

CITY OF STEAMBOAT SPRINGS

AGENDA

REGULAR MEETING NO. 2011-07 TUESDAY, APRIL 5, 2011

5:05 P.M.

MEETING LOCATION: Citizens' Meeting Room, Centennial Hall;
124 10th Street, Steamboat Springs, CO

MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard **following** the presentation by Staff or the Petitioner. Please wait until you are recognized by the Council President. With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 10:00 p.m.

A City Council meeting packet is available for public review in the lobby of City Hall, 137 10th Street, Steamboat Springs, CO.

PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first). CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

SSRA MEETING 5:00PM.

A. ROLL CALL (5:05PM)

B. PROCLAMATIONS:

1. **PROCLAMATION:** A proclamation recognizing Officer Scott Middleton, Officer Matt Conley and Officer Stuart Hutton for their extraordinary efforts in protecting the welfare of a mentally unstable subject on February 25, 2011. (Hays)
 2. **PROCLAMATION:** A proclamation recognizing April 2011 as Colorado Architecture Month in Steamboat Springs, Colorado. (Hawkins)
 3. **PROCLAMATION:** A proclamation recognizing April 22, 2011 as Earth Day in Steamboat Springs, Colorado. (Keenan)
 4. **PROCLAMATION:** A proclamation recognizing April 2011 as the Month of the Young Child in Steamboat Springs, Colorado. (Martin)
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C. JOINT MEETING WITH COUNTY COMMISSIONERS:

5. **Update from First Impressions.** (Quinn) (15 minutes)
 6. **Steamboat Springs Community Area Plan Review.** (Peasley) (1 hour)
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D. COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:

7. **Presentation on the Tobacco Initiative, VNA.** (Barron) (15 minutes)
 8. **Public hearing and input on use of Accommodations Tax.** (Hinsvark) (1 hour)
 9. **Discussion on Noise Ordinance.** (Gibbs)
-

E. CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES FIRST READINGS

LEGISLATION

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. ANY MEMBER OF THE COUNCIL OR THE PUBLIC MAY WITHDRAW ANY ITEM FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION AT ANY TIME PRIOR TO APPROVAL.

- 10. RESOLUTION:** A resolution denying an appeal by six owners of residential units in the Clocktower Commercial Condominium Building of the Director's approval of change of use application COU-10-01 for Units C1-C3 of the Clocktower Commercial Condominium Building. (Foote)
 - 11. RESOLUTION:** A resolution adopting Amended By-laws of the Yampa Valley Airport Commission and Second Amended and Restated Intergovernmental Agreement establishing the Yampa Valley Airport Commission. (Shelton)
 - 12. RESOLUTION:** A resolution of the City of Steamboat Springs, Colorado, relating to financing improvements to the City's water and wastewater facilities, including formally establishing the "City of Steamboat Springs Utilities Fund Enterprise"; authorizing certain amendments to outstanding loan agreements with the Colorado Water Resources and Power Development Authority; expressing the intent of the City to be reimbursed for certain expenses relating to the construction of water and wastewater improvements; and related matters. (Hinsvark)
 - 13. FIRST READING OF ORDINANCE:** An ordinance amending Article II, Chapter 25 of the Steamboat Springs Revised Municipal Code by the addition of regulations relating to Cross Connection Controls. (Foote)
 - 14. FIRST READING OF ORDINANCE:** Tenth 2010 Budget Supplemental Appropriation Ordinance. (Weber)
 - 15. FIRST READING OF ORDINANCE:** 2011 carryover ordinance for 2010 funds. (Weber)
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F. PUBLIC HEARING

THE CITY COUNCIL PRESIDENT OR PRESIDENT PRO-TEM WILL READ EACH ORDINANCE TITLE INTO THE RECORD. PUBLIC COMMENT WILL BE PROVIDED FOR EVERY ORDINANCE.

16. FIRST READING OF ORDINANCE: An ordinance amending provisions relating to Medical Marijuana Businesses set forth in Chapter 12, Article VI and Section 26-92 of the Revised Municipal Code; providing for severability; providing an effective date; and repealing all conflicting ordinances. (Foote)

G. PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first). CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

H. CONSENT CALENDAR - PLANNING COMMISSION REFERRALS: ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE OR NO COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. A CITY COUNCIL MEMBER MAY REQUEST AN ITEM(S) BE REMOVED FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION. **ALL ORDINANCES APPROVED BY CONSENT SHALL BE READ INTO THE RECORD BY TITLE.**

17. Planning Commission Report. (Levy)

I. PUBLIC HEARING – PLANNING COMMISSION REFERRALS

PUBLIC HEARING FORMAT:

- **Presentation by the Petitioner (estimated at 15 minutes). Petitioner to state name and residence address/location.**
- **Presentation by the Opposition. Same guidelines as above.**
- **Public Comment by individuals (not to exceed 3 minutes). Individuals to state name and residence address/location.**
- **City staff to provide a response.**

18. SECOND READING OF ORDINANCE: An ordinance adding definitions and use criteria for temporary on-site Real Estate sales office to the Steamboat Springs Community Development Code (CDC). (Lorson)

PLANNING
PROJECTS

J. REPORTS

19. Economic Development Update.

20. City Council

21. Reports

- a. Agenda Review (Franklin):
 - 1.) City Council agenda for May 3, 2011.
 - 2.) City Council agenda for May 17, 2011.

