

City Council Meeting Minutes

**May 5, 2015
City Hall, Council Chambers
749 Main Street
7:00 PM**

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council: *Mayor Robert Muckle, Mayor Pro Tem Hank Dalton
City Council members: Jeff Lipton, Sue Loo,
Ashley Stolzmann, Chris Leh and Jay Keany*

Staff Present: *Malcolm Fleming, City Manager
Heather Balsler, Deputy City Manager
Kevin Watson, Finance Director
Kurt Kowar, Public Works Director
Dave Hayes, Police Chief
Troy Russ, Planning & Building Safety Director
Sean McCartney, Principal Planner
Meredyth Muth, Public Relations Manager
Nancy Varra, City Clerk*

Others Present: *Sam Light, City Attorney*

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Council member Keany. All were in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

No comments.

APPROVAL OF THE CONSENT AGENDA

MOTION: Council member Stolzmann moved to approve the consent agenda, seconded by Council member Leh. All were in favor.

- A. Approval of Bills**
- B. Approval of Minutes –April 21, 2015**
- C. Award Bid for 2015 Water Main Replacement Project**

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Mayor Muckle announced the Coal Creek Golf Course will reopen on June 27th at 10:00 a.m.

CITY MANAGER'S REPORT

No items to report.

REGULAR BUSINESS

PROCLAMATION – OLDER AMERICANS MONTH

Senior Services Supervisor Beasley introduced members of the Senior Advisory Board: Julie Stone, Debbie Fahey and Betty Heinrich and Senior Services staff members Diane Evans and Trish Morgan.

Mayor Muckle proclaimed May as Older Americans Month in the City of Louisville. He read the proclamation and presented it to the Senior Advisory Board members and the Senior Services.

Senior Advisory Board Member Julie Stone thanked the Mayor and City Council for the proclamation. She invited all seniors to a Hawaiian Luau on May 20th at the Louisville Recreation Center. Senior Services Supervisor Beasley thanked the Mayor and Council for recognizing Louisville's seniors.

RESOLUTION No. 25, SERIES 2015 - A RESOLUTION APPROVING A BUSINESS ASSISTANCE AGREEMENT WITH MCCASLIN RETAIL, LLC FOR AN ECONOMIC DEVELOPMENT PROJECT IN THE CITY OF LOUISVILLE

Mayor Muckle requested a staff presentation.

Economic Development Director DeJong explained staff requests City Council action on a proposed Economic Development Business Assistance Package (BAP) for a retail expansion project located at 994 Dillon Road. The McCaslin Marketplace project is a redevelopment of the property at 994 Dillon Road. The property is currently tenanted by

Old Santa Fe Grill and is proposed to be redeveloped into an approximately 13,000 sf retail building able to accommodate up to 6 retail tenants. The property is owned by McCaslin Retail, LLC an entity controlled by Signature Partners.

McCaslin Retail, LLC is currently negotiating leases with the current tenant, Old Santa Fe Grill, as well as several food establishments and retailers not currently in Louisville. The retail additions have the potential to generate an additional \$4,000,000 in retail sales above the current sales generated at the property. The prospective new tenants wish to remain confidential, but are national and regional brands that have had success in the metro Denver area.

City staff estimates the redevelopment will generate new revenue of approximately \$776,000 from building permit fees, construction use taxes, and increased sales tax generation directly to the City in the first 5 years of operation, given the investment. Based upon the estimated revenue projection, staff recommended the following:

Proposed Assistance	Approximate Value
50% rebate of Building Permit Fees	\$13,500
50% rebate of Construction Use	\$21,000
40% rebate of increased Sales Taxes for 5 years	<u>\$240,000</u>
Total Rebates	\$274,500

Staff Recommendation: Staff recommended the City Council approve Resolution No. 25, Series 2015.

PUBLIC COMMENTS

Sherry Sommer, 910 S. Palisade Court, Louisville, CO questioned whether there was really a need to refund 30% of the City's financial gain to the developer.

PUBLIC COMMENTS

Council member Stolzmann responded to Ms. Sommers question and explained the City tries to stay competitive with the surrounding municipalities, who also offer incentives to developers and new businesses. What is rebated is just a portion of the sales tax they bring to the City. In this particular case, it is sales tax over what is currently being generated on the property. She felt it was a fair amount to rebate in order to stay competitive because the City does want the retail. The City will get the 60% of the sales tax for five years and afterwards they will get 100% of the sales tax.

MOTION: Mayor Pro Tem Dalton moved to approve Resolution No. 25, Series 2015, seconded by Council member Leh. Roll call vote was taken. The motion passed by a vote of 7-0.

agreed it is unlikely such a home would be built, but noted there is a large home on the mesa with a flat roof, and there is nothing preventing such a structure being built.

City Attorney Light responded to Council member Loo's question relative to the control mechanism to prevent such large homes being built as follows: Council could direct staff to negotiate with the applicant as to whether they would be willing to include language in the annexation agreement amendment to address this issue. The current controls in place are provisions in the annexation ordinance; the initial zoning ordinance; in the contract and in the PUD. All four of which would need to be amended to allow the 2 stories within the 26'. He noted Council's direction at the last meeting was for staff to negotiate with the applicant on a lot coverage requirement. He noted a roof pitch requirement has not been negotiated.

Council member Stolzmann explained the Council is tasked with looking at various criteria, making sure the view corridors are protected and other items the HOA does not look at. The applicant presented information relative to their proposal, but was unwilling to document certain information. She would approve what was presented with some flexibility, but without documentation, would not approve amending the ordinances or to modify the PUD.

Mayor Muckle agreed with Council member Loo's comments. He called for public comment and hearing none, closed the public hearing.

ORDINANCE No. 1687, SERIES 2015

MOTION: Mayor Pro Tem Dalton moved to approve Ordinance No. 1687, Series 2015, seconded by Council member Leh. Roll call vote was taken. The motion failed by a vote of 5-2. Mayor Pro Tem Dalton and Council member Leh voted yes.

City Attorney Light explained with the disapproval of Ordinance No. 1687, Series 2015, Ordinance Nos. 1165 and 1166 and the amendment to the addendum to the annexation agreement shall remain as currently written. He offered language for the motion for Resolution No. 22, Series 2015.

RESOLUTION No. 22, SERIES 2015

MOTION: Mayor Muckle moved to disapprove Resolution 22, Series 2015 on the basis that with the disapproval of Ordinance No. 1687, Series 2015, the proposed PUD amendment is inconsistent with existing annexation and zoning ordinances and the annexation agreement that governs the property. The motion was seconded by Council member Keany.

Council member Stolzmann requested clarification on the amendment in the motion. City Attorney Light explained the disapproval of Resolution No. 22 clarifies the reason for disapproval is if the existing ordinances and annexation agreement stays in place,

the PUD cannot be approved because it would be inconsistent with the existing documents governing the property.

VOTE: Roll call vote was taken. The motion carried by a vote of 5-2. Mayor Pro Tem Dalton and Council member Leh voted no.

RENEWAL OF COMCAST CABLE FRANCHISE

- 1. ORDINANCE No. 1685, SERIES 2015, AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE BY THE CITY OF LOUISVILLE TO COMCAST OF COLORADO I, LLC AND ITS LAWFUL SUCCESSORS, TRANSFEREES AND ASSIGNS, FOR THE RIGHT TO MAKE REASONABLE AND LAWFUL USE OF RIGHTS-OF-WAY WITHIN THE CITY TO CONSTRUCT, OPERATE, MAINTAIN, RECONSTRUCT, REPAIR AND UPGRADE A CABLE SYSTEM FOR THE PURPOSE OF PROVIDING CABLE SERVICES WITHIN THE CITY – 2nd Reading – Public Hearing**
- 2. ORDINANCE No. 1686, SERIES 2015, AN ORDINANCE REESTABLISHING CITY OF LOUISVILLE CABLE TELEVISION CUSTOMER SERVICE STANDARDS – 2nd Reading – Public Hearing**
- 3. LETTER OF AGREEMENT BETWEEN THE CITY OF LOUISVILLE AND COMCAST**

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance Nos. 1685 and 1686, Series 2015 and the Letter of Agreement between the City of Louisville and Comcast.

