



CITY COUNCIL PROCEEDINGS

June 14, 2011

Civic Center
350 Kimbark Street
Longmont, CO 80501

REGULAR SESSION

The June 14, 2011, Regular Session of the Longmont City Council was called to order at 7:00 p.m. by Mayor Bryan 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 procedures for Public Invited to be Heard and Public Hearings.

3. APPROVAL OF MINUTES

Council Member McCoy moved, seconded by Hansen, to approve the minutes of the May 24, 2011, meeting as printed. Motion carried: 7-0.

4. AGENDA REVISIONS AND SUBMISSION OF DOCUMENTS

Gordon Pedrow, City Manager, noted that a revised ordinance for Item 8C was placed at Councils' dais'. The ordinance was amended between first and second reading and while the correct version was published by the Clerk's office, the revised version did not make it into the City Council packet.

5. CITY MANAGER'S REPORT

Jeff Freisner, Recreation Services Manager, provided an update on how the swimming program will be operated at Sunset Pool while construction continues on the bathhouse.

6. SPECIAL REPORTS AND PRESENTATIONS

- A.** A Proclamation Designating June 25, 2011 as “Longmont Aviation Day In Support of Operation Gratitude” In Longmont, Colorado

Mayor Baum read, into the record, a proclamation designating June 25, 2011, as “Longmont Aviation Day in Support of Operation Gratitude” in Longmont.

Tim Barth, Airport Manager, accepted the proclamation and spoke briefly about events scheduled for the Airport Expo. He recognized the executive staff of the Airport Expo and airshow who are all volunteers.

Ken Zutz, 620 Crawford Circle, representing the Northern Colorado Mustang Car Club, spoke briefly about the club’s participation in the Airport Expo. He noted they will be collecting donations for Operation Gratitude which collects funds and sends care packages to troops overseas.

7. FIRST CALL – PUBLIC INVITED TO BE HEARD

Tim Pickens, 917 Sunset Street, spoke regarding the medical marijuana issue, noting that many head shops advertise along Main Street but the medical marijuana dispensaries do not.

Edie Ortega, PO Box 985, Lafayette, Director of State and Local Government Relations for Century Link which just acquired Qwest, addressed Item 11A regarding the telecommunications ballot issue and encouraged Council to reach out to current telecommunications providers in the City to be sure that the City is aware of what is available already through current providers.

Deanna Dyer, 513 Emery Street, Chairman of the Government Affairs Committee for the Longmont Association of Realtors, spoke about the inclusionary zoning ordinance, noting the association supports the concept of affordable housing and the down payment assistance program, but that the deed restrictions are cumbersome and hurt the home owners.

Paul Sorensen, 6899 St. Vrain Ranch Boulevard, Firestone, Mayor Pro Tem of Firestone, indicated that the entire Town Council of Firestone is looking forward to the City Council adopting the intergovernmental agreement on the agenda. He noted that it is imperative that the two neighboring towns communicate and work together.

Dave Wagner, 2126 North Shore Drive, President of the Longmont Association of Realtors (LAR), spoke about the inclusionary zoning ordinance. He noted that LAR supports the rework of the inclusionary zoning ordinance and that down payment assistance programs and other affordable housing programs are available through federal programs and do not have deed restrictions associated with them.

Jeff Thompson, 1616 Sumner Street, spoke about the Colorado Wildlife Commission which has approved a wildlife mitigation plan for the Windy Gap project. He discussed details of the plan such as diversion issues, possible collapse of the river ecosystem, cost estimate differences and issues with taxpayers having to fund the program.

Strider Benston, 951 W. 17th, Avenue, spoke about the Fair Campaign Practices Act, its elimination of disclosure for issue committees, and the recent ban on medical marijuana dispensaries.

Kaye Fissinger, 2199 Creekside Drive, spoke in reply to Ms. Dyer's remarks regarding home owner's responsibility for taxes.

Heather Viallobos-Pavilla, 2225 Callay Drive, spoke about the affordable housing program. She agreed with the recommendations to release home owners from the deed restrictions.

Ryan Kragerud, 615 Lincoln Street, President of Bicycle Longmont, invited the Council and others to participate in the G'Knight Ride on June 18, 2011. He spoke briefly about the event and partnering with Oskar Blues to provide services for an entire afternoon of events for the whole family.