22. Staff Reports

- a. City Attorney's Update/Report. (Lettunich)
 - b. Manager's Report: Ongoing Projects. (DuBord)
 - 1.) Iron Horse Inn Update.
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K. OLD BUSINESS

23. Minutes (Franklin)

- a. Regular Meeting 2011-05, March 1, 2011.
 - b. Regular Meeting 2011-06, March 15, 2011.
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L. ADJOURNMENT

**BY: JULIE FRANKLIN, CMC
CITY CLERK**

AGENDA ITEM # 1

CITY MANAGER COMMUNICATION FORM

FROM: J.D. Hays, Chief of Police (Ext. 113)

THROUGH: Wendy DuBord, Interim City Manager (ext. 219)

DATE: April 05, 2011

RE: **PROCLAMATION: A proclamation recognizing Officer Scott Middleton, Officer Matt Conley and Officer Stuart Hutton for their extraordinary efforts in protecting the welfare of a mentally unstable subject on February 25, 2011.**

PROCLAMATION

I. REQUEST OR ISSUE:

I am requesting City Council recognize Officer Scott Middleton, Officer Matt Conley, and Officer Stuart Hutton for their heroic efforts in preventing a suicidal individual from seriously injuring himself or others.

II. BACKGROUND INFORMATION:

In the early morning of February 25th 2011 Officer Scott Middleton and his trainee, Officer Matt Conley, were helping Officer Hutton with an agency assist for the Colorado State Patrol. They had located, stopped, and supervised the medical transport of a young man suffering with mental health problems. During the course of their contact they learned from his father and girlfriend that only 2 days prior, he, a former linebacker for a Wyoming college football team, had been diagnosed as having some type of schizophrenic chemical imbalance that would require further study. Before the young man received that help, he lured his girlfriend into his truck under the premise of driving to Strawberry Park Hot Springs from the Front Range. During the trip he refused to allow her to get out of the vehicle and deliberately crashed on a few occasions in unsuccessful suicide attempts. The last of these attempts was head-on into a CDOT snowplow on Rabbit Ears Pass.

Once the subject was at the Yampa Valley Medical Center, he suddenly became violently aggressive and attempted suicide with scissors, not once but twice during the ensuing melee. It was during the attempts to subdue him that Officer Middleton and Officer Conley exert the kind of effort necessary to deal with an extraordinary threat created by a subject armed with scissors he had grabbed off of a desk. While a combination of Fire Department personnel, hospital security staff and Officer Hutton wrestled with him, Officer Conley managed to get on top and, without hesitation, engage the subject's hands and weapon as he attempted to stab himself. Officer Conley was

thrown from the young man's back, head first into a desk, but jumped right back into the fight and pursuit as the subject fled down the corridors of the hospital. Had it not been for Officer Conley's quick thinking and action, the subject could very well have caused grievous injury to himself or others. Officer Conley's actions further bought the involved officers' additional time.

Officer Middleton was just coming back into the ER to investigate the commotion when the subject began to flee down the corridors. Officers Middleton and Hutton gave chase as Middleton tried in vain to close the distance with this college athlete. During the pursuit Officer Middleton was able to get a single hit taser deployment as they pursued the subject, which was extraordinary given the physical exertion expended just to "stay in the race". Officer Middleton then tripped at which point his taser broke when he hit the ground. Officers Middleton and Hutton split up at the surgical unit to search for the subject who had rounded a corner moments before. Officer Middleton was the first to find him cornered in a recovery room outside of an active operating room and, without hesitation, deployed a second taser at the moment the young man simultaneously began cutting his own throat. Middleton had taken Officer Conley's taser and successfully deployed it with both probes contacting the subject as he was digging into his neck with another pair of scissors he snatched from a nearby cart. With the successful deployment of the taser, this time, the subject dropped the scissors and handcuffs were able to be applied.

III. SUMMARY AND ALTERNATIVES:

It is my sincere belief that if these officers had not responded in the manner they did and Officer Middleton had not pursued the young man, with that kind of determination, or hesitated for an instant more in tasing him, when found, the subject would have succeeded in seriously injuring himself or ending his own life. Therefore it is my recommendation that Officers Scott Middleton, Matt Conley, and Stuart Hutton be recognized by Council for their efforts in preventing serious bodily injury to a mentally ill young man or possibly even a suicide.

PROCLAMATION

of

The City of Steamboat Springs, Colorado

A proclamation recognizing Officer Scott Middleton, Officer Matt Conley and Officer Stuart Hutton for their extraordinary efforts in protecting the welfare of a mentally unstable subject on February 25, 2011.