Mayor Muckle opened the public hearing and requested a staff presentation.

Public Relations Manager Muth explained before the Council is the ordinance granting a Comcast Cable Franchise, the ordinance reestablishing the City of Louisville Cable Television Standards, and a letter of agreement. Comcast Cable is currently the only source of cable television services in Louisville, and serves approximately 4,500 subscribers. They are currently working under a month-to-month agreement based on the 2006 franchise. It is a non-exclusive franchise and the City is open to other providers. The Franchise does not cover rates, cable packages or broadband. The Franchise does cover use of the right-of-way; Access Channels (Public, Educational and Government) and Franchise and PEG Fees. The proposed agreement is unlikely to resolve most of the issues residents have with Comcast. The negotiating team tried to address what they could under current law while balancing cost and impacts. Public Input: Most of the complaints staff received related to Comcast fall into the following categories:

- Comcast storefront in Louisville.
- Customer Service reports of poor service from the call center, missed service calls and poor treatment from staff.
- Unclear billing: bills were unclear and changed month-to-month even when no service changes were made.
- Rates: Complaints rates continually go up and there is no rate for low income residents or seniors.

The negotiating team tried to address the following in the franchise:: returning a storefront in Louisville; improved reporting of complaints; continued PEG Channels; two-hour window for service calls and a larger letter of credit for service infractions.

The cost of returning a storefront to Louisville would likely double bill of every Louisville resident so the team dropped that point. Comcast would not change their reporting process so City staff will compile a report of complaints. Comcast is currently advertising a two-hour service window, but would only agree to a four-hour window in the Customer Service Standards. They will agree to the two-hour window as long that that remains company practice.

Some of the proposal specifics are as follows: It is a 10-year franchise; franchise fees equal to 5% gross revenue; there is an option for high definition for Channel 8 in three years and PEG fees will equal 50 cents per customer.

Fiscal Impact: Franchise fees equaled approximately \$260,000 in 2014; PEG fees totaled approximately \$25,000 in 2014.

Unknown items that could affect the franchise in the future include possible changes in technology and changes in federal law.

Side Agreement: An Agreement with Comcast to cover the following issues:

- Service will be provided to the new City Services Facility in CTC.
- Comcast volunteers to adhere to two-hour service window as long as that is company practice (it cannot go longer than four hours under the CSS).
- Comcast agrees to the billing clarity language in the CSS and the City recognizes it has no current intent to initiate a complaint related to this.

Staff recommendation: Staff recommended the City Council approve the renewed franchise with Comcast Cable and the reestablishment of Customer Service Standards. The following people were available to respond Council's questions: Public Relations Manager Muth, Mayor Pro Tem Dalton, the City's legal counsel, Nancy Rodgers and Comcast Representative Andy Davis.

COUNCIL COMMENTS

Council member Leh disclosed one of his wife's legal clients is Comcast. He recused himself and left the room.

Council member Stolzmann felt residents would be upset if Comcast was not granted a franchise. She was interested in looking at effective competition sometime in the future. She felt it may provide a way to assist low income and seniors by having the City control the basic cable packages.

Council member Lipton commended the negotiation team on their work. He noted it is difficult to negotiate with all the limitations prescribed from the federal jurisdictions. He stated Council must be realistic on what can and cannot be done. He was comfortable moving forward with approving the franchise agreement. Mayor Muckle concurred.

Council member Lipton commented over the next decade the technologies will change and there will be more options available to Louisville residents in terms of how they receive broadband and internet. He felt the City should review the ordinances on cell towers and antennas to ensure the community is prepared to adopt and accept some of the new technologies in the future. This would give Comcast more competition.

Mayor Muckle inquired whether the PEG fees will be enough to support Channel 8 and any other channels. Public Relations Manager Muth stated the PEG fees will be sufficient enough to support Channel 8. She reported hearing there may be a request for Channel 54 (public) funding.

Mayor Muckle asked if there is precedence for changing the PEG fee rate if or when another public channel requests funding. Special Counsel Nancy Rodgers explained the PEG fees are not established by channel. The 50 cents per household is fairly standard for this fee. She had not seen anyone negotiate an additional PEG fee.

Andy Davis, Comcast Director of Governmental Affairs explained PEG fees are specific for equipment and hardware. It is not for operations. If there was a point when the City wanted to revisit the PEG fees, Comcast would be willing to discuss.

Mayor Muckle called for public comment and hearing none, closed the public hearing.

Mayor Pro Tem Dalton thanked Council member Lipton for his comments and expressed his appreciation to Meredyth Muth and Nancy Rodgers for their work on the franchise negotiations. He noted, even though Comcast was slow in responding to the teams' questions, they did respond and he thanked Andy Davis also.

ORDINANCE No. 1685, SERIES 2015

MOTION: Mayor Pro Tem Dalton moved to approve Ordinance No. 1685, Series 2015, seconded by Mayor Muckle. Mayor Muckle noted with the limitations mentioned this franchise will meet the cable needs of the community who choose to use Comcast.

VOTE: Roll call vote was taken. The motion carried by a vote of 6-0. Council member Leh recused.

ORDINANCE No. 1686, SERIES 2015

MOTION: Mayor Muckle moved to approve Ordinance No. 1686, Series 2015, seconded by Mayor Pro Tem Dalton. Roll call vote was taken. The motion carried by a vote of 6-0. Council member Leh recused.

LETTER OF AGREEMENT BETWEEN THE CITY OF LOUISVILLE AND COMCAST

MOTION: Mayor Pro Tem Dalton moved to approve the Letter of Agreement between the City of Louisville and Comcast and authorize the Mayor's signature, seconded by Council member Keany. All were in favor. Council member Leh recused.

RESOLUTION No. 26, SERIES 2015 – A RESOLUTION APPROVING A CONSTRUCTION AND MAINTENANCE AGREEMENT WITH BNSF RAILWAY COMPANY FOR THE SOUTH STREET PEDESTRIAN/BIKE UNDERPASS

Mayor Muckle requested a staff presentation.

City Manager Fleming explained the City selected Atkins North American, Inc. ("Atkins") in 2013 to design the underpass to connect the west side of Louisville to the east side of the railroad tracks. Atkins developed a conceptual design, which was approved by Council in 2013. 60% of the design plans were submitted to the BNSF Railroad in January of 2014. The City anticipated a response in a few months, but 18 months later the BNSF Railroad responded with the proposed contract which provides construction and maintenance agreement for the underpass. The agreement contains a number of different components, including an easement for the recreation trail and pedestrian bike underpass; a permanent easement for the recreational trail and underpass and an undefined term lease for parking within the BNSF right-of-way (north and south of the underpass and several hundred feet south of Pine Street).

Staff is still negotiating with the railroad the exact areas to be covered by the parking agreement. In order to move this project forward, staff asked Council to consider and approve the agreement with the provision the Mayor and City Manager would have the ability to negotiate additional details as long as they do not alter the substantial form of the agreement approved by Council.

Staff worked with several railroad representatives over the past several weeks. One of the elements is a cost agreement for the bridge structure, which would be paid for by

the City, but constructed by the railroad. The initial budgeting two years ago estimated a total project cost of \$2.7 Million Dollars, with the bridge structure costing \$600,000. The current agreement puts the total cost of the bridge to be \$1 Million Dollars (\$800,000 for construction and \$150,000 for flagging and other construction aspects). Staff will prepare a budget amendment to provide full funding for the entire project. He stated there was enough money in the City's 2015 budget. Staff will present options to address this issue for Council to consider in the 2016-2020 Capital Improvements Program.

