

**CITY OF BOULDER  
COUNCIL PROCEEDINGS**

**March 18, 2008**

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

Mayor McGrath called the regular March 18, 2008 meeting of the Boulder City Council to order at 6:00 p.m. in the Council Chambers.

Those present were: Mayor McGrath, Deputy Mayor Gray and Council Members Ageton, Appelbaum, Cowles, Espinoza, Morzel, Osborne, and Wilson.

**2. PUBLIC PARTICIPATION and COUNCIL/STAFF RESPONSE – 6:05p.m.**

1. Leonard May noted that the Land Use Code is not working with a .8 FAR.
2. Michael Hibner, 40 year homeowner, spoke to the over development feeding frenzy that is occurring and the detrimental impacts to the community both current and future.
3. Anne Fenerty spoke in support of an ordinance to stop the construction of huge homes that are 80% of the lot size and 3 ½ stories high. She asked council to keep Boulder livable.
4. Bob Price also spoke in support of an interim ordinance to stop the over zealous development.
5. Jess Cleveland, a resident on Stanford Drive, spoke to witnessing the scrape off and pop-up of a mega home which will impact the view corridor and density of the neighborhood. He asked council to help preserve Boulder.
6. Paul Brownstone spoke in opposition to scrapes and pops, yet does not feel an emergency is warranted. He spoke specifically to the home he purchased last fall to remodel according to the green points standard. A strict FAR could have unintended consequences.
7. Mary Young spoke to energy efficiency of smaller homes and the potential to effect climate change by lowering the floor area ratios and square footage limitation.
8. Nancy Schwiesow also spoke in support of limiting impacts of scrape offs and pop-ups. The enormous homes going up actually dwarf an entire neighborhood. She asked for an interim ordinance to stop the growth and then an appropriate process to determine a final outcome. Tim Plass speaking as an individual expressed his support for taking interim action to stop egregious size and then find tune a permanent change that preserves.
9. Dominick Sekigh also supported an interim ordinance to stop the current wave of massive developments by using an interim ordinance to curb the FAR until a final resolution can be developed.
10. Geof Cahoon spoke to the importance of property rights while noting his right as a property owner does not allow him to forgo his responsibility as a neighbor. It is time to protect Boulder's neighborhoods.
11. Kent Young supports an interim ordinance with a reduction to the current .8 FAR.
12. Robert Sharpe expressed concern at the lack of care or responsibility towards neighbors when discussing property rights. There is an amazing concentration on self.

13. Dean Thepos noted that 1205 Meadow is the house that he is building (yes a developer) and was used in a photo in the Daily Camera in addressing the issue. He voiced the other side of this issue.
14. Mary Street looking for a home for her daughter's family and asked council to be mindful of the realistic size need for families.
15. Jill Lester asked council to carefully consider the unintended consequences of the proposed action. This action will result in "takings action" for most properties affected rather than addressing the few Mega Mansions identified as the problem. The average home owner in Boulder will lose hundreds of thousands of dollars in home value.
16. George Karakehian with Downtown Boulder Inc. expressed concern that an interim ordinance as suggested will devastate the value of small homeowners and middle - income workers. This will likely be the most divisive issue ever thrust upon this community. The major unintended consequence will likely be the negative impact on the Boulder's economy.

3. **CONSENT AGENDA:** (to include first reading of ordinances) Vote to be taken on the motion at this time. *Roll Call vote required.*