WHEREAS, the primary function of any police department is to protect the public; and

WHEREAS, Officers of the Steamboat Springs Police Department encountered a mentally unstable subject on February 25, 2011; and

WHEREAS, with total disregard for their own safety Officers Middleton, Conley, and Hutton physically engaged this armed individual; and


WHEREAS, the initial confrontation took place in the Yampa Valley Medical Center emergency room and continued on to directly outside an active operating room with the subject attempting to cut his own throat with a pair of scissors; and

WHEREAS, after a significant struggle the officers were able to safely disarm the subject without serious injury to the young man, themselves, hospital staff or patients.

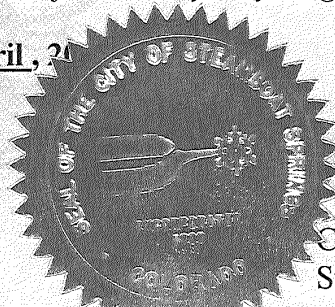
NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Steamboat Springs, Colorado, that this 5th day of April, 2011, we recognize Officer Scott Middleton, Officer Matt Conley, and Officer Stuart Hutton for their heroic efforts in protecting the welfare of a mentally ill young man as well as hospital staff and patients.


ADOPTED THIS 5th day of April, 2011

Attest:



Julie Franklin, CMC
City Clerk





Cari Hermacinski, President
Steamboat Springs City Council

AGENDA ITEM # 2

CITY COUNCIL COMMUNICATION FORM

FROM: Julie Franklin, City Clerk (Ext. 248)

THROUGH: Wendy DuBord, Interim City Manager (Ext. 219)

DATE: April 5, 2011

ITEM: A proclamation recognizing April as Colorado Architecture Month in Steamboat Springs, Routt County.

NEXT STEP: To support the proclamation recognizing April as Colorado Architecture Month in Steamboat Springs, Routt County.

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 PROCLAMATION

I. **REQUEST OR ISSUE:**

A proclamation recognizing April as Colorado Architecture Month in Steamboat Springs, Routt County.

II. **BACKGROUND INFORMATION:**

Rob Hawkins will be present to accept the proclamation.

III. **SUMMARY AND ALTERNATIVES:**

Staff recommends City Council support the above noted proclamation.

PROCLAMATION

of

The City of Steamboat Springs, Colorado

*A PROCLAMATION RECOGNIZING APRIL 2011 AS COLORADO ARCHITECTURE MONTH IN
STEAMBOAT SPRINGS, COLORADO*

WHEREAS, we are shaped to great extent by our built environment—buildings, public spaces, streetscapes, bridges—and the interaction with our natural environment; and

WHEREAS, an essential element of the Steamboat Springs character is the quality of its architecture, urban design and civic realm created by architects of the past and the present; and

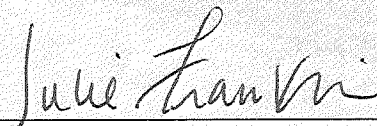
WHEREAS, the American Institute of Architects (AIA) Colorado Component and West Chapter are dedicated to fostering design excellence by current architects and inspiring the next generation of architects through events such as Colorado Architecture Month; and

WHEREAS, Colorado Architecture Month provides a series of free events that are open to the public and are intended to celebrate the importance of architecture in people's every day lives. Architecture impacts how we live, work, play and even eat.

NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Steamboat Springs, Colorado, that the month of April, 2011 is hereby declared "COLORADO ARCHITECTURE MONTH IN STEAMBOAT SPRINGS, COLORADO".

ADOPTED THIS 5th day of APRIL, 2011.

Attest:



Julie Franklin, CMC
City Clerk



Cari Hermacinski, President
Steamboat Springs City Council

AGENDA ITEM # 3

CITY COUNCIL COMMUNICATION FORM

FROM: City of Steamboat Springs Green Team (Bob Keenan Ext. 260)

THROUGH: Wendy DuBord, Interim City Manager (Ext. 219)

DATE: April 5, 2011

ITEM: A proclamation recognizing April 22, 2011 as Earth Day in Steamboat Springs, Colorado.

NEXT STEP: To support the proclamation recognizing April 22, 2011 as Earth Day in Steamboat Springs, Colorado.

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 PROCLAMATION

I. **REQUEST OR ISSUE:**

A proclamation recognizing April 22, 2011 as Earth Day in Steamboat Springs, Colorado.

II. **BACKGROUND INFORMATION:**

Bob Keenan, Chairman of the City of Steamboat Springs Green Team will be present to accept the proclamation.

III. **SUMMARY AND ALTERNATIVES:**

Staff recommends City Council support the above noted proclamation.

**A PROCLAMATION RECOGNIZING APRIL 22, 2011 AS EARTH DAY IN
STEAMBOAT SPRINGS, COLORADO**

Whereas, the first Earth Day was celebrated on April 22, 1970, with the goal of inspiring environmental awareness and encouraging the conservation, protection, and appreciation of our nation's natural resources; and

Whereas, the global community now faces extraordinary challenges such as environmental degradation, climate change, food and water shortages, and global health crises; and

Whereas, all people, regardless of race, gender, income, or geography, have an unassailable right to a healthy, sustainable environment; and

Whereas, it is understood that the citizens of the global community must step forward and take action to create positive environmental change to combat the aforementioned global challenges; and

Whereas, a sustainable environment can be achieved on the individual level through educational efforts, public policy, and consumer activism campaigns; and

Whereas, it is necessary to broaden and diversify the environmental movement to achieve maximum success; and

Whereas, the City of Steamboat Springs and its citizens are dependent upon the pristine beauty of the Yampa Valley and an unblemished natural environment to sustain their livelihoods and promote their wellbeing.

NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Steamboat Springs, Colorado, that April 22, 2010, is hereby declared ***EARTH DAY*** in Steamboat Springs, and all our citizens are urged to be mindful of local, state and national laws which protect our environment, and encouraged to join in efforts to preserve the beauty and wonder of the lands, skies, and water of the Earth in all its diversity.

ADOPTED THIS 5th day of APRIL, 2011.

Attest:

Julie Franklin, CMC
City Clerk

Cari Hermacinski, President
Steamboat Springs City Council

AGENDA ITEM # 4

CITY COUNCIL COMMUNICATION FORM

FROM: Julie Franklin, City Clerk (Ext. 248)

THROUGH: Wendy DuBord, Interim City Manager (Ext. 219)

DATE: April 5, 2011

ITEM: A proclamation recognizing April as the Month of the Young Child in Steamboat Springs, Routt County.

NEXT STEP: To support the proclamation recognizing April as the Month of the Young Child in Steamboat Springs, Routt County.

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 PROCLAMATION

I. **REQUEST OR ISSUE:**

A proclamation recognizing April as the Month of the Young Child in Steamboat Springs, Routt County.

II. **BACKGROUND INFORMATION:**

Jon Quinn will present the proclamation as well as give a quick update on First Impressions.

Stephanie Martin, Program Supervisor for First Impressions of Routt County, and hopefully a few young children will be present to accept the proclamation.

III. **SUMMARY AND ALTERNATIVES:**

Staff recommends City Council support the above noted proclamation.

PROCLAMATION

of

The City of Steamboat Springs, Colorado

A PROCLAMATION RECOGNIZING APRIL 2011 AS THE MONTH OF THE YOUNG CHILD IN STEAMBOAT SPRINGS, COLORADO

WHEREAS, children are our most precious resources and our hope for the future; and

WHEREAS, children are dependent upon caring and nurturing adults to help them grow and develop in positive directions; and

WHEREAS, by calling attention to the need for quality childcare and early child education for all young children and families, these childcare professionals hope to improve the quality and availability of such services; and

WHEREAS, the work of these early childcare professionals is an intricate facet of our working community; and

WHEREAS, quality childcare and early childhood education services can provide the basis for a good beginning for children's sound growth and development.

NOW, THEREFORE, BE IT PROCLAIMED, by the City Council of the City of Steamboat Springs, Colorado, that the month of April, 2011 is hereby declared "THE MONTH OF THE YOUNG CHILD IN STEAMBOAT SPRINGS, ROUTT COUNTY".

ADOPTED THIS 5th day of APRIL, 2011.

Attest:



Julie Franklin, CMC
City Clerk



Cari Hermacinski, President
Steamboat Springs City Council

AGENDA ITEM # 5

First Impressions Update

This update will be a verbal report only.

AGENDA ITEM # 6

CITY COUNCIL AND BOARD OF COUNTY COMMISSIONERS COMMUNICATION FORM

FROM: Jason K. Peasley, AICP, City Planner (Ext. 229)
Rebecca Bessey, AICP, County Planner

THROUGH: Wendy DuBord, Interim City Manager, (Ext. 219)
Tom Sullivan, County Manager

DATE: April 5, 2011

ITEM: Steamboat Springs Area Community Plan Presentation

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

Background

The SSACP Audit has been designed to engage the community in determining what areas of the Steamboat Springs Area Community Plan are in need of revision. City and County Planning Staff have developed a public presentation that outlines the changed conditions from when the plan was adopted in 2004, as well as priority actions anticipated at the time. The presentation will include keypad polling to gauge the public perception of the goals and policies in the 2004 SSACP with respect to the changing conditions in the community. This information will help elected officials and planning staff determine the scope of an update to the Steamboat Springs Area Community Plan.

Presentation

The City and County Planning Staffs will introduce the draft public presentation at the meeting. The presentation is interactive and will allow members of the Board and Council and the audience to be involved in the development of a prioritized list of items within the SSACP and additional items that may not currently exist in the plan. As a result of the interactive nature of the presentation, an advanced copy can not be provided.

Following the presentation, please be prepared to provide the following direction:

1. Is there additional information needed to describe the changed conditions from 2004 to 2011?
2. Are the questions asked adequate to gauge the community's priorities for an updated Community Plan?
3. Other comments that will help create a more user-friendly presentation.

Planning Commission Discussion

Staff debuted the public presentation at a joint meeting of the Routt County Planning Commission and the City of Steamboat Springs Planning Commission on March 24, 2011. The Planning Commissioners participated in the presentation and provided input based on the questions in the section above. As a result of the Planning Commissioners' input, the presentation has been changed to include more detailed information about the entire Community Plan Update process and recent accomplishment that were a result of the 2004 Plan. In addition, staff will also be creating a handout that will provide background information on the goals and objectives of the 2004 Plan and provide a list of topics, which recent public meetings have identified, that are missing from the Plan.