COUNCIL COMMENTS

Council member Stolzmann asked what this means in terms of timeframe for executing items later on this year. City Manager explained the City has an agreement, which requires more work from the railroad. It does not commit the railroad to any specific timeframe for the construction. The City, along with other communities is trying to determine when construction may happen. There is some chance the construction may begin this year, but there are no assurances.

Council member Stolzmann inquired about the easement from the center of the track, in response to an email from Erik Hartronft and Randy Caranci. The question was how far out from the middle of the track would the fence be placed. She asked if the City has to fence south of Pine Street if the easement is only 25' instead of 18'.

City Manager Fleming reported meeting with Erik Hartronft and Randy Caranci this afternoon to address the issue of fencing along the project. Everyone agreed on minimizing the amount of land fenced off from parking. BNSF has agreed from Griffith to Pine Street would be 18' from the center of the rails to the fence. They have proposed the fence be located 25' from the centerline south of Pine Street. Everyone involved has tried to get the railroad to agree to an 18' or smaller right-of-way fence location. Staff intends to continue to work with the railroad to scale the fencing back to 18' south of Pine Street. He explained it is very difficult to negotiate with the railroad and it takes months to get a response. He urged Council to consider the agreement and allow what can get in place.

Council member Stolzmann asked if the agreement required a fence south of Pine Street. Planning and Building Safety Director Russ explained the agreement does not require the fence. The original cost of the bridge was reduced by \$1 Million Dollars when the City agreed to a fence between Griffith and Pine. There was a shed to protect pedestrians from flying ballast and there was a different bridge structure. When the fence was proposed, the cost was lowered. Subsequently, with desire to get downtown parking, staff tried to get the fencing south of Pine Street. Because of the steepness of slope south of Pine Street, the railroad requires a standard 25' vehicle access to maintain the track. The railroad has three divisions: Real Estate, Engineering and Operations and all three must approve the right-of-way.

Council member Stolzmann commented she did not favor a fence at 25' out. She did not see the benefit. She asked when the financial options are brought back she would like to see the Urban Renewal Authority provide money to address some of the cost overruns.

Mayor Muckle asked if the agreement with Urban Renewal Authority is they will pay for half of the cost of the underpass. Economic Development Director DeJong stated the agreement is for the Louisville Revitalization Commission (LRC) to pay for half of the cost outside the stormwater improvements projects. If it is greater than the \$1.3 Million Dollars, the LRC will review the cost increase.

PUBLIC COMMENT

Sherry Sommers, 910 S. Palisade Court, Louisville, CO stated her understanding there would be benefits, trails easements, urban renewal funding, but inquired why this particular spot was chosen, when there are other competing intersections that appears to have more traffic.

Randy Caranci, 441 Elk Trail, Louisville, CO reported meeting with City Manager Fleming this afternoon. He was still not sure where the negotiations currently are in connection with his lease. He noted he has a 28' setback from his building to the east. He would be giving up 3' if this fence goes forward.

Planning and Building Safety Director Russ explained in the negotiations with the railroad, the Caranci property was never represented because the City was representing downtown interests. The agreement with Caranci and Hartronft was a common interest to make the railroad parking (easement parking) as large as possible. There is not a lease agreement in terms of the land, as the City did not want to renegotiate the Caranci lease with the railroad.

Randy Caranci asked that the City keep them informed with respect to the railroad negotiations. He stated the City Manager assured him there were no negotiations, just emails and phone calls. He stated his understanding this is for the South Street Underpass. He was asked last year to give up his lease to get additional parking. He stated the setback from the centerline of the railroad tracks running south from Caledonia Street to Pine Street is 18', but from Pine Street south it is 25'. His current lease allows for a 22' setback. He would be giving up 3'. He wanted to see this project move forward. They hope to be part of discussions and City Manager Fleming has agreed to keep them informed.

Bruce MacKenzie, 1612 Cottonwood Drive, Louisville, CO inquired about the cost of this project for the City of Louisville.

COUNCIL COMMENTS

Mayor Muckle addressed Ms. Summer's question and explained the underpass placement was intended to serve as many residents as possible. It has been a long-time plan to connect the east side of the railroad tracks to the west side.

City Manager Fleming addressed Mr. MacKenzie's question and explained there are still a lot of uncertainties. BNSF will do the work and then bill the City for the work. It could be \$1 Million Dollars or less. The City will also have to bid out the remainder of the project. He estimated a range of \$3.2 Million to \$3.7 Million, with the Louisville Revitalization Commission paying half through TIF revenue.

Mayor Muckle addressed Mr. Caranci's concern and noted the City does not want to decrease the amount of available parking south of Pine Street. City Manager Fleming explained he has asked any staff members involved with any written communications relative to the railroad fencing south of Pine Street to copy Mr. Caranci and Mr. Hartronft and advise them after phone conversations with the railroad and if it is an actual meeting, check to see their availability.

Council member Stolzmann stressed the importance to work with all the surrounding property owners. If the railroad only agrees to 25', she did not believe the area should be fenced, which would reduce the existing parking.

Planning and Building Safety Director Russ explained the fencing is not the City's choosing. The railroad is legally allowed to fence their right-of-way. City Attorney Light explained the BNSF contract includes a maintenance agreement for the underpass, which states the City shall cause to be constructed a fence along a particular distance. It does not mean there cannot be a dialogue to get the fence moved to a more advantageous position. BNSF has required the City to construct the fence. When the lease is finalized it will provide the opportunity to discuss the maximum benefit for parking.

Mayor Pro Tem Dalton stating his understanding the agreement runs from Griffith Street to South of Pine. He asked if the railroad is requiring a fence south of Pine Street. Planning and Building Safety Director Russ explained it is required in the agreement.

Council member Stolzmann stated her understanding the agreement was related to the underpass and the City added to it to get additional parking. She inquired whether the City needs the additional parking to get the underpass.

Planning and Building Safety Director Russ stated the fencing from Griffith Street to Pine is part of the underpass agreement. City Attorney Light stated one of the obligations put on the City by the railroad is the fencing from Griffith to 600' south of Pine Street. A separate document provides for leasing areas within the right-of-way for parking. The BNSF railroad is tying the fencing obligation to their authorization for the underpass. Planning and Building Safety Director Russ explained north of Mr.

Caranci's lease, the 25' from center track is workable. It would provide for head-in parking and a drive aisle.

Council member Stolzmann stated part of Mr. Caranci's property is within the diagram. Mr. Caranci confirmed it was. Planning and Building Safety Director Russ explained the railroad did not present Mr. Caranci's property to the City, nor did the City present the Caranci property to the railroad. The City does not want to affect Mr. Caranci's lease. The leasing diagram illustrates what the City would lease from the railroad, which is north of the Caranci property. He noted the fence line would be pulled back to that location.

Council member Loo referred to the scale of the diagram and noted 600' would end at Mr. Caranci's lease. Mr. Caranci was interested in knowing where the 600' ended.

City Manager Fleming stated the provision in the agreement still needs some editing. What the City received from the railroad is a work in progress. The diagram does not reflect the lease agreement with Mr. Caranci and the railroad should be informed. He requested the City Council authorize the Mayor, City Manager and staff to finalize the agreement to be consistent with Council's direction.

Council member Loo noted Mayor Pro Tem Dalton measured the area and it is 600' into Mr. Caranci's property. Mayor Muckle agreed it is important to get the details right, but also felt it is important to move the process along.

MOTION: Mayor Muckle moved to approve Resolution No. 26, Series 2015, seconded by Council member Loo

Council member Stolzmann agreed with moving the process along, but was also concerned about the issue of the fence along the east side. She felt there was still a lot of work to be done.

VOTE: Roll call vote was taken. The motion carried by a vote of 7-0.

CITY-WIDE MARGINAL COST FISCAL MODEL

Mayor Muckle requested a staff presentation.

Planning and Building Safety Director Russ explained the Council directed staff to contract with TischlerBise, Inc. to develop a new marginal cost fiscal impact model. The model has been developed over the last six months and reviewed by the Finance Committee, who had questions about capacity and various staffing. Mr. Bise will provide an overview of the fiscal model and answer the Finance Committee's questions. Staff asked for Council direction on proceeding with the fiscal model in order to finalize the companion model for development.

