

RECORD OF PROCEEDINGS

CITY OF LAFAYETTE CITY COUNCIL MEETING

November 6, 2013

Lafayette Liquor Authority

Chair Cutler called the Lafayette Liquor Authority Meeting to order at 6:30 pm on November 6, 2013 in the City Hall Council Chambers at 1290 S. Public Road, Lafayette, Colorado.

Those present included Chair Cutler, Vice Chair Steve Kracha, and Directors Alexandra Lynch, Christine Berg, Stacy Lupberger, Brad Wiesley and Pete d'Oronzio. Also in attendance were City Administrator Gary Klaphake, City Attorney Dave Williamson, Deputy City Clerk Susan Barker and Police Chief Rick Bashor.

Brewing Market

City Attorney Williamson said that on August 26, 2013, the Lafayette Police Department notified the City Clerks that they received information from the FBI indicating a criminal history for Brewing Market owner Artine Yapoujian that was not disclosed on his application for a liquor license. Mr. Yapoujian was informed of the FBI report and asked to fill out a new Individual History Record and Affidavit of Criminal History and to provide a written statement explaining the incident and why he did not disclose it. Based on the information provided by Mr. Yapoujian, staff recommends that the Authority take no action.

A motion was made by Director Lupberger and seconded by Director Lynch to take no further action at this time. The motion passed unanimously.

Baseline's T3 Liquor

City Attorney Williamson said that August 26, 2013, the Lafayette Police Department notified the City Clerks that they received information from the FBI indicating a criminal history for T3 owner Michael Krasilinec that was not fully disclosed on his application for a liquor license. Mr. Krasilinec was informed of the FBI report and filled out a new Individual History Record and Affidavit of Criminal History. He also provided a written statement explaining the incident and why it was not disclosed. He recommended the Authority choose from options provided to them.

A motion was made by Director Lynch and seconded by Director Berg requesting that the licensee attend the next meeting to provide more information in an informal setting on the prior conviction and/or failure to disclose information on his liquor license application before the Authority decides whether to take formal action. The motion passed unanimously.

Call to Order – Regular Council Meeting

Mayor Carolyn Cutler called the November 6, 2013, regular City Council Meeting to order at 6:45 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 Kracha and Councilors Alexandra Lynch, Christine Berg, Stacy Lupberger, Brad Wiesley and Pete d'Oronzio.

Also in attendance were City Administrator Gary Klaphake, Police Chief Rick Bashor, Deputy City Clerk Susan Barker, Finance Director Robert Wright, Fire Chief Gerry Morrell, Public Works Director Doug Short, and City Attorney Dave Williamson.

Items from the Public

Axel Bishop- Wilson Street, Lafayette, expressed his concern over the construction noise that had been continuing in his neighborhood for the last several months. He also addressed the seriousness of the Ash beetle that is killing ash trees across the nation and suggested that Council do a citizen outreach.

Public Hearings

Ordinance No. 28, Series 2013 / Vacating Utility and Access Easements / Lots 6-13, Coal Creek Technological Center Filing No. 1 (Coal Creek Sports Center)

Community Development Director Phillip Patterson introduced Ordinance No. 28, Series 2013. He said the Planning Commission found that the vacation request is in compliance with Section 26 -14-20(c) and recommends approval subject to the recording of the Lafayette Crossings Subdivision.

Mayor Cutler opened a public hearing at 7:47 pm and invited interested parties to identify themselves. Seeing no, one she closed the hearing.

A motion was made by Councilor d'Oronzio and seconded by Councilor Lynch *to approve on first reading Ordinance No. 28, Series 2013*. The motion passed unanimously.

South Lafayette Fire Station Special Improvement

Ordinance No. 29, Series 2013 / South Lafayette Fire Station Special Improvement District Assessment

City Attorney Williamson reviewed the formation of the Special Improvement District and provided an overview of the process that the Council should follow during the hearing. He advised them that this is a quasi-judicial process.

A total of 7 written protests were submitted. Three were from separate owners of a single parcel of land. Each of the protests was heard separately.

Mr. Klaphake said Chapter 90 of the Municipal Code describes the process of how public improvements are done, which is how the City proceeded with the South Lafayette Fire Station SID. At the creation of the South Lafayette Fire Station SID City staff sent notices by certified mail on January 10, 2005 to all parcel owners. A public hearing was held January 24, 2005 and Ordinance No. 07, Series 2012 was presented on first reading February 7, 2012 and adopted February 21, 2012, creating the South Lafayette Fire Station SID and authorizing construction of the South Lafayette Fire Station. On June 5, 2012 a construction contract was approved. The City waived \$81,000 in fees.

Finance Director Bob Wright spoke about the construction costs of \$2,689,000, land cost of \$795,000 with \$3,484,000 as the total cost. Exempla Health Care contributed the land and there is a 99 year lease. The City contributed \$1,000,000 leaving \$2,220,700 for allocation to property owners. The assessment was calculated using the formula of 50% square footage of land and 50% square footage of structures.