Paul Tiger, 452 Dickson Street, spoke about the issue of the City's fiber optic ring. He indicated that he hopes the issue is brought back to the ballot.

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

- A. O-2011-30**, Public Hearing and Second Reading of 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

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 Levison, to adopt Ordinance O-2011-30 on second reading. Motion carried: 7-0.

- B. O-2011-31**, Public Hearing and Second Reading of a Bill for an Ordinance Amending the 2011-2015 Capital Improvement Program

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 Witt moved, seconded by Levison, to adopt Ordinance O-2011-31 on second reading. Motion carried: 7-0.

- C. **O-2011-32**, Public Hearing and Second Reading of a Bill for an Ordinance Amending Title 2, Chapter 2.04 of the Longmont Municipal Code on the Longmont Fair Campaign Practices Act

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

Council Member Levison moved, seconded by Witt, to substitute Ordinance O-2011-32 with the revised version. Motion carried: 6-1 (McCoy dissenting).

Mayor Baum opened a public hearing on this item.

Kay Fissing, 2199 Creekside Drive, indicated that it is suspect whether the Secretary of State had the ability to amend the State Fair Campaign Practices Act. She addressed the Secretary of State's ruling on FCPA, the suit filed against the secretary and actions taken by Colorado Ethics Watch and Colorado Common Cause.

Strider Benston, 951 17th Avenue, member of the former Longmont Election Committee, indicated he is in opposition to reductions in the transparency of the election process.

Paul Tiger, 452 Dickson Street, shared his concerns with the changes to the FCPA and its effect on the City of Longmont, and questioned if the change in an election year is self-serving to the incumbents.

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

Council Member McCoy moved, seconded by Hansen, to table this ordinance until Council and staff find out what the Court cases bring about and bring it back at that point.

Council discussion focused on the rulemaking by the Secretary of State, its impact on a home rule municipality, and whether the suit filed against the Secretary would affect further proceedings regarding a vote taken prior to the suit being resolved.

Vote was taken on the motion and it failed: 3-4 (Baum, Sammoury, Santos and Witt dissenting).

Council Member Santos moved, seconded by Witt, to adopt Ordinance O-2011-31 on second reading. Motion carried: 4-3 (Hansen, Levison and McCoy dissenting).

- D. **O-2011-33**, Public Hearing and Second Reading of 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

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.

Kaye Fissinger, 2199 Creekside Drive, indicated the approach this City Council has taken regarding this issue will create a nightmare for the City and its enforcement staff and that it represents interference with the majority's will in allowing medical marijuana.

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 adopt Ordinance O-2011-33 on second reading.

Council further discussed whether or not the moratorium has been successful as well as the pros and cons of such action.

Vote was taken on the motion and it carried: 6-1 (McCoy dissenting).

- E. O-2011-34, Public Hearing and Second Reading of a Bill for an Ordinance Amending Section 15.05.220. D. of the Longmont Municipal Code on Affordable Housing Inclusionary Zoning**

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

Kathy Fedler, Community Development Block Grant and Affordable Housing Programs Coordinator, provided an overview of this item.

Council discussion included the costs needed to re-file the annexation agreements, the absence of an impact to staffing due to the reduction in program funding, the recommendations from the Longmont Housing Authority Board and the Housing and Human Services Advisory Board, questions regarding the abeyance issue, and reasons why the developer would want to maintain units as permanently affordable.

Mayor Baum opened a public hearing on this item.

David Suitts, 76 Cherryvale Road, Boulder, spoke in favor of abolishing the program.

David Greg, 841 Front Street, Louisville, Boulder Creek Builders, noted that a vote in favor of this ordinance is a vote in favor of job creation and Boulder Creek Builders would be able to move forward on new construction without this provision in place.

Kaye Fissinger, 2125 Creekside Drive, addressed the termination of the program and that it is driven by the political ideology of a few Council Members and the development community.

Michael Markel, 8165 73rd Street, Markel Homes, spoke in favor of removing the program because of the burden and the damage the ordinance has done to buyers, builders, and the community at large.

Jeff Thompson, 1616 Sumner Street, spoke about “disaster capitalism”. He discussed the economic collapse and recommended working with the Longmont Area Economic Council to provide the right types of jobs and job creation in the City.