Carson Bise, TischlerBise, Fiscal, Economic and Planning Consultants, reviewed the objectives of the City's RFP as follows:

1. Develop a marginal-cost fiscal impact model to demonstrate the impact of land development applications. Estimate City-wide fiscal impacts associated with various land use scenarios developed as part of any Comprehensive Plan Update, or Small Area Planning process;
2. City will use to model land use and development scenarios. Evaluate the municipal fiscal impacts anticipated with various proposed individual land development applications;
3. Reflect current capacities of City departments. Clarify the City's levels of service during City Council goal setting, budgeting, and long-range staffing analysis. Account for different financing scenarios and be easy to update.

TischlerBise was asked to create two models, one marginal cost model for City-wide planning and budgeting, and one average cost hybrid model for evaluating individual development proposals and reviewed the City's objective.

Fiscal Impact Models are project based on the following: Geographic location; Timing/phasing of new development; Density; Physical development pattern; Road network and transportation choices. A Citywide Fiscal Impact Model also includes intervention strategies and cumulative effect of development decisions.

Application Design: Developed in Excel and Visual Basic allows for a powerful and flexible application; easily modified; additional modules can be integrated at a later date. Transparent structure avoids "black box" concerns such as Data, assumptions, algorithms fully shown.

Application Design: Land Use/Scenario Input Module: Development projects and growth scenarios are represented through demographic inputs; unlimited number of land use categories can be reflected and be designed to reflect multiple subareas (fiscal analysis zones).

Capital Facilities: Option to have the model forecast the need for capital facilities or enter facilities directly; recognize unused capacities and/or determine growth's proportionate share of the costs; build new additions; lag/lead time of construction; financing mechanisms and repurchase after useful life.

Operating Expenses: Can be organized by department or program area; reflects program-related operating expenses versus facility-related operating expenses; – forecasts staff and related expenses; ability to factor one-time costs and ability to factor fixed costs.

Revenue: Will include capital and operating revenue; includes both annual and one-time revenue and the ability to factor fixed revenue.

Maintenance of Tool: Annual Update: Demographics; budget data; capital facility inventories and capital facility cost factors.

Implementation of fiscal impact model: User's Manual with LOS Assumptions as Appendix; 2 training sessions and ongoing technical support.

PUBLIC COMMENTS

Sherry Sommers, 910 S. Palisade Court, Louisville, CO inquired if the model allows for any tipping point when the marginal costs become greater than the capacity. She provided examples such as the Recreation Center or Library where the maximum capacity is reached with the addition of more people and a new facility is needed.

Mr. Bise explained with marginal models there is a tipping point. It is assumed since the City is collecting impact fees, certain categories of infrastructure will be reviewed and new structures will be constructed. This can be accomplished by working with the department heads to determine when capacity will be reached. There is a tipping point, when infrastructure is examined.

Mayor Pro Tem Dalton asked if the model would tell the City when the Louisville Recreation Center has reached capacity. Mr. Bise confirmed it would be based on the parameters of the model.

Council member Stolzmann voiced her appreciation to TishlerBise and felt they've done excellent work. She felt responding to the Finance Committees question would show the tipping point when a new facility would have to be built.

Council member Keany noted the Finance Committee has looked at this and received public input. He felt real progress has been made. His questions related to whether staff felt certain facilities and staffing were already at capacity. He voiced his appreciation to Mr. Leary for his comments and to Directors Watson and Russ for their work on the model.

Mr. Bise stated they have spent a lot of time working with staff on capacity and some of the numbers have changed.

Mayor Muckle stated he was pleased with the flexibility of the model. He agreed it would be good to have the Finance Committee looking at the model again. He was comfortable with the model.

Mayor Pro Tem Dalton stated his understanding staff would like the Council to approve the model and then the refinements would be completed by the Finance Committee.

City Manager Fleming confirmed the model would provide the assumptions for various scenarios. He was comfortable with the marginal cost fiscal model and going forward with the average cost fiscal model.

Council member Stolzmann stated the key piece of adopting a model is the assumptions, which start in the model. There are two models, a hybrid approach and a marginal approach, but Council has only reviewed one. She felt the assumptions are the crux of the matter. She was comfortable directing staff to continue working on the model, but she was uncomfortable with approving the model.

Mayor Pro Tem Dalton felt the Council is being asked to agree with the structure of the model. The assumptions would be put in later. Council member Lipton was willing to accept the work of the consultant. It would be up to Finance Committee to use the model and provide some analysis for decision making in the future.

City Manager Fleming explained the financial projections for the next 5 years are based on key assumptions, which are made clear to Council. The assumptions are on changes in revenue over the next five years. These assumptions are presented in a summary table every June and during the budget process and Council is asked to confirm the assumptions. If staff is overly optimistic or overly cautious, Council can modify the assumptions. Staff will be able to demonstrate scenarios for the Finance Committee to make sure the approach is correct. When the model is used, the assumptions will be made clear. It was his understanding those assumptions are relatively easy to change.

Council member Loo was comfortable with approving the model. She asked if Council will be able to determine the capacity of facilities and noted that is what the public is concerned about. She asked whether it will be a staff recommendation or will it be a recommendation from the Finance Committee.

Council member Stolzmann stated a large piece of the model is to determine capacities. The model is really two models and Council has only reviewed one model. She stated her understanding was to direct staff to continue with the second model.

Mr. Bise confirmed they are waiting to see if Council is comfortable with the first model before the second model is done.

Council member Stolzmann asked if the model presented is the marginal cost model or the average cost model. Mr. Bise stated it is the marginal cost model.

Council member Stolzmann would be more comfortable with the Finance Committee looking at both models and making a recommendation. Council member Lipton was comfortable with the model and felt the process must be moved along. He accepted Council member Stolzmann's recommendation for Finance Committee review.

COUNCIL DIRECTION: There was Council support for the city-wide marginal cost fiscal model.

RESOLUTION No. 27, SERIES 2015 – A RESOLUTION AMENDING THE 2015 BUDGET BY AMENDING APPROPRIATIONS IN THE GENERAL FUND, URBAN REVITALIZATION DISTRICT FUND, OPEN SPACE & PARKS FUND, CONSERVATION TRUST – LOTTERY FUND, CEMETERY FUND, HISTORIC PRESERVATION FUND, CAPITAL PROJECTS FUND, WATER UTILITY FUND, WASTEWATER UTILITY FUND, STORMWATER UTILITY FUND, GOLF COURSE, AND FLEET MANAGEMENT FUND FOR CARRY FORWARD OF APPROPRIATIONS AND ADDITIONAL APPROPRIATIONS WITH SUCH FUNDS AND ADJUSTING BUDGETED REVENUE IN THE GENERAL FUND, URBAN REVITALIZATION DISTRICT FUND, OPEN SPACE & PARKS FUND, HISTORIC PRESERVATION FUND, CAPITAL PROJECTS FUND, IMPACT FEE FUND, WASTEWATER UTILITY FUND, STORMWATER UTILITY FUND, GOLF COURSE FUND, AND DEBT SERVICE FUND – PUBLIC HEARING

Mayor Muckle opened the public hearing and requested a staff presentation.

Finance Director Watson stated Resolution No. 27, Series 2015 proposes a series of amendments to the City's 2015 Operating & Capital Budget. Staff requests these proposed amendments to:

1. Carry-forward unused appropriations from 2014 to 2015 for projects Council approved for 2014 but, for various reasons, staff needed to extend work on the project or purchase into 2015. In other words, staff asks for the unspent budgets for projects not completed, or equipment not purchased, in 2014 to be added to the current 2015 budget. Total carry-forward = +\$10,796,890.
2. Formally adopt other adjustments to the 2015 expenditure budget. These adjustments are for items staff did not anticipate, or were not measureable, at the time Council adopted the original 2015 budget in November of 2014. Staff has previously discussed many of these items with the Council, but they have not been formally incorporated into the City's 2015 expenditure budget. Total other adjustments = +\$23,906,740.
3. Formally adjust the revenue budget to new revenue estimates or for new revenue sources staff did not anticipate, or were not measureable, at the time Council adopted the original 2015 budget in November 2014. Total revenue adjustments = +\$22,588,640.

