Sustainability David Driskell offered that the text could be readdressed.

Council Member Morzel raised the concern of flood and public safety because of this very real issue. This should be a priority. She asked about the timeline of 2013 for completion. The Sister City Plaza is a big draw. She asked how that discussion will be introduced.

Senior Planner Leslie Ellis offered to place the issue at the top of the list. The flood map offers guidance to support this. On Dec. 5th the discussion with the public and the ideas competition will generate more ideas for the Civic Area. All input will be welcome.

Council Member Ageton spoke about the issue of safety and feeling secure in the area. Many do not want to inhabit the zone because of their personal and property safety.

The public hearing was opened:

1. Elizabeth Allen - Spoke in support of most of the items
2. Gabriel Connors - Spoke in support of civic plan, commended the Planning Department
3. Kirsten Wilson - Project Director for One Action - One Boulder, spoke in support of changing celebration of history and existing assets language to celebrating inclusiveness
4. Steve Pomerance - Spoke to the fact that opening up the process early was a good idea, thinks the flood issue needs more work
5. Lawrence Anderson - Executive Director of Boulder Center for the Performing Arts, spoke in support of the civic center planning process, that performing arts, entertainment and cultural activities were top vote getters in Website survey

6. Ruth Blackmore - Spoke about the high hazard flood zone, that it needed to be figured out, where you can develop, where you can't, not interested in tall buildings along Canyon, likes the Farmers' Market, the Tea House, the bandshell, civic pad
7. David Dodone - Boulder Museum of Contemporary Art, thanked the council for the effort to revitalize this area, BMOCA is appreciative of this effort
8. Christian Toohey - Boulder County Farmers' Market Board of Directors, currently involved in city process, very impressed with how planning is running the process, encouraged staff to continue to include the Farmers' Market in discussions that affect the market and the farmers

There being no further speakers, the public hearing was closed.

Council Member Jones moved, seconded by Council Member Wilson, to approve the Boulder Civic Area Guiding Principles with the understanding that it should include all of Boulder's history and that if anything was built it would be very "special." The motion carried 8:0 with Council Member Plass absent. Vote was taken at 10:15 PM.

D. US Pro Cycling Challenge Update 10:16 PM

This item was presented by City Manager Jane Brautigam.

The US Pro Cycling Challenge in Boulder was an enormous success. Approximately 60,000 people attended the event. The planning paid off and there were no major incidents. The planning of the race was costly at over \$283,000.00. Approximately half of that went into planning and preparation for event. The other half of those costs were spent on the day of the event for "overtime pay" and some city amenities such as port-a-potties.

Chief Financial Officer Bob Eichen stated that tax revenues for August 2012 were \$6,917,060.00, a 5.9% increase from August 2011 figure \$6,531,707.00. Some of this impact may be due to back-to-school shopping. But this one-of-a-kind event was analyzed through a process that cost \$10,000.00 to collect reliable data. It included 458 surveys where CU students covered a large zone of downtown Boulder and Flagstaff. The findings were that 58% of those surveyed were visitors, 49% of those visitors said that they came for the bike race. 22% of the visitors came from out of state. The direct and short-term impact of those visitors was \$1.2M that was spent in the city, which equates to \$48,000.00 in sales tax. All of those people said they were coming back to Boulder. The exposure that was received in over 100 countries created a long-term benefit for Boulder.

City Manager Jane Brautigam stated that in conclusion, the decision of whether or not to submit a 2014 RFP response for another bike race in Boulder should be determined. The leader of the local organizing committee composed a letter to President and CEO of the Pro Cycling Challenge, Shawn Hunter, stating that moving the race to different locations in Colorado was beneficial and that bring the race back to Boulder in 2014 would be welcomed. This scenario gives Boulder more time to plan for the future of the race. The race made image-creation and branding for Boulder invaluable.

Council Member Wilson asked about the value of the long-term benefits. Follow-up surveys would be valuable in obtaining this information.

Council Member Morzel requested how the Bolder Boulder race was operated. They pay for police, barriers and entire cost of race. She requested cost for that race and asked why a future bicycle race couldn't pay for itself.

City Manager Brautigam stated that Boulder would never get the race if Boulder requested to be paid back for the cost of the race.

The public hearing was opened:

1. Elizabeth Allen - Spoke in support of a finish at CU or some other place so as not to have the public on Flagstaff and Chautauqua
2. Raymond Bridge - Spoke to the Flagstaff finish as being critical if we host the race again and that more public process is needed, in support of waiting until 2014
3. Steve Pomerance - Seconds everything Raymond Bridge said, thanked CU for their work on the data, race was a flop from the money perspective, does not support a Flagstaff finish
4. Gwen Dooley - Seconds everything Raymond and Steve said, she is happy they are taking a year off, felt the Charter was not only neglected, but bypassed, supports a different location
5. Ruth Blackmore - Spoke in opposition to race going up Flagstaff, thinks the Charter was turned upside down for the race, doesn't want it to be hijacked any more, pointed out that Boulder is always rated in the top 1-3 of any poll throughout the country already
6. MaryAnn Mahony - Convention and Visitors Bureau, spoke in thanks to the promoters of the race and to the CU survey

There being no further speakers, the public hearing was closed.

Mayor Appelbaum moved, seconded by Council Member Ageton, to suspend the rules and continue the meeting. The motion carried 6:2 with Council Members Karakehian and Morzel opposed and Council Member Plass absent. Vote taken at 10:52 PM.

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. **CALL-UP OF USE REVIEW AT 4180 19TH STREET**

No action was taken on this item.

B. UPDATE ON CHAUTAUQUA GUIDING PRINCIPLES 11:15 PM

Presentation of this item was given by Council Member Karakehian.

Council Member Karakehian and Council Member Plass comprised the committee. Four meetings were held. In Information Packet, item 2A, include Draft Guiding Principles and Next Steps as agreed to be committee last Spring. On May 15th City Council passed a motion forming a temporary working committee to draft the principles for full Council's consideration and endorsement. Meetings went well. City Attorney Tom Carr attended all of the meetings. The Proposed Guiding Principles represent a shared statement about the nature of the Chautauqua area and the manner in which its prime stewards, the city and the CCA, intend to collaborate planning and management for the future. The measures as stated in item 2A were agreed upon by a temporary committee and the CCA representatives. Options were defined for implementation of the next steps. Some changes include a new structure for restrooms and significant modification which will require a multi-party investment to accomplish underground utilities. The public participated in many of the meetings and their comments and opinions were heard and considered. The committee was unanimous that these Guiding Principles represent the city and the Chautauqua Association.

Executive Director of Community Planning and Sustainability David Driskell stated that this project will be addressed December 4.

**C. INCLUSIONARY HOUSING (IH) RENTAL POLICY UPDATE
DISCUSSION 11:22 PM**

This item was not taken up at this meeting.

9. PUBLIC COMMENT ON MATTERS

10. FINAL DECISIONS ON MATTERS

11. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED ON November 1, 2012 at 11:24 PM.

APPROVED BY:

Matthew Appelbaum, Mayor

ATTEST:

Alisa D. Lewis, City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 4, 2012

AGENDA TITLE: Consideration of a motion to accept the summary of the October 30, 2012 City Council Study Session regarding Homelessness Services Update and Related Issues

PRESENTERS

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Karen Rahn, Director, Human Services
Mark Beckner, Chief of Police

EXECUTIVE SUMMARY

This agenda item presents a summary of the October 30 Study Session. The purpose of the study session was to present current information about homeless services in Boulder, local financial support for services, and an update on municipal campus issues related to homelessness and the use of public space. Staff presented background information on this item followed by council discussion. Issues presented and discussed included:

- Demographic information on Boulder's homeless population;
- Updates on service provider current efforts and new initiatives;
- Opening of Bridge House Resource Center;
- Update on Boulder Shelter for the Homeless Neighborhood Action Group;
- Update on Boulder Housing Partner's Community Outreach Plan and development of Statement of Operations for a Housing First project;
- Behavioral issues on the municipal campus;
- City expenditures on homelessness and related issues.

Key Issue Identification

Attachment A presents a summary of the discussion, issues and next steps considered in the study session.

STAFF RECOMMENDATION

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 October 30, 2012 regarding Homeless Services Update and Related Issues

NEXT STEPS

1. Information Packet update to council on a Denver ordinance prohibiting sleeping in public spaces in 1st Q 2013.
2. Return to council with assessment of current funding for homelessness and alignment with Ten-Year Plan to Address Homelessness priorities in 2nd Q 2013.
3. Return to council with an analysis and recommendations regarding amendments to the panhandling ordinance in 3rd Q 2013.
4. Information Packet update to council on 1175 Lee Hill Statement of Operations in January, 2013.

ATTACHMENT

Attachment A: October 30, 2012 Study Session Summary

**Study Session Summary
October 30, 2012
Homeless Services Update and Related Issues**

PRESENT

City Council: Mayor Matt Appelbaum, Deputy Mayor Lisa Morzel, Suzy Ageton, KC Becker, Macon Cowles, Suzanne Jones, George Karakehian, Tim Plass, Ken Wilson

City Staff: City Manager Jane Brautigam, Deputy City Manager Paul Fetherston, Housing and Human Services Director Karen Rahn, Police Chief Mark Beckner, Human Services Planner Valerie Watson

PURPOSE

The purpose of the study session was to update council on current and new initiatives in the community related to homelessness and to solicit council feedback on potential next steps.

PRESENTATION OVERVIEW

Staff presented an overview of key items, including:

- Demographic information on Boulder's homeless population, including who is homeless in Boulder and reasons for homelessness;
- Current efforts of the Ten-Year Plan to Address Homelessness Board;
- Updates on service provider current efforts and new initiatives;
- Opening of Bridge House Resource Center in Boulder and services provided;
- Update on Boulder Shelter for the Homeless Neighborhood Action Group and activities since April, 2012;
- Update on Boulder Housing Partner's Community Outreach Plan and development of Statement of Operations for a Housing First project at 1175 Lee Hill;
- Behavioral issues in the municipal campus area and increase in police patrols;
- City-wide efforts to address homelessness and municipal campus issues; and
- City expenditures on homelessness and related issues

DISCUSSION SUMMARY

1. There was general agreement that preferred approaches are: distinguishing different populations which frequent the municipal campus and other areas in the city; targeting policies which address different population issues; and focusing on behaviors rather than status.
2. There was general agreement the city should assess the current panhandling ordinance for potential revisions which would address issues on street corners.

3. There was general agreement to provide council with information on Denver's ordinance banning sleeping in public places.
4. For future policy or program recommendations the following ideas and issues were discussed:
 - a. The city is already doing a lot to address homelessness;
 - b. Funding of programs and services in alignment with priorities in the Ten-Year Plan;
 - c. Define unmet needs and priorities clearly;
 - d. Focus resources on and services to those who are Boulder residents and want to help themselves;
 - e. Largest percentage of homeless are families with children;
 - f. Housing and employment as key elements to permanent solutions;
 - g. Need for more reliable data on homeless population and program outcomes to determine what is working and provides the highest leverage;
 - h. Exploring a ban on smoking on the municipal campus;
 - i. Boulder attracting people because of the level of services offered to assist people;
 - j. Support for the Ready-to-Work program and the Resource Center which help people move toward self-sufficiency;
 - k. Land use barriers to creating more affordable housing;
 - l. Housing, outreach, day services, prevention and employment as key strategies to address homelessness;
 - m. Additional police resources for enforcement on the municipal campus;
 - n. Need to be aware of trade-offs when making decisions about funding for homeless services in the context of all other human services needs.

Follow up information requested by council:

Council requested clarifying information on the per capita spending (\$4.01) on homeless services identified in Attachment F of the study session memo.

Attachment E includes capital awards (Boulder Shelter for the Homeless for debt service of \$126,000) and estimated staff costs (\$83,000), bringing that total to \$535,000. Using adjusted population this per capita amount would be \$6.57. Including student population this would be \$5.40.

Attachment F presents \$326,371 in Human Services Funding grants to nonprofit community agencies and divides it by the total adjusted population for the city of Boulder (81,392) to calculate the per capita allocation of (\$4.01). Including student population (99,069), per capita expenditures would be \$3.29. Estimated staff costs for homelessness related efforts and capital investments were not included in this calculation.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 4, 2012

AGENDA TITLE Consideration of a motion to approve the City Manager's signature, Jane Brautigam, on the Intergovernmental Agreement between the City of Boulder, City of Longmont, and the County of Boulder to cooperate in the operation of their respective bomb squads.

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Mark R. Beckner, Chief of Police
Curtis Johnson, Commander

EXECUTIVE SUMMARY

The City of Boulder, City of Longmont, and Boulder County have agreed to facilitate cooperation between agencies in the operation of their respective bomb squads by mutually handling calls for service and combining training thereby enhancing resources available to all three jurisdictions without increasing costs which will benefit each community. Some equipment can also be shared under this arrangement that will reduce long-term costs to the city.

This agreement provides for the sharing of in-kind services and costs by the agencies toward the establishment of a common goal to provide a sufficient law enforcement bomb squad for the county of Boulder which includes safely handling explosives and hazardous devices, and the ability to effectively investigate explosions and illegally improvised destructive devices.

When operating cooperatively, the consolidated squads will be known as the Boulder County Regional Bomb Squad (BCRBS) and will function as a single unit with a single chain of command. It will be comprised of certified Hazardous Devices Technicians from each agency and will be activated in incidents involving explosions, real or suspected hazardous devices and/or explosives, training, public relations events, supporting SWAT training and operations, and as otherwise needed.

The agreement shall be effective as of the date written and continue indefinitely. The Boulder Police Department, Boulder County Sheriff's Office or Longmont Public Safety Department may withdraw from participation with or without cause by providing sixty (60) days advance written notice to the other agencies.

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 approve an agreement with the City of Boulder, City of Longmont, and County of Boulder to cooperate in the operation of their respective bomb squads.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

The bomb squad agreement may minimize economic, environmental, and social impacts by providing a coordinated and effective response in order to save lives and minimize damage.

OTHER IMPACTS

- Fiscal – There are no budgetary impacts to the Boulder Police Department.
- Staff time is part of the normal work plan.

BOARD AND COMMISSION FEEDBACK

None

PUBLIC FEEDBACK

None

BACKGROUND

Bomb teams became popular in the 1970's and 80's after bombings throughout the United States prompted police to be more prepared for such events. Boulder and surrounding jurisdictions have had bomb teams since the early 1980's. Maintaining a bomb team is expensive and time consuming. Advances in equipment and response tactics have created a need for larger teams. By working in collaboration with other local jurisdictions, agencies can all benefit through the availability of additional resources, manpower, and cost savings.

ANALYSIS

Staff is recommending council approve the city manager's signature, Jane Brautigam on the intergovernmental bomb squad agreement.

MATRIX OF OPTIONS

None

ATTACHMENTS

A. Intergovernmental Agreement between Boulder County, the City of Boulder, and the City of Longmont concerning the assignment of “bomb squad units”

AN INTERGOVERNMENTAL AGREEMENT BETWEEN BOULDER COUNTY, THE CITY OF BOULDER AND THE CITY OF LONGMONT CONCERNING THE ASSIGNMENT OF “BOMB SQUAD UNITS”

THIS AGREEMENT, dated this _____ day of _____, 2012, is between the following:

County of Boulder through the Boulder County Sheriff’s Office

City of Boulder through its Police Department

City of Longmont through its Public Safety Department

Whereas, section 29-1-203 and 30-11-410, CRS, permit municipal and county governments to enter into cooperative agreements for the provision of services by the other agency; and

Whereas, section 29-5-103, 29-5-104, 29-5-105 and 29-5-107 CRS, provide for the temporary assignment of police officers, deputy sheriffs or firefighters to other jurisdictions; and

Whereas, each of the parties provides law enforcement and firefighting services within its area of geographic and jurisdictional responsibility; and

Whereas, maintaining the capability to safely handle explosive and hazardous devices, and the ability to effectively investigate explosions and illegally improvised destructive devices, is necessary to protect the general health, safety and welfare of the citizens of Boulder County; and

Whereas, the County of Boulder and the cities of Boulder and Longmont wish to cooperate in making the most efficient use of citizens’ tax dollars by maximizing the use of specialized equipment and personnel; and

Whereas, each of the parties maintains a specialized unit comprised of either police officers, deputy sheriffs and/or firefighters known as Bomb Squads to handle dangerous or crisis situations requiring specialized equipment and training within Boulder County, specifically, the Boulder County Bomb Squad (Boulder County Sheriff’s Office and the Longmont Public Safety Department) and the Boulder Bomb Squad (Boulder Police Department); and

Whereas, situations requiring the assignment of Bomb Squads are often more complex or longer in duration than any individual agency can handle by itself, and each party recognizes the utility and advantage of mutual aid agreements addressing certain law enforcement and firefighting functions.

WITNESSETH

NOW THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Terms and Conditions

This Agreement is intended to facilitate cooperation between the parties in provision of the services provided herein, but does not establish a separate legal entity to do so, and, except as provided herein, the Agreement does not authorize any party (or the employee of any party) to act for any purpose whatsoever. This Agreement shall provide only for the sharing of in-kind services and costs by the parties toward the establishment of a common mutual goal, said goal being to provide sufficient law enforcement Bomb Squad coverage within the County of Boulder.

This Agreement shall operate as follows:

A. General

- i. The parties agree to cooperate in the operation of their respective Bomb Squads by mutually handling the call for service load, training together and reducing costs for the benefit of the community.
- ii. When operating cooperatively as outlined under this agreement, the consolidated squads will be known as the Boulder County Regional Bomb Squad (BCRBS) and will function as a single unit, with a single chain of command.
- iii. To develop teamwork, unity and identity, the BCRBS will develop common uniforms for call outs, training and public presentations which may include the development of a common shoulder patch. If agreed upon, the squad's respective response vehicles may be marked similarly.
- iv. Each squad, however, will retain its autonomy as a stand-alone bomb squad with separate commanders and chains of command for the following purposes:
 - a. When obtaining squad and individual certifications/training through the FBI and/or the FBI's Hazardous Devices School (HDS)
 - b. Interacting with the National Bomb Squad Commanders Advisory Board (NBSCAB)
 - c. Interacting with the BATF's Bomb Arson Tracking System (BATS)
 - d. When obtaining grants as a stand-alone bomb squad
 - e. For certain budget actions as noted in this Agreement
 - f. Selection of technicians; however, since the squads will work together as the BCRBS, the other bomb squad will participate in the selection process and have their input fully considered
 - g. As otherwise noted in this Agreement or when mutually agreed upon by the parties
- v. No individual employee of another law enforcement or firefighting agency is authorized to perform the functions of the Boulder County Sheriff's Office, Boulder Police Department, or the Longmont Public Safety Department, absent a specific request to do so.

B. Personnel and Supervision

- i. As used in this Agreement, the terms Hazardous Devices Technician and Bomb Technician are synonymous and mean a peace officer or firefighter who has successfully completed the Hazardous Devices Technician's Course conducted by the Federal Bureau of Investigation (FBI) and U.S. Army at Redstone Arsenal, Alabama and maintains that certification through the recertification process required by the FBI.
- ii. As identified in **Exhibit A**, the Boulder County Regional Bomb Squad will be comprised of certified Hazardous Devices Technicians from each agency (Boulder County Sheriff's Office, Boulder Police Department, Longmont Public Safety Department). Staffing of the regional bomb squad will be ancillary to the individual's normal duty assignment.
- iii. As identified in **Exhibit A**, oversight of the Boulder County Regional Bomb Squad will be through a cadre of bomb squad administrators working together as the BCRBS management team. The management team will work with the BCRBS bomb squad commander and assistant commander with issues and needs pertaining to budget, equipment, personnel, setting policy, training, call outs, etc. When available, individual administrators will respond to BCRBS call outs occurring within their respective jurisdictions to serve as an administrative/managerial resource for the squad unless needed to serve as part of the Incident Command structure established for the incident.

Whenever the BCRBS management team cannot reach consensus on a matter critical to the operation of the BCRBS, the issue will be referred to the chief executive officers of the Boulder County Sheriff's Office, the Boulder Police Department and the Longmont Public Safety Department for resolution. When a non-critical matter cannot be resolved, each individual squad will determine how it will proceed. In either case, input from the bomb squad commander and assistant bomb squad commander will be sought out and considered in order to resolve issues.

Personnel assigned to be a BCRBS administrator will attend the Executive Management Course at the FBI's Hazardous Devices School. Any expenses related to obtaining this training are the responsibility of the administrator's agency. This requirement does not apply to anyone temporarily assigned to be an acting BCRBS administrator.

- iv. Squad personnel will be activated for the investigation of incidents involving explosions, real or suspected hazardous devices, real or suspected explosives, training, public relations events, to support SWAT training and operations, and as otherwise deemed necessary.
- v. Of the assigned BCRBS bomb technicians, one will be appointed as the bomb squad commander (squad leader) and another as an assistant bomb squad commander (assistant squad leader). The BCRBS management team will have the responsibility for the selection process and recommending who should be appointed to the commander and assistant commander positions. Once a recommendation is agreed upon, the chief executive officer of the agency employing the recommended appointee must give final approval after consulting with the chief executive officers of the other two agencies.

- vi. Functional coordination and supervision of all personnel on-duty as members of the Boulder County Regional Bomb Squad will be the responsibility of the bomb squad commander and, as delegated, the assistant bomb squad commander. Functional coordination and supervision shall include, but not be limited to, scheduling of training, training assignments, deployment and call out assignments, determining assignment of cases for investigative follow-up, review of work product, inventory, budget recommendations, and minor corrective actions. Discipline, if necessary, shall be the responsibility of the assigned member's respective agency chain of command.

C. Training

- i. As required or approved, BCRBS members will attend various types of training including, but not limited to, initial bomb technician certification, bomb technician recertification, specialized courses, training conferences, monthly in-service training, and continuing education. Personnel expenses related to obtaining training such as tuition, housing, travel, meal costs, etc., are the responsibility of the member's agency.
- ii. In as a timely manner as possible, each agency will ensure that newly appointed BCRBS members from their agency will attend the FBI's Hazardous Devices School, as well as any pre-requisite courses, in order to obtain basic certification as a bomb technician. The BCRBS will provide training and HDS application assistance to newly appointed squad members to facilitate their successful graduation from HDS, as well as any pre-requisite courses. An appointee who is unable to graduate from the Hazardous Devices School will not be able to remain a member of the BCRBS.
- iii. When required, all BCRBS members will attend bomb technician recertification training at the FBI's Hazardous Devices School. Each agency will ensure BCRBS members from their agency will attend the recertification course in the year it is required. The BCRBS will provide training and application assistance to squad members to facilitate their successful completion of the HDS recertification course. A BCRBS member who is unable to maintain their certification cannot remain a member of the BCRBS.
- iv. In addition to basic, advanced and specialized schools, certification courses, and training conferences, BCRBS members will undergo regular in-service training and continuing education. As identified in **Exhibit A**, each agency will adhere to the National Bomb Squad Commanders Advisory Board's operational guidelines for in-service training and continuing education.
- v. For monthly in-service training, all BCRBS members will train together. Given the limited number of BCRBS members, the need to meet minimum training requirements and the critical importance of ongoing in-service training, each agency is to make every reasonable effort to ensure BCRBS members attend monthly in-service training. Absences from in-service training should be rare but are allowed for vacation, illness, injury leave, family medical leave, bereavement leave, court, higher priority training, and for unusual or special circumstances as approved by the member's BCRBS administrator.

D. Work Assignments and Incident Response

- i. Assignment of work and tasks directly associated with the BCRBS is the responsibility of the bomb squad commander or, if not available, the assistant bomb squad commander or as delegated. This includes all operational call outs or assignments within the North Central Region.
- ii. BCRBS personnel will be assigned duties and tasks at scenes without regard to the specific jurisdiction or location of the incident.
- iii. When a BCRBS call out is initiated, the bomb squad commander, or acting commander, will determine the squad's initial response. In determining what the initial response will be, including personnel and equipment, multiple factors will be considered. Those factors, in order of priority, will be the location of the incident, the type of incident, the availability of personnel, the level of expertise needed and if field training is needed. Depending on the type of call out, an initial response may only be one or two squad members with no response vehicle or it could require all available members with all equipment. As the incident progresses and more information is learned, the squad commander, or acting commander, is to adjust the response appropriately.
- iv. When responding to any type of call out, the BCRBS will adhere to Incident Command System (ICS) protocols and the established ICS chain of command in whichever jurisdiction they may be operating in. While the incident commander will provide on-scene direction, the BCRBS commander, or acting commander, will determine the specific tactics to be used in the handling and disposal of hazardous devices, suspected devices or explosives.

If an Incident Commander attempts to utilize the BCRBS in a manner that violates law, established FBI or NBSCAB requirements or protocols, other well established standards and practices pertaining to the deployment and use of bomb squads, or in a manner the on-scene designated squad commander deems inappropriate, the squad commander will have the authority to decline such directive. If this occurs, the matter will be discussed and options and alternatives explored so that a resolution acceptable to all can be achieved. However, should the Incident Commander and BCRBS commander be unable to reach consensus, a bomb squad administrator, preferably from the jurisdiction where the incident is taking place, will determine the use and deployment of the bomb squad. In all operations, the BCRBS commander will provide the Incident Commander with viable options and alternatives in order to meet the objective of safely resolving the situation.

- v. During a BCRBS activation, members of the BCRBS report to and answer to the BCRBS command structure, not to the supervisors of their respective employing agencies. Conflicting orders, directives, or conflicts of interest will be brought to the attention of the Incident Commander and BCRBS Commander, or acting commander, without delay.

- vi. When requested, the BCRBS will assist the Boulder County Sheriff's Office, the Boulder Police Department, and the Longmont Police Department SWAT Teams with their training and on their operations. Assistance may include the use of robots, the use of explosive ordnance disposal tools, or explosive breaching techniques. BCRBS members certified as explosive breachers will undergo regular explosive breaching training as determined by the BCRBS commander and the BCRBS management team.
- vii. Boulder County, the City of Boulder, and the City of Longmont will honor each other's mutual aid or intergovernmental agreements that could require the deployment of all or part of the BCRBS to other jurisdictions in response to a request for aid. As such, the parties agree to support each other's mutual aid responses as they pertain to the deployment of the BCRBS and to cooperate in providing bomb squad services to outside jurisdictions.