Ryan Kragerud, 615 Lincoln Street, spoke in opposition of removing the program and urged Council to not take this tool off the table.

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

Council Member Sammoury noted that the City is not removing the Down Payment Assistance program.

Council Member Witt moved, seconded by Santos, to adopt Ordinance 0-2011-34. Motion Carried: 4-3 (Hansen, Levison and McCoy dissenting).

Council Members discussed maintaining units in the Meadowview West development permanently affordable as noted in the council communication.

Council Member Santos moved, seconded by Witt, to release all the deed restrictions. Motion carried: 4-3 (Hansen, Levison and McCoy dissenting).

Council Members discussed the repayment of fee waivers upon sale or refinance as listed on the council communication.

Mayor Baum moved, seconded by Witt, to release the fees. Motion carried: 4-3 (Hansen, Levison and McCoy dissenting).

Council Members discussed whether or not shared appreciation should be remitted to the Affordable Housing Fund upon sale as listed on the council communication.

Council Member Santos moved, seconded by Witt, to answer “no” to the question. Motion carried: 4-3 (Hansen, Levison and McCoy dissenting).

Council Members discussed whether to release affordable homes from the program only upon refinance or sale as recommended by staff, or to release them all immediately.

Council Member McCoy moved, seconded by Levison, to accept staff’s recommendation only upon refinance or resell. Motion failed: 3-4 (Baum, Sammoury, Santos and Witt dissenting).

- F. **O-2011-35**, Public Hearing and Second Reading of a Bill for an Ordinance Amending Chapter 13.37 of the Longmont Municipal Code on Use of Public Places

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 Sammoury, to adopt Ordinance O-2011-35 on second reading. Motion carried: 7-0.

- G. O-2011-36**, Public Hearing and Second Reading of a Bill for an Ordinance Amending Title 14, Chapter 14.12 of the Longmont Municipal Code on Solid Waste Collection

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

Bob Allen, Public Works and Natural Resources Operations Manager, presented the 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 Santos, to adopt Ordinance O-2011-36 on second reading. Motion carried: 7-0.

- H. O-2011-37**, Public Hearing and Second Reading of 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

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.

Kaye Fissinger, 2199 Creekside Drive, spoke in opposition of the intergovernmental agreement with Firestone and stated that this Council majority has always been more concerned with Firestone than Longmont.

Jeff Thompson, 1616 Sumner Street, spoke regarding Firestone and Lifebridge making equal contributions to the recommended trail and open space system in Weld County.

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 adopt Ordinance O-2011-37 on second reading. Motion carried: 5-2 (Hansen and McCoy dissenting).

- I. O-2011-38**, Public Hearing and Second Reading of 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

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

Ken Huson, Water Resources Administrator, summarized this agreement for Council as outlined in the council communication and answered questions presented by Council.

General discussion followed on the use of the water and the augmentation process.

Council Member Levison moved, seconded by Witt, to extend the meeting. Motion carried: 6-1 (McCoy dissenting).

Mayor Baum opened a public hearing on this item.

Jeff Thompson, 1616 Sumner Street, spoke in opposition of the agreement and the per acre foot fees for pumping water for this project and questioned why the specifics are not outlined in the council communication.

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 adopt Ordinance O-2011-38 on second reading. Motion carried: 7-0.

- J. O-2011-39**, Public Hearing and Second Reading of 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)

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 McCoy, to adopt Ordinance O-2011-39 on second reading. Motion carried: 7-0.

9. CONSENT AGENDA AND INTRODUCTION AND READING BY TITLE OF FIRST READING ORDINANCES

- A. O-2011-40**, A Bill for an Ordinance Amending Chapter 16.08 of the Municipal Code for the City of Longmont, Colorado, to Adopt, by Reference, the 2011 Edition of the National Electrical Code (Ordinance introduced and public hearing scheduled for June 28, 2011)

B. VANCE BRAND MUNICIPAL AIRPORT HANGAR LEASES

- 1. O-2011-41**, A Bill for an Ordinance Authorizing the City of Longmont to Lease the Real Property known as Vance Brand Municipal Airport Hangar Parcel H-24 (the Premises) to Steve

Alderman (Tenant) (Ordinance introduced and public hearing scheduled for June 28, 2011)