Fiscal Impact: The Finance Department updated revenue, expenditures and fund balance estimates for all funds based on the proposed budget adjustments in the resolution. The total City-wide reserves are projected to be reduced by \$15.5 Million in 2015. However, all funds are projected to retain adequate levels of fund balance. The Finance Committee approved the proposed amendments and indicated their approval.

City Manager Fleming noted \$10 Million in carryover is a very large amount. Most of the numbers were associated with four different projects: The City Services Facility; The Sludge Handling Project for the Water Treatment Plant, The Core Area Project (URA) and the Golf Course. Some of the issues included: setting a budget based on estimates in March of 2014; projects taking multiple years to finish because of an overlay in the contract and delays in the contract.

COUNCIL COMMENTS

Council member Keany stated the Finance Committee reviewed a draft version of the 2015 Budget Amendments to Appropriations. He asked if there had been any revisions since the Finance Committee's review. Finance Director Watson explained there were a couple of very minor adjustments made.

Council member Keany stated the Finance Committee have reviewed and recommend City Council approval.

Council member Stolzmann encouraged Council and staff to do a better job next year of forecasting and putting projects in the appropriate year. She felt Council and staff could do a better job on projections and estimates.

Mayor Muckle called for public comment and hearing none, closed the public hearing.

MOTION: Mayor Muckle moved to approve Resolution No. 27, Series 2015, seconded by Mayor Pro Tem Dalton. Roll call vote was taken. The motion carried by a vote of 7-0.

2014 AND 2015 CAPITAL IMPROVEMENT PROJECTS UPDATE

Mayor Muckle requested a staff presentation.

City Manager Fleming explained in conjunction with the Budget amendment, staff prepared comprehensive lists of the status of the major 2014 and 2015 Capital Improvement Projects as of April 1st. The 2014 list includes information about project status. 70 different projects were completed, what was or was not completed, and what is being requested for rollover to 2015. At the beginning of each budget year staff anticipates and works towards the completion of each project, however over the course of the year there are changes to priorities, cost overruns, third party issues, staffing changes and other issues that can delay projects.

This information is formatted to facilitate quarterly updates as the year progresses. Staff completed dozens of significant projects and several projects, specifically the City Services Facility, South Street Gateway Underpass, Sludge Treatment/Handling, Eldorado Intake, Windy Gap Firming, and Core Area [URA] Utility make up the majority of funding that staff asked to be carried forward from 2014 to 2015. The scheduling for

the South Street Gateway, Eldorado Intake, Windy Gap and Core Area Utility projects are highly unpredictable and entirely outside City staff's control, and yet it is still necessary to budget funding for these projects so the City can proceed when other parties are ready to proceed.

COUNCIL COMMENTS

Council member Stolzmann suggested the updated document should reflect percentage complete over anticipated complete.

ORDINANCE No. 1690, SERIES 2015 – AN ORDINANCE AMENDING SECTION 2.32.060 OF THE LOUISVILLE MUNICIPAL CODE REGARDING THE COLLECTION OF MUNICIPAL COURT ASSESSMENTS – 2nd Reading – Public Hearing

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1690, Series 2015.

Mayor Muckle opened the public hearing and requested a staff presentation.

City Clerk Varra explained the ordinance proposes to amend the Louisville Municipal Code to provide a provision to allow unpaid parking tickets to be sent to a collection agency. The current code provides that the Court can take no action unless three unpaid parking tickets have been written on the same vehicle. With the popularity of the City's summer events, the number of parking summons has risen. Recent statistics on unpaid parking tickets in 2014 reflect, an 89% increase over 2013. In 2014 there was \$990.00 in unpaid parking tickets.

The proposed collection process would prompt a letter from the Court to the defendant, noting an additional \$15 late fee has been added to the fine. The letter requests the fine and late fee to be paid within 30 days. It also notifies the defendant if the total amount due is not paid, it will be referred to a collection agency where an additional 25% collection fee will be added. If the defendant fails to pay the fine, the case is sent to collection. It is the sole responsibility for the collection agency to collect the amount due. Collected funds are sent to the court on a monthly basis. Several neighboring courts utilize a collection agency for unpaid parking tickets. Both Brighton and Superior have used collection agencies for over ten years.

Staff Recommendation: Staff recommends the City Council approve Ordinance No. 1690, Series 2015.

Municipal Judge Bruce Joss explained parking tickets are decriminalized and there is not much the court can do about collecting parking fines. Parking violations are defined as parking infractions and considered civil matters. This Code amendment will help collect fines on parking tickets.

Mayor Muckle called for public comments and hearing none, closed the public hearing.

MOTION: Council member Loo moved to approve Ordinance No. 1690, Series 2015 on second and final reading, seconded by Mayor Pro Tem Dalton. Roll call vote was taken. The motion carried by a vote of 7-0.

ORDINANCE No. 1689, SERIES 2015 – AN ORDINANCE REPEALING AND REENACTING CHAPTER 14.16 OF THE LOUISVILLE MUNICIPAL CODE REGARDING SPECIAL EVENTS PERMITS – 2nd Reading –Public Hearing

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1689, Series 2015.

Mayor Muckle opened the public hearing and requested a staff presentation. Public Relations Manager Muth explained in 2014, City staff updated the special event permitting process to address the increase in event requests in the City and concerns from residents. Adopting the ordinance would amend the Louisville Municipal Code (LMC) to clarify and codify the existing permitting requirements applicable to special events. Among other things, it clarifies the criteria for denying or revoking a special event permit, as well as the process for appealing those actions. The ordinance includes criteria for denial; revocation and an appeal process.

Fiscal Impact: None. Approval of ordinance would codify the City's current practices.

Staff Recommendation: Staff recommended approving Ordinance No. 1689, Series 2015 on second and final reading.

COUNCIL COMMENTS

Mayor Pro Tem Dalton addressed the criteria for denial and asked if this would be something which could come back on the City. City Attorney Light explained it is the permission to use public property and public rights-of-way. In terms of capacity of events, there may be situations where someone is denied when someone in a similar situation is approved. This is permission to use public property for which there is no general right existing outside of the permission. The permission process is a revocable license to engage in activity and does not take on any property interest.

City Manager Fleming stated the ordinance has very specific criteria should there be any denial of application.

Council member Keany stated his understanding some events beneficial to the community have been required to pay large fees. He suggested there be a way to waive fees for certain events.

Public Relations Manager Muth explained through the current process there is a \$200.00 fee, but there is also a process to charge back for police time. Staff is looking at doing that equitably across all the different events.

Council member Keany stated some of the organizations have put on the events the City could not afford to finance. He asked if the City was willing to take on the cost of those events. City Attorney Light explained the ordinance does not establish the fees. Fees will be set by the City Council.

Mayor Muckle called for public comment and hearing none closed the public hearing.

COUNCIL COMMENTS

Council member Leh stated his understanding if the Deputy City Manager denies a request the applicant has a right to file a written appeal to the City Manager. But if the City Manager conducts a hearing and denies the request, what is the applicants' recourse. City Attorney Light explained under the ordinance there is no further administrative appeal within the City. The applicant may file his appeal to challenge the decision of the City Manager in the District Court. He explained there is no administrative challenge through the City Council. The time periods are short to advise the applicant so the appeal will be heard in a timely manner.

Council member Leh asked City Attorney Light if this type of structure was typical in other municipalities or are there any City Council appeal processes. City Attorney Light explained in communities the size of Louisville, mid-sized or larger communities it is typically an administrative process through the City Manager or County Manager's office or their designee. In small municipalities they generally have a right to appeal to the elected officials.