E. Budget and Funding

- i. Each participating agency will strive to provide within their respective budgets and budget processes enough funding to support their respective bomb squad as well as to meet the scope and intent of this Agreement which includes, but is not limited to, training, outfitting, equipping and supporting the technicians they assign to the BCRBS, replacing their squad's respective expired, outdated or damaged protective gear, and replacing or repairing their squad's respective outdated, damaged or malfunctioning equipment.
- ii. Unless otherwise agreed upon, personnel costs are the responsibility of the Boulder County Sheriff's Office for their bomb squad members, the responsibility of the Boulder Police Department for their bomb squad members, and the responsibility of the Longmont Public Safety Department for their bomb squad members

Personnel costs include, but are not limited to, wages, compensation, overtime pay, benefits, including vacation and sick time and pay, basic uniform costs, costs related to obtaining member training as outlined in this Agreement, and costs associated with backfilling positions vacated by BCRBS members participating in a call out, training and other BCRBS related events.

- iii. Unless otherwise agreed upon, capital equipment costs and costs necessary for the bomb squads to maintain their individual FBI certifications are the responsibility of the Boulder County Sheriff's Office and the City of Longmont Public Safety Department for the Boulder County Bomb Squad and the responsibility of the Boulder Police Department for the Boulder Bomb Squad.

Capital equipment is defined as items that meet the Boulder County definition of "capital items" if purchased by the County, the City of Boulder definition of "capital items" if purchased by the City of Boulder, and the City of Longmont definition of "capital items" if purchased by the City of Longmont. Specific definitions are identified in **Exhibit A**.

- iv. Unless noted otherwise in this Agreement, and subject to available funding, non-capital expenses related to equipping and supplying the BCRBS and which are necessary for the efficient and effective operation of the BCRBS will be equitably split between the Boulder County Sheriff's Office, the Boulder Police Department and the Longmont Public Safety Department. It will be the responsibility of the bomb squad commander to provide the BCRBS management team with the squad's equipment and supply needs and the responsibility of the BCRBS management team to determine how they will be purchased and paid for.

However, the Boulder County Sheriff's Office and/or the Longmont Public Safety Department for the Boulder County Bomb Squad and the Boulder Police Department for the Boulder Bomb Squad have the authority to purchase non-capital equipment and supplies for their respective bomb squads without seeking approval or reimbursement from the other agencies. Any equipment and supplies purchased in this manner will remain the sole property of the bomb squad they were purchased for, but will be shared to benefit the Boulder County Regional Bomb Squad.

- v. When capital equipment is required for the benefit of the BCRBS, the agencies agree to work together cooperatively and collaboratively through their respective budgets and budget processes to determine an equitable method of funding such purchases. If applicable, issues of ownership, maintenance, retention and disposal will be addressed through an updated **Exhibit A** or, if necessary, through a separately negotiated and executed intergovernmental agreement.

However, the Boulder County Sheriff's Office and/or the Longmont Public Safety Department for the Boulder County Bomb Squad and the Boulder Police Department for the Boulder Bomb Squad may purchase capital equipment for their respective bomb squads without the approval or authorization of the other agencies. This equipment will remain the sole property of the bomb squad it was purchased for, but will be shared to benefit the Boulder County Regional Bomb Squad.

- vi. Either as individual bomb squads or as the Boulder County Regional Bomb Squad, grants will be aggressively pursued whenever possible for the purchase of new equipment or the replacement of existing equipment. For grants awarded to the BCRBS, any required matching funds will be evenly split between the Boulder County Sheriff's Office, the Boulder Police Department, and the Longmont Public Safety Department, subject to available funding.

F. Vehicles and Equipment

- i. Based on FBI/HDS minimum requirements and local experience/needs, BCRBS members and the BCRBS management team will standardize what equipment & supplies are needed by each squad for operational readiness.

- ii. Response vehicles and vehicle related supplies and equipment will be maintained independently by both the Boulder County Bomb Squad and the Boulder Bomb Squad to meet their operational requirements.
- iii. As bomb technicians from one agency may be deployed with response vehicles from another agency, each agency will make every reasonable effort to ensure their respective response vehicles will be similarly equipped and available at all times with all necessary equipment and supplies.
- iv. In instances where a single piece of equipment might be needed as a regional resource (i.e., it is unnecessary or cost prohibitive to obtain two), its purchase, deployment and use, replacement, disposal, etc. will be addressed through an updated **Exhibit A** or, if necessary, through a separately negotiated and executed intergovernmental agreement.
- v. Vehicles will continue to be purchased, replaced, registered, and maintained per the specific protocols and methods currently utilized by each individual squad and their sponsoring agencies. Vehicles are defined as both motorized and non-motorized (trailers) means of transportation. Deployment and use of these vehicles will be available to all BCRBS members.

G. Reporting and Evidence Procedures

- i. BCRBS personnel will utilize case report forms and reporting procedures from their respective agencies to document case investigations, evidence collection, and the disposal of explosives. Outside Agency Assist reports will be used to document assistance to other agencies.
- ii. As required, call outs will be documented using BATF's Bomb and Arson Tracking System (BATS). Entries into BATS will be jurisdiction/squad specific.
- iii. Evidence requiring storage in an explosive magazine will be housed in the magazine of the agency having jurisdiction. A Boulder Bomb Squad magazine will be used for City of Boulder cases while a Boulder County Bomb Squad magazine will be used by the Boulder County Sheriff's Office and the Longmont Public Safety Department for all other cases.

Each agency will be responsible for maintaining their respective magazines and ensuring their magazines are kept in compliance with all local, state and federal regulations. No materials classified as "hazardous waste" shall be kept in the magazines.

- iv. A monthly report detailing BCRBS call outs, training, public relation events and other noteworthy activities or developments will be completed. The report will be compiled by the BCRBS commander, or his designee. The report will be distributed to all BCRBS members, the BCRBS management team and the command staffs of the Boulder County Sheriff's Office, the Boulder Police Department, and the Longmont Police Department.

2. Term and Termination

This Agreement shall be effective as of the date first-above written and shall continue indefinitely. The Boulder County Sheriff's Office with the Longmont Public Safety Department or the Boulder Police Department may withdraw from participation in this Agreement with or without cause by providing sixty (60) days advance written notice to the other parties.

Contributions of personnel, training requirements and capital item definitions are reflected in the Agreement's **Exhibit A**. The provisions of **Exhibit A** can be amended upon the agreement and approval of the chief executive officers of the Boulder County Sheriff's Office, the Boulder Police Department, and the Longmont Public Safety Department. A newly approved **Exhibit A** will supersede the previous **Exhibit A** in its entirety and will remain in effect until otherwise amended.

3. Relationship of Parties

The parties enter into this Agreement as separate, independent governmental entities and shall maintain such status throughout. Officers assigned under this mutual aid agreement shall be considered and shall remain employees of their respective law enforcement agencies at all times and for the purposes under this Agreement.

4. Colorado Governmental Immunity Act

No party shall be liable under this Agreement for the actions of the other's employees and agents. By agreeing to this provision, the parties do not waive or intend to waive, the limitations on liability which are provided to parties under the Colorado Governmental Immunity Act, CRS 24-10-101, et seq. The provisions of 29-5-108 CRS shall not apply to activities pursuant to this Agreement. Notwithstanding the foregoing, if a court of competent jurisdiction determines that the provisions of section 29-5-108 CRS apply, then in any case where liability accrues to the non-negligent party on account of any negligent or tortious act or acts committed by the negligent party's personnel in the performance of this Agreement, to the extent permitted by law, the negligent party shall reimburse the non-negligent party for any such liability, including any judgment or award imposed.

5. Workers Compensation

Nothing contained in this Agreement, and no performance under this Agreement by personnel of either party shall in any respect alter or modify the status of officers, agents, or employees of the respective parties for purposes of workers' compensation or their benefits or entitlements, pension, or for any purpose, or condition or requirement of employment. Workers' Compensation coverage shall apply as required by Section, 29-5-109 CRS.

6. No Third Party Beneficiaries

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any third party on such Agreement. It is the express intention of parties that any person other than the parties receiving services or benefits under the Agreement shall be deemed incidental beneficiary only.

7. No Assignment

Each party covenants and agrees that it will not assign this Agreement or any interest or part thereof or any right of privilege pertinent thereto without the prior written consent of all other parties first having been obtained.

8. Fund Availability

Financial obligations of the parties after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

9. Governing Law

The law of the State of Colorado shall be applied in the interpretation, execution, and enforcement of this Agreement.

10. Paragraph Captions

The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

11. Entire Agreement

This Agreement embodies the entire agreement of the parties. The parties shall not be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind or nature not set forth herein. No changes, amendments, or modifications of any the terms or conditions of this Agreement shall be valid unless reduced to writing and signed by the parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement, which shall be effective upon the date first written above.

AUTHORIZATION:

COUNTY OF BOULDER

Board of County Commissioners
of Boulder County

Cindy Domenico
BY: Cindy Domenico, Chair

10/16/12
DATE

Attest:

Cecilia G. Lacy
Clerk to the Board



APPROVED AS TO CONTENT:

Joseph K. Pelle
Joseph K. Pelle, Boulder County Sheriff

CITY OF BOULDER

BY: Jane Brautigam, City Manager

DATE

Attest:

City Clerk on behalf of the
Director of Finance and Record

APPROVED AS TO CONTENT:

APPROVED AS TO FORM:

Mark R. Beckner
Mark R. Beckner, Boulder Police Chief

City Attorney's Office

CITY OF LONGMONT

Dennis L Coombs

By: Dennis Coombs, Mayor

9/5/12

Date

Attest:

Valeria D. Skott

CITY CLERK



APPROVED AS TO CONTENT:

[Signature]

LONGMONT CHIEF OF PUBLIC SAFETY

APPROVED AS TO INSURANCE PROVISIONS:

[Signature]

LONGMONT RISK MANAGER

APPROVED AS TO FORM:

[Signature]

DEPUTY CITY ATTORNEY

[Signature]

PROOFREAD

CAO File: 8900

8/22/12

DATE

EXHIBIT A

A. **Time Frame** This document is an exhibit to the **INTERGOVERNMENTAL AGREEMENT BETWEEN BOULDER COUNTY, THE CITY OF BOULDER AND THE CITY OF LONGMONT CONCERNING THE ASSIGNMENT OF "BOMB SQUAD UNITS"** and shall remain in effect until otherwise amended and superseded which requires the agreement and approval of the chief executive officers of the Boulder County Sheriff's Office, the Boulder Police Department, and the Longmont Public Safety Department.

B. **Personnel Contribution** The contribution of qualified personnel to the Boulder County Regional Bomb Squad (BCRBS) and the BCRBS Management Team by the Boulder County Sheriff's Office, the City of Boulder Police Department, and the City Longmont Public Safety Department shall be as follows:

Boulder County Sheriff's Office

- A minimum of three certified Hazardous Devices Technicians
- One BCRBS Administrator having at least the rank of Commander

Boulder Police Department

- A minimum of three certified Hazardous Devices Technicians
- One BCRBS Administrator having at least the rank of Commander

Longmont Public Safety Department

- A minimum of three certified Hazardous Devices Technicians
- One BCRBS Administrator having at least the rank of Commander

C. **Training** For regular and ongoing "in-service" training as well as for continuing education, the National Bomb Squad Commanders Advisory Board establishes a minimum number of required training hours. Each party to this Agreement agrees to adhere to these minimums for the Boulder County Regional Bomb Squad. The current minimum number of hours is as follows:

In-Service Training: 16 hours per calendar month

Continuing Education: 40 hours per calendar year

For each year, the BCRBS and its management team will develop an agreed upon in-service training schedule. The schedule will be developed either in the last quarter of the preceding year or as early in the year as possible. It will be the responsibility of the BCRBS commander and its management team to ensure the continuing education hours for each member is obtained.

D. Capital Equipment For budget and funding purposes the definitions of capital items for each party to this Agreement are as follows:

Boulder County Sheriff's Office:

Capital items are single items costing \$5,000 or more with a useful life of greater than 1 year.

Boulder Police Department:

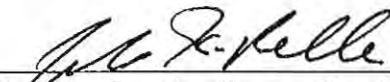
Capital items are single items of furniture or equipment costing \$5,000 or more with a useful life of greater than 1 year.

Longmont Public Safety Department:

Capital items are defined as any item \$5,000 and over that has a useful life of at least two years.

AGREEMENT AND APPROVAL

COUNTY OF BOULDER

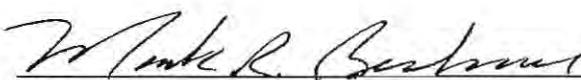


Joseph K. Pelle, Boulder County Sheriff

10/08/12

Date

CITY OF BOULDER

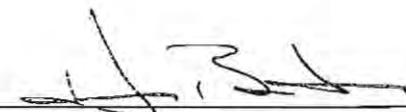


Mark R. Beckner, Boulder Police Chief

10/24/12

Date

CITY OF LONGMONT



H. Michael Butler, Longmont Public Safety Chief

9-21-12

Date



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 4, 2012

AGENDA TITLE

Second reading and consideration of a motion to adopt Ordinance No. 7883 approving supplemental appropriations to the 2012 Budget.

PRESENTERS

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Bob Eichen, Chief Financial Officer
Eric Nickell, Budget Director
Peggy Bunzli, Budget Manager

EXECUTIVE SUMMARY

As described in the *Budget Philosophy and Process* section of the annual budget document, each year two supplemental ordinances are presented to City Council for review and approval. Council receives the first ordinance, the **Carryover and First Budget Supplemental**, in April/May. Council receives the second ordinance, **the Second and Final Budget Supplemental**, in November/December.

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

This packet includes budget supplemental “one-time” line items that represent new budgeted amounts for 2012. A proposed ordinance is provided as **Attachment A** to this packet. Additional information on different types of requests is provided under the *analysis* section of this memo. Narrative information on each supplemental request was included at first reading in Attachment B to the [Nov. 15, 2012 agenda](#), item 3H, and additional information related to the

Valmont Butte cleanup effort was provided in the analysis section of the [Nov. 15, 2012 agenda](#), item 3H.

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. 7883 approving supplemental appropriations to the 2012 Budget.

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

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

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

OTHER IMPACTS

- Fiscal: In the **General Fund** this ordinance will appropriate \$1,237,022 from additional revenue, \$103,467 from fund balance reserves, and \$829,912 from fund balance. It also includes increases in revenue only of \$1,272,500.

In **restricted funds**, this ordinance will appropriate \$35,217,801 from additional revenue and \$3,007,331 from fund balance. It also includes an increase in revenue only of \$401,519. The biggest portion of the appropriation increase is due to the October 2012 refunding of the Water and Sewer Bonds, totaling \$31,543,923.

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

ANALYSIS

Types of Requests

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

- Appropriation for city liability for unemployment insurance
- Appropriation for police equipment from the Federal Asset Forfeiture reserve

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

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

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

This packet also includes appropriation requests for transfers between funds. One reason this may be requested is that multiple funds are covering a single project's costs and it is more efficient and effective to have all the funds available in one place to administrate project expenses or track total project activity and costs. An example of this is the Wildland Fire Training Center project, which is being funded from multiple sources, including the 2011 capital bond proceeds, the Facility Renovation and Replacement Fund, and the Fire Training Center Fund.

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

Overview of Total Requests

In common usage in city meetings and materials, the April/May and November/December budget supplementals are also referred to as the **First Adjustment to Base** and **Second Adjustment to Base**, respectively. The current year's council-approved budget is the "base" in the term Adjustment to Base (ATB).

In total, the city recommends \$40,395,533 in appropriations, of which \$36,454,823 come from new revenues and \$3,940,710 from fund balance. Most of the appropriations (\$38,225,132 or 95 percent of the total) are in the city's restricted funds, such as Wastewater, Open Space, and Transportation. The biggest portion of the appropriation increase is due to the October 2012 refunding of the Water and Sewer Bonds totaling \$31,543,923.

A summary table of the supplemental requests was included as Attachment C and a schedule reflecting the impact of the supplemental appropriations for 2012 on the projected fund balance for each fund was included as Attachment D to the [Nov. 15, 2012 agenda](#), item 3H.

PUBLIC AND COUNCIL FEEDBACK

At the Nov. 15, 2012 City Council meeting, the following questions were raised by a community member in response to the Adjustment to Base request for the Valmont Butte remediation project:

- Can the city provide an update on the remediation efforts?
- Can community members tour the site?
- When will the city provide an answer to these questions?

Update on the Valmont Butte remediation project

Currently, activities at the Valmont site include remediation of the site under the State of Colorado's Voluntary Cleanup Program (VCUP) and revision by the Colorado Department of Public Health and Environment (CDPHE) of the existing environmental covenants to assure future land use is protective of the remedy. The VCUP is approximately 70 percent complete with an expected completion date in March 2013. Excavation and consolidation of contaminated soils at the primary tailings pond was completed in November 2012.

Remaining work includes placement of a 2 foot soil cap over the tailings pond and an additional 18 inch rock cap, fill of excavated areas, stormwater drainage control, fencing and site revegetation. Final documents will then be compiled and submitted to CDPHE for closure of the VCUP and any revisions to the environmental covenants required for the site. These actions are expected to occur in the third quarter of 2013.

As required by the Boulder County Limited Impact Land Use Review, within four months after CDPHE's revisions to the environmental covenants, the city will submit the mill site and the balance of the property for landmark designation with exclusions of specific areas deemed not to meet the Land Use Code's criteria for historic landmark designation. This designation will likely occur in fourth quarter 2013.

Reasons for Cost Increases

The original cost estimate for the remediation project was for \$5 million; however, in any complex project, costs are first estimated and are likely to be adjusted as field work proceeds. In this case, the depth and width of contamination was estimated based on a comprehensive sampling program performed at 50- to 200-foot intervals, depending on soil quality results, but exact volumes could not be known until excavation occurred.

Cleanup costs have increased by about \$1.4 million. The largest single increase (\$900,000) was not related to any increase in contaminated soil volumes or any other environmental condition, but instead was due to an increase in the volume of rock required to effectively deter prairie dogs. The actual volume of rock needed to reach the desired void space limitations was adjusted upward based on a field "test cap." There was no expansion of the cap footprint.

The other cost increases were spread across a number of items, such as asbestos abatement, prairie dog management, more extensive archaeological monitoring, perimeter air monitoring, and additional oversight costs. Unanticipated asbestos abatement accounted for \$77,000 of the increase. There was an increase in the amount of soil excavated, which accounts for approximately \$180,000, and an associated increase in off-site fill material, which is estimated to cost approximately \$230,000, to backfill excavation areas and supply clean soil cap material. The archaeological monitoring costs increased \$17,000 due to additional excavation inside the cultural area and documentation of potential artifacts in areas outside the excavation areas. (A final report from the archeologist will be available at the completion of the project.) Finally, some of these increases are attributable to the fact that the timeframe for completion has been extended by several months.

The city has an interim cost-sharing agreement with Honeywell for 50 percent of construction and other site-related costs, with a right to seek reallocation in an arbitration hearing. The city's contribution is paid 50 percent from the General Fund, 40 percent from Utilities, and 10 percent from Open Space and Mountain Parks.

Legal fees, which are not part of the \$5 million budget estimate, are attributable to negotiations with Honeywell, assisting in communications with CDPHE, and assisting in responding to the intense public interest this project has generated.

Even with the increase in costs, this approach to remediation is still much more cost-effective and certainly less disruptive to neighbors and the community than other options, such as removing all contaminated soil from the site to a licensed disposal facility.

Can community members tour the site?

The city will offer a site tour upon project completion, which is anticipated to be early spring. An announcement of this tour will be made over the project email listserv and in a news release. Currently, tours of the site are not feasible because the site is undergoing an active remediation project that includes the use of very large, heavy equipment and materials.

When will the city provide these answers?

This section of the memo should serve as the city's answers. The city will post this information on the Valmont Butte website and send the information to the community member who posed the question.

ATTACHMENT

A. Ordinance No. 7883 relating to the supplemental appropriations to the 2012 Budget

ORDINANCE NO. 7883

AN ORDINANCE RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER, COLORADO, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2012 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 2012 annual budget; and,

WHEREAS, required public notice has been given;

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

Section 1. General Fund

Appropriation from Fund Balance	\$831,600
Appropriation from Fund Balance - Reserves	\$103,467
Appropriation from Additional Revenue	\$1,269,732
Negative Appropriation	\$(34,398)
Increase in Revenue Only	\$1,272,500

Section 2. Planning & Development Services Fund

Appropriation from Additional Revenue	\$23,800
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Section 3. .25 Cent Sales Tax Fund (1995 Ballot Issue)

Appropriation from Additional Revenue	\$6,859
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Section 4. Library Fund

Appropriation from Additional Revenue	\$38,000
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Section 5. Recreation Activity Fund

Appropriation from Fund Balance	\$61,037
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Appropriation from Additional Revenue	\$88,680
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Section 6. Climate Action Plan Fund

Increase in Revenue Only	\$51,199
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Section 7. Open Space Fund

Appropriation from Fund Balance	\$87,183
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Appropriation from Additional Revenue	\$931,714
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Section 8. Transportation Fund

Appropriation from Additional Revenue	\$507,385
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Negative Appropriation	\$(329,099)
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Increase in Revenue Only	\$105,820
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Section 9. Community Development Block Grant Fund

Appropriation from Additional Revenue	\$501
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Section 10. HOME Fund

Appropriation from Additional Revenue	\$455
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Section 11. Permanent Parks and Recreation Fund

Increase in Revenue Only	\$230,000
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Section 12. Boulder Junction Improvement Fund

Appropriation from Additional Revenue	\$41,384
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Section 13. 2011 Capital Improvement Fund

Appropriation from Additional Revenue	\$972,322
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Section 14. .15 Cent Sales Tax Debt Service Fund

Appropriation from Additional Revenue	\$1,256,000
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Section 15. Water Utility Fund

Appropriation from Fund Balance	\$118,700
Negative Appropriation	\$(3,778)

Section 16. Wastewater Utility Fund

Appropriation from Fund Balance	\$977,872
Appropriation from Additional Revenue	\$30,914,785

Section 17. Telecommunications Fund

Increase in Revenue Only	\$14,500
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Section 18. Fleet Replacement Fund

Appropriation from Fund Balance	\$1,460,000
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Section 19. Equipment Replacement Fund

Appropriation from Fund Balance	\$14,500
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Section 20. Facility Renovation and Replacement Fund

Appropriation from Fund Balance	\$620,917
Appropriation from Additional Revenue	\$435,917

Section 21. 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 22. 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 23. The council deems it appropriate that this ordinance be published by title only and order that copies of this ordinance be made available in the Office of the City Clerk for public inspection and acquisition.

INTRODUCED, READ, ON FIRST READING, AND ORDERED PUBLISHED

BY TITLE ONLY this 15th day of November, 2012.

Mayor

Attest:

City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

PUBLISHED BY TITLE this 4th day of December, 2012.

Mayor

Attest:

City Clerk



**CENTRAL AREA GENERAL IMPROVEMENT DISTRICT (CAGID)
BOARD OF DIRECTORS AGENDA ITEM**

MEETING DATE: December 4, 2012

AGENDA TITLE

Consideration of a motion to adopt a resolution amending the 2012 Downtown Commercial District Fund (formerly CAGID Fund) Budget.

PRESENTERS

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Bob Eichen, Chief Financial Officer
Eric Nickell, Budget Director
Peggy Bunzli, Budget Manager

EXECUTIVE SUMMARY

This budget supplemental resolution is the second to be presented to City Council in 2012 for the Downtown Commercial District (DCD) Fund (formerly CAGID Fund) Budget. All supplementals adjust only the 2012 budget and are considered “one-time” adjustments. As a result, they have no direct or immediate impact on the following year’s budget. In contrast, the city assigns budget requests with “ongoing” or multi-year impacts only to the annual budget process (budget planning for the coming fiscal year) and not to the budget supplemental resolution.

A proposed resolution is provided as **Attachment A** to this packet. The resolution contains requests for supplemental appropriations from fund balance and from additional revenue. A detailed description of each request is included in **Attachment B**. **Attachment C** shows the impact the supplementals will have on the Downtown Commercial District fund balance.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt a resolution approving a supplemental appropriation to the 2012 DCD Fund Budget.

Consideration of a motion to adjourn from the Central Area General Improvement District Board of Directors and convene as the University Hill General Improvement District Board of Directors.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental resolution appropriates funding for capital projects and ongoing operations that positively affect economic, environmental or social sustainability in the community.

OTHER IMPACTS

- Fiscal: This resolution will appropriate \$8,093,796 from additional revenue and \$384,324 from fund balance. The majority of this appropriation increase is due to the October 2012 refunding of 2003 CAGID bonds, totaling \$7,818,796.
- Staff time for this process is allocated in the Budget Division's regular annual work plan.

BOARD AND COMMISSION FEEDBACK

The Downtown Management Commission supports these supplemental requests.

ATTACHMENTS

- A. Proposed Resolution amending the 2012 DCD Fund Budget
- B. Narrative description of supplemental appropriations
- C. 2012 DCD Fund Activity Summary

RESOLUTION NO. 250

A RESOLUTION RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER DOWNTOWN COMMERCIAL DISTRICT FUND (FORMERLY KNOWN AS THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT FUND), MAKING A SUPPLEMENTAL APPROPRIATION FOR THE FISCAL YEAR ENDING DECEMBER 31, 2012, AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the District desires to make fund balance transfers to continue and complete projects previously authorized and approved; and

WHEREAS, the District also desires to make certain supplemental appropriations for purposes not provided for in the 2012 Annual Appropriation Resolution:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, ACTING AS THE BOARD OF DIRECTORS OF THE CENTRAL AREA GENERAL IMPROVEMENT DISTRICT, THAT THE FOLLOWING BE ACCOMPLISHED:

Section 1.

Appropriation from Fund Balance	\$384,324
Appropriation from Additional Revenue	\$8,093,796

INTRODUCED, READ, PASSED AND ADOPTED this 4th day of December, 2012.

Chair

Attest:

Secretary

DEFINITIONS AND REQUEST NARRATIVE 2nd BUDGET SUPPLEMENTAL OF 2012

DEFINITIONS

Budget Supplementals

Budget Supplemental from Fund Balance

Adjustments for new appropriation from a specific fund's available fund balance.

Budget Supplemental from Fund Balance Reserve

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

Budget Supplemental from Additional Revenue

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

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

Transfers to/from Other Funds

Transfers between funds requiring City Council approval.

Budget Adjustments Necessitated by Accounting Requirements

Adjustments required based on generally accepted accounting and reporting requirements that occur during the final adjustments to base.

