R E C O R D O F P R O C E E D I N G S

CITY OF LAFAYETTE
CITY COUNCIL MEETING

August 6, 2013

Call to Order
Mayor Carolyn Cutler called the August 6, 2013 regular City Council Meeting to order at 6:02 p.m. in the City Hall Council Chambers at 1290 S. Public Road, Lafayette, Colorado.

Those present and answering roll call were Mayor Carolyn Cutler, Mayor Pro Tem Steve Kracha and Councilors, Alexandra Lynch, Christine Berg, Staci Lupberger, and Brad Wiesley. A motion was made by Mayor Pro Tem Kracha and seconded by Councilor Wiesley *to excuse Councilor d'Oronzio*. The motion passed unanimously.

Also in attendance were City Administrator Gary Klaphake; Community Development Director Phillip Patterson, Public Works Director Doug Short, Commander Gene McCausey, Finance Director Robert Wright, City Attorney Dave Williamson and Deputy City Clerk Susan Barker.

Executive Session

At 6:04 p.m., a motion was made by Mayor Pro Tem Steve Kracha and seconded by Councilor Staci Lupberger *to adjourn to Executive Session according to C.R.S. 24-6-402(4)(e), for determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators pertaining to an Economic Development Agreement concerning the Coal Creek Sports Center*. The motion passed unanimously.

Reconvene Regular Meeting
Councilors returned to the Council Chambers at 6:50 p.m. Mayor Cutler announced that the executive session was concluded. She listed the participants in the session as herself, Mayor Pro Tem Kracha, Councilors Wiesley, Lynch, Berg and Lupberger; City Administrator Klaphake, Community Development Director Patterson and City Attorney Williamson.

She asked anyone who participated in the executive session to voice their concerns if they believed that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law. No concerns were voiced.

Items From the Public
The following people spoke in opposition to the second reading of Ordinance 18, Series 2013 / Authorizing One-Year Right-of-Way License / Public Service Company of Colorado

Larry Miloshevich – 1650 Bedivere Circle
Tom Dowling – 2423 High Lonesome Tr.
Cliff Smedley – 209 Skylark Circle
Robb Menzies – 945 Malory St.
Mike Page – 1506 Euclid Circle

Lafayette Liquor Authority

Resolution No. 2013-39 / VFW Mile High Post 1771 – Change of Location / Club License

A motion was made by Councilor Lupberger and seconded by Councilor Lynch *to table Resolution No. 2013-39 to the August 20, 2013 meeting to allow for the proper notification period in posting the premises*. The motion passed unanimously.

Smash Burger – Renewal of Hotel and Restaurant Liquor License

Deputy City Clerk Barker presented an application for the renewal of a Hotel and Restaurant Liquor License for Smashburger Acquisition Boulder LLC dba Smash Burger at 2755 Dagney Way.

She said that renewals for businesses that have violated the Lafayette Municipal Code or the Colorado Liquor or Beer Code during the preceding year must come before the Local Authority for consideration. The applicant entered into a stipulation agreement with the State and suspended the sale of alcohol for a period of 5 days in November of 2012 and the applicant chose to pay a fine in lieu of suspension. Ms. Barker recommended Authority approval of the renewal. Smash Burger manager Nicky Arms and District Manager Michael Bowles were present to answer questions from the Authority and the City Attorney. Manager Arms said that he is Serve-Safe certified and will be attending the August 18 training sponsored by the Lafayette Police Department.

A motion was made by Councilor Lynch and seconded by Councilor Lupberger *to approve the renewal of the Hotel and Restaurant Liquor License for Smashburger Acquisition Boulder LLC dba Smash Burger at 2755 Dagney Way, Lafayette, Colorado*. The motion passed unanimously.

Efrain's – Renewal of Hotel and Restaurant Liquor License

Deputy City Clerk Barker presented an application for the renewal of a Hotel and Restaurant Liquor License Efrain's Inc., dba Efrain's at 101 E. Cleveland Street.

She said that this business violated the Lafayette Municipal Code and the Colorado Liquor or Beer Code during the preceding year and must have their renewal considered by the Local Authority. The applicant entered into a stipulation agreement with the State and chose to pay a fine in lieu of a five-day suspension of the license. Ms. Barker recommended Authority approval of the renewal. Efrain's owner Jorge Gomez was present to answer questions from the Authority and the City Attorney. Mr. Gomez said that he is signed up to attend the August 18 liquor training sponsored by the Lafayette Police Department.