MOTION: Mayor Muckle moved to approve Ordinance No. 1689, Series 2015 on second and final reading, seconded by Mayor Pro Tem Dalton. Roll call vote was taken. The motion carried by a vote of 7-0.

RESOLUTION No. 28, SERIES 2015 – A RESOLUTION DENYING A REZONING, FINAL PLAT, FINAL PLANNED UNIT DEVELOPMENT (PUD), AND SPECIAL REVIEW USE (SRU) FOR THE REDEVELOPMENT OF A 3.9 ACRE PROPERTY WITHIN THE CORE PROJECT AREA OF THE HIGHWAY 42 REVITALIZATION AREA. THE REDEVELOPMENT INCLUDES THE ADDITION OF APPROXIMATELY 19,308 – 23,000 SQ. FT. OF COMMERCIAL SPACE

Mayor Muckle made the following introductory comments: "This is a public hearing on a land development application for Delo Plaza at 1055 Courtesy Road. The applicant

includes four parts; a Rezoning; a Final Plat; a Final Development Plan and a Special Review Request. The City Council public hearing tonight is on all parts of the application and persons who wish to speak in regard to the application can speak on any aspect of the application as desired. The general order for the hearing will be that of the City Council will first hear a staff presentation, then an applicant presentation, followed by public comments. Public comments will be followed by City Council questions and comments and then by an additional opportunity for public comment prior to any Council action. Persons who wish to speak are asked to fill out a sign-up card and hand it to the City Clerk, seated at the end of the podium, so the clerk has your name and address for the record. Members of the public wishing to speak are asked to limit their comments to three minutes each. Speakers are not required to be sworn in, but are reminded their comments are part of the official record for this proceeding and are recorded. All comments should be directed to the City Council. If you are speaking and have any documents you wish to give to City Council, please give them to the Clerk prior to speaking so they may be distributed and copied if need be. A copy of any document submitted tonight will also be posted at the back of the room.”

City Attorney Light requested the City Council make a formal record of documents related to the public hearing. He requested the City Council by motion formally include in the record of the public hearing the following documents: All application materials submitted by the applicant in connection with the rezoning, final plat, final PUD and Special Review Use applications; all materials included in the City Council packets, consisting of the all the staff communication and all attachments included with that communication; the public hearing notices and proofs of publication and notice for this hearing; all written referral and public comments received regarding the applications; the City’s subdivision and zoning ordinances set forth in titles 16 and 17 of the Louisville Municipal Code, the development standards and guidelines discussed in the staff communication and the City’s Comprehensive Plan.

MOTION: Mayor Muckle opened the public hearing and moved to include into the record all the documents outlined by the City Attorney, seconded by Council member Keany. All were in favor.

Mayor Muckle requested a staff presentation.

Principal Planner McCartney explained at the applicant’s request he would present the draft resolution denying a rezoning, final plat, final PUD and special review use for the property located at 1055 Courtesy Road. The proposed project is known as Downtown East Louisville (DELO) Plaza. It is east of the BNSF Railway, north of Miners Field and west of Highway 42.

Parking Area Purchase and Sale Agreement: The City Council approved the Purchase and Sale Agreement to acquire the .638 acre parcel. The purchase was not binding unless Council approves this plat, PUD and SRU with the following conditions: Cannon

Street is dedicated to the City at no cost to the City; No public land dedication required on Plat; Rezoning Agreement permitting the following: 3 drive-thru's; no two story requirements; no minimum lot coverage (CC); minimum 15' setback (CC); a 5-year reprieve on Industrial uses; no required parking maximum; stormwater in regional facility instead of onsite and site plan shown in Exhibit B would be used as the overall development plan.

Rezoning: The property is currently zoned Industrial. Redevelopment of this parcel requires rezoning to comply with Exhibit A. Request to rezone to CC-Hwy 42 and MU-R-Parking. The purpose of the request is for 23,000 SF of commercial development; 79-space City parking lot and extension of Cannon Street. The zoning complies with Exhibit B of Section 17.14.

Final Plat: The Final Plat creates 4 lots: Lot 1 (27,775 SF or .64-acres) shown on the PUD as a drive thru use. Lot 2 (28,426 SF or .65-acres) shown on the PUD as a drive thru use. Lot 3 (64,639 SF or 1.48-acres) shown with a multi- unit commercial building. Lots 1-3 achieve access from Short and South Street. Lot 4 (27,752 or .64-acres) 79 space municipal parking lot; Cannon Street Right-of-way – DeLo Phase 2 Woonerf. The Block Design complies with MUDDSG. They propose 23,000 SF maximum commercial with two 4,500 SF drive-thru; one 15,000 SF multi-tenant commercial (with drive-thru option). Redevelopment will be complimentary to the surrounding land uses and lend to the pedestrian oriented nature.

Parking: 143 parking spaces are provided, only 77 are required. Additional parking provides flexibility on future land uses and the ability for a parking agreement for adjacent Miner's Field.

Site Plan: Two buildings located along Hwy 42; One multi-use, auto oriented building setback approximately 225 feet from Hwy 42. Staff believes the two buildings along Hwy 42 meet the intent of the MUDDSG. MUDDSG does not prohibit parking between the building and street.

Pedestrian Circulation: Sidewalks are internal and external. Staff recommended the following modification to enhance pedestrian connection: include crosswalk, place sidewalk in the landscape island (if possible).

Signs: Signs must comply with CDDSG. Building Mounted Signs - CDDSG permits 1 SF of sign area per linear foot. All copy shall not exceed 24 inches. The applicant proposes 2 SF of sign area per linear foot. All Copy shall be 30 inches. The proposed building mounted signs do not comply with CDDSG.

Monument signs: 4 monument signs are proposed: Two individual identifiers, 8 feet tall, 45 SF are compliant with CDDSG. One development identifier, 8 feet tall, 100 SF, does not comply with CDDSG in area and number. Development Identifier already provided in DeLo Phase 2. One project identifier, 21 feet tall, (12 feet permitted), 200 SF (60 SF permitted) does not comply with CDDSG. The CDDSG would permit the

following: 1/1 wall sign at 24 inches in height; 3 monument signs 12 feet tall and 60SF in area. Staff did not support the sign waivers as presented.

Landscaping: MUDDSG requires 20% landscape coverage. Applicant is proposing 10% landscape coverage. Staff acknowledges the reduction of landscaping allows for more flexible internal circulation and future land use. Staff required the following: Work with the City Forester and Parks Project Manager to save as many trees as possible. Staff also required the parking on the east, along Hwy 42 be removed and replaced with a landscape buffer. This will increase the overall landscaping by 3,500 SF or 3% over the entire property.

Architecture and Building Design: 35 feet is allowed, 26'3" proposed. Two stories are allowed to promote mixed use on top, one-story is proposed.

Special Review Use: This property is proposed to be used as City parking lot. Staff believed the criterion of the Special Review Use has been met.

Waivers: Staff supported the site plan waivers as long as the parking along Hwy 42 is removed and replaced with landscaping and an east/west pedestrian connection is created. Staff did not support the sign waivers. Staff supported the parking waiver if the applicant agrees to a parking agreement for Miner's Field and replaces Hwy 42 parking with landscaping/tree preservation.

Recommendation: Staff recommended approval of the requested rezoning, final plat, final PUD and SRU for DELO Plaza, with the six conditions prior to recordation of the plat at Planning Commission. The applicant did not accept staff conditions at that meeting. The Planning Commission reviewed the application without conditions on March 12th. The Planning Commission concluded the proposed PUD was not compatible with surrounding designs and neighborhoods, nor was it designed or oriented toward the pedestrian and denied the request.

City Council's three options following completion of its public hearing on the proposal are as follows:

1. Deny the application;
2. Approve the application;
3. Approve the application with conditions; or
4. Remand the application to the Planning Commission.