Negative Appropriations

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

BUDGET SUPPLEMENTAL DETAILS BY FUND

DOWNTOWN COMMERCIAL DISTRICT (FORMERLY CAGID) FUND

Budget Supplemental(s) From Fund Balance

Credit Card Fees – \$60,000

In October 2011, the Durdin Amendment passed by Congress caused an increase in pay station credit card fees. This request appropriates funds for these additional costs.

Civic Area Master Plan– \$50,000

The Civic Area Plan is a City Council priority and a cross-departmental effort that will inform and shape the future of a core area of Boulder's downtown. The Civic Area Plan will have substantial impacts on the downtown as well as implications for accommodating current and future access and parking. As such, DUHMD/PS is requesting an adjustment to base to contribute funding to the master planning effort, along with other departments, in the initial year.

Budget Supplemental(s) From Additional Revenue

Tax Increment Financing (TIF) Revenue– \$275,000

This request will allow for revenue to be distributed to the General fund. TIF revenues received exceed the estimated amounts for 2012.

Budget Supplemental(s) From Additional Revenue and Fund Balance

Refunding Bond Proceeds– \$8,093,120

This request appropriates debt service payments from proceeds of the refunding of the 2003 CAGID Bonds. The request appropriates \$7,818,796 from the refunded bond proceeds as new revenue and \$274,324 from fund balance.

**2012 FUND ACTIVITY SUMMARY
2nd BUDGET SUPPLEMENTAL OF 2012**

FUND	At January 1, 2012			Carryover & 1st Budget Supplemental		2nd Budget Supplemental		Projected Dec 31, 2012
	Unreserved Fund Balance	Original Estimated Revenues (Including Xfers In)	Original Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Appropriations (Including Xfers Out)	Fund Balance
Downtown Commercial District Fund (540)	3,255,521	8,031,807	7,326,405	300,000	1,667,716	8,093,796	8,478,120	2,208,883



**UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT
BOARD OF DIRECTORS AGENDA ITEM**

MEETING DATE: December 4, 2012

AGENDA TITLE

Consideration of a motion to adopt a resolution amending the 2012 University Hill Commercial District Fund (formerly UHGID Fund) Budget.

PRESENTERS

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Bob Eichem, Chief Financial Officer
Eric Nickell, Budget Director
Peggy Bunzli, Budget Manager

EXECUTIVE SUMMARY

This budget supplemental resolution is the second to be presented to City Council in 2012 for the University Hill Commercial District Fund (formerly UHGID Fund) Budget. All supplementals adjust only the 2012 budget and are considered “one-time” adjustments. As a result, they have no direct or immediate impact on the following year’s budget. In contrast, the city assigns budget requests with “ongoing” or multi-year impacts only to the annual budget process (budget planning for the coming fiscal year) and not to the budget supplemental resolution.

A proposed resolution is provided as **Attachment A** to this packet. The resolution contains requests for supplemental appropriations from fund balance and from additional revenue. A detailed description of each request is included in **Attachment B**. **Attachment C** shows the impact the supplementals will have on the University Hill Commercial District fund balance.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt a resolution approving a supplemental appropriation to the 2012 University Hill Commercial District Fund Budget.

Consideration of a motion to adjourn from the University Hill General Improvement District Board of Directors and reconvene as the Boulder City Council.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental resolution appropriates funding for items that positively affect economic, environmental or social sustainability in the community.

OTHER IMPACTS

- Fiscal: This resolution will appropriate \$25,000 from additional revenue and \$11,000 from fund balance.
- Staff time for this process is allocated in the Budget Division's regular annual work plan.

BOARD AND COMMISSION FEEDBACK

The University Hill Commercial Area Management Commission supports these supplemental requests.

ATTACHMENTS

- A. Proposed resolution amending the 2012 University Hill Commercial District Fund budget
- B. Narrative description of supplemental appropriations
- C. 2012 University Hill Commercial District Fund Activity Summary

RESOLUTION NO. 186

A RESOLUTION RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER UNIVERSITY HILL COMMERCIAL DISTRICT FUND (FORMERLY THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT FUND), MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2012, AND SETTING FORTH DETAILS IN RELATION THERETO.

WHEREAS, the District now desires to make fund balance transfers to continue and complete a project previously authorized and approved; and

WHEREAS, the District also desires to make certain supplemental appropriations for purposes not provided for in the 2012 Annual Appropriation Resolution:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, ACTING AS THE BOARD OF DIRECTORS OF THE UNIVERSITY HILL GENERAL IMPROVEMENT DISTRICT THAT THE FOLLOWING BE ACCOMPLISHED:

Section 1.

Appropriation from Fund Balance	\$11,000
Appropriation from Additional Revenue	\$25,000

INTRODUCED, READ, PASSED AND ADOPTED this 4h day of December, 2012.

Chair

Attest:

Secretary

DEFINITIONS AND REQUEST NARRATIVE 2nd BUDGET SUPPLEMENTAL OF 2012

DEFINITIONS

Budget Supplementals

Budget Supplemental from Fund Balance

Adjustments for new appropriation from a specific fund's available fund balance.

Budget Supplemental from Fund Balance Reserve

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

Budget Supplemental from Additional Revenue

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

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

Transfers to/from Other Funds

Transfers between funds requiring City Council approval.

Budget Adjustments Necessitated by Accounting Requirements

Adjustments required based on generally accepted accounting and reporting requirements that occur during the final adjustments to base.

Negative Appropriations

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

BUDGET SUPPLEMENTAL DETAILS BY FUND

UNIVERSITY HILL COMMERCIAL DISTRICT (FORMERLY UHGID) FUND

Budget Supplemental(s) From Fund Balance

Credit Card Fees – \$11,000

In Oct. 2011, the Durdin Amendment passed by Congress caused an increase in pay station credit card fees. This request appropriates funds for these additional costs.

Transfer(s) from Other Fund(s)

Transfer from the General Fund of Additional Parking Revenues – \$25,000

This request transfers additional parking revenues that are received in the General fund to the UHGID fund. Actual parking revenues exceed the budgeted amounts by \$25,000. The funds will be used to support operations of the University Hill Commercial District.

2012 FUND ACTIVITY SUMMARY
2nd BUDGET SUPPLEMENTAL OF 2012

FUND	At January 1, 2012		Carryover & 1st Budget Supplemental		2nd Budget Supplemental		Projected Dec 31, 2012	
	Unreserved Fund Balance	Original Estimated Revenues (Including Xfers In)	Original Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Appropriations (Including Xfers Out)	Increase in Estimated Revenues	Appropriations (Including Xfers Out)	Fund Balance
University Hill Commercial District Fund (550)	691,427	543,584	552,486	0	4,100	25,000	36,000	667,425



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 4, 2012

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only an ordinance amending Chapter 3-12, "Climate Action Plan Excise Tax," B.R.C. 1981 to amend the expiration date, and setting forth related details.

PRESENTERS

Thomas A. Carr, City Attorney
David J. Gehr, Deputy City Attorney

EXECUTIVE SUMMARY

The proposed ordinance is to amend the Boulder Revised Code to match the language approved by voters on November 6, 2012 to extend the climate action plan excise tax for five years for the purpose of continuing to provide incentives, services, and other assistance to Boulder residents and businesses to improve energy efficiency, expand the use of renewable energy, and take other necessary steps to reduce greenhouse gas emissions at the current rate of \$0.0049 per kilowatt hour (kwh) for residential customers, \$0.0009 per kwh for commercial customers, and \$0.0003 per kwh for industrial customers on electricity consumed, from its current expiration of March 31, 2013 through March 31, 2018.

In 2002, City Council adopted Resolution 906, which established a goal for the Boulder community to reduce its greenhouse gas (GHG) emissions. Central to the resolution were concerns about preserving environmental and air quality, addressing the risk climate change poses to local communities, and ensuring high quality of life and economic vitality. In 2006, the city adopted a Climate Action Plan (CAP) to achieve the Kyoto goal, supported in 2007 by the nation's first voter-approved Climate Action Tax (the CAP tax) as a revenue source for implementing the actions -outlined in the Climate Action Plan.

The CAP tax is levied by a charge per kilowatt hour (kWh) of electricity consumed with differing rates by sector: residential, commercial, and industrial, and is used to fund programs and services to reduce greenhouse gas emissions.

The current tax generates approximately \$1.8 million per year, and expires in March 2013. After study sessions on May 1 and May 22, council showed interest in pursuing a ballot item in 2012. That ballot language was presented and discussed in council meetings on June 5 and August 7, 2012 and approved in Ordinance 7848 on August 7, 2012. That ballot issue was approved by voters on November 6, 2012.

The attached proposed ordinance was prepared in order to amend the Boulder Revised Code to match the language approved by voters on that ballot issue.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce and order published by title only an ordinance amending Chapter 3-12, "Climate Action Plan Excise Tax," B.R.C. 1981 to amend the expiration date, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic - Current economic conditions are a factor that should be considered in decisions about increasing taxes or fees. In addition, economic factors may limit the ability for building owners to invest in energy improvements. While the annual cost for individual residents and businesses is a small percentage of their annual energy costs, extending the tax will add to the financial burden caused by other factors. However, CAP programs help the community to reduce energy costs over time. Additionally, expanding programs with new revenues may generate more business for local companies that offer building improvement services and energy products. The percent of electricity costs paid as CAP tax by each sector are as follows:

Residential: 1.8 - 3.9 percent

Commercial: 0.4 - 1.0 percent

Industrial: 0.3 - 0.5 percent

The current tax structure allows flexibility on how the revenues from the tax are allocated across sectors through the city budget process as well as the goals, targets and specific strategies that can be funded through the tax, as long as the overall purpose of the tax (reducing GHG emissions) remains the same.

- Environmental - Reducing greenhouse gas emissions is a critical local and global priority. It also conserves other natural resources.

- Social - Climate action activities involve a broad spectrum of residents, employees and businesses. Meeting this goal is community-wide effort. Many services are free for low to moderate income households. Partnerships with Housing and Human Services, Boulder Housing Partners and other housing and human service providers assist in the delivery of services to low and moderate income residents.

OTHER IMPACTS

- Fiscal – This ordinance is necessary to implement Boulder’s ballot measure 2A that was approved by the voters on November 6, 2012.
- Staff time - No additional staff is being requested at this time to supplement the current staff funded by the CAP tax. These costs are incorporated into the program costs.

ATTACHMENT

A – Proposed ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 3-12, "CLIMATE ACTION PLAN EXCISE TAX," B.R.C. 1981 TO AMEND THE EXPIRATION DATE, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Purpose and Findings.

The purpose of this ordinance is to amend the expiration date of the Climate Action Plan excise tax as approved by the electors on November 6, 2012. This ordinance is subject to referendum as provided in the City Charter.

Section 2. Chapter 3-12, "Climate Action Plan Excise Tax," B.R.C. 1981, is amended as follows:

3-12-1 Legislative Intent.

It is the purpose of this chapter to raise revenue to implement the City's Climate Action Plan, including incentives, services and other assistance to Boulder residents and businesses to improve programs to increase energy efficiency, increase expand the use of renewable energy use, reduce emissions from motor vehicles, and take other necessary steps toward the initial goal of meeting the Kyoto Protocol target of reducing local greenhouse gas emissions by seven percent below 1990 levels by the year 2012. Additionally, the city council determines and declares that the consumption of electricity within the City is the exercise of a taxable privilege. The city council further declares that the purpose of the levy of the taxes imposed by this chapter is for the raising of funds for the payment of the expenses incurred to implement the Climate Action Plan; and in accordance with this purpose, all of the proceeds of this excise tax should be placed in and become a part of a separate special revenue fund of the City.

3-12-2 Imposition of Climate Action Plan Excise Tax.

(a) Any person consuming electricity shall pay a Climate Action Plan excise tax at the rate prescribed by subsections (c) ~~and (d)~~ of this section, as applicable.

(b) The Climate Action Plan excise tax shall ~~be effective April 1, 2007, and shall expire on March 31, 2018~~ 2013.

(c) The Climate Action Plan excise tax rates ~~effective April 1, 2007,~~ shall be:

<i>Category</i>	<i>Tax</i>
Residential	\$0.0022 per kWh
Commercial	0.0004 per kWh
Industrial	0.0002 per kWh

(d) ~~The Climate Action Plan excise tax rates effective August 6, 2009, shall be:~~

<i>Category</i>	<i>Tax</i>
Residential	\$0.0049 per kWh
Commercial	0.0009 per kWh
Industrial	0.0003 per kWh

3-12-3 Exemptions.

The portion of electricity voluntarily purchased as utility provided wind power shall be exempt.

3-12-4 Payment of Tax.

Any incumbent electricity provider operating within the City pursuant to a franchise or otherwise (“Provider”) shall bill and collect the Climate Action Plan excise tax and shall remit said tax to the city manager in the manner required by section 3-12-5, “Payment Schedule, Reporting and Inspection of Records,” B.R.C. 1981. ~~The first payment shall be due May 31, 2007, for electricity consumption on or after April 1, 2007.~~ The tax may be expressly identified on any consumer bills as the “The City of Boulder Climate Action Plan Excise Tax” or as the “Climate Action Plan Tax.”

3-12-5 Payment Schedule, Reporting and Inspection of Records.

(a) For the Climate Action Plan excise tax amounts billed pursuant to this chapter, payment shall be made by the Provider in monthly installments not more than thirty days following the close of the month for which payment is to be made. Initial and final payments shall be prorated for the portions of the months at the beginning and end of the term of this excise tax.

(b) In addition, the Provider shall also submit monthly reports to the City supporting the amount of the Climate Action Plan excise tax remitted for that month including energy use and amounts remitted by sector and Windsource electricity purchases exempted by sector. Electronic or paper reports are acceptable.

(c) It shall be the duty of the Provider to keep and preserve, for a period of three years, suitable records and other such books or accounts, including, without limitation, original sales and purchase records, as may be necessary to determine the amount of the Climate Action Plan excise tax for the collection of which the Provider is liable under this chapter. The city manager and agents and representatives thereof are entitled at any reasonable time, upon adequate notice,

1 to examine the books and records of the Provider and to make copies of the entries or contents
2 thereof.

3 **3-12-6 Enforcement of Tax Liability.**

4 (a) The excise tax imposed by this chapter is a first and prior lien on tangible personal property
5 in which the Provider has an ownership interest, subject only to valid mortgages or other liens of
6 record at the time of and prior to the recording of notice of tax lien as provided in subsection 3-2-
7 27(c), B.R.C. 1981.

8 (b) The provisions of sections 3-2-22, "Penalties for Failure to File Tax Return or Pay Tax
9 (Applies to Entire Title)," 3-2-27, "Tax Constitutes Lien," 3-2-29, "Sale of Business Subject to
10 Lien," 3-2-30, "Certificate of Discharge of Lien," 3-2-31, "Jeopardy Assessment," 3-2-32,
11 "Enforcing the Collection of Taxes Due (Applies to Entire Title)," 3-2-33, "Recovery of Unpaid
12 Tax by Action At Law," 3-2-34, "City May be a Party Defendant," 3-2-35, "Injunctive Relief,"
13 3-2-36, "Obligations of Fiduciaries and Others," and 3-2-38, "Limitations," B.R.C. 1981,
14 providing for enforcement of collection of taxes due, govern the authority of the city manager to
15 collect the excise tax imposed under this chapter.

16 **3-12-7 Duties and Powers of City Manager.**

17 The city manager is authorized to administer, including, but not limited to, the adoption of
18 administrative policies and guidelines, the provisions of this chapter and has all other duties and
19 powers prescribed by section 3-2-17, "Duties and Powers of City Manager," B.R.C. 1981. In
20 addition, the city manager is authorized to enter into agreements with Providers to establish
21 procedures for tax collection, payment to the City, and the reasonable setup and collection
22 charges that will be owed to such Provider.

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

25 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.

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 4th day of December 2012.

3
4
5 _____
Mayor

6 Attest:

7 _____
City Clerk

8
9 READ ON SECOND READING, PASSED, AMENDED AND ORDERED
10 PUBLISHED BY TITLE ONLY this _____ day of December 2012.

11
12
13 _____
Mayor

14 Attest:

15 _____
16 City Clerk



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: Dec. 4, 2012

AGENDA TITLE: Consideration of a motion to approve the Guiding Principles for Collaborative Place Management and Fiscal Sustainability of the Colorado Chautauqua

PRESENTER/S

Jane S. Brautigam, City Manager

Paul J. Fetherston, Deputy City Manager

Tom Carr, City Attorney

David Driskell, Executive Director of Community Planning & Sustainability

Maureen Rait, Executive Director of Public Works

Kirk Kincannon, Director of Parks and Recreation

Mike Patton, Director of Open Space and Mountain Parks

Susan Richstone, Deputy Director of Community Planning & Sustainability

EXECUTIVE SUMMARY

The purpose of this item is for City Council to consider approval of a set of *Guiding Principles for Collaborative Place Management and Fiscal Sustainability of the Colorado Chautauqua*. The proposed guiding principles (**Attachment A**) represent a shared statement about the nature of the Colorado Chautauqua and the manner in which its primary stewards (the City of Boulder and the Colorado Chautauqua Association) intend to collaborate in the planning and management of its future.

In May 2012, City Council passed a motion forming a temporary working committee to draft, in close consultation with the Colorado Chautauqua Association (CCA), principles to guide subsequent negotiations to the CCA lease for the full council's consideration and endorsement. This direction was in response to consideration of a draft *Chautauqua Collaborative Stewardship Framework* developed with the CCA in early 2012. The temporary committee, consisting of two council members and six city staff members, met four times with representatives of the CCA from July to October and drafted guiding principles (**Attachment A**) and next steps (**Attachment B**). At the initial meeting in July

2012, the group also discussed the strengths, weaknesses, opportunities and constraints of the relationship between the city and the CCA (**Attachment C**).

The draft guiding principles were presented as information items to the Transportation Advisory Board, the Parks and Recreation Advisory Board, the Open Space Board of Trustees and the Landmarks Board in November 2012. An outline of comments from board members is provided beginning on page 3 of this memorandum. While the majority of board comments are issues to be addressed in the next steps, a suggestion was made by a Landmarks Board member to add a preamble to the principles to better describe the spirit and intent of Chautauqua.

Also included in this memo as an information item is a summary of recent data collection efforts and preliminary findings associated with the temporary Baseline Road improvements. Staff has continued to evaluate access and parking issues within the Chautauqua area and is providing a summary of the most recent report in **Attachment D**.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to approve the *Guiding Principles for Collaborative Place Management and Fiscal Sustainability of the Colorado Chautauqua* and to direct the city manager to undertake the recommended next steps as outlined.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Successful collaboration between the city and CCA to preserve Chautauqua as a historic landmark and cherished community resource will help support its continued role as a tourist destination and economic asset.
- Environmental – The guiding principles emphasize the need to take a balanced approach to management and preservation of Chautauqua in a manner consistent with the community’s sustainability goals.
- Social – The guiding principles clarify community values related to the preservation and management of Chautauqua as a public place and resource, and confirm the importance of including the public and the surrounding residential neighborhoods in a collaborative decision-making process. The principles also note the importance of maintaining Chautauqua as an accessible and safe place for the general public.

OTHER IMPACTS

- Fiscal – Approval of the guiding principles will not have a fiscal impact on the city. However, they do specify that the Chautauqua area is a shared resource with community-wide as well as interest-specific benefit, and future investments in its care and upkeep should be shared with the CCA in accordance with the benefit provided to each interest as well as the community at large.

- Staff time – Staff time was involved in development of the guiding principles and will continue to be needed over the next year to refine and clarify thresholds for collaboration to guide future agreements and decision-making processes.

BOARD AND COMMISSION FEEDBACK

Five boards were updated at their regular meetings in November 2012. The following is a summary of the boards' questions and comments:

Transportation Advisory Board (Nov. 5, 2012)

1. Is there a broader, overarching conflict that the city is trying to address with the principles?
2. Will the parking issues that were brought before the board earlier this year come back sometime in the next year?

Parks and Recreation Advisory Board (Nov. 5, 2012)

1. Public comments imply that the city rules need to be expanded, not reduced.
2. Need to maintain as much historical character and intention as possible.
3. Seems that city has inadequate representation on the CCA board.
4. Concern that the city does not have a controlling or more than 51 percent interest on the CCA board.
5. Make sure Chautauqua is accessible to all levels of income and does not become an upscale dining hall, country club or provide only corporate access. It needs to be available to all members of our community.
6. How do the principles get integrated into the lease? Embed these principles in the lease.

Landmarks Board (Nov. 7, 2012)

1. The principles provide a much better idea of the importance of historic preservation at Chautauqua than the stewardship framework. They are robust yet non-controversial, and historic resources are given a higher priority than within the previous stewardship framework (Implementation and next steps may be more challenging).
2. They feel less concrete than the framework, seem subjective and open to interpretation.
3. The mission of the subcommittee was narrowed, so now the guiding principles are a building-based document and don't address other more important issues, such as defining the spirit of Chautauqua. A clear definition of the intent of this special place is missing. (A suggestion was made to add a preamble that describes the spirit of Chautauqua).
4. They will not change the way that the Landmarks Board currently reviews projects at Chautauqua.
5. The first test of this guiding principle document will be public restrooms at Chautauqua.
6. This is only the beginning of a process which doesn't need to be refined, but it does need to be added to.
7. Fiscal responsibility needs to be addressed because the financial statements of CCA are pretty unclear. The phrase that the "city should start paying for things that benefit

- all city residents” may be problematic, especially since Chautauqua receives a lot of grants for improvements and benefits that are shared by the community. (A suggestion was made to add another principle requiring financial transparency)
8. Many of the meetings at Chautauqua are exclusive to the executive committee and are closed to the public.
 9. City Council renews the lease routinely every 20 years, but there currently isn't anything guiding the overall mission of Chautauqua or anything that the city can control.
 10. The proposal to winterize the auditorium is an example of an action that would change the use and feel of the auditorium substantially, but wouldn't be required to go through Landmarks Board review.
 11. The role of the Landmarks Board should be included as part of the process.
 12. There should be a management agreement between the city and the CCA instead of a lease.
 13. Due to Chautauqua's status as a National Historic Landmark, the state and National Park Service should be involved and consulted.
 14. Guiding principle #2 stipulates that consultation with other parties, such as the state and the National Park Service, is essential to Chautauqua's management. (A suggestion was made to add another principle that describes the historic and rustic spirit of the place - a principle that is more fleshed out than #3)
 15. The examples provided for thresholds 2 and 3 differ slightly regarding whether one party or both parties will review proposed changes, but doesn't speak to the scale of change. The concern was raised that a significant change could fall under threshold 2 and be reviewed only by a single party. The difference between thresholds 2 and 3 should be in the scale of modification, not where the money is coming from.
 16. A concern was raised about the meaning of *joint development* in terms of the design guidelines in section 5C. The city should have the final say in the content of the design guidelines. There should be a feedback loop resulting from the test cases.
 17. A concern was raised about major changes and projects slipping through thresholds and being missed.
 18. A question was raised about what the benefit of undergrounding utilities would be to the community and if the guiding principle language financially commits the city to it. Will undergrounding the utilities actually reduce the fire hazard risk?

Colorado Chautauqua Association Board of Directors (Nov. 12, 2012)

At its meeting on Nov. 12, 2012, the Colorado Chautauqua Association (CCA) Board of Directors reviewed the Guiding Principles and Next Steps, as distributed by city staff on Oct. 23, 2012. The CCA board unanimously approved the following communication with City Council:

1. Approval of the Guiding Principles that were recommended unanimously by the Temporary Committee, with no changes.
2. Endorsement of the Next Steps as recommended by the Temporary Committee.
3. Appreciation to all who were involved, particularly the members of the community, for their diligence and valuable input.

Open Space Board of Trustees (Nov. 14, 2012)

Comments from board members included the following:

1. Thresholds - this is a key consideration and needs to be fleshed out. For example, demolition of the cottage was a concern and is not something that should be considered a minor modification.
2. Governance structure – the CCA will need to function in a more transparent manner, with decision-making more public, if there is public investment.
3. Context – enhance the guiding principles to add a principle on the importance of the surrounding context – it is significant to look both inwards as well as outwards, i.e. public open space as well as neighborhoods.
4. Board input – need to identify, relative to thresholds, when it is appropriate to get input from the various boards, e.g. changes to parking and impacts to open space.

PUBLIC FEEDBACK

Each of the four committee meetings was attended by approximately 10 to 12 members of the public. A few of those attendees provided their informal comments after each meeting. The following are highlights of the various comments:

1. A strength of Chautauqua is that it still functions basically as it did historically. The primary goal should be to preserve and protect the historic experience.
2. Overuse of the area is an issue – 65 percent of the visitors are from outside the city – making traffic management, parking and pedestrian safety a weakness.
3. The main issue is whether or not new buildings should be developed.
4. Need to more clearly identify what the lease allows the CCA to do in terms of development and improvements.
5. The principles should speak to the neighborhood as a part of the public nature of the place.
6. Build in more public oversight and responsibility in management and decision-making.

BACKGROUND

On May 15, 2012, City Council passed a motion forming a temporary working committee to draft, in close consultation with the Colorado Chautauqua Association (CCA), principles to guide subsequent negotiations to the CCA lease for the full council's consideration and endorsement. This direction was in response to consideration of a draft *Chautauqua Collaborative Stewardship Framework* developed with the CCA in early 2012, which resulted in a valuable community dialogue about Chautauqua's past, present and future. Input from council, the public and city boards over the six months of developing the framework raised a number of fundamental questions and concerns about roles and responsibilities of the city and the CCA, and about the related lease provisions. The motion passed by council on May 15, 2012, is as follows:

Motion to accept the recommendation to continue discussions initiated through the Chautauqua Collaborative Stewardship Framework process to:

1. *Focus specifically on the place management and financing roles and responsibilities of the Colorado Chautauqua Association (CCA) and the City of Boulder; and*

2. *Form a temporary working committee composed of two City Council members and staff from Community Planning and Sustainability, the City Attorney's Office, and Public Works to meet two to three times over the next few months to draft principles for the full council's consideration and endorsement to guide subsequent negotiations to the CCA lease. These principles would be developed in close consultation with the CCA.*

The City Council Temporary Committee included the following council members and city staff:

Tim Plass, City Council
George Karakehian, City Council
Maureen Rait, Executive Director of Public Works
Kirk Kincannon, Director of Parks and Recreation
Mike Patton, Director of Open Space and Mountain Parks
Tom Carr, City Attorney
Susan Richstone, Deputy Director of Community Planning & Sustainability

Representatives of the CCA attending the meetings included the following:

Josh Taxman, President, CCA Board of Directors
Phil Shull, First Vice President, CCA Board of Directors
Deb van den Honert, Board of Directors
Susan Connelly, Executive Director

David Driskell and Bev Johnson of the Community Planning & Sustainability Department provided facilitation and staff support for the committee.