2004 Action Item Scoresheet

In addition to the presentation, Staff has provided the 2004 SSACP Action Item Scoresheet. This document provides a list of each action item from the 2004 Plan and its status. In summary, roughly one third of the 160+ action items have been completed, one third are underway or ongoing and the remaining third have yet to be undertaken.

Public Outreach Campaign

The Community Plan Public Outreach Campaign is intended to reach a broad spectrum of the community. To do so, Staff will be meeting with the following groups in April and May:

- Community Alliance of the Yampa Valley
- Yampa Valley Sustainability Council
- Steamboat Springs Board of Realtors
- Comunidad Integrada
- Yampa Valley Medical Center and Visiting Nurses Association
- Mountain Valley Partnership
- Mainstreet Steamboat
- Yampa Valley Construction Trades Association
- Friends of the Yampa

- Steamboat Chamber Resort Association
- Community Ag Alliance
- Transition Steamboat
- Steamboat Springs High School
- Young Professionals Network
- Steamboat Institute
- Steamboat Kiwanis Club
- Steamboat Ski and Resort Corporation

In addition to meeting with these established groups, Staff will be conducting meetings at Centennial Hall and at local restaurants throughout town.

Please provide Staff with the name of any other groups that should be included in the public outreach campaign.

Budget

No additional budget is needed for this initial phase of public participation. All work will be completed utilizing existing staff and department resources. A detailed budget analysis will be provided to aid in determining the scope of a potential update to the Plan following this initial phase of public participation.

Next Steps

Staff will make any suggested changes received from the Planning Commissions, City Council and Board of County Commissioners and begin with the Public Outreach Campaign. Following the Public Outreach Campaign, Staff will analyze the information received at the public hearings and present it to both Planning Commissions, City Council and the County Commissioners. The information gathered will inform a proposed scope for an update to the Steamboat Springs Area Community Plan.

LIST OF ATTACHMENTS

Attachment 1 – 2004 SSACP Action Item Matrix.

Attachment 2 – Draft Planning Commission minutes from March 24, 2011

2004 Steamboat Springs Area Community Plan Action Plan Scoresheet—Organized By Priority

<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
Short-Term Actions (i.e., To be Initiated within 2004 to 2007)				
LU-2.1(a): Identify infill opportunities	3-5	City	<i>On-going</i>	Vacant Land Capacity Analysis done, land use inventory underway
LU-2.1(b): Require mixed-use development patterns	3-5	City	<i>C</i>	Addressed through changes to the CC/CS Zone Districts
LU-2.2(a): Develop infill residential standards	3-5	City	<i>1</i>	No action taken at this time.
LU-3.2(a): Develop standards for mixed-use development	3-6	City	<i>C</i>	<i>Complete</i>
LU-4.2(a): Develop standards for Mixed-Use Corridors	3-8	City	<i>C</i>	Complete
LU-5.1(b): Coordinate land use and transportation decisions	3-8	City/County	<i>On-going</i>	On-going through development review process
LU-5.2(a): Develop a community-wide Sidewalk and Trails Plan	3-9	City	<i>C</i>	Complete.
GM-1.2(c): Consider annexation of existing urbanized areas	4-5	City	<i>1</i>	No action taken at this time
GM-1.3(b): Evaluate regulations that affect infill and redevelopment	4-6	City	<i>On-going</i>	Addressed through changes to the CC/CS Zone Districts. Other code changes underway.
GM-2.1(a): Develop a plan monitoring system/indicators	4-6	City/County	<i>On-going</i>	Community Indicators Project
GM-2.1(b): Appoint a Growth Management Advisory Group	4-7	City/County	<i>C</i>	Complete.
GM-2.3(c): Develop mechanisms to finance necessary public services	4-9	City/County	<i>On-going</i>	URA, CIP

March 29, 2011

Key:
 C- Complete
 1,2,3- Prioritized but not initiated

Page 1

<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
CD-1.3(a): Prepare a Cultural Arts Plan	5-4	City/County	1	No action taken at this time
CD-1.3(d): Investigate potential for a public arts program	5-5	City	1	No action taken at this time
CD-1.4(a): Assess design standards; amend if necessary	5-5	City/County	C	Complete
CD-1.4(b): Assess site planning standards; amend if necessary	5-5	City/County	C	City/County Complete
CD-1.4(c): Assess residential design standards; amend if necessary	5-5	City	C	Complete
CD-1.4(d): Assess commercial design standards; amend if necessary	5-5	City	C	Complete
CD-1.4(e): Develop "big box" design standards	5-5	City	C	Complete
CD-1.5(a): Develop residential infill standards	5-7	City	1	No action taken at this time.
CD-1.5(b): Establish maximum size limits for residential structures.	5-7	City/County	1	No action taken at this time
CD-1.6(a): Prepare a Health and Human Services Plan	5-7	City	<i>Underway</i>	On process
CD-2.1(a): Codify Traditional Neighborhood Design principles	5-8	City	C	Complete
CD-2.3(a): Develop natural area standards	5-9	City/County	1	No action taken at this time
CD-2.4(b): Establish Xeriscape incentives (or requirements)	5-9	City/County	C	County regs require native vegetation. City GBC and CDC allow for xeriscape.
CD-3.2(a): Develop Rural Design Guidelines	5-10	County	1	No action taken at this time
CD-4.4(a): Develop public space design standards	5-13	City/County	1	No action taken at this time. Need to carry over TND requirements to entire CDC.
T-1.3(a): Require investment in bus stops	6-3	City/County	C	CDC requires bus stops as part of development review process. New downtown bus shelters. (No County action at this time.)