- A. **APPROVAL OF CITY COUNCIL MEETING MINUTES FROM MARCH 4, 2008.**
- B. **SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7582 APPROVING AND AUTHORIZING THE ISSUANCE OF BOULDER MUNICIPAL PROPERTY AUTHORITY LEASE PURCHASE REVENUE NOTE, SERIES 2008A, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$807,500, AND APPROVING AND AUTHORIZING A LEASE PURCHASE AGREEMENT FOR THE PURCHASE OF APPROXIMATELY 40 ACRES IN FEE TOGETHER WITH ALL MINERAL RIGHTS AND 1 ¼ SHARES OF THE ORIGINAL COTTONWOOD DITCH WATER LOCATED AT THE NORTHEAST CORNER OF 75<sup>TH</sup> STREET AND ARAPAHOE ROAD FROM MARY E. VIGIL AND THE ESTATE OF EDWARD H. KOLB, FOR OPEN SPACE AND MOUNTAIN PARKS PURPOSES. TOTAL PURCHASE PRICE IS \$897,500.**

**CONSIDERATION OF A MOTION TO ADJOURN FROM THE BOULDER CITY COUNCIL AND CONVENE AS THE BMPA BOARD OF DIRECTORS**

- C. **CONSIDERATION OF A BMPA RESOLUTION APPROVING AND AUTHORIZING THE SAME PURCHASE AS OUTLINED IN ITEM 3B.**

**CONSIDERATION OF A MOTION TO ADJOURN FROM THE BMPA BOARD OF DIRECTORS AND RECONVENE AS THE BOULDER CITY COUNCIL.**

- D. **SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7580 AUTHORIZING THE MAYOR TO SIGN A MEMORANDUM OF UNDERSTANDING BETWEEN PARTICIPATING HOSPITALS, STATE AND LOCAL HEALTH DEPARTMENTS, LOCAL OFFICES OF EMERGENCY MANAGEMENT, THE CITY OF BOULDER, AND OTHER PARTICIPATING ENTITIES CONCERNING A COORDINATED HEALTH AND MEDICAL RESPONSE PLAN IN THE EVENT OF A DISASTER.**

- E. **SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7578 APPROVING A WATER STORAGE AGREEMENT WITH THE TOWN OF NEDERLAND REGARDING BARKER RESERVOIR.**

***NOTE: FIRST READING ITEMS PROVIDE NOTICE TO THE PUBLIC OF PENDING ORDINANCES AND ALLOW COUNCIL TO SUBMIT QUESTIONS WHICH WILL BE ADDRESSED AT SECOND READING.***

- F. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE DESIGNATING THE BARN AND A PORTION OF THE SITE AT 5653 BASELINE ROAD, TO BE KNOWN ALSO AS THE GLENN BARN, AS AN INDIVIDUAL LANDMARK UNDER THE CITY OF BOULDER HISTORIC PRESERVATION CODE.**

***Note: First reading items provide notice to the public of pending ordinances and allow council to submit questions which will be addressed at second reading.***

Council Member Morzel moved, seconded by Gray to approve consent items 3A through 3F. The motion carried 8:0, Cowles absent.

4. **CALL- UP CHECK IN: - NONE**

#### **ORDER OF BUSINESS**

5. **PUBLIC HEARINGS:**

- A. **UPDATE ON BOULDER MUNICIPALIZATION FEASIBILITY STUDY AND *SMART GRID*, AND CONSIDERATION OF A MOTION TO SUPPORT THE CITY MANAGER'S RECOMMENDATIONS ON NEXT STEPS. – 7:10 P.M.**

This item was introduced by City Manager Bruno, who provided the background of the municipalization study over the last three years and the current recommendation to discontinue the study and focus on *Smart Grid* and negotiating a renewal of the Xcel Energy Franchise Agreement.

The public hearing was opened:

1. Gus Michaels, a local resident and attorney, requested careful consideration of Boulder's future relationship with Xcel due to an investigation of meter reading problems in 2003 and 2004 where 1,000's of customers were subjected to "true-up adjustments."
2. Adrian Eissler applauded the city's move to the *Smart Grid* which allows for efficient integration and distribution of renewable energy generation.
3. Karey Christ-Janer spoke in support of ongoing research into municipalization. She noted that *Smart Grid* is an exciting prospect, but in terms of cost, she would hope other neighboring communities would also participate. She expressed greater concern that the *Smart Grid* comes at a time when it will compete with the Climate Action Tax making it impossible to rate the carbon footprint change from the CAP.