The temporary working committee met with representatives of the CCA four times from July through October 2012 as listed below:

Meeting 1 (July 30, 2012)

Review purpose of committee and background
Discuss strengths, weaknesses, opportunities, constraints
Confirm topics to cover in guiding principles

Meeting 2 (Aug. 22, 2012)

Discussion of draft guiding principles
Review of case examples for collaborative processes

Meeting 3 (Sept. 12, 2012)

Discussion of revised draft guiding principles and next steps

Meeting 4 (Oct. 18, 2012)

Finalize principles, terminology and next steps

ANALYSIS

At the final committee meeting on Oct. 18, 2012, the main topic of discussion was about the level of detail to include in the “Thresholds for Collaborative Processes” (principle 5b). Some participants indicated that the detail defining the processes for different types of changes at Chautauqua should be worked out in the next steps; others indicated that the thresholds should be defined as much as possible in the principles. The committee and the CCA representatives agreed to the draft shown in **Attachment A**, which provides example thresholds for illustrative purposes with the anticipation that they will be refined and potentially modified after adoption of the guiding principles.

Next Steps

The guiding principles are not intended to define the specific structures, processes or agreements needed to enact them. The temporary committee and the CCA representatives determined that additional work will be needed to evaluate options for putting the principles into action and to define a “preferred option” prior to conducting the detailed work necessary for implementation, which includes finalizing the Collaborative Stewardship Framework, initiating lease or other contractual discussions, and other implementation actions. Included in **Attachment B** is a description of the proposed next steps following council adoption of the principles on Dec. 4, 2012.

Included in the next steps is a proposal to initiate planning for new ADA-compliant bathrooms to serve visitors to the Chautauqua Auditorium as a test case for the guiding principles. CCA and city staff would begin by forming a collaborative working group in the first quarter of 2013 to develop and conduct a public planning process for potential bathrooms.

As a next step, city and CCA staffs also are proceeding with the development of options for specific improvements to the parking, roads and circulation at Chautauqua. Staff from the Parks and Recreation Department, the Open Space and Mountain Parks Department (OSMP) and the Historic Preservation Program have been in discussions with CCA staff on the design and construction of a bus pull-out, one-way angled parking in the OSMP lot and on the resurfacing of Kinnickinik and Clematis streets.

The bus pull-out project is a true partnership among the city and the CCA with funds and project management of the construction being divided up among the three entities. The project will provide a benefit to the community by creating a safe area for children and other groups to be dropped off at the park. Staff is developing a planning process for the project, which will include preliminary options, public meetings for input on the options, input from the Landmarks Design Review Committee and an update to City Council. Construction of these improvements is anticipated to occur sometime in the second quarter of 2013.

ATTACHMENTS

- A Draft Chautauqua Guiding Principles
- B Proposed Next Steps
- C Strengths, Weaknesses
- D Chautauqua Parking Study

Collaborative Stewardship of the Colorado Chautauqua

GUIDING PRINCIPLES FOR PLACE MANAGEMENT AND FISCAL SUSTAINABILITY

Purpose of the Guiding Principles

These guiding principles represent a shared statement about the nature of the Colorado Chautauqua and the manner in which its primary stewards (the City of Boulder and the Colorado Chautauqua Association) intend to collaborate in the planning and management of its future.

1 A Public Place

Chautauqua is a shared community resource and a public place. It is essential that it remain a place that is accessible, safe and welcoming to the general public.

2 A Historic Landmark

The Colorado Chautauqua is a recognized national and local historic landmark. Preservation of its historic character is of the utmost importance when making decisions about its future.

3 A Historic Mission

Chautauqua supports cultural, educational, social and recreational experiences that are integral to its historic character and function. Preservation and perpetuation of its historic mission and supporting operations are paramount to sustaining the spirit of Chautauqua.

4 A Balanced Approach

Chautauqua encompasses multiple ownerships and missions; the needs and interests of many must be balanced in a manner that protects the site and spirit of Chautauqua, in keeping with principles 1, 2 and 3. Management decisions about surrounding uses should be made with sensitivity to potential impacts on Chautauqua. At the same time, Chautauqua should be managed and preserved in a manner consistent with the community's sustainability goals and with sensitivity to impacts on surrounding residential neighborhoods.

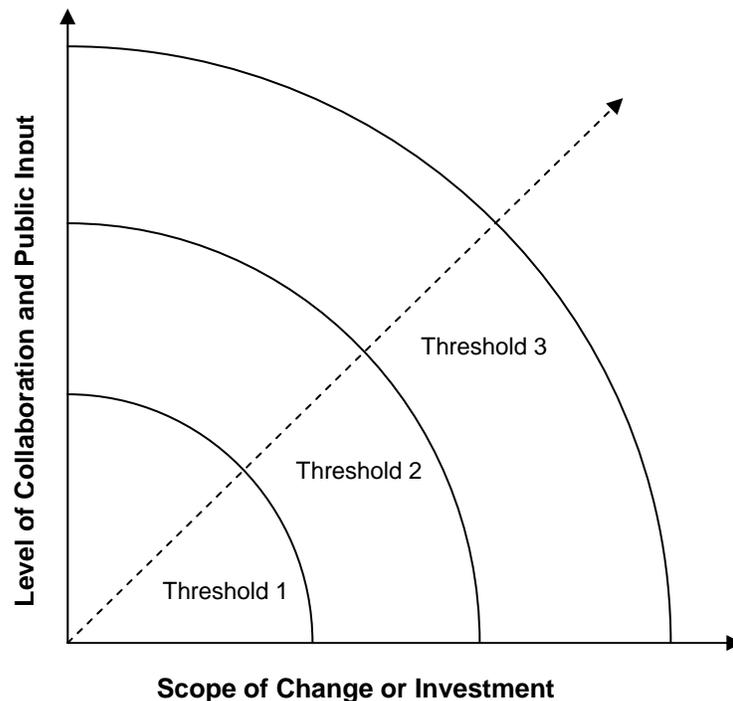
5 Collaborative Place Management

To achieve the balanced approach described in principle 4, the Chautauqua area (including the CCA leasehold and adjacent parks and open space) must be collaboratively managed. In particular, the following components of collaborative place management must be clearly defined and agreed to by the city and the CCA:

5a Roles and Responsibilities. The city and the CCA have the joint responsibility of preserving, perpetuating and improving the spirit and historic character of Chautauqua through collaborative stewardship and place management as well as the responsibility of managing specific public and private assets:

- **The Colorado Chautauqua Association** has the role of perpetuating the spirit and mission of the historic Chautauqua through production of cultural, educational, social and recreational experiences to benefit the Boulder community and visitors to the area. The CCA also has the responsibility, under its lease with the city, of managing and programming certain public assets and CCA’s owned cottages, lodges and other facilities in a manner consistent with its historic mission and these guiding principles.
- **The City of Boulder** has multiple roles, including: 1) **owner** of the underlying land throughout Chautauqua, three key historic buildings and an historic structure in the leasehold, serving in this role as landlord to the CCA; 2) **manager** of the public infrastructure throughout Chautauqua and of the public assets and lands outside the leasehold, including a public park and open space; and 3) **regulator** in terms of city laws. The city has the responsibility of representing the interests and priorities of the community at-large; maintaining safe and efficient access to and within the site; and coordinating policy and action in a manner consistent with these guiding principles.

5b Thresholds for Collaborative Processes. Effective collaboration among the multiple core entities responsible for the Chautauqua area’s management is critical. In general, the collaborative processes between CCA, the city and the public should proportionately increase as the scope of the proposed change increases as illustrated in the following graph:



The following is illustrative of “thresholds for collaboration” that will be refined, clarified and agreed to by the city and the CCA to guide future agreements and decision-making processes. It may or may not be the final recommendation to have three thresholds; that will be determined in the next steps.

- **Threshold 1: Minor Modifications.** These encompass site or facility changes that do not involve significant changes to the site or public building exteriors; are led and financed primarily by a single party; and are consistent with these guiding principles. Coordination and collaboration between the CCA and the city is essential, but successful precedents exist that can be clearly defined and followed to ensure transparency, mutual understanding and continued success. *Examples of this type of change include recent enhancements to site way finding and interpretive signage and current work to improve the bus pull-out and site circulation for improved pedestrian safety.*
- **Threshold 2: Significant Modifications Led by a Single Party.** These are changes to the site or facilities that significantly alter a city-owned building's exterior, involve new construction or demolition, significantly alter historic site patterns or designs, and/or represent a significant change in use. This level of change may be proposed by a single party but will require a higher degree of coordination and collaboration early in the process to address the concerns or needs of other parties and ensure consistency with these guiding principles. The resulting process may or may not lead to shared financial responsibility, but should ensure transparency, opportunities for public input and clarity and timeliness of decision making for the concerned party(ies). *Examples of this type of change include the potential addition of ADA-accessible bathrooms for the Chautauqua Auditorium and the concept of a new free-standing building.*
- **Threshold 3: Significant Modifications Requiring Multi-Party Investment.** These are changes similar in scope or impact to those in Threshold 2, but which would clearly benefit from joint investment in their design and implementation. Due to the shared investment, these may require an even higher degree of collaboration early and throughout the process. *An example of this type of change is the potential undergrounding of utilities around and through the National Historic Landmark area.*

5c Guiding Policy Documents. To support a collaborative approach to management of the Chautauqua area, key policy documents should be jointly developed and adopted by the core parties. These include, but are not limited to, the Chautauqua Collaborative Stewardship Framework (which should be revised and finalized consistent with these guiding principles) and the Chautauqua Design Guidelines.

5d Public Information and Input. Because the management of Chautauqua is a shared responsibility across multiple entities, it can be difficult for the public to find complete and accurate information regarding planning and management-related issues for the area. A shared approach to providing public information and opportunities for public input shall be developed and implemented to support these principles' goals for collaborative stewardship in the public interest.

6 A Cautious Approach to Change

While it is recognized that changes within and around Chautauqua will occur over time, decisions over these matters must be thoughtfully and cautiously considered, and

collaboratively managed in accordance with these guiding principles to ensure the preservation of Chautauqua’s historic character and unique sense of place.

7 Shared Financial Responsibility

Because the Chautauqua area is a shared resource with community-wide as well as interest-specific benefit, investments in its care and upkeep should be shared in accordance with the benefit provided to each interest or user group as well as the community at-large. This does not remove the possibility of significant changes being funded by a single party; however, when there are clear benefits to multiple entities, joint funding should be considered.

Definitions

Enhancement: to make greater, as in value, beauty, or effectiveness; augment; provide with improved, advanced, or sophisticated features. In the context of historic preservation, “enhancement” is usually used to refer to the repair, rehabilitation, restoration and, in some cases, the re-creation of historically documented features.

Historic character: those aspects of an historic property or historic district that accurately convey a sense of its past. The National Register defines seven aspects of integrity that are important components of historic character: location, design, setting, materials, workmanship, feeling, and association. National Historic Landmarks typically possess all of these aspects of historic character/integrity.

Historic preservation: an endeavor that seeks to preserve, conserve and protect buildings, objects, landscapes or other artifacts of historic, architectural or environmental significance.

Leasehold: the property managed by the Colorado Chautauqua Association under a lease agreement with the City of Boulder as shown in *Figure 1*. The city-owned property leased by the CCA includes all the land and three buildings including the Auditorium, Dining Hall, and Academic Hall.

Manage: to have oversight and responsibility for the on-going affairs and/or the upkeep of a site, property, organization or business.

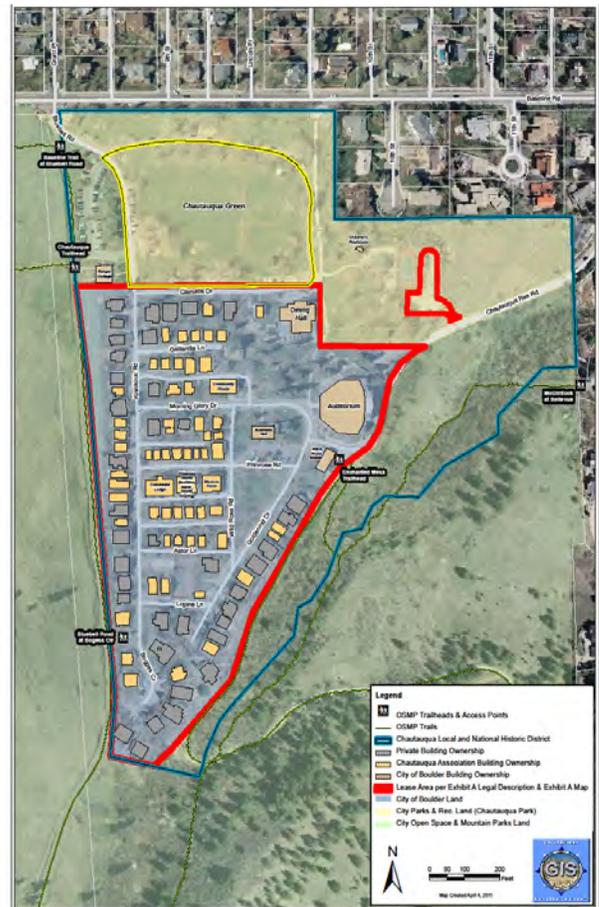


Figure 1: CCA Leasehold (outlined in red)

National Historic Landmark: a nationally significant historic place designated by the Secretary of the Interior because it possesses exceptional value or quality in illustrating or interpreting the heritage of the United States.

Place management: the process of preserving or enhancing an area in a manner that maintains its integrity as a “place” with a unique character and function. This is practiced through programs to enhance a location or to maintain an already attained desired standard of operation. Place management can be undertaken by private, public or voluntary organizations or a mixture of each. Despite the wide variety of place management initiatives, the underlying common factor is usually to best meet the needs of multiple users and interests (e.g., residents, visitors, and owners) in a manner consistent with the nature of the place.

Protect and preserve: broadly speaking, protecting and preserving is the process of determining and implementing appropriate actions to minimize change to identified historic properties or districts that would adversely affect their historic character.

Stewardship: the ethical overseeing and protection of something considered worth caring for and preserving.

*Collaborative Stewardship of the Colorado Chautauqua***NEXT STEPS FOR PLACE MANAGEMENT AND FISCAL SUSTAINABILITY****Purpose**

The proposed “guiding principles” represent a shared statement about the nature of the Chautauqua area and the manner in which its primary stewards (the City of Boulder and the Colorado Chautauqua Association) intend to collaborate in the planning and management of its future. However, they are not intended to define the specific structures, processes or agreements needed to enact them. Subsequent work will evaluate options for putting the Guiding Principles into action, and define a “preferred option” prior to doing the detailed work necessary to “make it so” (e.g., revise the Collaborative Stewardship Framework; initiate lease discussions; and/or other implementation actions).

A Finalize the Principles and Next Steps (by January 2013)

Update city boards and check in with the CCA on the proposed Guiding Principles, with opportunity for public input prior to City Council action.

- 1. Check-in with City Council under “Matters” at the Nov. 1, 2012 meeting.**
- 2. Check-in with boards in November.**
 - a. Transportation Advisory Board – Nov. 5, 2012
 - b. Parks and Recreation Advisory Board – Nov. 5, 2012
 - c. Landmarks Board – Nov. 7, 2012
 - d. Colorado Chautauqua Association, Board of Directors – Nov. 12, 2012
 - e. Open Space Board of Trustees – Nov. 14, 2012
- 2. Public Hearing and Council Action on Guiding Principles and Next Steps – Dec. 4, 2012**
- 3. Develop detailed work plan, sequencing and coordination process for City Council retreat preparation on Jan. 15, 2013.**

B Define and Evaluate Options (first quarter of 2013)

There are a variety of ways in which the guiding principles can be put into action. The purpose of this step is to ensure that alternative approaches are defined and evaluated before finalizing any single approach as the most desired.

B1 City and CCA Staff Working Groups

Organize CCA and city staff working groups to lead the options evaluation. The working groups will cover the following topics, but will be organized and sequenced to ensure an integrated and cohesive set of recommendations. Following adoption of the principles, staff will prepare a more detailed approach and schedule for the working groups:

- **Decision-making options** (defining roles/responsibilities; clarifying “threshold” standards and related processes/structures for public input and decision-making; etc.)
- **Access and parking management (including bus pull-out)** (application of summer 2012 data collection and analysis to previous management alternatives, and recommendation on next steps)
- **City financial options** (defining alternative approaches to carrying out Principle #7 in relation to the other Guiding Principles and city or CCA financial tools and processes)
- **Contractual options** (how the relationships, responsibilities and/or processes defined in the Guiding Principles could be legally structured and managed— e.g., through a revised lease or by other means)
- **Guiding policy documents** (establishing direction for revision to the Stewardship Framework, Design Guidelines, and any other document identified as being necessary to support the decision-making process approaches)
- **Initiate planning for new ADA bathrooms at the Chautauqua Auditorium as test case.**

B2 Public Outreach and Board Input

Opportunity for public input - potentially using an online tool, or combination of in-person and online.

B3 CCA and Council Direction on Preferred Option

Community and board input; CCA board recommendation; public hearing and Council action.

C Make It So (remainder of 2013)

Based on the outcome of B3, implement the agreed upon changes.

Chautauqua Guiding Principles
SWOC Analysis
(Strengths, Weaknesses, Opportunities, Constraints)
August 22, 2012

Relative to the relationship between the city and the Colorado Chautauqua Association (CCA) over financial sustainability and place management of Chautauqua:

What are the strengths?

- Long-standing public/private partnership and cooperative relationship that works and results in the preservation of one of the most vital and special places in Colorado.
- Mutual dedication and commitment to keeping Chautauqua the special place that it is and to plan for its future.
- CCA stewardship provides strong cost/benefit to the city through significant funding for the management and maintenance of the grounds and buildings at Chautauqua.
- Collaborative working relationship between city and CCA staff on day to day management.
- Strong preservation and environmental sustainability ethic and practices are shared.

What are the weaknesses?

- Misunderstanding among the community, the city organization, the CCA and the community of the various visions, missions and goals for Chautauqua – both commonalities and differences. Perceived lack of a unified vision.
- Lack of common understanding about the appropriate nature and degree of change that can occur at Chautauqua.
- Unclear roles and responsibilities among the CCA, City Council and various staff and boards involved in place management of Chautauqua – currently based on ad hoc arrangements.
- Inconsistent use of certain terminology (e.g. preservation, sustainability, “Chautauqua”, leasehold)
- Lack of formal protocol for communication and roles in development and improvement planning.
- Insufficient coordination in addressing impacts of various uses (e.g. parking, access, circulation, safety).
- Lack of available city and CCA capital for major infrastructure improvements and related operating costs.
- Pedestrian safety?

What opportunities are there for improvement?

- Better mutual understanding of CCA, city and community-wide goals and interests for Chautauqua.
- Clarification of and possible changes to roles and responsibilities of staff, CCA, City Council and city boards – including more clarity on lease, ownership and management boundaries.

- Better communication and collaboration on future planning (shared goals, prioritization and funding of needed improvements) – possibly through regular meetings between the City Council and the CCA BOD.
- Stronger coordination and consistency among city and CCA operations and maintenance units.
- Game plan on how to get things done in the near term.

What are the constraints?

- City and CCA resources to fund major capital improvements.
- Multiple ownership of the site.
- Multiple and changing staff, boards and council members involved in the management and decision-making.

Chautauqua Access Management Project Status

BACKGROUND

The Chautauqua area in Boulder is a valued resource and a popular destination, with approximately 600,000 visitors per year. Access to the area is predominately by motor vehicle and the lack of parking supply to meet this demand has resulted in parking concerns from both the people living in the Chautauqua cottages and residents in the surrounding neighborhood.

Parking Data Collection and Analyses

In the summer of 2012, city staff partnered with the Colorado Chautauqua Association (CCA) for a comprehensive parking study to quantify and better describe the transportation activities in and around the Chautauqua area. The data collected will supplement previous parking studies performed in 2011 and 2005. The 2012 data was collected on Wednesday, June 13, Saturday, July 7, and Wednesday, July 16. These days showcased typical weekday and weekend parking conditions, as well as conditions with and without the added parking demands of the Colorado Music Festival.

Although a majority of the parking data was collected within the Chautauqua leasehold area, the total study area also included the ranger parking lot; the parking around the Chautauqua green; Baseline Road adjacent to Chautauqua; the neighborhood streets to the north bounded by 7th Street, 12th Street, Baseline Road and Aurora Avenue; and the neighborhood streets, south of Baseline, within a block of the 12th Street entrance.

Similar to previous studies, the 2012 parking study collected data about how many cars are parked on a block at distinct times during the day. Previous data collection efforts had focused on three specific hours: 11 a.m., 3 p.m. and 8 p.m. In 2012, data was collected for each hour between 9 a.m. and 5 p.m. These hours were selected to showcase the peak use of the area when special event parking restrictions were not in effect. Data about hourly parking use and duration was collected using the city's license plate recognition software, human eye tallies and photographs.

To better assess the parking patterns in the Chautauqua leasehold area, staff obtained additional data from hang tags that were issued to specific identifiable user groups that parked within that area. More than 1,600 hang tags were issued to Chautauqua staff and volunteers; Colorado Music Festival staff and musicians; Chautauqua Dining Hall staff; private cottage owners and guests; and lodging guests at the remaining cottages. Hang tag data was collected on the same three days during the same time periods. This data can be compared to the parking use data to determine how much of the parking on a certain block is from these different user groups.

Vehicle entrance and exit data was collected on Saturday, July 7, and Wednesday, Aug. 15, from 9 a.m. to 7 p.m. Inbound and outbound vehicles were detected using cameras at the Baseline Road and Grant Street entrance; and at the 12th Street entrance. The cameras

recorded license plate data and tracked the traffic volume in and out of these locations. This data was used to analyze the duration that vehicles parked within the Chautauqua area, the total volumes entering and exiting from each location, and the origin of the visitors (local, regional, out-of-state, etc.)

Short-term Improvements for Baseline Road

In addition to the parking concerns, there are other access issues due to the interaction between motor vehicles and pedestrians on Baseline Road. Staff focused on the two crosswalks that connect the Chautauqua area on the south and the neighborhood to the north at the two pedestrian entrances to the park, Grant Place and King's Gate. Currently, the number of drivers that yield to pedestrians at these two crosswalks is less than desired. Another issue is the potential for conflict between pedestrians and motor vehicles on the south side of Baseline Road adjacent to the Chautauqua area. This conflict exists because people park on the south side of Baseline Road to access the Chautauqua area but can only enter the site from the two pedestrian entrances because of the foliage and slope of the area south of Baseline. Furthermore, there is no sidewalk on the south side of Baseline Road, so people exiting their vehicles must walk in the street, which potentially conflicts with the downhill eastbound motor vehicle traffic.

Staff is seeking to mitigate both of these issues with a pair of temporary geometric improvements that were constructed on Baseline Road at the start of summer 2012. These improvements included a median refuge island on the west approach to the intersection of Baseline Road and Grant Place (Figure A); and a curb extension on the south side of Baseline Road at the King's Gate crosswalk (Figure B). The goal of these improvements is to slow the speed of eastbound motor vehicles coming down the hill on Baseline Road in order to increase the percentage of drivers that yield to pedestrians crossing at the crosswalks and minimize conflict with pedestrians walking in the street.

Figure A – Median Refuge Island at the Intersection of Baseline Road and Grant Place



Figure B – Curb Extension at the King's Gate Crosswalk



NEXT STEPS

Parking Data Collection

Staff is in the process of evaluating the considerable amount of data obtained from the parking access studies performed this summer and is developing a comprehensive report on the findings and conclusions. Staff is also developing an interactive tool that will allow the parking data to be easily accessed and cross-referenced electronically. The report and interactive tool are expected to be available for distribution in the 2nd quarter of 2013.

Summary of the Baseline Road Geometric Improvements

Prior to the placement of the temporary improvements on Baseline Road, staff collected data about both vehicle speeds and driver compliance with yielding to pedestrians in the crosswalks. This data showed that drivers on Baseline Road showed poor compliance with the legal requirement to yield to pedestrians at the two crosswalks connecting Chautauqua and the neighborhood north of Baseline Road. Compliance was found to be 64 percent at the Baseline Road and Grant Place main entrance and 34 percent at the King's Gate mid-block entrance. There was also a considerable amount of speeding along this section of Baseline Road. Studies showed that the 85th percentile speed of traffic on this section of road was 35 mph, despite the posted 30 mph speed limit. City staff surmised that the high speeds contributed to the lack of yielding compliance at the two crosswalk locations.

After the placement of the temporary improvements on Baseline Road, staff collected additional data, including both vehicle speeds and driver compliance with yielding to pedestrians in the crosswalks. Unfortunately, the improvements did little to modify driver compliance at the crosswalks. At the Baseline Road and Grant Place crosswalk, the driver compliance percentage increased from 64 to 72 percent (an eight percent increase); and at the King's Gate crosswalk the driver compliance percentage increased from 34 to 39 percent (a five percent increase). Although there was some increase in compliance, staff had anticipated a more significant increase.

The temporary improvements were more effective at reducing vehicle speeds on Baseline Road. Traffic speed data collected after the improvements on the block of Baseline Road between Grant Place and 9th Street showed an 85th percentile speed of 31 mph, an 11 percent reduction. Data collected on Baseline Road between 9th Street and Lincoln Avenue showed an 85th percentile speed of 30 mph, a 14 percent reduction. These are the two blocks on the south side of Baseline Road that have the highest level of parking use and the highest number of pedestrians in potential conflict with eastbound vehicles because of the lack of a sidewalk.

The temporary improvements will remain in place throughout the winter and into summer 2013. At that time, staff will collect additional driver compliance and vehicle speed data, with the goal of determining whether the temporary improvements should be made permanent, modified or removed.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 4, 2012

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance 7876 or 7881 respectively, amending Title 6, “Health Safety and Sanitation,” Chapter 4, “Regulation of Smoking,” B.R.C. 1981, including the addition of a definition of “Mall,” and a new section 6-4-5.5, “No Smoking on the Mall,” B.R.C. 1981 and setting forth related details.