Parcel property owners and parcel numbers were obtained from the County Assessor. On October 18, 2013, a certified letter and an Estimated Property Assessment were mailed to all parcel owners for the proposed assessments. A meeting was held November 4, 2013 for remonstrances to be received and discussed. At the pre-meeting Etkin Johnson pointed out that 2 parcels that consisted of a fountain and a pavilion, which the Planning Commission had wanted, were taken off of the Etkin Johnson assessment and put back into the City's mix.

Community Development Director Phillip Patterson provided a large color map showing the 5 parcels representing the 7 remonstrance letters received. He gave a brief description of each property and also entered into the record 3 development agreements; SoLa Subdivision Filing No. 1 and Sola-Commercial Final PUD Development Agreement, SoLa Subdivision Filing No. 2 and Prana Residential Development Final PUD Development Agreement and SoLa Subdivision Filing No. 3, Replat A, And Prasanna Residential Development Final PUD Development Agreement. He said each agreement had a paragraph within it that stated: should the City decide to establish a special or general improvement district for the purposes of constructing and installing a fire station on land currently platted, then Owner will participate in such district on the same basis as other property owners in a district approved by the City Council

Fire Chief Gerry Morrell read a letter into the record in which he outlined the businesses and residential properties that occupy the area, the risks associated with these businesses and high density residential areas. Chief Morrell said the Fire Department provides more than fire protection; they provide emergency medical service, hazmat service and other miscellaneous services. Currently the ISO rating for the City of Lafayette is 4, every point lower than a 5 affects commercial property insurance rating.

Mayor Cutler opened the public hearing at 7:55 pm. The following individuals spoke:

Stevinson Property

Mr. Klaphake gave an overview of the remonstrance received from the Stevinson property which is along the southern edge of the SID. Mr. Klaphake said that Mr. Stevinson's letter suggested that the Fire Station was a general benefit to the City, too big a burden for a few land owners and the cost should be spread through out the city. The property is currently undeveloped.

Bruce Dierking- representing Don Imel, one of the current landowners. Mr. Dierking provided an overview of the property. He said it is agricultural land and is not taxed the same as other property. Currently the property incurs approximately \$500/year in expenses. Mr. Dierking expressed a desire to seek an alternative solution to the assessment. He requested that Council defer the amount owed until such time that there is development on the property.

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Lisa Pederson – Executive Director of the Boulder Humane Society, spoke in favor of the Fire Station, acknowledged the need, and concurred with Mr. Dierking's suggestion that Council defer the amount owed until such time that there is development.

CU Foundation submitted a remonstrance letter but no one was present to speak.

Jim Vasbinder of Etkin Johnson Group said they have a 300,000 square feet in single and 2 story office buildings in this area. In 2007, a letter was provided to Mr. Klaphake stating that Etkin Johnson did not support a fire station in this area based on a provision that it would only be a select area supporting fire station, and withdrew support of construction of a fire station. It is the opinion of Etkin Johnson that the fire station is a general benefit to the entire city and the cost should not be assessed to just a few property owners.

Norman Rick Kron representing LLJ & Stratford Prana LLC- provided another hand written document to Council in addition to the letter filed previously. They also entered into the record other documents supporting their position including the following:

- Fire Station is an asset to entire city; apartments in the area are only one small part, City should have a larger apportionment.
- SID costs should be apportioned more equitably; mainly those properties that have yet to be developed (payment from future buildings) Payments should be deferred until later. Future businesses shoulder an equitable amount of the assessment, and not just have the burden placed on those businesses already in place.
- They purchased the property in December of 2011 and don't believe they received proper notice of the SID put in place in February of 2012.
- The assessment should be based on the number of calls to the area.

Erin Welch- Property Manager for the Prana Apartments – was available to answer questions regarding the Prana Apartments. There are approximately 432 residents in the 254 apartments and are 96% full. She said the average rent would increase about \$85 a month based on the assessment as it stands now.

Erik Foster of Moye White representing Milestone Development Group- discussed what was a permissible assessment based on a rational basis and special value conferred. His comments included:

- There were not substantial benefits to his client and the property they owned.
- The fire station is a general benefit to the entire city.
- There is no special value given to these properties based on the fact that they are closer to a fire station.
- Conferring 75% of the cost of the fire station on this property owned by Milestone is unfair takings and a violation of chapter 90 of the Municipal Code.
- Residential property should not be put into a Special Improvement District to pay for an improvement that is a city-wide benefit.

Suggestions presented to amend the assessment include:

- Expand the Special Improvement District to include more properties.

- Reverse the percentage that this property is assessed to 25% and have the City and Exempla through its lease arrangement pay the 75%.
- Treat the residential properties in the Special Improvement District the same as all other residential properties in the city and include only the commercial properties within the Special Improvement District.

The Mayor closed the public hearing at 8:30 pm.