<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
T-1.4(b): Develop land use standards to support transit	6-4	City	<i>Underway</i>	Discussions underway with City Planning Commission.
T-2.1(a): Develop standards for sidewalks and bike lanes	6-5	City	<i>C</i>	Sidewalk standards are codified. Bike lanes are part of street cross-sections.
T-2.1(b): Develop standards for multi-use paths in new development	6-5	City	<i>C</i>	Complete
T-2.2(a): Construct trail system/commercial area connections	6-5	City	<i>On-going</i>	Trail construction on-ging.
T-2.4(b): Develop employee transit incentive programs	6-6	City	<i>On-going</i>	City employee committee working on alternative transportation incentive program.
T-2.4(c): Fund a transit campaign	6-6	City/County	<i>On-going</i>	Regional Transit Authority being examined.
T-2.4(d): Construct Gondola Transit Center improvements	6-7	City	<i>C</i>	Complete. Further changes may be required as part of URA.
NS-1.1(b): Strengthen floodplain regulations	7-3	City/County	<i>1</i>	City and County adopted new FEMA maps for the Yampa River.
NS-1.2(a): Increase minimum setbacks for waterbodies	7-3	City/County	<i>1</i>	No action taken at this time. Discussed with City PC.
NS-2.2(a): Implement an effective water quality monitoring program	7-5	City/County	<i>C</i>	Water Quality Baseline study complete by Routt County Environmental Health Department.
NS-2.2(c): Implement new approaches to reducing sediment loads	7-5	City/County	<i>C/On-Going</i>	City (with County Cooperation) has hired a Construction Site Inspector

March 29, 2011

Key:
C- Complete
1,2,3- Prioritized but not initiated

Page 3

<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
				to implement greater enforcement of storm water regulations.
NS-3.1(a&b): Prepare inventory and develop wetlands protection standards	7-5	City/County	<i>1</i>	No action taken at this time. Discussed with City PC.
NS-3.2(a): Prepare Wildlife Habitat Overlay District	7-6	City/County	<i>1</i>	No specific action. Wildlife is addressed in County Master Plan and Zoning Regs.
NS-6.1(a): Identify Best Available Technologies and practices to reduce impacts of mineral extraction	7-9	City/County	<i>C</i>	Required as part of permit process.
NS-6.1(b): Develop a Mineral Resource Management Plan	7-9	City/County	<i>1</i>	Mineral resources have been mapped.
NS-7.1(a): Develop vehicular air quality maintenance programs	7-9	City/County	<i>Underway</i>	Complete Streets being discussed by City. (No County action at this time.)
NS-7.1(b): Investigate use of alternative paving materials to improve air quality	7-9	City/County	<i>On-going</i>	City/County use chip and seal, and recycled asphalt
OS-2.1(a): Prepare an Open Space Master Plan	8-5	City/County	<i>C</i>	Complete
OS-2.1(b): Identify and map existing open space parcels	8-5	City	<i>C</i>	Complete.
OS-2.1(c): Create open space protection incentives	8-5	City/County	<i>1</i>	No action take at this time.
OS-3.1(a): Identify and preserve existing informal trails	8-6	City/County	<i>1</i>	No action taken at this time.
OS-3.1(b): Manage compatibility of uses on trails	8-7	City/County	<i>On-going</i>	P&R manages trail use and assesses conflicts. County doesn't manage any trails.
OS-3.1(e): Emphasize trail linkages in new county developments	8-7	County	<i>On-going</i>	Accomplished as part of development review process.
OS-3.1(f): Determine appropriate winter trail maintenance	8-7	City	<i>On-going</i>	P&R manages trail use and assesses conflicts.
OS-3.1(g): Update the Trails Plan	8-7	City	<i>C</i>	Complete