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Tom Carr, City Attorney
David Driskell, Executive Director, Community Planning and Sustainability
Molly Winter, Director, Downtown and University Hill Management Division/Parking Services
Sandra Llanes, Assistant City Attorney III
Ellen Cunningham, Business Assistance and Special Events Manager

EXECUTIVE SUMMARY

At the City Council retreat in January of 2012, council asked staff to research and submit a proposal for a Smoking Ban on the Pearl Street Mall (“Mall”). The Boulder County Commissioners requested that the County Courthouse lawn be included in the ban area as outlined in **Attachment A**. Staff researched smoking public health issues with the help of Boulder County Public Health and presented the smoking ban Ordinance 7876 (**Attachment C**) to the Downtown Management Commission, Downtown Boulder, Inc., Downtown Boulder Business Improvement District, and Parks and Recreation Advisory Board. All boards supported the Smoking Ban on the Mall and County Courthouse lawn. Ordinance 7876 (**Attachment C**) was presented to city council for first reading on Tuesday, October 16, 2012. Ordinance 7881 (**Attachment D**) was also presented to city council for first reading as a slip in. Ordinance 7881 (**Attachment D**) reduces the potential penalty schedule and was created in response to city council member questions on first reading.

Suggested Motion Language:

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

Motion to adopt Ordinance 7881 amending Title 6, "Health Safety and Sanitation," Chapter 4, "Regulation of Smoking," B.R.C. 1981, including the addition of a definition of "Mall," and a new section 6-4-5.5, "No Smoking on the Mall," B.R.C. 1981 and setting forth related details.

FIRST READING QUESTIONS

Below are the staff responses to questions regarding the proposed smoking ban posed by council members at the first reading on Tuesday, October 16, 2012.

1. The fines in the proposed ordinance seem too egregious. Is it possible to reduce fines?

The municipal judge has discretion, within the defined maximum allowable penalty, to determine the final sentence on a case by case basis. The judge will take into consideration various factors including recommendations from the Prosecutor and Defense counsel.

Under Ordinance 7876 (**Attachment C**), proposed at first reading, the penalty for smoking on the Mall is a maximum \$1000 fine and/or maximum 90 days jail and is categorized as a general penalty violation.

Staff supports reducing the penalty, as reflected in Ordinance 7881 (**Attachment D**) to the following:

maximum penalty for a first or second conviction within two years (based on date of violation) is a fine of \$500; a third and subsequent conviction within two years (based on the date of the first violation) triggers the general penalty provision of a maximum \$1000 fine and/or maximum 90 days jail.

2. Why is the proposed smoking ban only on the four blocks of the Pearl Street Mall and not on all of Pearl Street?

Downtown Boulder Inc. (DBI) initiated a request to ban smoking on the Mall because of the concentration of smokers and cigarette butt litter that accumulates on the Mall. The Mall has a legal definition in the code (previously created by Ord. 4267 and 4543) that identifies its boundaries as the four block area between 11th and 14th Street on Pearl and includes the County Courthouse lawn to the south. The Mall is also easily identifiable to the public through existing signs and man-made barriers such as street closure to vehicles and pedestrians access only.

Mall officers are assigned to patrol the Mall to address issues specific to the Mall and its designated boundaries. There are already a number of laws that pertain specifically to the Mall such as; Section 5-6-8, "Skateboards on the Mall", 5-6-9, "Projectiles on the Mall", and 6-1-17, "Animals on Mall Prohibited", B.R.C. 1981. Therefore, it is more efficient for Mall police officers to enforce violations limited to the Mall and it will also be easier to educate the public.

Staff conducted research with other cities that have banned smoking; these cities suggested that Boulder start small and expand the area once there is sufficient data as to the success of this ban with feedback from downtown businesses, restaurants, DBI staff and the Mall crew.

3. How difficult would it be to expand the smoking ban to the Municipal campus from 6th Street to 14th Street, Arapahoe to Canyon?

The consideration of expanding the smoking ban to other park lands of the city, including the municipal campus and Central park area, has not previously been presented as an alternative and therefore requires further discussion with the impacted departments such as Parks and Recreation, Facilities Asset Management and Police, the appropriate Boards, public outreach to residents and park users, as well as event producers. Current policy and regulations do not prohibit smoking in the city's urban park areas.

4. How difficult would it be to ban smoking in all city parks, as well as open space?

To expand the smoking ban, staff would need to conduct broad, citywide outreach meetings to get public feedback as well as further discussions with impacted departments (such as Parks and Recreation, Open Space and Mountain Parks, and Police), and the appropriate Boards and Commissions. Also, it would be important to develop a thorough public information campaign should such an ordinance be enacted, and assess the financial impacts of additional signage. From a legal perspective, there does not seem to be any legal impediment to enacting such an ordinance.

5. Would the Boulder Police Department have any issues with reducing the fine and penalty schedule to what is outlined in Ordinance 7881 (Attachment D)?

The Boulder Police Department has no issues with reducing the fine and penalty schedule as outlined in Ordinance 7881 (**Attachment D**).

BACKGROUND AND ANALYSIS

For further background and analysis, please refer to the First Reading Memorandum at this link: <S:\CMO\DUHMDPS\Smoking Ban Pearl Street Mall\smokingbanfirstreading1016 FINAL.pdf>

STAFF RECOMMENDATION

Staff recommends that City Council adopt the Pearl Street Mall Proposed Smoking Ban Ordinance 7881 (**Attachment D**).

ATTACHMENTS

Attachment A: Map of Smoking Ban Area

Attachment B: Letter of Support for the Smoking Ban from Boulder County
Commissioners

Attachment C: Ordinance 7876

Attachment D: Ordinance 7881

ATTACHMENT A
MAP OF SMOKING BAN AREA



Proposed Smoking Ban

N

0 50 100 Feet



Board of County Commissioners

October 2, 2012

The Honorable Mayor Matt Appelbaum and Boulder City Council Members
Jane Brautigam, Boulder City Manager
City of Boulder
P.O. Box 791
Boulder CO 80306

Dear Mayor Appelbaum and Members of the City Council:

The Boulder County Board of County Commissioners supports the City of Boulder's efforts to make the Pearl Street Mall a smoke-free environment. We also support the inclusion of the Boulder County Courthouse lawn in the area being designated as smoke free.

As you know, the Courthouse lawn is a public area that is enjoyed year-round by residents and visitors, as well as employees of Boulder County and downtown businesses. This area attracts school classes, families, seniors, children, and others enjoying fresh air in this outdoor space. Including this space as part of the Pearl Street Mall smoke-free area is also consistent with the County's internal policies to limit smoking on county property. We will be considering a change to our *Boulder County Personnel and Policy Manual* to make the entire downtown campus – which includes the Courthouse and Courthouse Annex – smoke-free.

Even limited exposure to secondhand smoke can pose health risks, such as triggering asthma attacks, heart attacks, and strokes. We value the health of our community, our guests, and our environment, and we are in full support of initiatives – such as creating a smoke-free Pearl Street Mall – that will help to ensure clean air for everyone.

Sincerely,

Cindy Domenico, Chair
Boulder County Board of County Commissioners

Cindy Domenico County Commissioner **Deb Gardner** County Commissioner **Will Toor** County Commissioner

ATTACHMENT C
No Smoking on the Mall (no penalties)

ORDINANCE NO. 7876

AN ORDINANCE AMENDING TITLE 6, "HEALTH SAFETY AND SANITATION," CHAPTER 4, "REGULATION OF SMOKING," B.R.C. 1981, INCLUDING THE ADDITION OF A DEFINITION OF "MALL," AND A NEW SECTION 6-4-5.5, "NO SMOKING ON THE MALL," B.R.C. 1981 AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 6-4-2, B.R.C. 1981, is amended as follows:

6-4-2 Definitions.

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

...
"Mall" means the Downtown Boulder Mall as defined in Ordinance No. 4267, as amended by Ordinance No. 4543 and any successor ordinance.¹

Section 2. A new Section 6-4-5.5, B.R.C. 1981, is added to read:

6-4-5.5 Smoking Prohibited on the Mall.

No person shall smoke on the Mall.

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

¹ The ordinances generally describe the area included within the mall as the entire right-of-way of Pearl Street from approximately the east curb line of 11th Street to the west curb line of 15th Street except for the roadway at the intersections at Broadway, 13th and 14th Streets; and the area directly south of the Boulder County courthouse complex, specifically, the area bounded by the east curb line of 13th Street on the west, the west curb line of 14th Street on the east, the north boundary line of the Pearl Street right-of-way on the south and, on the north, by a line coinciding with the south wall of the west wing of the Boulder County courthouse complex and extending westerly at a right angle from the west wall thereof to the east curb line of 13th Street and extending easterly at a right angle from the east wall thereof to the west curb line of 14th Street; excepting, however, any buildings or portions of buildings which are owned by the County of Boulder and located in such area.

ATTACHMENT C

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

4 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
5 TITLE ONLY this 16th day of October, 2012.

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Mayor

Attest:

City Clerk

13 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
14 PUBLISHED BY TITLE ONLY this 4th day of December 2012.

Mayor

Attest:

City Clerk

ATTACHMENT D
No Smoking on the Mall (with penalties)

ORDINANCE NO. 7881

AN ORDINANCE AMENDING TITLE 6, "HEALTH SAFETY AND SANITATION," CHAPTER 4, "REGULATION OF SMOKING," B.R.C. 1981, INCLUDING THE ADDITION OF A DEFINITION OF "MALL," AND A NEW SECTION 6-4-5.5, "NO SMOKING ON THE MALL," B.R.C. 1981 AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 6-4-2, B.R.C. 1981, is amended as follows:

6-4-2 Definitions.

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

...
"Mall" means the Downtown Boulder Mall as defined in Ordinance No. 4267, as amended by Ordinance No. 4543 and any successor ordinance.¹

Section 2. A new Section 6-4-5.5, B.R.C. 1981, is added to read:

6-4-5.5 Smoking Prohibited on the Mall.

(a) No person shall smoke on the Mall.

(b) The maximum penalty for a first or second conviction within two years, based on date of violation of this section, is a fine of \$500.00. For a third and each subsequent conviction within two years, based upon the date of the first violation, the general penalty provisions of section 5-2-4, "General Penalties," B.R.C. 1981, shall apply.

¹ The ordinances generally describe the area included within the mall as the entire right-of-way of Pearl Street from approximately the east curb line of 11th Street to the west curb line of 15th Street except for the roadway at the intersections at Broadway, 13th and 14th Streets; and the area directly south of the Boulder County courthouse complex, specifically, the area bounded by the east curb line of 13th Street on the west, the west curb line of 14th Street on the east, the north boundary line of the Pearl Street right-of-way on the south and, on the north, by a line coinciding with the south wall of the west wing of the Boulder County courthouse complex and extending westerly at a right angle from the west wall thereof to the east curb line of 13th Street and extending easterly at a right angle from the east wall thereof to the west curb line of 14th Street; excepting, however, any buildings or portions of buildings which are owned by the County of Boulder and located in such area.



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: December 4, 2012

AGENDA TITLE

Next steps for revision of Inclusionary Housing and other housing policies

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
David Gehr, Deputy City Attorney
Jeff Yegian, Acting Housing Division Manager
Michelle Allen, Senior Housing Planner
Eric Ameigh, Senior Project Manager

PURPOSE

The purpose of this item is to confirm council's support for moving forward with near term changes to the inclusionary housing (IH) program for rental projects, as outlined in a November 1 information packet (IP) memo (Attachment A), and to confirm support for a comprehensive housing strategy discussion during a May 2013 study session.

BACKGROUND

On November 1, an IP was provided summarizing current shortcomings in the IH program as it relates to rental projects and describing a phased approach for implementing solutions to the identified problems. The IP was intended to gauge the level of council's interest and comfort in moving quickly to implement immediate solutions in a first phase, followed by more comprehensive analysis and solutions in the coming months.

Upon receipt of the IP, some members of the city council and the affordable housing and development communities expressed concerns about both the substance of the proposed changes and the anticipated speed of the proposed first phase. Boulder Housing Partners

(BHP) and Thistle Communities (Thistle) have focused specifically on the staff recommendation to limit rents for permanently affordable rental units to those households earning 50% of the Area Median Income (AMI) instead of the currently allowable 60% AMI. Both BHP and Thistle have expressed concerns that reducing allowable rents by lowering the AMI requirement would limit flexibility in setting rents and securing financing.

Recent conversations with some members of city council and the development community have also focused on broader and more fundamental questions and concerns about the entire IH program and the city's approach to intervention in the local housing market.

ANALYSIS

The proposal to accelerate the first phase of code changes was a result of earlier discussions with city council that indicated a need for timely action in securing the best possible affordable housing outcomes for the multitude of rental projects that are nearing construction in the coming months and years. As of the date of this memo, a half dozen projects representing over 900 potential market-rate rental units are currently under some form of review by city staff. The IH implications, whether in the form of units produced or cash-in-lieu (CIL) paid, are significant. While staff, council and the community share the desire to address broader issues in the city's housing policy, there is a limited window to address issues associated with IH rental policies and the resulting outcomes from current multifamily rental developments. That is why the IH Rental Policy Update was proposed as a discrete work item meant to deal, in a timely manner, with barriers to the near term implementation of IH for rental projects.

This work item clearly has connections to the city's broader housing policy. Accordingly, staff proposes initiating a community dialogue about a comprehensive housing strategy that would be scoped based on council direction. There are a number of planned or tentative workplan items related to housing (such as studies of accessory dwelling units (ADU), owner accessory units (OAU), and the density and distribution of affordable housing) that could benefit significantly from a comprehensive, rather than ad hoc, approach to the issues.

To that end, a study session has been tentatively scheduled for May 14, 2013 for the purpose of discussing a comprehensive housing strategy. Council support of this comprehensive housing strategy study session would represent an intentional effort to address the larger and more fundamental questions that exist about the city's housing policy.

Staff does not believe, however, that revisions to IH in 2013 would preclude any options that council may consider in future conversations about the direction of the city's housing efforts.

NEXT STEPS

Unless directed otherwise, staff will continue working on ordinance revisions for council consideration in the first quarter of 2013 as outlined in the November 1 IP. Staff will continue to gather input from representatives of the development community as the proposals are refined. It is currently anticipated that first reading for the ordinance changes, including the full staff analysis, will occur on February 5, 2013. Staff will also begin preparation for the May 14, 2013 study session to scope the comprehensive housing strategy.

ATTACHMENTS

Attachment A: November 1, 2012 Information Packet Memorandum: Inclusionary Housing (IH) Rental Policy Update.



**INFORMATION PACKET
MEMORANDUM**

To: Members of City Council

From: Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Karen Rahn, Director, Housing and Human Services
Jeff Yegian, Acting Housing Division Manager
Michelle Allen, Senior Housing Planner
Eric Ameigh, Senior Project Manger

Date: November 1, 2012

Subject: Information Item: Inclusionary Housing (IH) Rental Policy Update.

EXECUTIVE SUMMARY

The Division of Housing is conducting an Inclusionary Housing (IH) rental policy update to improve program outcomes. This IP is to update Council on the ordinance changes which will be proposed at a first reading hearing at the January 8, 2013 council meeting.

The IH rental policy update is multi-faceted and requires careful consideration, however, due to the number of rental projects currently slated for development, this issue is also time sensitive. As such, updates will be phased. The first phase will include ordinance changes for Planning Board and Council consideration in December 2012 and January 2013 respectively and will implement many of the program improvements discussed with Council at the April 10, 2012 study session. The proposed ordinance changes do not change current affordable housing policies, but rather provide modifications to ensure better outcomes from rental developments. The changes in the first phase are intended to address the most important issues as soon as possible including:

1. The current ordinance does not consistently meet community needs for affordable rental units. The types and sizes of units provided and the incomes of the households served result in less-than-optimal community benefit.

2. The current calculation for cash-in-lieu (CIL) contributions is based on the funding subsidy necessary to provide affordable homeownership units instead of rental units. This methodology inflates the cash-in-lieu contribution for rental projects and appears to be incentivizing the developer's choice to build units.
3. Based on the predominant experience with homeownership development since IH was initiated, the current ordinance and regulations are designed to work well for ownership projects. They do not work as well for rental projects and make administration of IH for rental projects cumbersome for staff and unpredictable for developers.

Ordinance changes are anticipated to accomplish the following:

1. Set rents to be affordable to households earning no more than 50% of the Area Median Income (AMI).
2. Base rental CIL contributions on the rental affordability gap instead of the homeownership affordability gap (subsequent regulatory changes will modify the rental cash-in-lieu based on unit size.)
3. Require that affordable rental units be, on average, equal in size to market rental units.
4. Modify off-site unit requirements to clarify expected outcomes for developers, improve the match between community needs and the units produced, and create stand-alone developments that respond to their sites and neighborhoods.
5. Include code changes necessary to keep the code up to date with current practices.

The proposed ordinance changes are intended to improve the community benefit realized from rental developments, and clarify and streamline the process. The ordinance changes will be followed up by new or modified Administrative Regulations which are reviewed by the Planning Board and approved by the city Manager.

The second phase of work will primarily address the issues around on-site rental units, including additional analysis of the use of Voluntary Agreements and other strategies for incentivizing on-site affordable rental units. It is possible that additional changes will not be necessary as the phase one changes may adequately address the existing implementation problems.

BACKGROUND

The IH ordinance was adopted in 2000 when the real estate market was producing relatively few rental units. Soon after the city's adoption of the ordinance, the Colorado Supreme Court decided that the state statute limiting the ability of municipalities to institute rent control measures applied to IH. As a result, the implementation of IH for rental developments became more challenging. As the housing market has shifted in recent years to producing many more rental units, the problems in implementing IH have become even more evident. The primary challenge is to revise the ordinance so that it will result in optimal community benefit. This needs to be done in a manner that is fair, legal and feasible for staff to administer.

At the April 10, 2012 study session, the following IH program modifications were discussed by Council:

- Reduce barriers to providing affordable rental units on-site including analysis of voluntary agreements.
- Ensure that each residential development contribute equally to IH; may include changes to the 20% requirement and methodology for setting rental CIL contribution.
- Ensure continued compliance with the state statute on rent control.
- Develop options to better integrate affordable rental units in the community; develop criteria to guide approval of off-site affordable housing locations.¹
- Modify current IH policies that are problematic for rental development including: household incomes served, the methodology for determining CIL contribution, required unit floor area, ownership and security requirements for off-site units, and criteria for the density and location of off-site units.

Council instructed staff to proceed with program updates. Due to the number of rental projects currently slated for development, program updates have been divided into phases. The first phase will address many of the most pressing issues in the implementation of IH for rental projects but does not include additional work at this time on the use of Voluntary Agreements, possible strategies for incentivizing on-site affordable rental units, and adjustment to the 20% requirement.

ANALYSIS

A phased approach in which the first phase is accelerated creates some tradeoffs. These include a reduction in the amount and depth of analysis of the issues, an adequate but less robust public process than is normal, and limited opportunities for formal council review and input prior to consideration of ordinance changes. Though these are very real concerns, council clearly expressed at the April study session, and in other discussions, a desire to make these changes quickly in order to ensure that the impending development of numerous rental projects delivers better affordable housing outcomes than would otherwise be the case under the current ordinance and regulations. The first phase of select ordinance changes is designed to do just that. It will implement necessary program modifications before a number of rental projects come on-line in 2013 and beyond.

The following summarizes the approach for the first phase items. All items have code language implications as well as implementation details, which will be included in the Administrative Regulations:

¹ The off-site location review process was provided to council in an information packet on August 21, 2012. The process includes an inter-departmental staff group that reviews each off-site location request based on general criteria. This group will then make a recommendation to the Director of Housing and Human Services for final approval or denial of the proposed location. Approval or denial of the proposed location does not imply subsequent approval of the off-site development. In addition, developers that request review of a proposed off-site affordable housing location will be required to submit a pre-application request to the planning department. Staff is looking at the most efficient way to integrate these processes. Further consideration of off-site affordable housing locations may be considered in the potential 2013 Density and Distribution project.

1. Problem: Current IH rent levels (affordable to those households at or below 60% AMI) are too high. Rents set at this level are equal to or higher than the current average rent in the community. Households at this income level currently have affordable options in the private rental market while lower income households do not. Therefore these rent levels are not resulting in adequate community benefit.

Solution: Reduce required IH rents to be affordable to households earning no more than 50% AMI. This would result in adequate community benefit and is consistent with the city's funding policies.

2. Problem: The CIL methodology is based on the homeownership affordability gap instead of the rental affordability gap. The resulting CIL amount creates a substantial incentive to produce units, which has led to off-site developments, not on-site units or off-site acquisitions. This dynamic has created concerns about the location and concentration of affordable units, the quality of development and significant implementation complications. In addition, the methodology for determining the amount of CIL is confusing, overly complicated and caps CIL amounts at the amount for 1,200 sq. ft. units. This may incentivize large unit sizes.

Solution: Base the rental CIL on 100% of the rental affordability gap; simplify the methodology and structure so larger units pay more and smaller units pay less CIL.

3. Problem: The requirement that off-site units be proportional to the sending site market-rate units in number of bedrooms and baths is not creating projects that meet community needs and is complicated and unclear.

Solution: Adjust the proportionality requirement with a solution that responds to the identified community needs for rental housing. This may include: unit credits that can be mixed or matched, equivalencies for the proportional requirement, or some similar solution.

4. Problem: The requirement that affordable unit floor area may be no smaller than 80% of market units results in units that are too small to meet other program requirements for room size and storage and not large enough to house families.

Solution: The units will either be equal in size to those on the sending site with unit minimum and maximum sizes, or pre-set, adequate sizes.

5. Problem: The state statute requirement that affordable rental units be owned by a housing authority or similar agency creates potential ownership scenarios that have proved unworkable and a barrier to provision of affordable rental units.

Solution: Although rental developments may meet IH with off-site ownership units, specific requirements for this option are needed. This option is not subject to the state statute on rent control.

6. Problem: A number of code and regulatory clean-up changes are needed to keep the program current.

Solution: Incorporate needed code and regulatory changes.

The first phase outlined above proposes modification to two of the four IH options for developers: payment of CIL or provision of off-site units. It does not directly address the concern that very few developers are choosing to build on-site affordable rental units due to legal and practical constraints. Dealing with those constraints is challenging and requires time for in-depth analysis. Staff will continue to research options that resolve the legal and practical constraints, in particular the use of Voluntary Agreements. That option will likely require substantial consideration from the city, such as subsidy, density bonus, or similar benefit, to be viable. Depending on the status of the research and analysis, staff may include limited information on the options for on-site units when the first phase code changes are presented. Additional work on this approach is planned for 2013.

NEXT STEPS

Staff will solicit input on the proposed changes from for-profit and not-for-profit residential developer stakeholders. Staff will update Planning Board on the Inclusionary Housing rental program on November 15, 2012 prior to the board's consideration of ordinance changes on December 13, 2012. The first reading of ordinance changes is scheduled for January 8, 2013.

For questions or comments please contact Jeff Yegian, 303-441-4364 or yegianj@bouldercolorado.gov.

**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM
Matters from the City Attorney**

MEETING DATE: December 4, 2012

AGENDA TITLE: AMENDMENT 64 CODE IMPACTS

PRESENTER/S:

Tom Carr, City Attorney
Kathy Haddock, Senior Assistant City Attorney

EXECUTIVE SUMMARY:

On November 6, 2012, Colorado voters approved Amendment 64 to the Colorado State Constitution regarding the use and regulation of marijuana. Amendment 64 maintains the current medical marijuana regulatory scheme, but also legalizes possession of less than one ounce of marijuana and cultivation of up to six plants. It creates a system of licensed businesses to cultivate marijuana, manufacture marijuana products and sell recreational marijuana. Local governments are required to adopt laws regarding recreational marijuana by October 1, 2013. The nature and extent of local laws required will depend on what actions, if any the state legislature takes during the 2013 session. Local governments may also ban by ordinance or referendum retail outlets, manufacturing facilities, cultivation facilities and testing facilities. If the local government does not ban these facilities, it can enact reasonable limitations on the time, place, manner and number of marijuana establishments in the jurisdiction and regulate recreational marijuana as a land use issue.

The purpose of this agenda item is to inform council about Amendment 64 and to seek guidance regarding whether staff should bring forward an ordinance banning recreational marijuana establishments or prepare for licensing such establishments, including developing land use guidelines. If a ban is adopted, it would apply only to businesses that want to provide recreational marijuana as long as the ban was in effect. The provisions of Amendment 64 that allow individuals to grow, use and possess marijuana would not be affected by a ban. Existing medical marijuana businesses also would not be affected by a ban.

Staff recommends a ban based on the experience with medical marijuana. In that case, the city was well ahead of the state in licensing and regulating the businesses. This effort required an extraordinary amount of staff time and city financial resources. Establishing an entirely new and necessarily different regulatory regime for recreational marijuana at this time, before the state or the federal government have weighed in would require

another significant investment of city resources. Staff recommends that a ban be imposed and that council revisit the issue in late 2014 when we should have significant experience with whatever regulatory scheme the state adopts.

STAFF RECOMMENDATION:

Staff recommends the council direct staff to prepare an ordinance banning recreational marijuana establishments in Boulder, monitor state licensing efforts and update the council in 2014.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

- **Economic:** It is not clear yet what economic impact the production and sale of marijuana for recreational use will have. Medical marijuana businesses average approximately \$200 million in annual sales in Boulder. Businesses selling for recreational use will likely meet or exceed this. Sales tax revenue will begin once recreational marijuana businesses are allowed to operate, which, if not banned, would be in the second quarter of 2014. Ultimately, it is reasonable to expect that recreational sales will replace medical sales, although Amendment 64 protects the existing medical marijuana businesses. Sales of this magnitude will impact the city's economy by generating employment and sales by suppliers.
- **Environmental:** The most significant impacts are associated with cultivation facilities and marijuana infused product manufacturers (MIPs). Boulder's code currently requires that medical marijuana cultivation facilities use only pesticides deemed safe for food production. Cultivation facilities face a challenge to control the odor associated with growing marijuana. MIPs can produce flammable and noxious gases.
- **Social:** There is insufficient data to address the social impacts of the availability of marijuana without legal constraints.

OTHER IMPACTS:

- **Fiscal:** The city received \$ 777,385.52 in sales and use tax revenue from medical marijuana businesses in 2011. The application fee that the city can charge for recreational marijuana is capped at \$500, which is approximately 10 percent of the cost to the city of processing a medical marijuana license application. The state could provide one-half of the state application fee (capped at \$5,000) which is approximately 50 percent of the cost to the city of processing applications.
- **Staff time:** Drafting an ordinance prohibiting recreational marijuana businesses can be accomplished with existing staff. Preparing for licensing by October 2013 will require approximately six months and significant staff time that is not in any work plan. In addition substantial staff time will be required to implement a licensing framework and land use regulations for recreational marijuana businesses.