4. Dominick Sekich supported the shift of city resources to work with Xcel on the *Smart Grid* technology.
5. Christopher Grasso suggested continuation of the municipalization study while negotiating with Xcel.
6. Leslie Glustrom strongly supported *Smart Grid* to Climate Action Plan and suggested shutting down the Valmont plant and eliminating coal and replacing it with solar.
7. Joel Swisher with the Rocky Mountain Institute applauded efforts from staff and supported the *Smart Grid*. He specifically addressed the benefits of technology to enable further progress.
8. Steve Pomerance expressed concern that there needs to be far more specificity with regard to what the city will get prior to approval. What a Grid can do and what Xcel will do could be vastly different.
9. Evan Ravitz noted that Smart Grid sounds like a really dumb idea. At \$100,000,000 and 100,000 people it equates to \$1,000 per person. This does nothing more than change how we count kilowatts.

There being no further speakers the public hearing was closed.

Council discussion acknowledged the change in environment from 2004, when the city's municipalization studies were initiated. Council supported the city manager's recommendation to suspend the municipalization efforts, rather than abandon them. Council directed staff to utilize the franchise discussions to identify minimum performance requirements associated with deployment of the *Smart Grid* and the city's Climate Action Plan goals, and to return to council with a report on achieving these goals.

Mayor McGrath moved, seconded by Espinoza, to suspend the municipalization study and direct staff efforts to focus on the *Smart Grid* City implementation and ongoing franchise negotiations with Xcel Energy. The motion carried 9:0.

**Public Participation was re-opened at 9:38 p.m.:**

17. Osman Parvez spoke as a local realtor and noted that the proposed action on an interim ordinance will cost community members real money. He noted that only a tiny fraction of homes actually offend.
18. Steve Pomerance spoke regarding the revenue strategy issues and noted that there is no strategy. He suggested the following steps:
  - Hire a consultant to redo the Tischler study (if available use Tischler again)
  - Constraints on impact fees limited to capital projects not addressed and needs additional legal work
  - Adequate use of public facilities to generate funding for the really big stuff (i.e. Transportation)

- Affordable housing fee in lieu structure – not addressed
- Include people who were around in mid-1990s to work on this
- Waiver for solar access should be nominal
- 40 year lease-back on ballot? No!
- Executive sessions – back on the ballot? – No!
- McMansions - right track but be very cautious

19. Carole Kaye noted that while acknowledging the concerns around large ugly houses she felt that the proposed immediate action seems very harsh for so many people. She suggested finding a way to be sensitive to existing homeowners.
20. Steve Clason spoke regarding pops & scrapes noting that this is a very serious issue which needs attention but needs to have a process that allows serious discussions about community values and interests. He noted that this process needs to be formulated with people who are not people who represent impacted interest groups but rather are well intentioned people who are capable of appreciating an opposing point of view and are able to engage in a discourse with the intention of finding or creating common ground.
21. Tim Kyer speaking as a former elected official and a design consultant specialist noted that this is not an emergency. He asked that council not forgo adequate process on such an important issue. The FAR is a blunt instrument and should not be used on an interim basis.
22. Mark Hartwig addressed property rights and questioned who has the authority to determine individual rights. Views are not a property right. Asked council to carefully consider its action prior to removing individual property rights. He further asked that the council make legislation utilizing the head not heart.
23. Bryan Fluegel spoke representing young couples looking to remodel, not scrape or build a monstrosity. One size does not fit all and remodeling needs to be considered.
24. Jim Pettit who has been doing engineering and construction here since 1965 expressed concern that the calculation including basements and garages is not equitable.
25. Susan Graff representing the Chamber of Commerce thanked council for not taking action this evening and urged council to study this very carefully and look at all sides of the issue. She asked that council slow down and have an adequate process.
26. Christopher Grasso expressed that using a draconian approach as proposed will damage the city and have incredibly devastating impacts on families. He asked council to please reconsider this approach.
27. Jeanette Fielden noted that .8 is too big and .35 is too small. The FAR needs to be used as a scalpel not a sledge hammer. Individual circumstances need to be considered.
28. Megan Knies does not support a FAR reduction. It violates the basic rights of a property owner and goes way too far. People have invested huge amounts in their homes and the proposed drastic action will devalue homes and leave people owing more than what their homes are worth.
29. Stephen Sparn expressed extreme displeasure in the approach being taken by council and urged council to consider developing neighborhood plans.
30. Elizabeth Allen supports addressing over development. People will come to Boulder for the wrong reasons unless action is taken to preserve Boulder.
31. John Romer noted that the fabric of our community in many areas is rotting away. Change is normal and necessary to make improvements. A .35 FAR is simply unreasonable. This isn't just about profit.