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<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
OS-5.1(b): Establish and manage access to the river	8-10	City	<i>On-going</i>	Yampa River Management Plan completed.
OS-5.1(c): Develop tools for riparian areas restoration	8-10	City	<i>1</i>	No action taken at this time.
H-1.1(a): Develop a database of key housing indicators	9-3	City/County	<i>On-going</i>	Routt County Housing Needs Assessment provided a database. Portions updated recently as part of Nexus Study for Linkage program. YVHA and City completed a Housing Demand Analysis
H-1.2(c): Reevaluate affordable housing incentives	9-4	City/County	<i>C</i>	Completed as part of IZ/Linkage ordinance
H-1.2(d): Establish provisions to ensure permanently affordable housing	9-4	City/County	<i>C</i>	Complete. Adopted Inclusionary Zoning regulations. Reviewing Housing Linkage program. (No County action at this time.)
H-1.3(g): Assess preservation of mobile home housing ordinance	9-5	City	<i>Underway</i>	Discussions underway
H-3.2(a): Establish a process for mobile home park conversions	9-7	City	<i>Underway</i>	Discussion underway
ED-1.3(a): Revise industrial performance standards	10-5	City/County	<i>1</i>	No action taken at this time
ED-1.3(b): Promote environmentally appropriate industry	10-5	City	<i>On-going</i>	No action taken at this time by City Staff.
ED-1.4(a): Revise Codes to better support home occupations	10-5	City/County	<i>C</i>	Complete
ED-2.1(a): Seek opportunities to expand and increase local businesses	10-7	City	<i>On-going</i>	No action taken at this time by City Staff.
ED-2.1(b): Support local business ownership programs	10-7	City	<i>On-going</i>	No action taken at this time

<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
				by City Staff.
HP-1.1(a): Seek funding to complete intensive-level historic preservation surveys	11-3	City	<i>On-going</i>	Historic survey on-going.
HP-1.2(a): Continue to document natural springs along the Yampa River	11-4	City	<i>On-going</i>	Historic survey on-going.
HP-2.1(a): Establish a Preservation Coordinating Committee	11-4	City/County	<i>C</i>	Complete, Discontinued
HP-2.2(a): Develop preservation education, outreach, and awareness programs	11-5	City/County	<i>On-going</i>	Historic Preservation outreach on-going.
HP-2.3(a): Support outreach to local stakeholder groups	11-5	City/County	<i>On-going</i>	Historic Preservation outreach on-going..
HP-2.4(c): Provide on-going training for City and County Advisory Commission and Historic Preservation Board members	11-7	City	<i>On-going</i>	Historic Preservation outreach on-going.
HP-2.5(a): Develop a historic preservation newsletter	11-7	City	<i>On-going</i>	Historic Preservation outreach on-going.
HP-2.5(b): Develop a local historic preservation website	11-7	City/County	<i>On-going</i>	Historic Preservation outreach on-going.
HP-3.1(a): Develop property tax rebates and development fee waivers	11-9	City	<i>C</i>	<i>Complete</i>
HP-3.1(b): Develop a program of mini-grants and loans	11-9	City	<i>1</i>	Historic Preservation outreach on-going.
HP-3.2(a): Provide public assistance with securing financial incentives	11-10	City	<i>On-going</i>	Historic Preservation outreach on-going.
HP-3.3(a): Initiate the process for Routt County to become a Certified Local Government (CLG)	11-10	County	<i>1</i>	No action taken at this time.
HP-4.2(a): Amend zoning standards for historic preservation	11-13	City	<i>1</i>	No action taken at this time.
CF-1.3(d): Evaluate other financing strategies for capital facilities	12-4	City/County	<i>Underway /On-going</i>	TIF/BID/Special districts.
CF-1.3(e): Examine incorporating existing capital facilities as	12-4	City/County	<i>1</i>	No action taken at this time.

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<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
statutory enterprises				
CF-1.4(a): Assess the condition of existing capital facilities	12-5	City/County	<i>On-going</i>	Done on an annual basis.
CF-1.4(b): Continue to include land acquisition as a component of the CIP	12-5	City	<i>On-going</i>	Done on an annual basis.
CF-1.4(c): Prioritize projects in the Capital Improvements Plan	12-5	City	<i>On-going</i>	Done on an annual basis.
CF-1.6(a): Develop interlocal agreements to provide services and facilities	12-6	City/County	<i>On-going</i>	On-going
CF-1.6(b): Develop a phasing schedule for infrastructure and facilities	12-6	City	<i>On-going</i>	Done on an annual basis.
SPA-1.2(b): Explore Funding Options for Old Town such as a Business Improvement District	13-3	City	<i>C</i>	Main Street is reviewing possibility of BID.
SPA-2.1(a): Implement the Mountain area primary recommendations in the Mountain Town Sub-Area Plan	13-5	City	<i>C</i>	Complete. Updated base area plan.
SPA-5.6(a): Review WSSAP within 12-months	13-11	City/County	<i>C</i>	Complete.
SAP-5.6(b): Review intergovernmental agreement within 6-months	13-11	City/County	<i>Underway</i>	On process (not adopted).
<i>Mid-Term Actions (i.e., To be Initiated within 2007-2009)</i>				
LU-1.1(b): Develop a land use tracking system	3-3	City/County	<i>Underway</i>	Land Use Tracking underway.
LU-1.3(b): Establish housing linkage programs	3-4	City/County	<i>C</i>	Complete. Suspended by CC. (No County action at this time.)
LU-4.1(a): Develop standards for Commercial Activity Nodes	3-7	City	<i>2</i>	Complete
LU-5.1(a): Establish minimum density targets	3-8	City	<i>2</i>	No action taken at this time.
GM-1.3(a): Target public investments to infill and redevelopment areas	4-6	City	<i>Underway</i>	Base Area URA
GM-2.3(b): Implement a Concurrency Management System	4-8	City/County	<i>2</i>	<i>No action taken at this time.</i>