A motion was made by Mayor Pro Tem Kracha and seconded by Councilor Lynch *to approve the renewal of the Hotel and Restaurant Liquor License for Efrain's Inc., dba Efrain's at 101 E. Cleveland Street in Lafayette, Colorado*. The motion passed unanimously.

Thai Kitchen #3 – Hearing on Renewal of Hotel and Restaurant Liquor License

Finance Director Wright said the licensee came in at 4:20 Tuesday afternoon with sales tax reports and paid with a check.

City Attorney Williamson said that if the check clears, the hearing is vacated and the license is renewed. No other action needs to be taken by the Authority at this time.

Council Minutes
A motion was made by Councilor Lupberger and seconded by Councilor Lynch *to approve the minutes of the City Council Workshop of July 16, 2013 as written*. The motion passed unanimously.

A motion was made by Councilor Lupberger and seconded by Councilor Lynch *to approve the minutes of the regular City Council Meeting of July 16, 2013 as written*. The motion passed unanimously.

Consent Agenda
Mayor Cutler read the Consent Agenda:

H. Second Reading / Ordinance No. 19, Series 2013 / Amending the International Residential Code, Edition 2009 / Residential Fire Sprinkler Systems
I. Resolution No. 2013-37 / Approval of Intergovernmental Agreement with Boulder County for Augmentation and Water Replacement
J. First Amendment of Economic Development Agreement / Old Laramie Trail, LLC
K. Reschedule November 5, 2013 Council Meeting to Monday, November 4, 2013
L. Contract / Ambulance Billing Services / American Accounts Receivable Management
M. Contract / Banking Services / Home State Bank
N. Purchase Orders and Amendments

Item K was removed from the Consent Agenda for further discussion.

A motion was made by Councilor Lupberger and seconded by Councilor Wiesley *to approve the remainder of the Consent Agenda*. The motion passed unanimously.

Council Appointment
A motion was made by Councilor Lupberger and seconded by Councilor Wiesley *to reappoint Ethan Hecht to the Lafayette Public Library Board for a 3-year term*. The motion passed unanimously.

Initiated Charter Amendment / Gas & Oil Extraction
City Attorney Williamson reviewed the petition process for a citizen initiated charter amendment. He said the petition submitted by East Boulder County United was certified as sufficient on July 22, 2013 and as required by State law, the Council must set the ballot title for the proposed amendment at this meeting and refer the matter for an election. Mr. Williamson referred Council to two options for language of the ballot title and said that Council may modify the language as deemed appropriate.

Public Input
The following people spoke in favor of Resolution No. 2013-38 / Submitting to the Voters at the Election of November 5, 2013 an Amendment to the Home Rule Charter and Authorizing Such Election / Prohibiting Natural Gas and Oil Extraction

John C. Lamb – 590 E. Sutton Circle
David Fuller – 1227 James Circle
Tom Groover – Superior, CO
Cliff Willmeng – 1246 Doric Dr.
Amanda Papich – 324 Jasper Peak Ct.

Council discussed the Ballot title options.
A motion was made by Mayor Pro Tem Kracha and seconded by Councilor Lupberger *to approve Resolution No. 2013-38 / Submitting to the Voters at the Election of November 5, 2013 an Amendment to the Home Rule Charter and Authorizing such Election / Prohibiting Natural Gas and Oil Extracting with the ballot language in Option A included as an attachment.*

Discussion followed regarding the wording of the ballot title. Petition advocates requested Council insert the title of their petition into the ballot language.

A motion to amend the original motion was made by Councilor Wiesley and seconded by Councilor Lynch *adding the following wording to Option A inserted after SECTION 2.3 "ENTITLED LAFAYETTE COMMUNITY RIGHTS ACT PERTAINING TO*" The motion passed unanimously.

A vote was taken on the original motion and it passed unanimously.

Second Reading / Ordinance No. 18, Series 2013 / Authorizing One-Year Right-of-Way License / Public Service Company of Colorado

City Administrator Klaphake referred to a letter from Xcel that was amended according to Council's request at first reading.

