



CITY COUNCIL PROCEEDINGS

Tuesday, May 24, 2011

Civic Center
350 Kimbark Street
Longmont, CO 80501

REGULAR SESSION

The May 24, 2011, meeting of the Longmont City Council was called to order at 7:00 p.m. by Mayor Baum in the City Council Chambers.

1. ROLL CALL – PLEDGE OF ALLEGIANCE

Valeria Skitt, City Clerk, called the roll. Those present were: Mayor Bryan Baum and Council Members Brian Hansen, Sarah Levison, Sean McCoy, Alex Sammoury, Gabe Santos, and Katie Witt.

Mayor Baum led the assembly in reciting the Pledge of Allegiance.

2. CHAIR REMINDER TO THE PUBLIC:

The Mayor reviewed the procedure for Public Invited to be Heard and Public Hearings.

3. APPROVAL OF MINUTES

Council Member McCoy moved, seconded by Santos, to approve the minutes of the April 26, 2011, meeting as printed. Motion carried: 7-0.

Council Member McCoy moved, seconded by Hansen, to approve the minutes of the May 10, 2011, meeting as printed. Motion carried: 7-0.

4. AGENDA REVISIONS AND SUBMISSION OF DOCUMENTS

Gordon Pedrow, City Manager, indicated that staff distributed a new Exhibit A (map) for Item 9 H which is the Inter-Governmental Agreement with Firestone.

5. CITY MANAGER'S REPORT

The City Manager did not have a report but invited Jeff Friesner to update Council members on the status of the Sunset Pool Bathhouse construction.

Mr. Friesner, Recreation Manager, indicated that construction of the Sunset Pool Bathhouse construction is scheduled to be completed by June 15, 2011. He responded to Council Member questions regarding cost and revenue considerations as a result of the delay and protocols for construction worker conduct on the site in the presence of children.

6. SPECIAL REPORTS AND PRESENTATIONS

There were no special reports or presentations.

7. FIRST CALL – PUBLIC INVITED TO BE HEARD

Don Bennett, 433 Dickson Drive, commented on the unfair practices of the City Police Department.

Deanna Dyer, 513 Emery Street, representing the Association of Realtors, spoke in favor of the repeal of the inclusionary zoning ordinance.

Kaye Fissinger, 2199 Creekside Drive, spoke in opposition to the Firestone Inter-Governmental Agreement.

Steve Erickson, 1228 Old Tale Road, Boulder, owner of Boulder Creek Properties, spoke in support of amending the inclusionary zoning ordinance.

Paul Schroeder, 1779 Red Cloud Road, spoke against the proposed increase in trash and recycling fees.

Kim Calomino, 9033 E. Easter Place, Centennial, expressed support for the proposed repeal of the inclusionary zoning ordinance.

Strider Benston, 951 17th Avenue, spoke about the persistence of natural disasters, reduction in social security, and campaign finance.

Marie Zapata, 2207 Dexter Drive, spoke against the ban on medical marijuana dispensaries.

8. ORDINANCES ON SECOND READING AND PUBLIC HEARINGS ON ANY MATTER

- A. O-2011-27, Public Hearing and Second Reading of a Bill for an Ordinance Enacting Chapter 9.60 of the Longmont Municipal Code on Medical Marijuana**

Gordon Pedrow, City Manager, read the title of the ordinance into the record.

Eugene Mei, City Attorney, reviewed background information on how we got to this point in the development of this ordinance, the state licensing scheme and staff concerns related to using “volume” instead of square footage to measure the growing area, as outlined in the Council Communication.

Mr. Mei then reviewed options for council consideration and noted the staff is recommending that the caregiver requirements be outlined in an ordinance separate from the dispensary ban issue.

Chris Allison, Chief Building Official, reviewed potential health and safety issues and building code violations associated with growing medical marijuana in residences.

Discussion followed about potentially changing the language of the ordinance to include gas venting provisions or wattage limits for lighting to reduce safety risks.

Jeff Satur, Police Commander, highlighted the challenges of verifying the authenticity of medical marijuana caregiver/patient paperwork. He also reviewed the process to investigate and build a case against illegal operations. Commander Satur explained that given the difficulty of prosecuting these cases, it would be better to keep the restrictions simple by limiting the total square footages rather than applying it per patient.