PUBLIC FEEDBACK AND REQUESTS:

City staff held a meeting with medical marijuana businesses on November 26, 2012 to obtain information about the anticipated effect of recreational marijuana on medical marijuana businesses. Following are the issues and concerns raised:

- It is not clear what form of legislation the state legislature will adopt to implement Amendment 64, or what the Colorado Department of Revenue will do in adopting regulations; no plan of action has been discussed, although the Governor appointed a committee to draft the state law.
- Several of the participants, including a co-drafter of Amendment 64, said they would urge the state to adopt Boulder's medical marijuana law at the state level, and /or delegate to local governments the authority to adopt similar regulations for recreational marijuana.
- Medical marijuana businesses are concerned that recreational marijuana will eliminate the need for medical marijuana except for those 18-21 years old.¹
- The businesses did not want Boulder to adopt regulations without knowing what the state law was going to adopt to avoid conflicting regulations.
- The businesses were supportive of a ban on recreational businesses until the state acts to adopt laws and regulations and process licenses so that everyone would know what the state law and regulations would be and see whether the state was going to fund the licensing process or just rubber stamp applications.²
- Several of the businesses asked the city to give them priority over other applicants for recreation marijuana businesses by allowing them to convert their medical marijuana businesses to recreational marijuana or opening separate recreational marijuana businesses.
- The businesses recognize that Boulder is years ahead of the state in licensing because the state has not adequately funded the medical marijuana law it adopted, and there is no expectation the state will handle recreational marijuana licensing any differently, in part because Amendment 64 limits the application fee at the state level requiring a general fund subsidy of recreational marijuana licensing and enforcement.³

¹ Medical marijuana is allowed for those 18 or older (and younger with the permission of the parents and two doctors). Amendment 64 legalizes possession and use only for those 21 years or older.

² For licensing liquor applications the state funds only four employees with one supervisor to process 14,000 applications per year (less than nine minutes per application if all of the supervisor's time is spent processing applications.) For enforcement, the state funds approximately one enforcement officer for every six counties.

³ The state has licensed (as estimated by the local businesses) approximately 70 percent of the Boulder businesses, including only one cultivation facility. These businesses submitted their applications in 2010. The percentage is much higher in Boulder than other areas of the state because of the work the city has done. The city processed all of its applications over a year ago and has one more renewal to complete before the licensing manager will have completed 100 percent of the annual renewals for the medical marijuana businesses.

- The businesses want the city to protect existing medical marijuana businesses and support research of medical marijuana and patient rights.

In addition to the input at the meeting, the licensing manager has received several requests from persons interested in opening recreational marijuana businesses asking whether the city would allow private clubs for communal use of recreational marijuana. The private clubs would not be open to the public (Amendment 64 prohibits public consumption,) but be open only to those with memberships so that recreational marijuana could be used at the club location by members as part of a social club or dance club. The licensing manager has also received requests for business licenses for “Amsterdam-type” coffee houses for on-site usage of recreational marijuana at coffee shops.

BACKGROUND:

Amendment 64 is a complex measure. It is important to understand the limited role for local governments left by this Amendment. The full nature and extent of the form or scope of licensing at the state level, or what the legislature delegates to local governments will not be clear until the legislature adopts a law and the department of revenue adopts regulations.

As written, Amendment 64 includes a declaration of statewide concern potentially limiting the authority of the city to that provided by the Amendment and implementing legislation. The licensing scheme chosen by the drafters of Amendment 64 to regulate marijuana like alcohol is a single licensing process only at the state level like the liquor licensing process for breweries, wineries, and distilleries. Amendment 64 does not provide for the more familiar dual licensing process currently used for liquor stores, restaurants, taverns and brew pubs. Therefore, unless the legislature delegates otherwise or fails to act, the city could only regulate recreational marijuana through land use provisions, and have no licensing authority.

Enforcement of the single license establishments is not done by city officials, but by state officials. Historically, the state has not been able to fund adequate enforcement of its licensing laws on breweries, wineries or distilleries or medical marijuana.⁴ While the police can enforce criminal behavior that is a violation regardless of the type of business, the city may not adopt or enforce laws specifically applicable to recreational marijuana, other than land use issues. Violations by recreational marijuana businesses would be heard in state hearings investigated by what is likely to be few state officers, so the city could not revoke licenses, hold show cause hearings for violations, or otherwise enforce any laws regarding the operation of a recreational marijuana business. The department of revenue would hold revocation hearings. The same department also performs sales tax appeal hearings. It takes two to three years to get a hearing on a sales tax appeal.

⁴ As examples, the state currently has one enforcement officers covering six counties to conduct compliance inspections and enforce license violations of breweries, distilleries, and wineries: that inspector is not able to inspect business for annual renewals, let alone for interim inspections. For medical marijuana, after two years, the state has processed less than 60 percent of the applications received.

The Amendment allows existing medical marijuana laws and businesses to remain in place. There is no automatic right to convert a medical marijuana business to a recreational marijuana business.

Amendment 64 legalizes the following:

- Possessing marijuana accessories or one ounce or less of marijuana.
- Growing up to six marijuana plants, with three or fewer being mature, flowering plants, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale.
- Transfer of one ounce or less of marijuana without remuneration to a person who is 21 years of age or older.
- Using marijuana in private.

Nothing in the Amendment changes federal law, under which marijuana possession is still illegal. It remains to be seen what, if any response the federal government will have to Amendment 64.

Nothing that the city does can affect any of these provisions. Amendment 64 anticipates a limited role for local governments. Local governments are required to pass an ordinance designating a licensing agency and to issue licenses, if the state fails to do so, by October 1, 2013. Local governments can also enact land use regulations affecting recreational marijuana businesses. If the city does nothing, a state licensed business could open in any area of the city. Thus, it is imperative that the City Council provide guidance to staff on which path council wishes to pursue.

Passage of Amendment 64 leaves a number of uncertainties:

- Will the federal government sue to enjoin implementation?
- If the federal government is going to take action, will it wait until after the state adopts implementing legislation as it did in challenging Arizona's immigration laws?
- Will the justice department take criminal action against businesses?
- What affect will Amendment 64 have on established medical marijuana businesses?
- Within the regulatory scheme specified in Amendment 64, what, if any, authority will the state delegate to local governments for local licensing and enforcement?
- Will the state adequately fund whatever law it adopts so that there is review of licensing applications and enforcement of violations?
- What effect will recreational marijuana businesses have on medical marijuana businesses?

ANALYSIS:

The city has extensive experience regulating medical marijuana businesses. It appears likely that many of the same issues will be raised by recreational marijuana businesses. In the case of medical marijuana businesses, the state has not yet fully funded or implemented a licensing program or enforcement of its laws. Virtually all of the regulatory work and enforcement has been left to local governments. Without a ban, because legislation could take until May, 2013, and regulations are not required to be adopted until July 1, 2013, staff would have to commence work on changes to the land use code to allow recreational medical marijuana businesses before knowing what the state law was going to be. While staff was successful at adopting and implementing a licensing program for medical marijuana prior to the state adopting its law or issuing licenses, the Medical Marijuana Amendment to the Colorado Constitution did not restrict the city from implementing licensing laws and did not include a declaration of statewide concern. It also took an enormous amount of effort by city staff across several departments and hiring temporary employees to reach the current level of compliant, inspected and licensed businesses.

Staff recommends that council pass an ordinance banning recreational marijuana businesses for an interim period. Council should revisit this issue when some of the answers to the questions listed above have been resolved. Staff recommends that this be scheduled for the fourth quarter of 2014. This would allow approximately 18 months after the state regulations are to go into effect in July 2013. This would give ample time to review the state process and draft potential land use or, if necessary licensing regulations.

ATTACHMENT:

Amendment 64

Amendment 64
Use and Regulation of Marijuana

1 **Ballot Title:** Shall there be an amendment to the Colorado constitution
2 concerning marijuana, and, in connection therewith, providing for the regulation
3 of marijuana; permitting a person twenty-one years of age or older to consume or
4 possess limited amounts of marijuana; providing for the licensing of cultivation
5 facilities, product manufacturing facilities, testing facilities, and retail stores;
6 permitting local governments to regulate or prohibit such facilities; requiring the
7 general assembly to enact an excise tax to be levied upon wholesale sales of
8 marijuana; requiring that the first \$40 million in revenue raised annually by such
9 tax be credited to the public school capital construction assistance fund; and
10 requiring the general assembly to enact legislation governing the cultivation,
11 processing, and sale of industrial hemp?

12 **Text of Measure:**

13 *Be it Enacted by the People of the State of Colorado:*

14 Article XVIII of the constitution of the state of Colorado is amended BY THE
15 ADDITION OF A NEW SECTION to read:

16 **Section 16. Personal use and regulation of marijuana**

17 **(1) Purpose and findings.**

18 (a) IN THE INTEREST OF THE EFFICIENT USE OF LAW ENFORCEMENT
19 RESOURCES, ENHANCING REVENUE FOR PUBLIC PURPOSES, AND INDIVIDUAL
20 FREEDOM, THE PEOPLE OF THE STATE OF COLORADO FIND AND DECLARE THAT THE
21 USE OF MARIJUANA SHOULD BE LEGAL FOR PERSONS TWENTY-ONE YEARS OF AGE
22 OR OLDER AND TAXED IN A MANNER SIMILAR TO ALCOHOL.

23 (b) IN THE INTEREST OF THE HEALTH AND PUBLIC SAFETY OF OUR
24 CITIZENRY, THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE
25 THAT MARIJUANA SHOULD BE REGULATED IN A MANNER SIMILAR TO ALCOHOL SO
26 THAT:

27 (I) INDIVIDUALS WILL HAVE TO SHOW PROOF OF AGE BEFORE PURCHASING
28 MARIJUANA;

1 (II) SELLING, DISTRIBUTING, OR TRANSFERRING MARIJUANA TO MINORS
2 AND OTHER INDIVIDUALS UNDER THE AGE OF TWENTY-ONE SHALL REMAIN
3 ILLEGAL;

4 (III) DRIVING UNDER THE INFLUENCE OF MARIJUANA SHALL REMAIN
5 ILLEGAL;

6 (IV) LEGITIMATE, TAXPAYING BUSINESS PEOPLE, AND NOT CRIMINAL
7 ACTORS, WILL CONDUCT SALES OF MARIJUANA; AND

8 (V) MARIJUANA SOLD IN THIS STATE WILL BE LABELED AND SUBJECT TO
9 ADDITIONAL REGULATIONS TO ENSURE THAT CONSUMERS ARE INFORMED AND
10 PROTECTED.

11 (c) IN THE INTEREST OF ENACTING RATIONAL POLICIES FOR THE
12 TREATMENT OF ALL VARIATIONS OF THE CANNABIS PLANT, THE PEOPLE OF
13 COLORADO FURTHER FIND AND DECLARE THAT INDUSTRIAL HEMP SHOULD BE
14 REGULATED SEPARATELY FROM STRAINS OF CANNABIS WITH HIGHER DELTA-9
15 TETRAHYDROCANNABINOL (THC) CONCENTRATIONS.

16 (d) THE PEOPLE OF THE STATE OF COLORADO FURTHER FIND AND DECLARE
17 THAT IT IS NECESSARY TO ENSURE CONSISTENCY AND FAIRNESS IN THE
18 APPLICATION OF THIS SECTION THROUGHOUT THE STATE AND THAT, THEREFORE,
19 THE MATTERS ADDRESSED BY THIS SECTION ARE, EXCEPT AS SPECIFIED HEREIN,
20 MATTERS OF STATEWIDE CONCERN.

21 **(2) Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
22 REQUIRES,

23 (a) "COLORADO MEDICAL MARIJUANA CODE" MEANS ARTICLE 43.3 OF
24 TITLE 12, COLORADO REVISED STATUTES.

25 (b) "CONSUMER" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR OLDER
26 WHO PURCHASES MARIJUANA OR MARIJUANA PRODUCTS FOR PERSONAL USE BY
27 PERSONS TWENTY-ONE YEARS OF AGE OR OLDER, BUT NOT FOR RESALE TO OTHERS.

28 (c) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OR ITS
29 SUCCESSOR AGENCY.

30 (d) "INDUSTRIAL HEMP" MEANS THE PLANT OF THE GENUS CANNABIS AND
31 ANY PART OF SUCH PLANT, WHETHER GROWING OR NOT, WITH A DELTA-9

1 TETRAHYDROCANNABINOL CONCENTRATION THAT DOES NOT EXCEED THREE-
2 TENTHS PERCENT ON A DRY WEIGHT BASIS.

3 (e) "LOCALITY" MEANS A COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

4 (f) "MARIJUANA" OR "MARIHUANA" MEANS ALL PARTS OF THE PLANT OF
5 THE GENUS CANNABIS WHETHER GROWING OR NOT, THE SEEDS THEREOF, THE RESIN
6 EXTRACTED FROM ANY PART OF THE PLANT, AND EVERY COMPOUND,
7 MANUFACTURE, SALT, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS
8 SEEDS, OR ITS RESIN, INCLUDING MARIHUANA CONCENTRATE. "MARIJUANA" OR
9 "MARIHUANA" DOES NOT INCLUDE INDUSTRIAL HEMP, NOR DOES IT INCLUDE FIBER
10 PRODUCED FROM THE STALKS, OIL, OR CAKE MADE FROM THE SEEDS OF THE PLANT,
11 STERILIZED SEED OF THE PLANT WHICH IS INCAPABLE OF GERMINATION, OR THE
12 WEIGHT OF ANY OTHER INGREDIENT COMBINED WITH MARIJUANA TO PREPARE
13 TOPICAL OR ORAL ADMINISTRATIONS, FOOD, DRINK, OR OTHER PRODUCT.

14 (g) "MARIJUANA ACCESSORIES" MEANS ANY EQUIPMENT, PRODUCTS, OR
15 MATERIALS OF ANY KIND WHICH ARE USED, INTENDED FOR USE, OR DESIGNED FOR
16 USE IN PLANTING, PROPAGATING, CULTIVATING, GROWING, HARVESTING,
17 COMPOSTING, MANUFACTURING, COMPOUNDING, CONVERTING, PRODUCING,
18 PROCESSING, PREPARING, TESTING, ANALYZING, PACKAGING, REPACKAGING,
19 STORING, VAPORIZING, OR CONTAINING MARIJUANA, OR FOR INGESTING, INHALING,
20 OR OTHERWISE INTRODUCING MARIJUANA INTO THE HUMAN BODY.

21 (h) "MARIJUANA CULTIVATION FACILITY" MEANS AN ENTITY LICENSED TO
22 CULTIVATE, PREPARE, AND PACKAGE MARIJUANA AND SELL MARIJUANA TO RETAIL
23 MARIJUANA STORES, TO MARIJUANA PRODUCT MANUFACTURING FACILITIES, AND
24 TO OTHER MARIJUANA CULTIVATION FACILITIES, BUT NOT TO CONSUMERS.

25 (i) "MARIJUANA ESTABLISHMENT" MEANS A MARIJUANA CULTIVATION
26 FACILITY, A MARIJUANA TESTING FACILITY, A MARIJUANA PRODUCT
27 MANUFACTURING FACILITY, OR A RETAIL MARIJUANA STORE.

28 (j) "MARIJUANA PRODUCT MANUFACTURING FACILITY" MEANS AN ENTITY
29 LICENSED TO PURCHASE MARIJUANA; MANUFACTURE, PREPARE, AND PACKAGE
30 MARIJUANA PRODUCTS; AND SELL MARIJUANA AND MARIJUANA PRODUCTS TO
31 OTHER MARIJUANA PRODUCT MANUFACTURING FACILITIES AND TO RETAIL
32 MARIJUANA STORES, BUT NOT TO CONSUMERS.

33 (k) "MARIJUANA PRODUCTS" MEANS CONCENTRATED MARIJUANA
34 PRODUCTS AND MARIJUANA PRODUCTS THAT ARE COMPRISED OF MARIJUANA AND

1 OTHER INGREDIENTS AND ARE INTENDED FOR USE OR CONSUMPTION, SUCH AS, BUT
2 NOT LIMITED TO, EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES.

3 (l) "MARIJUANA TESTING FACILITY" MEANS AN ENTITY LICENSED TO
4 ANALYZE AND CERTIFY THE SAFETY AND POTENCY OF MARIJUANA.

5 (m) "MEDICAL MARIJUANA CENTER" MEANS AN ENTITY LICENSED BY A
6 STATE AGENCY TO SELL MARIJUANA AND MARIJUANA PRODUCTS PURSUANT TO
7 SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE.

8 (n) "RETAIL MARIJUANA STORE" MEANS AN ENTITY LICENSED TO
9 PURCHASE MARIJUANA FROM MARIJUANA CULTIVATION FACILITIES AND
10 MARIJUANA AND MARIJUANA PRODUCTS FROM MARIJUANA PRODUCT
11 MANUFACTURING FACILITIES AND TO SELL MARIJUANA AND MARIJUANA PRODUCTS
12 TO CONSUMERS.

13 (o) "UNREASONABLY IMPRACTICABLE" MEANS THAT THE MEASURES
14 NECESSARY TO COMPLY WITH THE REGULATIONS REQUIRE SUCH A HIGH
15 INVESTMENT OF RISK, MONEY, TIME, OR ANY OTHER RESOURCE OR ASSET THAT THE
16 OPERATION OF A MARIJUANA ESTABLISHMENT IS NOT WORTHY OF BEING CARRIED
17 OUT IN PRACTICE BY A REASONABLY PRUDENT BUSINESSPERSON.

18 **(3) Personal use of marijuana.** NOTWITHSTANDING ANY OTHER PROVISION OF
19 LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL NOT BE AN OFFENSE
20 UNDER COLORADO LAW OR THE LAW OF ANY LOCALITY WITHIN COLORADO OR BE
21 A BASIS FOR SEIZURE OR FORFEITURE OF ASSETS UNDER COLORADO LAW FOR
22 PERSONS TWENTY-ONE YEARS OF AGE OR OLDER:

23 (a) POSSESSING, USING, DISPLAYING, PURCHASING, OR TRANSPORTING
24 MARIJUANA ACCESSORIES OR ONE OUNCE OR LESS OF MARIJUANA.

25 (b) POSSESSING, GROWING, PROCESSING, OR TRANSPORTING NO MORE
26 THAN SIX MARIJUANA PLANTS, WITH THREE OR FEWER BEING MATURE, FLOWERING
27 PLANTS, AND POSSESSION OF THE MARIJUANA PRODUCED BY THE PLANTS ON THE
28 PREMISES WHERE THE PLANTS WERE GROWN, PROVIDED THAT THE GROWING TAKES
29 PLACE IN AN ENCLOSED, LOCKED SPACE, IS NOT CONDUCTED OPENLY OR PUBLICLY,
30 AND IS NOT MADE AVAILABLE FOR SALE.

31 (c) TRANSFER OF ONE OUNCE OR LESS OF MARIJUANA WITHOUT
32 REMUNERATION TO A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR OLDER.

1 (d) CONSUMPTION OF MARIJUANA, PROVIDED THAT NOTHING IN THIS
2 SECTION SHALL PERMIT CONSUMPTION THAT IS CONDUCTED OPENLY AND PUBLICLY
3 OR IN A MANNER THAT ENDANGERS OTHERS.

4 (e) ASSISTING ANOTHER PERSON WHO IS TWENTY-ONE YEARS OF AGE OR
5 OLDER IN ANY OF THE ACTS DESCRIBED IN PARAGRAPHS (a) THROUGH (d) OF THIS
6 SUBSECTION.

7 **(4) Lawful operation of marijuana-related facilities.** NOTWITHSTANDING ANY
8 OTHER PROVISION OF LAW, THE FOLLOWING ACTS ARE NOT UNLAWFUL AND SHALL
9 NOT BE AN OFFENSE UNDER COLORADO LAW OR BE A BASIS FOR SEIZURE OR
10 FORFEITURE OF ASSETS UNDER COLORADO LAW FOR PERSONS TWENTY-ONE YEARS
11 OF AGE OR OLDER:

12 (a) MANUFACTURE, POSSESSION, OR PURCHASE OF MARIJUANA
13 ACCESSORIES OR THE SALE OF MARIJUANA ACCESSORIES TO A PERSON WHO IS
14 TWENTY-ONE YEARS OF AGE OR OLDER.

15 (b) POSSESSING, DISPLAYING, OR TRANSPORTING MARIJUANA OR
16 MARIJUANA PRODUCTS; PURCHASE OF MARIJUANA FROM A MARIJUANA
17 CULTIVATION FACILITY; PURCHASE OF MARIJUANA OR MARIJUANA PRODUCTS FROM
18 A MARIJUANA PRODUCT MANUFACTURING FACILITY; OR SALE OF MARIJUANA OR
19 MARIJUANA PRODUCTS TO CONSUMERS, IF THE PERSON CONDUCTING THE
20 ACTIVITIES DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID
21 LICENSE TO OPERATE A RETAIL MARIJUANA STORE OR IS ACTING IN HIS OR HER
22 CAPACITY AS AN OWNER, EMPLOYEE OR AGENT OF A LICENSED RETAIL MARIJUANA
23 STORE.

24 (c) CULTIVATING, HARVESTING, PROCESSING, PACKAGING, TRANSPORTING,
25 DISPLAYING, OR POSSESSING MARIJUANA; DELIVERY OR TRANSFER OF MARIJUANA
26 TO A MARIJUANA TESTING FACILITY; SELLING MARIJUANA TO A MARIJUANA
27 CULTIVATION FACILITY, A MARIJUANA PRODUCT MANUFACTURING FACILITY, OR
28 A RETAIL MARIJUANA STORE; OR THE PURCHASE OF MARIJUANA FROM A
29 MARIJUANA CULTIVATION FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES
30 DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VAILD LICENSE TO
31 OPERATE A MARIJUANA CULTIVATION FACILITY OR IS ACTING IN HIS OR HER
32 CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA
33 CULTIVATION FACILITY.

34 (d) PACKAGING, PROCESSING, TRANSPORTING, MANUFACTURING,
35 DISPLAYING, OR POSSESSING MARIJUANA OR MARIJUANA PRODUCTS; DELIVERY OR

1 TRANSFER OF MARIJUANA OR MARIJUANA PRODUCTS TO A MARIJUANA TESTING
2 FACILITY; SELLING MARIJUANA OR MARIJUANA PRODUCTS TO A RETAIL MARIJUANA
3 STORE OR A MARIJUANA PRODUCT MANUFACTURING FACILITY; THE PURCHASE OF
4 MARIJUANA FROM A MARIJUANA CULTIVATION FACILITY; OR THE PURCHASE OF
5 MARIJUANA OR MARIJUANA PRODUCTS FROM A MARIJUANA PRODUCT
6 MANUFACTURING FACILITY, IF THE PERSON CONDUCTING THE ACTIVITIES
7 DESCRIBED IN THIS PARAGRAPH HAS OBTAINED A CURRENT, VALID LICENSE TO
8 OPERATE A MARIJUANA PRODUCT MANUFACTURING FACILITY OR IS ACTING IN HIS
9 OR HER CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA
10 PRODUCT MANUFACTURING FACILITY.

11 (e) POSSESSING, CULTIVATING, PROCESSING, REPACKAGING, STORING,
12 TRANSPORTING, DISPLAYING, TRANSFERRING OR DELIVERING MARIJUANA OR
13 MARIJUANA PRODUCTS IF THE PERSON HAS OBTAINED A CURRENT, VALID LICENSE
14 TO OPERATE A MARIJUANA TESTING FACILITY OR IS ACTING IN HIS OR HER
15 CAPACITY AS AN OWNER, EMPLOYEE, OR AGENT OF A LICENSED MARIJUANA
16 TESTING FACILITY.

17 (f) LEASING OR OTHERWISE ALLOWING THE USE OF PROPERTY OWNED,
18 OCCUPIED OR CONTROLLED BY ANY PERSON, CORPORATION OR OTHER ENTITY FOR
19 ANY OF THE ACTIVITES CONDUCTED LAWFULLY IN ACCORDANCE WITH
20 PARAGRAPHS (a) THROUGH (e) OF THIS SUBSECTION.

21 **(5) Regulation of marijuana.**

22 (a) NOT LATER THAN JULY 1, 2013, THE DEPARTMENT SHALL ADOPT
23 REGULATIONS NECESSARY FOR IMPLEMENTATION OF THIS SECTION. SUCH
24 REGULATIONS SHALL NOT PROHIBIT THE OPERATION OF MARIJUANA
25 ESTABLISHMENTS, EITHER EXPRESSLY OR THROUGH REGULATIONS THAT MAKE
26 THEIR OPERATION UNREASONABLY IMPRACTICABLE. SUCH REGULATIONS SHALL
27 INCLUDE:

28 (I) PROCEDURES FOR THE ISSUANCE, RENEWAL, SUSPENSION, AND
29 REVOCATION OF A LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT, WITH
30 SUCH PROCEDURES SUBJECT TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF
31 THE COLORADO ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR
32 PROVISION;

33 (II) A SCHEDULE OF APPLICATION, LICENSING AND RENEWAL FEES,
34 PROVIDED, APPLICATION FEES SHALL NOT EXCEED FIVE THOUSAND DOLLARS, WITH
35 THIS UPPER LIMIT ADJUSTED ANNUALLY FOR INFLATION, UNLESS THE DEPARTMENT

1 DETERMINES A GREATER FEE IS NECESSARY TO CARRY OUT ITS RESPONSIBILITIES
2 UNDER THIS SECTION, AND PROVIDED FURTHER, AN ENTITY THAT IS LICENSED
3 UNDER THE COLORADO MEDICAL MARIJUANA CODE TO CULTIVATE OR SELL
4 MARIJUANA OR TO MANUFACTURE MARIJUANA PRODUCTS AT THE TIME THIS
5 SECTION TAKES EFFECT AND THAT CHOOSES TO APPLY FOR A SEPARATE
6 MARIJUANA ESTABLISHMENT LICENSE SHALL NOT BE REQUIRED TO PAY AN
7 APPLICATION FEE GREATER THAN FIVE HUNDRED DOLLARS TO APPLY FOR A
8 LICENSE TO OPERATE A MARIJUANA ESTABLISHMENT IN ACCORDANCE WITH THE
9 PROVISIONS OF THIS SECTION;

10 (III) QUALIFICATIONS FOR LICENSURE THAT ARE DIRECTLY AND
11 DEMONSTRABLY RELATED TO THE OPERATION OF A MARIJUANA ESTABLISHMENT;

12 (IV) SECURITY REQUIREMENTS FOR MARIJUANA ESTABLISHMENTS;

13 (V) REQUIREMENTS TO PREVENT THE SALE OR DIVERSION OF MARIJUANA
14 AND MARIJUANA PRODUCTS TO PERSONS UNDER THE AGE OF TWENTY-ONE;

15 (VI) LABELING REQUIREMENTS FOR MARIJUANA AND MARIJUANA
16 PRODUCTS SOLD OR DISTRIBUTED BY A MARIJUANA ESTABLISHMENT;

17 (VII) HEALTH AND SAFETY REGULATIONS AND STANDARDS FOR THE
18 MANUFACTURE OF MARIJUANA PRODUCTS AND THE CULTIVATION OF MARIJUANA;

19 (VIII) RESTRICTIONS ON THE ADVERTISING AND DISPLAY OF MARIJUANA
20 AND MARIJUANA PRODUCTS; AND

21 (IX) CIVIL PENALTIES FOR THE FAILURE TO COMPLY WITH REGULATIONS
22 MADE PURSUANT TO THIS SECTION.