32. Stephen Kelly, a homeowner and resident, spoke to the unintended consequences by sharing his hopes and plans that would be destroyed by the suggested action of council.
33. Pat Shanks with PLAN Boulder County supports council efforts to limit the size of residential homes and urged an interim ordinance.
34. Leo Schumacher spoke against decreased FAR and an interim ordinance. He has thousands of dollars invested in building a new home. He may not be affected but others will be killed.
35. Susan Balint spoke of the 700, 800, 900, and 1000 block of 9<sup>th</sup> Street noting that all homes in these four blocks are non-standard and they will be eliminated from any change or improvements.

6. **MATTERS FROM THE CITY MANAGER:**

A. **REVIEW OF BLUE RIBBON COMMISSION RECOMMENDATIONS AND DIRECTION ON POTENTIAL NOVEMBER 2008 BALLOT ISSUES AND ESTABLISHMENT OF A WORKING GROUP. – 9:40 P.M.**

Council Member Appelbaum moved, seconded by Osborne to approve the staff recommendation as outlined below:

Staff recommends that council provide direction on whether to further analyze and return to council with options for potential ballot issues for the following four items:

- 1) A phased removal of the remaining restriction on the property tax that is limited by TABOR;
- 2) Renewal of the .38 sales tax that will expire in 2011;
- 3) Renewal of the .15 sales tax that will expire in 2012; and
- 4) Potential increase of the Development Excise Taxes (depending on approach selected and timing of the update study).

Staff also recommended the establishment of a working group as outlined in the memorandum.

7. **MATTERS FROM THE CITY ATTORNEY: - NONE**

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

A. **Potential Call-ups: - NONE**

B. **Board and Commissions Annual Appointments**

Nominations for each board were opened:

Below are listed nominated candidates who were appointed.

**Arts Commission**

Sanjay Rajan – appointed to a 5-year term

**Beverages Licensing Authority**

David Cheval – appointed to a 5-year term

**Boulder Community Media Board of Directors**

Dorrel Edstrand appointed by acclamation to a 9-month term

**Board of Zoning Adjustment and Building Appeals**

Elizabeth Ann Hondorf – appointed to a 5-year term

**Downtown Design Advisory Board**

Fenno Hoffman – appointed to a 5-year term

**Environmental Advisory Board**

Brian Vickers – appointed to a 5-year term

**Human Relations Commission**

Leisha Conners Bauer – appointed to a 5-year term

Amy Stein – appointed to a 2-year term

**Landmarks Preservation Advisory Board**

John Spitzer – appointed to a 5-year term

**Library Commission**

Annette Mitchell – appointed to a 5-year term

**Open Space Board of Trustees**

John Putnam – appointed to a 5-year term

**Parks and Recreation Advisory Board**

Alan Smith – appointed to a 5-year term

Pete Webber – appointed to a 5-year term

**Planning Board**

KC Becker – appointed to a 5-year term

Elise Jones – appointed to a 3-year term

**Transportation Advisory Board**

David Driscoll – appointed to a 5-year term

**University Hill General Improvement District Advisory Board**

William Shrum appointed by acclamation to a 5-year term

Hillary Griffith – appointed to a 2-year term

**Water Resources Advisory Board**

Susan Iott – appointed to a 5-year term

Mayor McGrath moved, seconded by Appelbaum to ratify the Board and Commission appointments.