Ben Ortiz, Planner, noted that the originally proposed 12 plant, 150 square foot restrictions are in line with other Colorado municipalities.

Shannon Stadler, Code Enforcement Supervisor, reviewed the Code Enforcement process for responding to complaints about illegal grow operations.

Council discussion continued on permitting grow operations, helping residential grow operations comply with code, limitations on the number of plants per patient, legal ramifications of entering a residential grow operation without a warrant, and patient/caregiver confidentiality concerns.

Mayor Baum opened a public hearing on this item.

Marie Terry, 113 Wilford Road, Berthoud, an employee for Alternatives for Youth (AFY), spoke in support of the ban on dispensaries. She noted that many high school students are receiving marijuana from people with medical marijuana prescriptions and marijuana use by young people is continuing to grow. AFY has a new drug and alcohol abuse program that is the fastest growing new program they have ever started.

Deb Roberts, 2340 Alpine Drive, Erie, Executive Director for Alternatives for Youth, spoke in favor of the ban on dispensaries, talked about her son's experience with marijuana, and the effects of marijuana on families.

Jim West, 960 5th Avenue, urged the Council to vote in favor of the new ordinance to ban medical marijuana dispensaries and expressed concerns about the effect that residential grow operations could have on the city's historic neighborhoods. He noted that banning dispensaries will put Longmont in compliance with both State and Federal laws.

Corey Donohugh, (address not given), spoke in opposition of the ban on medical marijuana dispensaries and the implications on Constitutional rights for citizens.

Katheleen Chippi, Magnolia Star Route, Nederland, spoke in opposition to the ban on medical marijuana dispensaries. She stated that she would rather have her children use marijuana than alcohol noting that there is no known lethal dose and no known addictive qualities associated with marijuana.

Kelly Boseck, 2677 Elmer Lind Drive, spoke in opposition to the ban on medical marijuana dispensaries stating that she believes forcing people to grow their marijuana in their homes and then searching their homes is pushing the issue from a legislative point of view.

Strider Benston, 951 17th Avenue, spoke in opposition to the ban on medical marijuana dispensaries noting that commercial operations are the best option for regulation.

Henri Moran, 1811 Hover Street, spoke in opposition to the ban on medical marijuana dispensaries. He stated that the State has provided a way to regulate the activity and that there is a lawsuit pending that objects to the local regulation of medical marijuana as it is not outlined in the Constitution.

Tom Chenault, 310 Pratt Street, spoke in favor of the ban on dispensaries indicating that he doesn't want Longmont to lose its sense of community as a safe place for kids.

Paul Tiger, 452 Dickson, thanked Council Members for separating the issues of dispensaries and home grows. He stated that he doesn't want commercial grow operations in his neighborhood and that these two issues should be separated legislatively.

Derek King, 625 Main Street, owner of New Age Wellness, spoke in opposition to the ban on dispensaries and about the implications and the danger of moving grow operations into residential neighborhoods.

David Staley, 664 Clarendon Drive, a gardener for New Age Wellness, spoke in opposition to the ban on dispensaries and about the implications of residential grow operations.

Joel Reike, 1640 Juniper Street, spoke in opposition to the ban on dispensaries. He noted that the code enforcement concerns do not apply solely to grow operations, but to many other things that people do in their homes. Mr. Reike also expressed concern about inaccuracy of information presented to Council by city staff.

Diane Hill, 900 Mountain View Avenue, #224, spoke in opposition to the ban on dispensaries. She noted that allowing dispensaries and regulating them is the best way to keep police informed about where they are and who is operating them.

Allyson Feiler, 1260 S. Hover Street, spoke in opposition to the ban on dispensaries. She noted that all Council is doing is making it harder and more expensive for patients to get their medication. Ms. Feiler stated that the industry is already being strictly regulated by the State.

Jim Marty, 7947 Ute Highway, expressed his concerns with Council Members rushing into the issue and that the general movement is toward regulating dispensaries and grow operations. Pushing grow operations into homes is not a safe route.

Shay Turlip, 1260 S. Hover Street, spoke about the increased use of marijuana and access to it by youth. She noted that in other countries, the usage and addiction rates in the youth population go down when the stigma or ideology that government needs to have a strong arm and keep the populace safe from evil substances goes away.

There being no one else present to address Council on this issue, the public hearing was closed.