23 (b) IN ORDER TO ENSURE THE MOST SECURE, RELIABLE, AND ACCOUNTABLE
24 SYSTEM FOR THE PRODUCTION AND DISTRIBUTION OF MARIJUANA AND MARIJUANA
25 PRODUCTS IN ACCORDANCE WITH THIS SUBSECTION, IN ANY COMPETITIVE
26 APPLICATION PROCESS THE DEPARTMENT SHALL HAVE AS A PRIMARY
27 CONSIDERATION WHETHER AN APPLICANT:

28 (I) HAS PRIOR EXPERIENCE PRODUCING OR DISTRIBUTING MARIJUANA OR
29 MARIJUANA PRODUCTS PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE
30 COLORADO MEDICAL MARIJUANA CODE IN THE LOCALITY IN WHICH THE
31 APPLICANT SEEKS TO OPERATE A MARIJUANA ESTABLISHMENT; AND

1 (II) HAS, DURING THE EXPERIENCE DESCRIBED IN SUBPARAGRAPH (I),
2 COMPLIED CONSISTANTLY WITH SECTION 14 OF THIS ARTICLE, THE PROVISIONS OF
3 THE COLORADO MEDICAL MARIJUANA CODE AND CONFORMING REGULATIONS.

4 (c) IN ORDER TO ENSURE THAT INDIVIDUAL PRIVACY IS PROTECTED,
5 NOTWITHSTANDING PARAGRAPH (a), THE DEPARTMENT SHALL NOT REQUIRE A
6 CONSUMER TO PROVIDE A RETAIL MARIJUANA STORE WITH PERSONAL
7 INFORMATION OTHER THAN GOVERNMENT-ISSUED IDENTIFICATION TO DETERMINE
8 THE CONSUMER'S AGE, AND A RETAIL MARIJUANA STORE SHALL NOT BE REQUIRED
9 TO ACQUIRE AND RECORD PERSONAL INFORMATION ABOUT CONSUMERS OTHER
10 THAN INFORMATION TYPICALLY ACQUIRED IN A FINANCIAL TRANSACTION
11 CONDUCTED AT A RETAIL LIQUOR STORE.

12 (d) THE GENERAL ASSEMBLY SHALL ENACT AN EXCISE TAX TO BE LEVIED
13 UPON MARIJUANA SOLD OR OTHERWISE TRANSFERRED BY A MARIJUANA
14 CULTIVATION FACILITY TO A MARIJUANA PRODUCT MANUFACTURING FACILITY OR
15 TO A RETAIL MARIJUANA STORE AT A RATE NOT TO EXCEED FIFTEEN PERCENT
16 PRIOR TO JANUARY 1, 2017 AND AT A RATE TO BE DETERMINED BY THE GENERAL
17 ASSEMBLY THEREAFTER, AND SHALL DIRECT THE DEPARTMENT TO ESTABLISH
18 PROCEDURES FOR THE COLLECTION OF ALL TAXES LEVIED. PROVIDED, THE FIRST
19 FORTY MILLION DOLLARS IN REVENUE RAISED ANNUALLY FROM ANY SUCH EXCISE
20 TAX SHALL BE CREDITED TO THE PUBLIC SCHOOL CAPITAL CONSTRUCTION
21 ASSISTANCE FUND CREATED BY ARTICLE 43.7 OF TITLE 22, C.R.S., OR ANY
22 SUCCESSOR FUND DEDICATED TO A SIMILAR PURPOSE. PROVIDED FURTHER, NO
23 SUCH EXCISE TAX SHALL BE LEVIED UPON MARIJUANA INTENDED FOR SALE AT
24 MEDICAL MARIJUANA CENTERS PURSUANT TO SECTION 14 OF THIS ARTICLE AND
25 THE COLORADO MEDICAL MARIJUANA CODE.

26 (e) NOT LATER THAN OCTOBER 1, 2013, EACH LOCALITY SHALL ENACT AN
27 ORDINANCE OR REGULATION SPECIFYING THE ENTITY WITHIN THE LOCALITY THAT
28 IS RESPONSIBLE FOR PROCESSING APPLICATIONS SUBMITTED FOR A LICENSE TO
29 OPERATE A MARIJUANA ESTABLISHMENT WITHIN THE BOUNDARIES OF THE
30 LOCALITY AND FOR THE ISSUANCE OF SUCH LICENSES SHOULD THE ISSUANCE BY
31 THE LOCALITY BECOME NECESSARY BECAUSE OF A FAILURE BY THE DEPARTMENT
32 TO ADOPT REGULATIONS PURSUANT TO PARAGRAPH (a) OR BECAUSE OF A FAILURE
33 BY THE DEPARTMENT TO PROCESS AND ISSUE LICENSES AS REQUIRED BY
34 PARAGRAPH (g).

35 (f) A LOCALITY MAY ENACT ORDINANCES OR REGULATIONS, NOT IN
36 CONFLICT WITH THIS SECTION OR WITH REGULATIONS OR LEGISLATION ENACTED
37 PURSUANT TO THIS SECTION, GOVERNING THE TIME, PLACE, MANNER AND NUMBER

1 OF MARIJUANA ESTABLISHMENT OPERATIONS; ESTABLISHING PROCEDURES FOR THE
2 ISSUANCE, SUSPENSION, AND REVOCATION OF A LICENSE ISSUED BY THE LOCALITY
3 IN ACCORDANCE WITH PARAGRAPH (h) OR (i), SUCH PROCEDURES TO BE SUBJECT
4 TO ALL REQUIREMENTS OF ARTICLE 4 OF TITLE 24 OF THE COLORADO
5 ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION; ESTABLISHING
6 A SCHEDULE OF ANNUAL OPERATING, LICENSING, AND APPLICATION FEES FOR
7 MARIJUANA ESTABLISHMENTS, PROVIDED, THE APPLICATION FEE SHALL ONLY BE
8 DUE IF AN APPLICATION IS SUBMITTED TO A LOCALITY IN ACCORDANCE WITH
9 PARAGRAPH (i) AND A LICENSING FEE SHALL ONLY BE DUE IF A LICENSE IS ISSUED
10 BY A LOCALITY IN ACCORDANCE WITH PARAGRAPH (h) OR (i); AND ESTABLISHING
11 CIVIL PENALTIES FOR VIOLATION OF AN ORDINANCE OR REGULATION GOVERNING
12 THE TIME, PLACE, AND MANNER OF A MARIJUANA ESTABLISHMENT THAT MAY
13 OPERATE IN SUCH LOCALITY. A LOCALITY MAY PROHIBIT THE OPERATION OF
14 MARIJUANA CULTIVATION FACILITIES, MARIJUANA PRODUCT MANUFACTURING
15 FACILITIES, MARIJUANA TESTING FACILITIES, OR RETAIL MARIJUANA STORES
16 THROUGH THE ENACTMENT OF AN ORDINANCE OR THROUGH AN INITIATED OR
17 REFERRED MEASURE; PROVIDED, ANY INITIATED OR REFERRED MEASURE TO
18 PROHIBIT THE OPERATION OF MARIJUANA CULTIVATION FACILITIES, MARIJUANA
19 PRODUCT MANUFACTURING FACILITIES, MARIJUANA TESTING FACILITIES, OR
20 RETAIL MARIJUANA STORES MUST APPEAR ON A GENERAL ELECTION BALLOT
21 DURING AN EVEN NUMBERED YEAR.

22 (g) EACH APPLICATION FOR AN ANNUAL LICENSE TO OPERATE A
23 MARIJUANA ESTABLISHMENT SHALL BE SUBMITTED TO THE DEPARTMENT. THE
24 DEPARTMENT SHALL:

25 (I) BEGIN ACCEPTING AND PROCESSING APPLICATIONS ON OCTOBER 1, 2013;

26 (II) IMMEDIATELY FORWARD A COPY OF EACH APPLICATION AND HALF OF
27 THE LICENSE APPLICATION FEE TO THE LOCALITY IN WHICH THE APPLICANT DESIRES
28 TO OPERATE THE MARIJUANA ESTABLISHMENT;

29 (III) ISSUE AN ANNUAL LICENSE TO THE APPLICANT BETWEEN FORTY-FIVE
30 AND NINETY DAYS AFTER RECEIPT OF AN APPLICATION UNLESS THE DEPARTMENT
31 FINDS THE APPLICANT IS NOT IN COMPLIANCE WITH REGULATIONS ENACTED
32 PURSUANT TO PARAGRAPH (a) OR THE DEPARTMENT IS NOTIFIED BY THE RELEVANT
33 LOCALITY THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND
34 REGULATIONS MADE PURSUANT TO PARAGRAPH (f) AND IN EFFECT AT THE TIME OF
35 APPLICATION, PROVIDED, WHERE A LOCALITY HAS ENACTED A NUMERICAL LIMIT
36 ON THE NUMBER OF MARIJUANA ESTABLISHMENTS AND A GREATER NUMBER OF
37 APPLICANTS SEEK LICENSES, THE DEPARTMENT SHALL SOLICIT AND CONSIDER

1 INPUT FROM THE LOCALITY AS TO THE LOCALITY'S PREFERENCE OR PREFERENCES
2 FOR LICENSURE; AND

3 (IV) UPON DENIAL OF AN APPLICATION, NOTIFY THE APPLICANT IN WRITING
4 OF THE SPECIFIC REASON FOR ITS DENIAL.

5 (h) IF THE DEPARTMENT DOES NOT ISSUE A LICENSE TO AN APPLICANT
6 WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION FILED IN ACCORDANCE WITH
7 PARAGRAPH (g) AND DOES NOT NOTIFY THE APPLICANT OF THE SPECIFIC REASON
8 FOR ITS DENIAL, IN WRITING AND WITHIN SUCH TIME PERIOD, OR IF THE
9 DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH (a) AND HAS
10 ACCEPTED APPLICATIONS PURSUANT TO PARAGRAPH (g) BUT HAS NOT ISSUED ANY
11 LICENSES BY JANUARY 1, 2014, THE APPLICANT MAY RESUBMIT ITS APPLICATION
12 DIRECTLY TO THE LOCALITY, PURSUANT TO PARAGRAPH (e), AND THE LOCALITY
13 MAY ISSUE AN ANNUAL LICENSE TO THE APPLICANT. A LOCALITY ISSUING A
14 LICENSE TO AN APPLICANT SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE
15 RESUBMITTED APPLICATION UNLESS THE LOCALITY FINDS AND NOTIFIES THE
16 APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE WITH ORDINANCES AND
17 REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN EFFECT AT THE TIME THE
18 APPLICATION IS RESUBMITTED AND THE LOCALITY SHALL NOTIFY THE DEPARTMENT
19 IF AN ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. IF AN APPLICATION
20 IS SUBMITTED TO A LOCALITY UNDER THIS PARAGRAPH, THE DEPARTMENT SHALL
21 FORWARD TO THE LOCALITY THE APPLICATION FEE PAID BY THE APPLICANT TO THE
22 DEPARTMENT UPON REQUEST BY THE LOCALITY. A LICENSE ISSUED BY A LOCALITY
23 IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE AND EFFECT
24 AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (g)
25 AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO REGULATION OR
26 ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT LICENSE.
27 A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS PARAGRAPH ON
28 AN ANNUAL BASIS ONLY UPON RESUBMISSION TO THE LOCALITY OF A NEW
29 APPLICATION SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (g).
30 NOTHING IN THIS PARAGRAPH SHALL LIMIT SUCH RELIEF AS MAY BE AVAILABLE TO
31 AN AGGRIEVED PARTY UNDER SECTION 24-4-104, C.R.S., OF THE COLORADO
32 ADMINISTRATIVE PROCEDURE ACT OR ANY SUCCESSOR PROVISION.

33 (i) IF THE DEPARTMENT DOES NOT ADOPT REGULATIONS REQUIRED BY
34 PARAGRAPH (a), AN APPLICANT MAY SUBMIT AN APPLICATION DIRECTLY TO A
35 LOCALITY AFTER OCTOBER 1, 2013 AND THE LOCALITY MAY ISSUE AN ANNUAL
36 LICENSE TO THE APPLICANT. A LOCALITY ISSUING A LICENSE TO AN APPLICANT
37 SHALL DO SO WITHIN NINETY DAYS OF RECEIPT OF THE APPLICATION UNLESS IT
38 FINDS AND NOTIFIES THE APPLICANT THAT THE APPLICANT IS NOT IN COMPLIANCE

1 WITH ORDINANCES AND REGULATIONS MADE PURSUANT TO PARAGRAPH (f) IN
2 EFFECT AT THE TIME OF APPLICATION AND SHALL NOTIFY THE DEPARTMENT IF AN
3 ANNUAL LICENSE HAS BEEN ISSUED TO THE APPLICANT. A LICENSE ISSUED BY A
4 LOCALITY IN ACCORDANCE WITH THIS PARAGRAPH SHALL HAVE THE SAME FORCE
5 AND EFFECT AS A LICENSE ISSUED BY THE DEPARTMENT IN ACCORDANCE WITH
6 PARAGRAPH (g) AND THE HOLDER OF SUCH LICENSE SHALL NOT BE SUBJECT TO
7 REGULATION OR ENFORCEMENT BY THE DEPARTMENT DURING THE TERM OF THAT
8 LICENSE. A SUBSEQUENT OR RENEWED LICENSE MAY BE ISSUED UNDER THIS
9 PARAGRAPH ON AN ANNUAL BASIS IF THE DEPARTMENT HAS NOT ADOPTED
10 REGULATIONS REQUIRED BY PARAGRAPH (a) AT LEAST NINETY DAYS PRIOR TO THE
11 DATE UPON WHICH SUCH SUBSEQUENT OR RENEWED LICENSE WOULD BE EFFECTIVE
12 OR IF THE DEPARTMENT HAS ADOPTED REGULATIONS PURSUANT TO PARAGRAPH
13 (a) BUT HAS NOT, AT LEAST NINETY DAYS AFTER THE ADOPTION OF SUCH
14 REGULATIONS, ISSUED LICENSES PURSUANT TO PARAGRAPH (g).

15 (j) NOT LATER THAN JULY 1, 2014, THE GENERAL ASSEMBLY SHALL ENACT
16 LEGISLATION GOVERNING THE CULTIVATION, PROCESSING AND SALE OF
17 INDUSTRIAL HEMP.

18 **(6) Employers, driving, minors and control of property.**

19 (a) NOTHING IN THIS SECTION IS INTENDED TO REQUIRE AN EMPLOYER TO
20 PERMIT OR ACCOMMODATE THE USE, CONSUMPTION, POSSESSION, TRANSFER,
21 DISPLAY, TRANSPORTATION, SALE OR GROWING OF MARIJUANA IN THE WORKPLACE
22 OR TO AFFECT THE ABILITY OF EMPLOYERS TO HAVE POLICIES RESTRICTING THE
23 USE OF MARIJUANA BY EMPLOYEES.

24 (b) NOTHING IN THIS SECTION IS INTENDED TO ALLOW DRIVING UNDER THE
25 INFLUENCE OF MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA OR TO
26 SUPERSEDE STATUTORY LAWS RELATED TO DRIVING UNDER THE INFLUENCE OF
27 MARIJUANA OR DRIVING WHILE IMPAIRED BY MARIJUANA, NOR SHALL THIS SECTION
28 PREVENT THE STATE FROM ENACTING AND IMPOSING PENALTIES FOR DRIVING
29 UNDER THE INFLUENCE OF OR WHILE IMPAIRED BY MARIJUANA.

30 (c) NOTHING IN THIS SECTION IS INTENDED TO PERMIT THE TRANSFER OF
31 MARIJUANA, WITH OR WITHOUT REMUNERATION, TO A PERSON UNDER THE AGE OF
32 TWENTY-ONE OR TO ALLOW A PERSON UNDER THE AGE OF TWENTY-ONE TO
33 PURCHASE, POSSESS, USE, TRANSPORT, GROW, OR CONSUME MARIJUANA.

34 (d) NOTHING IN THIS SECTION SHALL PROHIBIT A PERSON, EMPLOYER,
35 SCHOOL, HOSPITAL, DETENTION FACILITY, CORPORATION OR ANY OTHER ENTITY

1 WHO OCCUPIES, OWNS OR CONTROLS A PROPERTY FROM PROHIBITING OR
2 OTHERWISE REGULATING THE POSSESSION, CONSUMPTION, USE, DISPLAY,
3 TRANSFER, DISTRIBUTION, SALE, TRANSPORTATION, OR GROWING OF MARIJUANA
4 ON OR IN THAT PROPERTY.

5 **(7) Medical marijuana provisions unaffected.** NOTHING IN THIS SECTION SHALL
6 BE CONSTRUED:

7 (a) TO LIMIT ANY PRIVILEGES OR RIGHTS OF A MEDICAL MARIJUANA
8 PATIENT, PRIMARY CAREGIVER, OR LICENSED ENTITY AS PROVIDED IN SECTION 14
9 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE;

10 (b) TO PERMIT A MEDICAL MARIJUANA CENTER TO DISTRIBUTE MARIJUANA
11 TO A PERSON WHO IS NOT A MEDICAL MARIJUANA PATIENT;

12 (c) TO PERMIT A MEDICAL MARIJUANA CENTER TO PURCHASE MARIJUANA
13 OR MARIJUANA PRODUCTS IN A MANNER OR FROM A SOURCE NOT AUTHORIZED
14 UNDER THE COLORADO MEDICAL MARIJUANA CODE;

15 (d) TO PERMIT ANY MEDICAL MARIJUANA CENTER LICENSED PURSUANT TO
16 SECTION 14 OF THIS ARTICLE AND THE COLORADO MEDICAL MARIJUANA CODE TO
17 OPERATE ON THE SAME PREMISES AS A RETAIL MARIJUANA STORE; OR

18 (e) TO DISCHARGE THE DEPARTMENT, THE COLORADO BOARD OF HEALTH,
19 OR THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FROM
20 THEIR STATUTORY AND CONSTITUTIONAL DUTIES TO REGULATE MEDICAL
21 MARIJUANA PURSUANT TO SECTION 14 OF THIS ARTICLE AND THE COLORADO
22 MEDICAL MARIJUANA CODE.

23 **(8) Self-executing, severability, conflicting provisions.** ALL PROVISIONS OF
24 THIS SECTION ARE SELF-EXECUTING EXCEPT AS SPECIFIED HEREIN, ARE SEVERABLE,
25 AND, EXCEPT WHERE OTHERWISE INDICATED IN THE TEXT, SHALL SUPERSEDE
26 CONFLICTING STATE STATUTORY, LOCAL CHARTER, ORDINANCE, OR RESOLUTION,
27 AND OTHER STATE AND LOCAL PROVISIONS.

28 **(9) Effective date.** UNLESS OTHERWISE PROVIDED BY THIS SECTION, ALL
29 PROVISIONS OF THIS SECTION SHALL BECOME EFFECTIVE UPON OFFICIAL
30 DECLARATION OF THE VOTE HEREON BY PROCLAMATION OF THE GOVERNOR,
31 PURSUANT TO SECTION 1(4) OF ARTICLE V.

Council Working Agreements

Council Process:

- The Council will work on general discipline in being prepared to ask questions and make comments.
- The Council asks the Mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The Mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously clean between members of boards and members of council, like expressing ideas to board members on things coming before the Board, and carefully disclose or recuse themselves when they're involved with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, the a hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The Council will find ways to support majority council decisions and adequately inform the public, through response letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

Council Committees

- Council goal committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each goal committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

2012 Study Sessions

Date	Status	Topic	Time	Televised	Location	Contacts	Materials Due	Notice Sent
12/11/12		Energy Future Roundtable	4:30-5:30 PM	NO	Chambers	Heather Bailey	N/A	
12/11/12		Boulder's Energy Future	6-9 PM	YES	Chambers	David Driskell Heather Bailey	11/29/12	
12/25/12		NO MEETING COB Holiday						

2013 Study Sessions

Date	Status	Topic	Time	Televised	Location	Contacts	Materials Due	Notice Sent
01/15/13	T	Economic Update Retreat Preparation	6-7:30 PM 7:30-9 PM	YES NO	Chambers	Eric Nickell Alisa Lewis	01/03/13	
01/18/13	T	Council Retreat	4-8 PM	NO	EBRC	Alisa Lewis	01/08/13	
01/19/13	T	Council Retreat	8-5 PM	NO	EBRC	Alisa Lewis	01/08/13	
01/29/13		Civic Area Plan: Ideas Competition	6-9 PM		Chambers		01/17/13	

December 18, 2012 Preliminary: 12/5 :: Final 12/11	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
CONSENT:					
1st Reading 2475 Topaz Drive Annexation and Initial Zoning					E. McLaughlin/Sara Finrock
IGA with Boulder County and Longmont re: Hazardous Materials Response Task Force					Larry Donner
Gunbarrel Flats Right-of-Way Vacation					Sloane Walbert
Summary for Study Session on OSMP Overarching Issues					Michele Gonzales
Authorize mayor to sign certificate for PAB bonds to BHP					Jeff Yegian
2nd Rdg of ordinance enacting voter approved CAP Tax extension		Yes		best to reflect voter's changes soon	Mary Wallace / David Gehr
PUBLIC HEARINGS:					
MATTERS FROM CITY MANAGER:					
Transportation Funding Next Steps	1 hour			This item has a March 12th SS scheduled	Chris Hagelin x1832, Laurel Olsen-Horen
Boulder Civic Area	1 hour		10-15	Needed before 2013	Lesli Ellis
Economic Sustainability Strategy Work Plan	20 min.		5 min.	Asked for by council	Cassie Milestone/Sara Finrock
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

January 8, 2013 Preliminary: 12/26 :: Final 1/2	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
Consent					
1st Reading proposed changes to the Historic Preservation Ordinance and the definition of Demolition		Yes			Marcy Cameron
Revision of IGA to construct and maintain the IBM Connector Trail					Jim Reeder
Public Hearing					
Hwy 93 underpass - IGA and disposition	30 min.		10 min.	CDOT Deadline	Jim Reeder
MATTERS FROM CITY MANAGER:					
Council Input on Comcast Franchise Renewal	1 hour		10 min.	Needed prior to Feb or Mar.	Carl Castillo
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					
January 22, 2013 Preliminary: 1/9 :: Final 1/15					
Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact	
CONSENT:					
Keep it Clean IGA			Current IGA ends 3/13	Laurel Olsen-Horen	
2nd Reading 2475 Topaz Drive Annexation and Initial Zoning	30 min.		10 min.	Elaine McLaughlin/Sara Finrock	
PUBLIC HEARINGS:					
MATTERS FROM CITY MANAGER:					
Pottery Program Working Group Recommendation and Next Steps	1 hour		10 min.	Kirk Kincannon	
Discussion of request from Town of Nederland Board of Trustees	30 min.			Jeff Arthur	
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
Education Excise Tax final RFP criteria	30 min.		10 min.	Carl Castillo	
CALL-UPS:					

February 5, 2013 Preliminary: 1/23 :: Final 1/29	Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact
Consent					
2nd reading Keep It Clean IGA					Laurel Olsen-Horen
Public Hearing					
First Reading of Inclusionary Housing Rental Policy Ordinance Revisions	1 hour	Yes	10 min.		Jeff Yegian
2nd Reading proposed changes to the Historic Preservation Ordinance and the definition of Demolition	30 min.	Yes	10 min.		Marcy Cameron
MATTERS FROM CITY MANAGER:					
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					
February 19, 2013 Preliminary: 2/6 :: Final 2/12					
Est. time	CAO to Prepare Ord.?	Power Point	Timing Issues/ Comments	Contact	
CONSENT:					
PUBLIC HEARINGS:					
Second Reading of Inclusionary Housing Rental Policy Ordinance Revisions	1 hour	Yes	10 min.		Jeff Yegian
MATTERS FROM CITY MANAGER:					
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

March 5, 2013 Preliminary: 2/20 :: Final 2/26	Est. Time	CAO to Prep. Ord.?	Power Point	Timing Issues/ Comments	Contact
Consent					
PUBLIC HEARINGS:					
MATTERS FROM CITY MANAGER:					
None					
MATTERS FROM CITY ATTORNEY:					
None					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					
None.					
March 19, 2013 Preliminary: 3/6 :: Final 3/12	Est. Time	CAO to Prep. Ord.?	Power Point	Timing Issues/Comments	Contact
CONSENT:					
PUBLIC HEARINGS:					
Boulder's Energy Future	1.5 hrs		15 min	Related to project work plan	Heather Bailey
Boulder Police Department Master Plan					Laurie Ogden
MATTERS FROM CITY MANAGER:					
None					
MATTERS FROM CITY ATTORNEY:					
None					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

City Council Goals – 2012

Top Priorities:

1. Boulder's Energy Future

The top priority for the City in 2012 is the development of a framework for planning the energy future for the city of Boulder. This framework will focus on the idea of localization, the overarching goal of which is:

To ensure that Boulder residents, businesses and institutions have access to energy that is increasingly clean, reliable and competitively priced.

2. Climate Action Plan

Outline the next generation of climate action efforts in Boulder

Consider extension of CAP tax

3. Affordable Housing

Receive report of the Task force created in 2010 to evaluate goals and the approach to affordable housing and Based on Council review and discussion of these recommendations, develop an action plan to improve the availability of affordable housing in the city

Consider policies regarding inclusionary housing for rental units

4. Civic Center Master Plan

Study and develop a master plan for the area between 15th and 9th Streets, with a focus on Farmer's Market and area between Broadway and 15th Street.