If City Council chooses to remand the proposal to the Planning Commission, a public hearing will be scheduled for June 11th. If Council chooses to deny the project or approve the project, staff requested the City Council direct staff to prepare a draft resolution of denial, or approval for Council consideration and continue the public hearing to a future meeting date.

APPLICANT PRESENTATION

Justin McClure, RMCS, Inc. explained he is representing the TEBO property owner in the land use application. He is presenting the application on behalf of the owner, Mr. Tebo, and as a financial investor and as the DELO developer. He stated through the TIF process this is a clear benefit to the public infrastructure for all of DELO. It also provides a benefit to the Louisville Revitalization Commission and the City of Louisville. He noted the closing on the Cannon Street right-of-way extension is tomorrow.

He reviewed the subject property through photos taken in December of 2010. He referred to the Planning Commission action and concurred the proposal did not qualify. He explained there are two other components: the references to FasTracks and the pedestrian friendly oriented development. When the City lost FasTracks, it was no longer an amenity, and became an auto oriented development in the interim.

He reviewed the TEBO proposal and stressed the importance of getting the property improved. He addressed the conditions set forth by staff, which was not accepted by the applicant prompting the Planning Commission denial of the application. The applicant has since accommodated all the conditions. The developers are doing their best to exceed the conditions and are working with the staff. They have made adjustments to the parking and increased the landscape buffer. He noted there are benefits of retail sales and impacts to the TIF district in terms of property value with redevelopment.

MOTION: Mayor Muckle moved the applicant's PowerPoint presentation be included in the record, seconded by Council member Stolzmann. All were in favor.

PUBLIC COMMENTS

Michael Menaker, 1827 W. Choke Cherry Drive, Louisville, CO asked if the original conditions, which went to the Planning Commission, are now agreed upon by the applicant. It was confirmed by staff and the applicant. He commented on the round table discussion on designing retail spaces and noted all the businesses the City has lost in the past. He concluded the City does not do parking or signage very well. He recommended the Council direct staff to draft a resolution of approval, with the original conditions for Council consideration. He felt this project brings in sales tax revenue.

John Leary, 1116 LaFarge Avenue, Louisville, CO stated from 10 – 15 years of observation, this process has become a series of contradictions. The issue is a conflict between ideologies and MUDDSG Guidelines and market reality. The whole issue with the Planning Commission was whether the project was auto orientated or whether it should be integrated with the DELO residential development. The history of market studies depicts this area as highway commercial. When the market analysis was done for TIF generation, it was made clear it was highway oriented and there would be no way to support it internally as a mixed-use project. Should Council rely on MUDDSG

guidelines, ideology or the developer's market knowledge. He felt it comes down to the reality of the situation. He agreed there are items to be fixed. He asked if the purpose is the development of the commercial site from Hwy 42 or whether it will be integrated into the DELO property.

Michael Menaker, 1827 W. Choke Cherry Drive, Louisville, CO concurred.

COUNCIL COMMENTS

Mayor Muckle felt the development meets a lot of the City's original goals. It was originally envisioned in the mixed guidelines with two story buildings. He suggested the property owners have access to the back of the buildings. He felt the walking path along the parking lot and the landscaping creates an internal feeling. He supported staff bringing back the resolution for approval. Council member Loo concurred.

Council member Lipton addressed the McCaslin Blvd retail and noted they had good intentions but the building orientation did not work. He felt there has to be visibility and access from Hwy 42 to support the businesses otherwise the same mistake will occur. He supported remanding the application back to the Planning Commission.

Council member Stolzmann asked why the entire property cannot be zoned MUCC.

Principal Planner McCartney explained staff requested the applicant mirror exactly what was established in Exhibit A (CC zoning along an alley break between what is considered MU-R (Parking lot). Planning and Building Safety Director Russ explained if the entire property were zone MUCC, Exhibit A would have to be modified.

Council member Stolzmann addressed the waivers and asked if they are calculated on the entire property or just Lots 1, 2 and 3. Principal Planner McCartney confirmed they are for Lots 1, 2 and 3.

Council member Stolzmann agreed with Council member's comments. She did not want to remand the application back to the Planning Commission and requested Council go through each and every condition. She asked about the excess parking. Planning and Building Safety Director Russ explained with the excess parking proposed there was an opportunity for a public benefit in exchange for waivers.

Council member Stolzmann was not in favor of the parking agreement, but would agree to waivers in exchange for parking behind the facilities. She opposed the condition because it required City reimbursement and on-going cost to reimburse. She would rather allow the building signs as requested, but not the monument signs. She noted this is the final PUD and Council should ensure it is the best plan.

Mayor Pro Tem Dalton favored Council directing staff to bring back a resolution of approval for this project. He advised against the vegetation around the buildings facing Hwy 42 and suggested those buildings be readily seen from Hwy 42. He noted the McCaslin Blvd retail mistake should not be repeated.

Council member Lipton did not understand why the Council was not using the Planning Commission's expertise to further review the application and why Council would go around the Planning Commission to do the work themselves. He noted the Council relies on the Planning Commission for their recommendation and recommended Council send a message on their philosophy and expectations, which would provide guidance to the Planning Commission and staff. He felt the Planning Commission was on the wrong page and Council should get everyone together in the process.

Planning and Building Safety Director Russ strongly discouraged design on the dais. If Council wants a resolution of approval, staff recommends the June 2, 2015 City Council meeting to have the drawings reviewed by Public Works and Parks. Staff has already coordinated the possibility with the Parks Director and Public Works Director. There are items of conditions, particularly site grading, which Public Works is prepared to review and provide feedback. He noted the comments in the review were not just from the Planning Department. He stated there is a lot of engineering and design, which has to be reviewed by Parks and the Public Works Division once the drawings are updated.

Council member Keany inquired about the timeframe should Council remand the application back to Planning Commission. Principal Planner McCartney stated it would be reviewed at the June 11th Planning Commission meeting and brought back before Council on July 14th. First reading could be June 9th and second reading on the 28th of July.

Council member Keany asked Mr. McClure how the timing of the meetings affects the marketing of the property at the ICSC Conference. Mr. McClure stated if a resolution of approval was presented to Council on June 2nd they could represent at ICSC on May 16th the project is on track for approval as opposed to uncertainty in the process. He felt remanding the application back to the Planning Commission would be a different conversation.

Planning and Building Safety Director Russ reviewed the conditions of approval. He noted the applicant's responses do not necessarily match the conditions of approval. He reviewed the conditions as follows:

1. The City and the applicant shall develop a shared parking agreement for the private surface parking lot for the events at Miners' Field and larger downtown special events. The applicant's response: Agreed, however such agreement will include upfront capital reimbursements and ongoing costs and will be limited amount of spaces in a limited area.

Planning and Building Safety Director Russ explained this is excluding the parking lot. This property is directly across from Miner's Field. He stressed the need for a staff review of the applicant's response. Staff's intent is not to have capital reimbursement or ongoing costs. He asked if Council is interested in a shared parking agreement.

Council member Stolzmann voiced her preference the City not pay for the City Parking lot. It would be a public benefit, which would grant waivers. She did not see a shared parking agreement as a public benefit. Planning and Building Safety Director Russ explained the shared parking agreement would be beyond the purchase. It is for parking in the back.

Council member Loo asked if the shared agreement is for parking off Hwy 42. Planning and Building Safety Director Russ confirmed. Council member Loo voiced her support.

2. All signs, including any monument sign, shall comply with Chapter 7 of the CDDSG, as well as Section 17.24 of the LMC, including a 10 ft. setback from right-of-way. The applicant's response: Agreed, except that the development shall be granted a minimum of three individual monument signs (with multiple panels) at a height of 12'.

Planning and Building Safety Director Russ noted the problems along McCaslin Blvd are the font size and the text is actually smaller than what the CDDSG allows. The sign in the application is twice of what is allowed in the CDDSG. He asked for Council direction on the request for signage.