Council Member Santos moved, seconded by Witt to strike Section 9.60.050B and subsections 1-6 from Ordinance O-2011-27. Motion carried: 7-0.

Council Member Santos moved, seconded by Witt, to adopt Ordinance O-2011-27 as amended.

Council discussion focused on the illegality of marijuana at the federal level and the conflict with the States' Constitutional measure.

Vote was taken on the motion and it carried: 7-0

Council Member Santos moved, seconded by Sammoury, to direct staff to bring back an Ordinance for home grows limiting them to 150 sq. ft. and 12 plants.

Council discussion focused on square footage, moving grow operations into commercial sectors, limiting the number of plants, and the difficulty of enforcing residential grow operations.

Vote was taken on the motion and it failed: 3-4 (Hansen, Levison, McCoy, and Witt dissenting).

- B. O-2011-28, Public Hearing and Second Reading of a Bill for an Ordinance Conditionally Approving the Vacation of a Utility and Access Easement in the St. Vrain Industrial Park Second Filing Replat "B" Generally Located North of Boston Avenue and West of Boston Court**

Gordon Pedrow, City Manager, read the title of the ordinance into the record. There was no formal staff presentation on this item.

Mayor Baum opened a public hearing on this item. There being no one present to address Council on this issue, the public hearing was closed.

Council Member McCoy moved, seconded by Witt, to adopt Ordinance O-2011-28 on second reading. Motion carried: 7-0.

- C. O-2011-29, Public Hearing and Second Reading of a Bill for an Ordinance Authorizing the City of Longmont to Lease the Real Property Known as Vance Brand Municipal Airport Hangar Parcel H-50 (the Premises) to Hangar 50, LLC (Tenant)**

Gordon Pedrow, City Manager, read the title of the ordinance into the record. There was no formal staff presentation on this item.

Mayor Baum opened a public hearing on this item. There being no one present to address Council on this issue, the public hearing was closed.

Council Member Santos moved, seconded by Hansen, to adopt Ordinance O-2011-29 on second reading. Motion carried: 7-0.

- 9. CONSENT AGENDA AND INTRODUCTION AND READING BY TITLE OF FIRST READING ORDINANCES**
- A. O-2011-30,** A Bill for an Ordinance Making Additional Appropriations for the Expenses and Liabilities of the City of Longmont for the Fiscal Year Beginning January 1, 2011 (ordinance introduced and public hearing scheduled for June 14, 2011)
 - B. O-2011-31,** A Bill for an Ordinance Amending the 2011-2015 Capital Improvement Program (ordinance introduced and public hearing scheduled for June 14, 2011)
 - C. O-2011-32,** A Bill for an Ordinance Amending Title 2, Chapter 2.04 of the Longmont Municipal Code on the Longmont Fair Campaign Practices Act (removed from Consent Agenda)
 - D. O-2011-33,** A Bill for an Ordinance Approving the Third Amendment to Ordinance O-2009-61, Extending the Moratorium on the Submission, Acceptance, Processing and Approval of Any Application for Any Permit, License, or Plan Approval Related to the Operation of Any Business that Acquires, Cultivates, Possesses, Manufactures, Produces, Sells, Distributes, Dispenses, or Transports Medical Marijuana Under the Authority of Article 18, Section 14 of the Colorado Constitution (ordinance introduced and public hearing scheduled for June 14, 2011)
 - E. O-2011-34,** A Bill for an Ordinance Amending Section 15.05.220. D. of the Longmont Municipal Code on Affordable Housing Inclusionary Zoning (removed from Consent Agenda)
 - F. O-2011-35,** A Bill for an Ordinance Amending Chapter 13.37 of the Longmont Municipal Code on Use of Public Places (ordinance introduced and public hearing scheduled for June 14, 2011)
 - G. O-2011-36,** A Bill for an Ordinance Amending Title 14, Chapter 14.12 of the Longmont Municipal Code on Solid Waste Collection (ordinance introduced and public hearing scheduled for June 14, 2011)
 - H. O-2011-37,** A Bill for a Conditional Ordinance Amending Section 15.02.150 of the Longmont Municipal Code Authorizing Approval of the Coordinated Development Plan Intergovernmental Agreements between the City of Longmont and the Town of Firestone (removed from Consent Agenda)
 - I. O-2011-38,** A Bill for an Ordinance Authorizing the Water Supply Agreement between the City and the Groundwater Management Subdistrict and the Well Augmentation Subdistrict of the Central Colorado Water Conservancy District (ordinance introduced and public hearing scheduled for June 14, 2011)