A motion was made by Councilor Lynch and seconded by Councilor Wiesley *to approve on second reading Ordinance No. 18, Series 2013 / Authorizing One-Year Right-of-Way License to Public Service Company of Colorado with the amended letter received on August 5, 2013.* The motion passed 4 to 2 with Councilors Berg and Lupberger voting no.

First Reading / Ordinance No. 20, Series 2013 / Xcel Franchise Approval, Subject to Electorate Approval (Public Hearing on second reading August 20, 2013)

City Administrator Klaphake said that the franchise renewal with Xcel must be approved by Council subject to approval by the voters in the November 5, 2013 election. He said in the event that the electorate does not approve the renewal, this ordinance will become null and void.

A motion was made by Mayor Pro Tem Kracha and seconded by Councilor Lupberger *to approve on first reading* Ordinance *No. 20, Series 2013 / Xcel Franchise Approval, Subject to Electorate Approval.* The motion passed unanimously.

First Reading / Ordinance No. 21, Series 2013 / Authorizing a Three (3) Year Moratorium on Oil or Natural Gas Activities Within the Lafayette City Limits

Mayor Cutler spoke about the reasons for a moratorium. Staff drafted the ordinance at Council's direction at the July 16, 2013 meeting. It initiates a three-year moratorium on the extraction of oil or natural gas from wells within the city limits.

A motion was made by Councilor Lupberger and seconded by Councilor Lynch *to approve on first* reading *Ordinance No. 21, Series 2013 / Authorizing a Three (3) Year Moratorium on Oil or Natural Gas Activities Within the Lafayette City Limits*. The motion passed unanimously.

First Reading / Ordinance No. 22, Series 2013 / Amending and Superseding Ordinance No. 16, Series 2013 regarding the Relocation of an Existing PSCo High Pressure Gas Line Easement in Coal Creek Village North Subdivision.

Community Development Director Patterson presented the first reading of Ordinance No. 22, Series 2013. He said this ordinance supersedes Ordinance No. 16, Series 2013 and amends Exhibit A to that ordinance.

A motion was made by Councilor Lynch and seconded by Mayor Pro Tem Kracha *to approve on first reading Ordinance No. 22, Series 2013 / Amending and Superseding Ordinance No. 16, Series 2013 regarding the Relocation of an Existing PSCo High Pressure Gas Line Easement in Coal Creek Village North Subdivision*. The motion passed unanimously.

City Administrator's Report

2013 Street Improvement Program

City Administrator Klaphake said the City is involved in litigation with a contractor over the failure of pavement on South Boulder Road. The City must make the needed repairs and continue with the litigation in order to get reimbursed. In addition, the City must pay for design work on the widening of South Boulder Road from LaMont Does to 120th Street which will be reimbursed from County Transportation Tax funds in the future. He said it is necessary to transfer $718,818 from the Capital Projects Reserve to the General Fund in order to meet these commitments.

A motion was made by Councilor Lupberger and seconded by Councilor Wiesley *to transfer the funds for the 2013 Street Improvement Program as requested*. The motion passed unanimously.

Contract / Melody Drive Street Rehabilitation / E-Z Excavating

City Administrator Klaphake said that the redevelopment of the Coal Creek Shopping Center included accepting streets within and adjacent to the Center. The paving of the streets was to be completed before the grand opening of the facility. Staff recommends awarding the contract to E-Z Excavating.

A motion was made by Councilor Wiesley and seconded by Councilor Berg *to approve the Contract / 2013 Melody Drive Street Rehabilitation / E-Z Excavating*. The motion passed unanimously.

Council Reports
Mayor Cutler announced that the August 3rd Saturday Coffee, scheduled for August 17th has been rescheduled to Sunday, August 18 at JAX Farmers Market, 400 W. South Boulder Rd. to avoid conflicting with the Peach Festival.

Item K
Councilors agreed not to meet on Election night, Tuesday, November 5. Mayor Cutler said she would work with Mr. Klaphake to determine another date in November.

Adjournment
Mayor Cutler adjourned the meeting at 9:27 p.m.

CITY OF LAFAYETTE, COLORADO

_____
Carolyn D. Cutler, Mayor

ATTEST:

_____
Susan Barker, CMC
Deputy City Clerk

The minutes herein are a summary of the business conducted at this meeting, not a verbatim transcription. Only the actions taken and text appearing within quotation marks are verbatim.