Council considered the information presented to them during this hearing and discussed various alternatives to the current assessment. Discussions included how the properties were assessed and what alternatives would be available and making the assessment more equitable for all concerned. Staff said they used a blended formula of land and improvements and staff needed a snap shot in time.

Mr. Klaphake indicated that Council could absorb more of the cost of the Fire Station but in doing so it would slow down the ability to hire Fire/Ambulance staff and provide other fire related services.

He said that if the Council wants to change the formula and the change significantly increases the assessment then there would need to be another public hearing for the affected properties to have a say about the change.

A motion was made by Councilor Lupberger *to approve on first reading Ordinance No. 29, Series 2013*. It failed for a lack of a second.

More discussion followed about the equity of the current assessments and the impact on the properties both developed and undeveloped. Council wanted something that would include deferrals, future building and development benefits seen in the future, something that would create equity between undeveloped and developed property.

A motion was made by Councilor d'Oronzio and seconded by Councilor Lupberger *to approve on first reading Ordinance No. 29, Series 2013 / the Special Improvement District assessments for the above stated project as described in "Exhibit A" of the Special Improvement District Notice and directing staff to return with alternatives that would included laddering out payments for undeveloped properties, including a date certain and no ending date, an interest rate and no interest rate*. The motion passed 5 to 2 with Councilor Lynch and Mayor Pro Tem Kracha voting no.

Consent Agenda

Mayor Cutler read the Consent Agenda:

- F. Workshop Meeting of October 15, 2013
- G. Regular Meeting of October 15, 2013
- H. Second Reading / Ordinance No. 27, Series 2013 as Amended / Permanent Water Conservation Measures
- I. Final Plan / Lafayette Crossings Subdivision and PUD
- J. Site and Architectural Plan / Lots 1 and 2. Lafayette Crossings Subdivision

- K. Site and Architectural Plan / Lot 4, Lafayette Crossings Subdivision
- L. Pre-Annexation Agreement / HeartEye Land Trust, LLC (Weems Property)
- M. Contract / Reclaimed Water Pipeline - 1041 Application Preparation / ERO Resources
- N. Purchase Orders and Amendments

A motion was made by Councilor Lynch and seconded by Mayor Pro Tem Kracha to approve the Consent Agenda. The motion passed unanimously.

Council Appointment

A motion was made by Councilor Lynch and seconded by Councilor Berg to appoint Jorge Sanchez-Romero and Cheryl Diaz to alternate positions on the Latino Advisory Board for 3-year terms. The motion passed unanimously.

Dorothy McMillan Day

Councilor Berg read a proclamation designating November 18, 2013 as Dorothy McMillan Day in Lafayette. A motion was made by Councilor Berg and seconded by Councilor Lupberger to adopt the proclamation as read. The motion passed unanimously.

America Recycles Day

Councilor Lynch read a proclamation designating November 15, 2013 as America Recycles Day in Lafayette. A motion was made by Councilor Lynch and seconded by Councilor Wiesley to adopt the proclamation as read. The motion passed unanimously.

Ordinance – Conditions and Exemptions related to Noise

Community Development Director Patterson presented the first reading of Ordinance No. 30, Series 2013 / Amending Section 75-128 of the Lafayette Code of Ordinances regarding Conditions and Exemptions related to Noise

Community Development Director Patterson said that in some instances the noise from these types of activities or operations could be mitigated using standard noise mitigation techniques; however, the zoning code prohibits the most common type of these mitigation techniques, sound walls greater than six (6) feet in height.

The proposed amendment to Section 75-128 will allow the City to use sound mitigation techniques that may not conform to the restrictions of the zoning code.

A motion was made by Councilor Lynch and seconded by Councilor Berg to approve on first reading Ordinance No. 30, Series 2013 / Amending Section 75-128 of the Lafayette Code of Ordinances regarding Conditions and Exemptions related to Noise. The motion passed unanimously.

City Administrator's Report

City Administrator Klaphake discussed the November 19 meeting and the topics the Council will address.

2014 Special Events Budget

Mayor Cutler said there was concern about the money proposed to be spent on the Good Sam Bike Jam. City Administrator Klaphake said he wanted to bring to a closure the 2014 Special Events budget.

Mayor Cutler made and motion that was seconded by Councilor Lynch to approve the 2014 Special Events budget and direct staff to work with the Lafayette Chamber of Commerce in supporting the Good Sam Bike Jam and assist the Chamber with in-kind services and any money would come from the special events fund balance. The motion passed unanimously.

Council Reports

Councilor Lynch suggested that the public outreach idea suggested earlier in the meeting regarding the Ash beetle be discussed at the next Council Goal Setting Session. Mr. Klaphake said he would have the Parks Open Space and Golf Director Monte Stevenson prepare a staff report.

Councilor Berg agreed with Mr. Bishop regarding the infrastructure construction noise in her neighborhood. Community Development Director Patterson will work with Mr. Bishop and will look into classifying the type of construction as it relates to noise.

Adjourn

Mayor Cutler adjourned the meeting at 9:35 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.