- J. **O-2011-39**, A Bill for an Ordinance Authorizing the City of Longmont to Lease the Real Property known as 116 South Main Street (the Premises) to Booth Motors, LLC, (Tenant) (removed from the Consent Agenda)
- K. **R-2011-37**, A Resolution of the Longmont City Council Authorizing the City of Longmont to Lease the Real Property known as the Pietzrak Property (the Premises) to Sipe Farms, LLC (Tenant) (resolution adopted)
- L. **R-2011-38**, A Resolution of the Longmont City Council Approving the Intergovernmental Agreement between the City and Boulder County, Authorizing a Lease of the Boulder County Fairgrounds for Rhythm on the River Parking (resolution adopted)
- M. Accept a 2011 Environmental Due Diligence Grant from the Colorado Brownfields Foundation (grant accepted)
- N. Approve Recommendation from the Housing and Human Services Advisory Board to Reduce the 2011 Community Development Block Grant (CDBG) Allocation by \$91,609 and HOME Program Allocation by \$37,694 Due to Federal Budget Cuts (removed from the Consent Agenda)
- O. Approve the City of Longmont 2011 Water Supply & Drought Management Plan (plan approved)
- P. Approve a Letter to the Denver Regional Council of Governments (DRCOG) Designating Council Member Alex Sammoury as Longmont's Alternate Representative to the DRCOG Board (letter approved)

Gordon Pedrow, City Manager, read the titles of the ordinances into the record and reviewed all of the items on the consent agenda.

Council Member Santos moved, seconded by Witt, to adopt the Consent Agenda with the exception of items C, E, H, J, and N, which were pulled for additional discussion. Motion carried: 7-0.

10. ITEMS REMOVED FROM CONSENT AGENDA

- C. **O-2011-32**, A Bill for an Ordinance Amending Title 2, Chapter 2.04 of the Longmont Municipal Code on the Longmont Fair Campaign Practices Act (ordinance introduced and public hearing scheduled for June 14, 2011)

Council Member Levison discussed her interest in reducing the reporting threshold for issue committees to \$3,000 and to add the wording "special election cycle" to the ordinance.

Council Member Levison moved, seconded by Hansen, to add the four words "or special election cycle" to the ordinance. Motion passed: 6-1 (Santos dissenting).

Council Member Levison moved to amend the ordinance to have the disclosure trigger for issue committees be \$3,000. Motion died for lack of a second.

Council Member Santos moved, seconded by Witt, to adopt Ordinance O-2011-32. Motion carried: 6-1 (Levison dissenting).

Council Member Santos moved, seconded by Witt, to extend the City Council meeting to complete the remaining items on the agenda. Motion carried: 7-0.

- E. **O-2011-34**, A Bill for an Ordinance Amending Section 15.05.220. D. of the Longmont Municipal Code on Affordable Housing Inclusionary Zoning (ordinance introduced and public hearing scheduled for June 14, 2011)

Council discussion ensued on the implications of eliminating the inclusionary zoning annexation agreements, the potential funding for future of affordable housing programs, and untangling all of the various individual deed restrictions already in existence.

Council Member Sammoury moved, seconded by Santos, to adopt Ordinance O-2011-34.

Additional Council discussion focused on the total number of homes currently part of the affordable housing program, the impact of amending the current ordinance, the imbalance of affordable housing in our community, and the possibility of completely disbanding the affordable housing program.

Ms. Fedler noted this action does not unwind all the deed covenants because of the added difficulty of fee waivers on some of them and down payment assistance on top of the deed restrictions. Staff will bring back information on how to unwind some of the restrictions. Ms. Fedler explained that the city may owe money back to HUD and that the implication is that it could wipe out the remaining affordable housing funds.

Mayor Baum moved to amend the motion to end this program, remove all the clauses we have with developers and release all their properties. Motion was not accepted as a friendly amendment and died for lack of a second.

Vote was taken on the motion and it carried: 4-3 (Hansen, Levison and McCoy dissenting).