2. **O-2011-42**, A Bill for an Ordinance Authorizing the City of Longmont to Lease the Real Property known as Vance Brand Municipal Airport Hangar Parcel F2E (the Premises) to Jayme Shroyer (Tenant) (Ordinance introduced and public hearing scheduled for June 28, 2011)

- C. R-2011-39**, A Resolution of the Longmont City Council Approving the Intergovernmental Agreement between the City and the United States of America for a Transfer of Entitlement to Federal Aviation Administration Funds (Resolution adopted)

- D. R-2011-40**, A Resolution of the Longmont City Council Approving the Intergovernmental Agreement between the City and the United States of America for an Amendment to the Assistance Agreement for an Energy Efficiency and Conservation Grant (Resolution adopted)

- E. R-2011-41**, A Resolution of the Longmont City Council Approving the Intergovernmental Agreement between the City and the Colorado Department of Natural Resources, Division of Wildlife for Grant Funding for a Fishing Pier at Izaak Walton Pond (Resolution adopted)

- F. R-2011-42**, A Resolution of the Longmont City Council Approving the Intergovernmental Agreement between the City and Boulder County, the Cities of Boulder, Lafayette, Louisville, and the Towns of Erie and Superior for the Keep It Clean Plan (Resolution adopted)

- G. R-2011-43**, A Resolution of the Longmont City Council Approving the Intergovernmental Agreement for the City to Join the Colorado Water/Wastewater Agency Response Network (Resolution adopted)

- H.** Accept Public Improvements For Aspen Meadows, Phase II (Public improvements accepted)

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 McCoy, to adopt the Consent Agenda. Motion carried: 7-0.

10. ITEMS REMOVED FROM CONSENT AGENDA

There were no items removed from the Consent Agenda.

11. GENERAL BUSINESS

- A.** Potential 2011 Ballot Issue to Reestablish the City's Legal Right to Provide Telecommunications Service

Tom Roiniotis, Longmont Power and Communications Director, presented the item and provided background information regarding restrictions on local governments with regard to providing telecommunications services, potential uses for the City's fiber optic ring, the impacts of the restrictions in the state law, the results of Longmont's last attempt to pass a similar measure, and potential ballot language for Council's consideration

Council Member Santos moved, seconded by Hansen, to direct staff to bring back an ordinance for first reading that includes the ballot language and title as substantially presented by staff. Motion Carried: 6-1 (Witt dissenting).

B. Board, Committee, and Commission Appointments

Gordon Pedrow, City Manager, introduced the item.

Valeria Skitt, City Clerk, provided the ballots for voting on Board, Committee and Commission Appointments for the Parks and Recreation Advisory Board and the Senior Citizens Advisory Board.

Parks and Recreation Advisory Board voting results:

Vote was taken on the appointees to the Parks and Recreation Advisory Board. Matthew Linden and Alicia Howell were appointed.

Council Member Santos moved, seconded by Sammoury, to appoint Matthew Linden to the longer of the two terms, expiring in 2013. Motion carries: 5 to 2 (McCoy and Hansen dissenting).

Senior Citizen Advisory Board voting results:

Vote was taken on the appointees. Joan Heckman was appointed to the unexpired regular term ending on December 31, 2012.

Vote was taken to replace Joan Heckman as an alternate member for the Board. Maureen Denig was appointed to the unexpired alternate member term expiring on December 31, 2012.

12. FINAL CALL – PUBLIC INVITED TO BE HEARD

Kaye Fissinger, 2199 Creekside Drive, spoke in opposition to the Lifebridge Development proceedings in their recent annexation attempt.

13. MAYOR AND COUNCIL COMMENTS

Council Member McCoy spoke about the recent loss of employees to the City of Longmont.

Council Member Santos spoke about the Lifebridge petition and addressed the audience as to respect for each other and how disagreements should be managed.

Council Member Levison noted that she has been appointed to the National Steering Committee for the National League of Cities. She also requested that Council move forward with an evaluation of the City Manager under Rule 25.5.

Council Member Levison requested under Rule 25.5 that Council go forward with an executive session to evaluate Mr. Pedrow no later than July.

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 12:02 a.m. on June 15, 2011.

CITY OF LONGMONT, COLORADO

Mayor

ATTEST:

City Clerk