Next Tier Priorities:

1. University Hill Revitalization

Continue work of Ownership Group to develop comprehensive revitalization strategy

Investigate formation of a general improvement district, including the commercial area and part of the residential area to control trash and other problems

Change boundaries of BMS land use to coincide with UHGID through BVCP process

Support private development and investment in Hill area

Partner with CU to consider opportunities for properties in the Hill area

Provide an opportunity to explore big ideas

2. Homelessness

Participate in Ten Year Plan to Address Homelessness

Balance long term and short term approaches to address needs

Invest new resources in Housing First model

Work with partners, such as BOHO, to address approaches to immediate needs

3. Boulder Junction Implementation

Work with RTD and selected developer of site to maximize mixed use urban center

Invest in planned infrastructure

Achieve goals of plan while ensuring flexibility in working with developers

Prioritize city actions to facilitate private investment

Focus additional planning work on reconsidering use for Pollard site



**City Council
2012 Work Plan by Council Goal**

TOP PRIORITIES

GOAL: Boulder's Energy Future			
2012 – 3rd Quarter	2012 – 4th Quarter	2013 – 1st Quarter	2013 – 2nd Quarter
<ul style="list-style-type: none"> Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables and July 24 study session 	<ul style="list-style-type: none"> Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables and Oct. 23 study session 	<ul style="list-style-type: none"> Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables and study session (TBD) 	<ul style="list-style-type: none"> Boulder's Energy Future – ongoing analysis of municipalization and work on Energy Action Plan with updates to council at roundtables and study session (TBD)

GOAL: Climate Action Plan			
2012 – 3rd Quarter	2012 – 4th Quarter	2013 – 1st Quarter	2013 – 2nd Quarter
<ul style="list-style-type: none"> Climate Action Framework – draft five-year goals and annual targets; integration with master plans; and development of tracking and reporting tools with updates and council feedback at roundtables and July 24 study session CAP Tax – consideration of ballot language (August) Electric/ Hybrid vehicles (IP) 	<ul style="list-style-type: none"> Climate Action Framework – draft five-year goals and annual targets; integration with master plans; and development of tracking and reporting tools with updates and council feedback at roundtables and Oct. 23 study session CAP Tax – potential voter consideration in November; finalize 2013 work plan based on ballot outcome CEES – stakeholder engagement; Phase 2 options and update at Oct. 23 study session Solar Energy code changes Energy Conservation and Efficiency Program for Existing Commercial Buildings - study 	<ul style="list-style-type: none"> CEES – ongoing work on Phase 2 ordinance options; direction on preferred option from Council (TBD) Climate Action Framework: tracking and reporting tools; launch of 2013 program priorities; updates at roundtables and study session (TBD) 	<ul style="list-style-type: none"> CEES – potential ordinance adoption for Phase 2 (benchmarking and disclosure) (date TBD) Climate Action Framework: tracking and reporting tools; delivery of 2013 program priorities; updates to council at roundtables and study session (date TBD) Electric/ Hybrid vehicles – project closeout



	session <ul style="list-style-type: none"> ▪ Energy Performance Contract – Phase 3 ▪ Green Building and Green Points Program amendments; 2012 ICC Building, Fire, Wildland-Urban Interface, Energy Codes ▪ Wind generation code changes 		
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GOAL: Affordable Housing

2012 – 3rd Quarter	2012 – 4th Quarter	2013 – 1st Quarter	2013 – 2nd Quarter
<ul style="list-style-type: none"> ▪ Inclusionary Housing: development of off-site criteria ▪ Analysis of TOD Fund 	<ul style="list-style-type: none"> ▪ Inclusionary Housing: options for integration of affordable housing units ▪ Inclusionary Housing: Rental policy options 	<ul style="list-style-type: none"> ▪ Mobile Homes Parks – legislative agenda ▪ Inclusionary Housing Rental Policy Ordinance depending on Council direction 	<ul style="list-style-type: none"> ▪ Inclusionary Housing Regulations Update depending on Council direction

GOAL: Civic Center Master Plan

2012 – 3rd Quarter	2012 – 4th Quarter	2013 – 1st Quarter	2013 – 2nd Quarter
<ul style="list-style-type: none"> ▪ Feedback on city space study, flood issues and ideas competition criteria (July 31 study session) ▪ Community generates ideals for civic center vision and guiding principles 	<ul style="list-style-type: none"> ▪ Council adopts guiding principles ▪ Community generates preliminary concepts; ideas competition for local and national teams 	<ul style="list-style-type: none"> ▪ Council provides feedback on initial options (January 20) ▪ Board and community input ▪ Council adopts preferred option(s) and strategies (March) 	<ul style="list-style-type: none"> ▪ Draft plan development and community input ▪ Council study session on draft plan ▪ Municipal Space Study Final Report



NEXT TIER PRIORITIES

GOAL: University Hill Revitalization			
2012 – 3rd Quarter	2012 – 4th Quarter	2013 – 1st Quarter	2013 – 2nd Quarter
<ul style="list-style-type: none"> ▪ University Hill strategy - update ▪ Hill Residential Service District (IP) 	<ul style="list-style-type: none"> ▪ University Hill strategy - update ▪ Hill Residential Service District – check in on final proposal 	<ul style="list-style-type: none"> ▪ 2013 action priorities confirmed by Council at January retreat 	<ul style="list-style-type: none"> ▪ Hill Residential Service District – 1st reading of petition ▪ Action on other priorities (TBD)

GOAL: Addressing Homelessness			
2012 – 3rd Quarter	2012 – 4th Quarter	2013 – 1st Quarter	2013 – 2nd Quarter
<ul style="list-style-type: none"> ▪ 10-year Plan update (IP) ▪ Action Plan to address homeless issues (Service provider plan to develop coordinated outreach and case management in Boulder) ▪ Housing First – 1175 Lee Hill Road: update on management plan and MOU 	<ul style="list-style-type: none"> ▪ Direction from Council priorities on homeless issues (from Homeless issues study session) for scoping for workplan ▪ Homelessness Issues Study Session 	<ul style="list-style-type: none"> ▪ Work plan check in and priority – Council retreat 	<ul style="list-style-type: none"> ▪ Update on Homeless Action Plan (service providers)

GOAL: Boulder Junction Implementation			
2012 – 3rd Quarter	2012 – 4th Quarter	2013 – 1st Quarter	2013 – 2nd Quarter
<ul style="list-style-type: none"> ▪ Update on TVAP implementation; check-in on city owned site vision and options; and discussion of policy issues related to key public improvements, as needed (July 31 Study Session) ▪ TDM/ Parking Access GID budget - consideration 	<ul style="list-style-type: none"> ▪ Update on potential policy issues related to key public improvements 	<ul style="list-style-type: none"> ▪ TDM District Implementation Update (IP) ▪ Update on potential policy issues related to key public improvements and city owned site (as needed) 	<ul style="list-style-type: none"> ▪ Update on potential policy issues related to key public improvements and city owned site (as needed)



OTHER

GOAL: Other City Goals and Work Plan Items			
2012 – 3rd Quarter	2012 – 4th Quarter	2013 – 1st Quarter	2013 – 2nd Quarter
<ul style="list-style-type: none"> ▪ Acquisition plan update (OSMP) ▪ Annexation and site review <ul style="list-style-type: none"> ○ Boulder Jewish Commons (Arapahoe and Cherryvale) ○ Hogan Pancost ▪ Barker Reservoir Boating ▪ Capital Investment Strategy Round I - implementation update ▪ Chautauqua Stewardship Framework: draft principles for CCA lease ▪ Civic Use Task Force <ul style="list-style-type: none"> ○ Update on recommendations and next steps ▪ City Property leases (IP) ▪ Code changes <ul style="list-style-type: none"> ○ Alcohol/ Land Use ○ Congregate care ○ Community gardens ▪ CU East Campus coordination – update ▪ Disposable Bag Reduction ordinance ▪ Economic Sustainability Strategy – phase one study on primary employers (study session) ▪ Education Excise Tax – process for allocation of remaining funds ▪ Evolution of Access and Parking Management Strategies (DUHMD/PS) <ul style="list-style-type: none"> ○ IP ○ Formation of staff and community work groups 	<ul style="list-style-type: none"> ▪ Bike parking ordinance updates ▪ Capital Investment Strategy Round I - implementation update ▪ Carter Lake Pipeline – CEAP ▪ Chautauqua Parking Data Collection and Assessment – check in ▪ Code changes <ul style="list-style-type: none"> ○ Pearl Street Mall - permits and leases ▪ Disposable Bag ordinance ▪ Education Excise Tax – process for allocation of remaining funds ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ NPP commuter permit - sunset ▪ OSMP natural resources – overarching policy issues ▪ Pearl Parkway Multi-use Path 30th Street to Foothills CEAP Call up ▪ Public works design and construction standards - update ▪ Randolph Center Condominium Declaration ▪ Smoking Ban on Pearl Street Mall (Pilot) – ordinance ▪ Sustainability indicators ▪ Sustainable streets and centers: typology framework and 	<ul style="list-style-type: none"> ▪ 28th Street Multi-use Path and Bikeable Shoulders Iris to Yarmouth CEAP Call up ▪ Capital Investment Strategy Round I – implementation update ▪ Contractor licensing ▪ Cultural Master Plan ▪ DUHMD/ PS assessment update (IP) ▪ Economic Sustainable Strategy – policy recommendations (study session) ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ Smoking Ban on Pearl Street Mall (Pilot) – implementation ▪ State of the Court Presentation ▪ Take out container waste reduction ordinance ▪ Transportation Funding (SS) ▪ TMP Update – additional direction ▪ US36 Bikeway Maintenance – Enhancements IGA (tentative based on if extra community investments are desired) ▪ Zero Waste Master Plan Update 	<ul style="list-style-type: none"> ▪ Baseline Underpass East of Broadway CEAP – Call up ▪ Floodplain Management including Boulder Creek Mapping, South Boulder Creek Mitigation, and Critical Facilities ▪ OSMP natural resources – overarching policy issues <ul style="list-style-type: none"> ○ Temporal Regulations ○ Penalties for violations ○ Multi-modal access and parking opportunities ○ Analysis of trail network and distribution of activities ▪ Parks and Recreation Master Plan ▪ Police Department Master Plan ▪ Smoking Ban on Pearl Street Mall (Pilot) – analysis and recommendation ▪ TMP Update – additional direction ▪ Water supply status



<ul style="list-style-type: none"> ○ Disseminate RFQ's for Project Consultant ▪ Highway 93 over/underpass IGA ▪ IBM Connector Trail IGA ▪ Mall Events update (IP) ▪ Municipal Building Improvements (update) ▪ OSMP trail around city (IP) ▪ Smoking Ban on Pearl Street Mall (Pilot) – public process ▪ Stormwater Ordinance Update ▪ Stormwater Management IGA – Keep it Clean Partnership ▪ Transportation Funding (IP) ▪ TMP update – assessment, check in/ refinement policy focus areas ▪ US36 Bikeway Maintenance IGA ▪ Valmont Butte Site Management and Remediation (IP) ▪ Water supply status 	<p>direction on next steps</p> <ul style="list-style-type: none"> ▪ Takeout container waste reduction – policy direction ▪ Transportation Funding (direction) ▪ Urban wildlife – prairie dog policy and ordinance revisions ▪ Valmont Butte Site ▪ Zero Waste Master Plan Update Management and Remediation (IP) 		
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KEY

BMEA	Boulder Municipal Employees Association
BVCP	Boulder Valley Comprehensive Plan
CAGID	Central Area General Improvement District
CEAP	Community and Environmental Assessment Process
CAP	Climate Action Plan
CU	University of Colorado
DUHMD/PS	Downtown and University Hill Management District/ Parking Services (City Division)
GID	General Improvement District
ICC	International Code Council
IGA	Intergovernmental Agreement
IP	Information Packet
MOU	Memorandum of Understanding
NPP	Neighborhood Parking Permit Program
OSMP	Open Space/Mountain Parks Department
RFQ	Request for Qualifications
RH	Residential Housing
TDM	Transportation Demand Management
TMP	Transportation Master Plan



**CITY COUNCIL
ACCOMPLISHMENTS – 1ST AND 2ND QUARTER 2012**

TOP PRIORITIES:

GOAL: BOULDER'S ENERGY FUTURE

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Hiring of Executive Director for Energy Strategy and Electric Utility Development
- Retention of FERC and acquisition legal counsel
- Initial work in developing appraisal of distribution system and preparing legal strategy
- Initial work on Phase 1 of a new Energy Action Plan, including demand side programs and renewables modeling
- Active participation at the PUC to advance Boulder's energy goals and protect community interests
- Boulder Canyon Hydroelectric Facility Agreement: City Council authorized the dedication of easements to Public Service Company of Colorado to facilitate upgrades to the city's Boulder Canyon Hydroelectric Facility.

GOAL: CLIMATE ACTION PLAN

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Third party review and evaluation of CAP tax funded programs to date
- Preparation of November 2012 CAP tax ballot options for Council consideration
- Initial steps to develop and refine a new Climate Action Framework consisting a renewed climate action commitment, five-year goals, annual targets, integration with appropriate master plans and city operations, and new reporting tools
- Initial work to identify priorities for the next generation of energy efficiency programs (as part of Phase 1 of the Energy Action Plan)
- Development of Commercial Energy Efficiency Strategy approach and stakeholder process (to be integrated as part of Phase 1 of the Energy Action Plan)
- Continued delivery of CAP programs and services to achieve annual targets (EnergySmart, Ten for Change, SmartRegs compliance, etc.)
- Energy Efficiency Upgrades in City Facilities - (a) Energy Performance Contract (EPC) – Phase III; (b) Lease purchase financing for energy conservation measures; and (c) Energy improvements, lease amendments, and payments. - Implemented the third phase of Energy Performance Contracts (EPC) for city facilities, including the installation of another 347 kilowatts of solar photovoltaic



at the Municipal Service Center buildings, Fleet Services, OSMP Annex and The Dairy Center for the Arts.

- Energy Efficiency Upgrades in City Facilities – Employee Education and Outreach Project (Information Packet) - A staff team participated in three workshops with McKinstry, the city’s Energy Performance Contractor, to help develop a new PowerED energy education and outreach program for employees. Program development will continue with other city staff focus groups through the end of December 2012.

GOAL: AFFORDABLE HOUSING

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Added 12 new permanently affordable homes to inventory
- Affordable housing agreement for Gunbarrel Town Center
- Affordable Housing Program Work plan - Council Consideration and Direction; new initiatives identified
- Analysis completed of affordable housing distribution
- Completed funding of major renovations to improve housing quality and economic sustainability of three BHP properties
- Development of voluntary affordable housing agreement for Depot Square project
- Inclusionary Housing Rental Policies – Council Consideration and Direction
- Thistle Community Housing completing fire sprinklers in all of its properties

GOAL: CIVIC CENTER MASTER PLAN

**FIRST AND SECOND QUARTER
2012 ACCOMPLISHMENTS**

- Development of interdepartmental project team and approach; project goals and objectives; and public engagement strategy (reviewed at joint Planning Board / City Council study session in April)
- Detailed design of community visioning process and articulation of key project assumptions (reviewed with Council at June 12 study session)
- Preparation of baseline materials and launch of public engagement in July.
- The Municipal Space Study contract was awarded to StudioTerra on March 23. FAM and the consultants are interviewing city departments and conducting research on industry trends and standards for office space. Preliminary results of the space study, as it relates to the Civic Center Master Plan, will be presented at the July 31 study session.



NEXT TIER PRIORITIES:

GOAL: UNIVERSITY HILL REVITALIZATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Zoning change: Business Main Street (BMS) boundary to coincide with the University Hill General Improvement District boundary; rezoning of UHGID lots to BMS zoning (approved by Planning Board; scheduled for Council consideration in August)
- Continued work of the Hill Ownership Group to develop a comprehensive revitalization strategy.
- In coordination with a volunteer, stakeholder committee completed a proposal for a Residential Service District which includes: boundaries, scope of services, proposed budget, proposed governance structure, agreements for financial participation by tax-exempt sororities and fraternities, and a timeline for a 2013 Petition and Election process.
- Landmarking of Flatirons Theater building (and associated building renovation)
- 955 Broadway (Acacia Fraternity site redevelopment)

GOAL: ADDRESSING HOMELESSNESS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Council Consideration and Direction on: 1175 Lee Hill Project; added 31 permanent housing units for chronically homeless, disabled adults
- Continued Homeless Service Provider Coordination Project to develop action plans for case management, outreach and service coordination
- Continued implementation of Ten year Plan to Address Homelessness

GOAL: BOULDER JUNCTION IMPLEMENTATION

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

- Developed and implemented a funding strategy to finance the acquisition of 100 parking spaces by the Boulder Junction Access District – Parking (BJAD-P) in the Depot Square parking garage including a Lease/Purchase Agreement between BJAD-P and the developer, and a City of Boulder/BJAD-P Cooperation Agreement
- Developed a strategy to manage parking in the parking structure through technology and a management agreement among the



users. The arrangement provides for parking spaces to be paid, unbundled, and shared in a manner to meet the needs of the various users of Depot Square (hotel, residential, RTD) and general parking in BJAD-P spaces. Agreement was reached with RTD regarding short term and long term parking management strategies given their current legislative mandate.

- Finalized the ownership structure for five different owners to coordinate management of their units and common areas through a Condominium Declaration for the Depot Square project
- Finalized a renovation agreement and lease consistent with guiding principles with Pedersen Development Corporation for the Depot
- Finalized legal agreements for joint public/private development of Depot Square (RTD facility, shared parking, affordable housing, hotel, public space and rehabilitation of historic depot
- Approved changes to the Transportation Network Plan in support of the Transit Village Area Plan (TVAP)
- Revised Street Design for Pearl Parkway and Connections Plan Revisions (adopted by Council January 17)
- Consistent with the TVAP connections plan and along with private redevelopment, a number of capital improvements are underway, including the installation of underground power lines, preparations for installing a traffic signal at Junction Place and Pearl Parkway, and portions of the Pearl Parkway multi-way boulevard
- Consistent with the TVAP connections plan, design work continues for the bridge over Goose Creek and the multi-use path on the north side of Pearl Parkway between 30th Street and Foothills Parkway
- Received a Federal Hazard Elimination Program grant award through the Colorado Department of Transportation (CDOT) that will allow installation of a traffic signal at 29th Street and Valmont Road, improving safety and implementing improvements identified in the Transit Village Area Plan (TVAP) (project will begin in 2014)
- Completion of engineering and building construction plan review for a 319 unit residential development at 3100 Pearl and the RTD Depot Square transit-oriented development



GOAL: OTHER CITY GOALS AND WORK PLAN ITEMS

FIRST AND SECOND QUARTER 2012 ACCOMPLISHMENTS

CAPITAL ITEMS

- Anemone Trails (new) – design work completed
- Arapahoe Avenue (Folsom to 30th) - Multimodal Improvements Project Completed construction on the Arapahoe Avenue multi-use path project. The remaining street resurfacing and landscaping work will be completed in 2012.
- Boulder Creek and South Boulder Creek – restoration of grassland and riparian areas continued
- Broadway (Euclid to 18th) - Transportation Improvements Project - Made progress on the Broadway (Euclid to 18th) Transportation Improvements Project. 16th Street opened the first week of May and the Broadway underpass and the four lanes on Broadway (two in each direction) are scheduled for completion by early July.
- Broke ground in January for a new multi-use path on the south side of Baseline, connecting U.S. 36 and the Bear Creek Underpass, including a pedestrian crossing for Baseline Road at Canyon Creek. Completion of the multi-use path on the west end is underway through a redevelopment project.
- Completed a new sidewalk along Gillaspie Drive, connecting Greenbriar Boulevard and Juilliard Street connecting to Fairview High School
- Completed the course bunker renovation/playability project at Flatirons Golf Course by installing 19 new sand bunkers
- Continued work at Valmont City Park, including additional construction at Valmont Bike Park; outreach and design for Valmont Dog Park; and design and construction of the interim disc golf course
- Facility ADA Compliance - An Americans with Disabilities Act (ADA) consultant completed comprehensive ADA assessments for the Park Central and Municipal buildings. Costs for the recommendations are being identified and prioritized, with other buildings planned for assessment.
- Green Bear Trail Re-route – work in progress with one section completed and opened to public
- Gregory Canyon Trailhead Site Plan – initial site plan design work began
- Homestead Trail Re-route – work in progress with one section completed and opened to public
- Library Facility Upgrades and Enhancements (New Children’s Library and New Teen Space): The selection of a design firm is underway
- Linden Avenue Sidewalk Project (Safe Routes to School) - Completed a Safe Routes to School Project, providing a sidewalk on the north side of Linden Avenue between Fourth Street and Broadway.
- New Wildland Fire Facilities - Responses to the request for qualifications (RFQ) for facility designs were received on May 11. Requests for proposals (RFP) to be sent in early June
- Organic farming – agricultural contract written for 47 acres



- Replaced traffic signal incandescent lamps with sustainable, energy-saving light-emitting diode (LED) lamps
- Sanitas Stone Hut Repair – hut was reinforced and stonework repaired
- South Boulder Creek West Trailhead – Parking areas for cars and horse trailers completed and open to public; working through permit process for outhouse and kiosk installations; interpretive signs in production
- South Boulder Recreation Center - The contaminated sub floors from the gymnasium, racquetball court, and Pilates room have been removed and are expected to be replaced with new wood floors by early June 2012.
- Street repair expanded efforts – began the first of three years

OTHER SIGNIFICANT ACTIONS¹

- Boulder B-cycle station at the North Boulder Recreation Center sponsored
- Boulder Community Hospital Expansion Rezoning
- BVCP: Area II study results and potential next steps (IP to City Council in July)
- BVCP Comprehensive Rezoning (scheduled for council consideration in August)
- BVCP 2010 Major Update: planning reserve policy changes (study session discussion with Council on May 29; Council and County Commissioner dinner discussion on June 14)
- Boulder Reservoir Master Plan completed
- Boulder Valley School District Faculty and Staff Eco Pass Program Expansion - Continued partnership with the Boulder Valley School District (BVSD) to expand the BVSD faculty and staff Eco Pass program.
- Chautauqua Stewardship Framework: Draft and Next Steps
- City Website Redesign Kickoff - Kicked off redesign with Vision Internet and the City of Arvada. Gathered a list of key stakeholders and surveyed them regarding elements the new website should contain.
- Code enforcement - reallocation of resources to the Boulder Police Department was fully implemented to ensure efficient and effective service delivery
- Community and Environmental Assessment Process (CEAP) for flood mitigation and transportation improvements along Fourmile Canyon Creek, near Crest View Elementary School completed, including a City Council call-up opportunity.
- Compatible Development implementation - annual report to Council
- Congregate Care code changes (pending further consideration based on Council direction)
- Constituent Relationship Management (CRM) procurement effort - Designed and implemented a staff engagement and procurement initiative to implement a new CRM application resulting in the unanimous selection of Government Outreach. Vendor contract negotiations are currently underway. This initiative is designed to significantly improve our customers' ability to request, track and ultimately receive more timely and effective services while providing staff with automated tools to better



manage these requests.

- Disposable Bag Reduction Ordinance: research and options presented to Council on May 15; work on nexus study underway
- Draft Fire-Rescue Master Plan completed and approved by Planning Board.
- Economic Sustainability Strategy: phase one study of primary employer space needs underway; presentation of results to Council scheduled for August
- Elks neighborhood park planning, outreach and design continued with construction and completion in 2013
- Family Resource Center opened at Manhattan Middle School in partnership with Boulder County Housing and Human Services
- FasTracks' Northwest Rail Plan - Approved guiding principles for developing and designing a hybrid approach to FasTracks' Northwest Rail Plan.
- Fire Master Plan – Council feedback on strategies (April 3, 2012); Planning Board recommendation for acceptance (May 17, 2012); Scheduled for Council consideration (June 19, 2012)
- Heather wood Trail Intergovernmental Agreement (IGA) - City Council authorized the signing of an intergovernmental agreement (IGA) with Boulder County related to the maintenance of a trail that crosses the Wastewater Treatment Facility property.
- Integrated Pest Management Policy Revision and Program Direction (Council provided direction on May 1)
- Landmarking of First Christian Church building (950 28th Street)
- Locomotive #30 narrow gauge historic cosmetic restoration completed
- Mesa Memorial Park design and development initiated
- Mosquito control annual report (Completed report on the IPM web site – link will be provided to council with first weekly mosquito report in June)
- Named number 3 on list of best cities for bicycling by *Bicycling Magazine*, in part due to the Valmont Bike Park and new path connections made possible by the capital improvement bond
- New Transportation Safety Ordinances - Approved ordinance changes to improve transportation safety in the city and initiated education and enforcement efforts to support the ordinance changes
- Organic turf and landscape bed program at six park locations launched
- Received a Safe Routes to School Grant to install a traffic signal at South Boulder Road and Manhattan Drive to create a safe crossing for middle school students taking transit, riding, or walking to and from school.
- RH-2 Zone District Changes (scheduled for council consideration in August)
- *Safe Streets Boulder* report published in February.
- SmartRegs - Continued the successful implementation of SmartRegs and the pilot program for rental housing licensing enforcement. The backlog of rental license compliance cases is almost entirely eliminated.
- Transportation Report on Progress, *Transportation to Sustain a Community* published in February.
- Valmont Butte – VCUP implementation commenced; excavation work began on April 4 with both the tribe-designated native cultural monitor and the city's archaeologist consultant present.



▪ Veterans and active duty military personnel recreation pass program developed

Key:

ADA = Americans with Disabilities Act
BHP = Boulder Housing Partners
BVSD = Boulder Valley School District
BMS = Business Main Street
CAP = Climate Action Plan
CDOT = Colorado Department of Transportation
EPC = Energy Performance Contract
EET = Education Excise Tax
FAM = Facilities and Asset Management (City Division)
FERC = Federal Energy Regulatory Commission
IGA = Inter-governmental Agreement
IP = Information Packet
OSMP = Open Space/ Mountain Parks Department
PUC = Colorado Public Utilities Commission
RFP = Request for Proposals
RFQ = Request for Qualifications
RTD = Regional Transportation District
TVAP = Transit Village Area Plan
UHGID = University Hill General Improvement District
VCUP = Colorado Voluntary Cleanup Program