- H. **O-2011-37**, A Bill for a Conditional Ordinance Amending Section 15.02.150 of the Longmont Municipal Code Authorizing Approval of the Coordinated Development Plan Intergovernmental Agreements between the City of Longmont and the Town of Firestone

Brad Schol, Planning Manager, reviewed this item for Council. Exhibit A in the packet is being replaced with a new exhibit that correctly identifies the Sherwood Property as being in Firestone, instead of Weld County.

Brief discussion ensued regarding the details of the intergovernmental agreement.

Council Member Witt moved, seconded by Santos, to adopt Ordinance O-2011-27. Motion carried: 5-2 (Hansen and McCoy dissenting).

- J. O-2011-39, A Bill for an Ordinance Authorizing the City of Longmont to Lease the Real Property known as 116 South Main Street (the Premises) to Booth Motors, LLC, (Tenant)**

Bill Powell, Customer Services and Marketing Manager, responded to Council questions and clarified that the monthly rent for the property is \$3,000.

Council Member Levison moved, seconded by McCoy, to adopt Ordinance O-2011-39. Motion carried: 7-0.

- N. Approve Recommendation from the Housing and Human Services Advisory Board to Reduce the 2011 Community Development Block Grant (CDBG) Allocation by \$91,609 and HOME Program Allocation by \$37,694 Due to Federal Budget Cuts**

Council Member Levison noted that there have been many cuts to CDBG funding recently and thanked staff for its continued work on this issue. She expressed her concern for families who can't get funding for retrofits for disabled family members.

Council Member Witt moved, seconded by Sammoury, to approve the recommendations to reduce the 2011 CDBG allocation by \$91,609 and the HOME Program allocation by \$37,694. Motion carried: 7-0.

11. GENERAL BUSINESS

- A. Proposal to Form a Task Force that Will Consider and Recommend a New Affordable Housing Program**

General discussion ensued regarding the task force composition as outlined by staff in the Council communication. The following additions were suggested for the task force by Council members:

- a representative from Workforce Boulder County
- a non-profit developer or builder
- a small business owner or representative (could be a Chamber of Commerce representative)
- a representative from an entity or agency that receives funding from the Boulder County Housing or Human Services Department
- a member of the original Housing Technical Review Group
- a human service agency that provides direct assistance to low-income clients
- an Affordable Housing homeowner
- a Down Payment Assistance recipient

Council members concurred that there should not be a Council member on the task force. It was further suggested that staff ask a representative from Housing and Urban Development

(HUD) to partner with the newly created task force for a couple of meetings to discuss how any suggestions for a new program would impact the City's HUD funding.

It was the consensus of Council to have staff bring back a list of names for Council consideration for appointment to the task force in approximately six weeks.

12. FINAL CALL – PUBLIC INVITED TO BE HEARD

There were no citizens at this time wishing to address Council.

13. MAYOR AND COUNCIL COMMENTS

Council Member McCoy reminded citizens that school is out for the summer and to watch out for kids riding the bikes in the neighborhoods. He also asked airport users to try and refrain from flying over Silver Creek High School graduation ceremony this Saturday.

Council Member Sammoury moved, seconded by Witt, to have staff take a look at the International Fire Code and see what can be modified in that code to keep it from putting an undue burden on businesses where code changes don't affect the performance of the business from a fire or safety hazard standpoint. Vote was taken on the motion and it carried: 5-2 (Hansen and McCoy dissenting)

Council Member Santos congratulated 2011 high school and college graduates. He also noted he received comments from a constituent about the good service he received from Longmont Power and Communications employees.

Council Member Levison briefly reported on the work she is doing on the Colorado Municipal League Policy Committee and on National League of Cities subcommittees.

Council Member Witt mentioned that she was recently appointed to the Metro Vision Issues Committee for the Denver Regional Council of Governments.

Mayor Baum noted that he had the pleasure of welcoming the National Commander in Chief of the Veterans of Foreign Wars last week. He also asked citizens to keep the residents of Joplin, Missouri, in their thoughts and prayers as they work to rebuild after last week's devastating tornado.

14. CITY MANAGER REMARKS

The City Manager had no additional items to bring before City Council.

15. CITY ATTORNEY REMARKS

The City Attorney had no additional items to bring before City Council.

16. ADJOURN

There being no further business to come before the City Council, the meeting was adjourned at 12:45 a.m. on May 25, 2011.

CITY OF LONGMONT, COLORADO

Mayor

ATTEST:

City Clerk