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Councilmember Gray moved, seconded by Appelbaum, to suspend the rules and continue the meeting at 10:55 p.m. The motion carried 6:3, Espinoza, Morzel and Wilson opposed

**C. FOLLOW-UP FROM JOINT COUNCIL & PLANNING BOARD MEETING ON MARCH 13 INCLUDING CONSIDERATION OF OPTIONS RELATED TO INTERIM DEVELOPMENT REGULATIONS AND ORDINANCE. – 10:56 P.M.**

After a lengthy discussion Council supplied the following:

There was general council support to move forward to craft a permanent ordinance. There was also a nod of 5 for an interim ordinance to be crafted with careful consideration to net only the biggest fish (probably utilizing a sliding scale). The interim ordinance should be simple but with a public process component and feedback from Planning Board and Landmarks Board. Finally, the development of an appropriate process needs to be developed for council to consider before moving forward on a permanent ordinance. The larger economic impacts should be fully vetted and all appropriate Boards and Commissions should have the opportunity to weigh in on the ordinance prior to coming to council.

**D. CONSIDERATION OF A MOTION TO APPOINT TRACY WINFREE TO REPLACE CARL CASTILLO, AS THE CITY'S ALTERNATE TO THE U.S. 36 ENVIRONMENTAL IMPACT STATEMENT STUDY. – 11:55 P.M.**

Council Member Cowles moved, seconded by Ageton to appoint Tracy Winfree to replace Carl Castillo as the city's alternate to the U.S. 36 Environmental Impact Statement Study.

**E. INVITATION FROM LHASA, TIBET. – 11:58 P.M.**

Mayor McGrath noted that due to recent violent events in Lhasa the invitation for a delegation from Boulder to visit is currently on hold.

**F. UPDATE ON CITY ATTORNEY SEARCH COMMITTEE. – 11:59 P.M.**

Council concurred to ask City Attorney finalists to give a presentation on April 8, on specific topics, to be determined by the city Attorney Search Committee.

**G. Other Matters - NONE**

9. **PUBLIC COMMENT ON MATTERS: - NONE**

10. **FINAL DECISIONS ON MATTERS:** Action taken on motions made under Matters.

Vote was taken on the motion to approve the staff recommendation as outlined below:

Staff recommends that council provide direction on whether to further analyze and return to council with options for potential ballot issues for the following four items:

5) A phased removal of the remaining restriction on the property tax that is limited by TABOR;

6) Renewal of the .38 sales tax that will expire in 2011;

7) Renewal of the .15 sales tax that will expire in 2012; and

8) Potential increase of the Development Excise Taxes (depending on approach selected and timing of the update study).

Staff also recommended the establishment of a working group as outlined in the memorandum. The motion carried 8:0, Cowles absent.

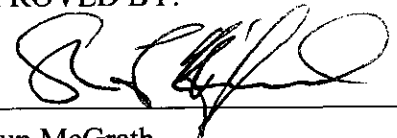
Vote was taken on the motion to ratify the Board and Commission appointments. The motion carried 8:0, Gray recused on the Landmarks Preservation Advisory Board item.

Vote was taken on the motion to appoint Tracy Winfree to replace Carl Castillo as the city's alternate to the U.S. 36 Environmental Impact Statement Study. The motion carried 8:0, Cowles absent.

11. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 12:05 P. M.

APPROVED BY:



Shaun McGrath,

Mayor

ATTEST:



Alisa D. Lewis,

City Clerk