Council member Keany stated his understanding the applicant agrees to comply with the sign guidelines, therefore there is no issue. Planning and Building Safety Director Russ explained the applicant is requesting three monument signs up to 12'. Principal Planner McCartney explained there can be one sign per building. They would be allowed three monument signs 12' feet, 60 SF in size.

3. The applicant shall continue to work with Public Works on addressing the comments shown in the February 11, 2015 memo. Applicant's response: Agreed.
4. The proposed sidewalks shall match the sidewalk design included in the Highway 42 Plan. Applicant's response: Agreed.
5. Because the Highway 42 sidewalk is required, the applicant shall modify the landscape sheets prior to recordation to remove the parking stalls, located along Highway 42, and be replaced with the landscaping in compliance with the MUDDSG. The applicant shall also include an east/west sidewalk connecting Highway 42 to the larger commercial building, via a sidewalk located within a landscape island. Applicant's response: Agreed per the Site Exhibit below. Due

to the decrease in available parking for the Development, the developer, its tenants and their employees and customers shall have the unrestricted use of the parking lot to the west of the development at no cost. The parking lot is to be constructed at the cost of Louisville.

Planning and Building Safety Director Russ addressed the midblock sidewalk and explained the City is aggressively working with the Northwest Mobility Study on a transit route along Highway 42. They are looking at the stop in association with the South Street signal, which would be on Highway 42. The midblock sidewalk will service public transit. He addressed the landscaping and noted the application has 14% less landscaping than the All State Building on McCaslin Blvd.

Mayor Pro Tem Dalton explained he was referring to landscaping, which will eventually be a barrier to the buildings. Planning and Building Safety Director Russ confirmed Council direction for specific plant selection and visibility of the sign. He noted there is a difference between what staff recommended and what the applicant presented. Staff has tried to create a balance and the applicant has agreed. He revisited Condition #3 and explained the reason for this condition was the applicant proposed grading away from the regional detention pond in order to avoid paying his full portion of the pond maintenance. The City Engineer required the grading provide drainage into the regional detention pond. The applicant has agreed to re-grade the site.

Mr. McClure explained it was not an intentional effort to distract water away from the future Highway 42 Regional Detention Pond. Mr. McClure and Mr. Tebo had discussions about minimizing future maintenance costs. If less water is put into the pond, theoretically there would be less of a maintenance contribution. The highpoint of the site is the centerline of the property and the applicant did not want to alter the grade if he did not have to. Half of the drainage would be to the south, however the applicant will comply. There will be a \$70,000 cost for stormwater infrastructure and an increase in the cost for the maintenance of the pond.

6. Staff requests the applicant preserve as many of the existing trees as possible. The applicant shall work with the City Forester and Parks Project Manager, at time of construction drawings, to determine which trees may be preserved.
Applicant's response: Agreed.

COUNCIL COMMENTS

Mayor Muckle addressed the applicant's response to Condition #5 relative to access to the City parking lot on the west side. Mr. McClure explained staff requested parking mitigation or reductions in association with Highway 42 and reduced parking in the back of properties to allow for additional landscaping buffers. There are 225 to 235 parking spaces coming into downtown. The developer is interested in negotiating an equitable agreement to allocate and share those spaces to benefit the City and Mr. Tebo's future development. Planning and Building Safety Director Russ explained the primary need for the parking lot is for downtown evening and special events.

Council member Keany inquired whether buildings' elevation would be brought back for Council approval. Planning and Building Safety Director Russ explained Council would approve the building elevations in the PUD approval process.

Council member Keany requested the west side of the building not be a plain block monolith building and have some architectural character because it will be facing a public area.

Council member Stolzmann stated when this application comes back to Council she wanted to see the signage presented exactly how they propose the signs to look. Planning and Building Safety Director Russ credited the applicant and noted on the first submittal the LRC and staff provided very clear comments. The applicant then did significant modifications.

Council member Leh addressed the process and voiced his hope this proposal would not set a precedence for the future. He was willing to support the six conditions.

Mayor Muckle concurred with Council member Keany's comments relative to the architectural character of the buildings.

MOTION: Mayor Muckle moved Council direct staff to draft a resolution of approval, taking into account all of Council's direction, for the June 2, 2015 meeting, seconded by Mayor Pro Tem Dalton.

City Attorney Light explained the zoning application is approved by ordinance, which requires two readings. Council has the option for first reading on June 2nd, or to have first reading of the ordinance May 19th and have everything queued up for second reading on June 2nd. There was Council consensus for second reading on June 2nd.

City Attorney Light offered the following friendly amendment: The City Council continue the public hearing on the proposed rezoning, final plat, final PUD and Special Review Use for redevelopment of 1055 Courtesy Road to June 2, 2015 and staff be directed to prepare for such meeting, a draft resolution of approval with conditions and well as an ordinance for approval of the rezoning with the rezoning ordinance to be scheduled for second reading on June 2nd. Mayor Muck and Mayor Pro Tem Dalton accepted the amendment.

MOTION: Mayor Muckle restated his motion to reflect the City Attorney's friendly amendment, seconded by Mayor Pro Tem Dalton. All in favor.

Council member Loo left the meeting at 10:52 p.m.

**GRAIN ELEVATOR FINAL PLAT, FINAL PLANNED UNIT DEVELOPMENT,
SPECIAL REVIEW USE, AND LANDMARK – REQUEST CONTINUANCE TO
5/19/2015**

MOTION: Mayor Muckle moved to continue this matter to the May 19, 2015 City Council meeting, seconded by Mayor Pro Tem Dalton. All were in favor.

**ORDINANCE No. 1692 , SERIES 2015 – AN ORDINANCE AMENDING TITLE 17 OF
THE LOUISVILLE MUNICIPAL CODE TO DEFINE LIVE-WORK USES AND ALLOW
THEIR DEVELOPMENT IN THE MIXED USE ZONE DISTRICTS AND DOWNTOWN
LOUISVILLE – 1st Reading – Set Public Hearing 05/19/2015**

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1692, Series 2015. He noted this ordinance proposes to amend Title 17 of the Zoning Code and requires a 15 day notice. He recommended the public hearing be set for June 2, 2015.

MOTION: Mayor Muckle moved to approve Ordinance No.1691, Series 2015 on first reading, send it out for publication and set a public hearing for June 2, 2015, seconded by Council member Mayor Pro Tem Dalton. All were in favor. Absent: Council member Loo

**ORDINANCE No.1692, SERIES 2015 – AN ORDINANCE FOR THE REGULATION
OF TRAFFIC BY THE CITY OF LOUISVILLE, COLORADO; AMENDING CERTAIN
SECTIONS OF THE LOUISVILLE MUNICIPAL CODE CONCERNING FLASHING
YELLOW SIGNALS AND DRIVING THROUGH PRIVATE PROPERTY – 1st Reading –
Set Public Hearing 05/19/2015**

Mayor Muckle requested a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1692, Series 2015.

MOTION: Mayor Muckle moved to approve Ordinance No. 1691, Series 2015 on first reading, send it out for publication and set a public hearing for May 19, 2015, seconded by Mayor Pro Tem Dalton. All were in favor.

CITY ATTORNEY'S REPORT

City Attorney Light clarified the closing of the property referred to by Mr. McClure related to the contract the City has to purchase for a parking lot. There is a provision in the contract, which contemplates the Cannon Street right-of-way would be platted by this plat. It does not preclude RMCS or TEBO closing on the right-of-way to convey the property to the City. According to the subdivision code this right-of-way property does not require a plat if it is to be given to the City.

**COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF
FUTURE AGENDA ITEMS**

Council member Stolzmann addressed the Coal Creek Golf Course and noted the Men's Club and several golf members have expressed concern with the way the City has decided to restart the Peak Players Program once the golf course reopens. She suggested Council discuss this at a future meeting.

ADJOURN

MOTION: Mayor Muckle moved for adjournment, seconded by Council member Keany. All were in favor. The meeting adjourned at 11:00 p.m.

Robert P. Muckle, Mayor

Nancy Varra, City Clerk