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<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
				<i>White paper presented to CC in 2008.</i>
CD-1.3(b): Expand cultural arts funding	5-4	City	<i>2</i>	No action taken at this time by City staff.
CD-4.1(a): Plan street improvements	5-11	City/County	<i>C</i>	Completed with new streets standards. (No County action at this time.)
CD-4.1(b): Establish corridor overlay districts	5-12	City/County	<i>2</i>	No action taken at this time.
CD-4.1(c): Establish corridor setback standards	5-12	City/County	<i>2</i>	No action taken at this time
CD-4.2(a): Seek and apply for gateway funding	5-12	City/County	<i>2</i>	No action taken at this time.
CD-4.2(b): Acquire key "gateway" open space lands as funding allows	5-12	City/County	<i>2</i>	No action taken at this time.
T-1.2(a): Develop Level of Service standards	6-3	City/County	<i>2</i>	No action taken at this time.
T-1.5(a): Develop an Access Control Plan for US 40	6-4	City/County	<i>C</i>	Complete. S. HWY 40 pending.
T-2.2(b): Construct pedestrian improvements, including curb bulbs	6-6	City	<i>C</i>	Complete downtown.
T-2.3(a): Provide adequate dedicated funding for transit	6-6	City/County	<i>On-going</i>	No action taken at this time
T-2.4(e): Consider implementing Old Town paid parking	6-7	City	<i>Underway</i>	Parking Committee working on downtown parking issues.
T-2.6(a): Consolidate shuttle system	6-7	City/County	<i>2</i>	No action taken at this time.
T-2.8(c): Work with developers to provide ¼-Mile bus stops in West of Steamboat Springs	6-9	City	<i>C</i>	Completed with TND standards.
T-2.10(a): Develop transit-friendly development standards	6-10	City/County	<i>C</i>	Completed through TND standards, CC/CS changes and Complete Streets. Handled through County review process.
T-3.2(a): Develop outlying towns rideshare/vanpool programs	6-11	City/County	<i>Underway</i>	City Employee Committee reviewing alternative

<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
				transportation incentives. Regional bus system. Oak Creek shuttle.
T-3.2(c): Expand public transit/taxi systems	6-11	City	<i>On-going</i>	Late night bus service.
T-4.1(a): Integrate airline and transit operations	6-12	City/County	<i>2</i>	No action taken at this time.
T-4.1(b): Expand transit service to Yampa Valley Regional Airport	6-12	City/County	<i>Underway</i>	On-going
T-4.1(c): Develop marketing programs and alliances	6-13	City/County	<i>2</i>	No action taken at this time
T-4.1(d): Increase summer airline travel	6-13	City/County	<i>On-going</i>	
NS-2.1(a): Develop a Water Conservation and Management Plan	7-4	City/County	<i>Underway</i>	City and Mt. Werner Water Plans underway. (No County action at this time.)
NS-3.3(a): Develop a joint City/County TDR program	7-7	City/County	<i>2</i>	TDR was discussed but no action taken at this time
NS-4.1(a): Prepare additional Visually Sensitive Areas standards	7-8	City	<i>2</i>	No action taken at this time.
OS-1.1(a): Explore and adopt a dedicated funding source for open space	8-3	City	<i>2</i>	No action taken at this time.
OS-3.1(c): Revise Codes to require trail dedication	8-7	City/County	<i>C</i>	Complete
OS-3.1(d): Create a cash-in-Lieu system for trails	8-7	City/County	<i>C</i>	Complete
OS-4.1(a): Revise Code to require park land dedication	8-8	City	<i>C</i>	Complete
OS-4.1(b): Create a cash-in-lieu system for parks	8-8	City/County	<i>C</i>	Complete
OS-4.1(c): Prepare a Parks and Recreation Master Plan	8-8	City/County	<i>C</i>	Complete
OS-5.1(a): Establish a water quality baseline	8-10	City/County	<i>C</i>	Complete. Yampa River Watershed Plan
H-1.2(a): Develop inclusionary zoning standards	9-4	City/County	<i>C</i>	Complete by City. (No County action at this time.)
H-1.2(b): Amend land use controls to require Jobs-to-Housing Linkage	9-4	City/County	<i>C</i>	Complete. Suspended by CC. (No County action at

<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
				this time.)
H-2.1(a): Prepare a Regional Affordable Housing Plan	9-6	City/County	<i>C</i>	Complete. YVHA Strategic Plan.
H-2.2(d): Work with the private sector to provide creative lending	9-6	City/County	<i>On-going</i>	YVHA
H-2.2(e): Develop personal financial responsibility programs	9-6	City/County	<i>C</i>	Complete. YVHA
H-2.2(f): Establish a dedicated funding source for housing	9-7	City/County	<i>On-going</i>	YVHA mill levy ballot question in 2011.
ED-1.2(a): Develop and maintain an inventory of available buildings and sites	10-4	City/County	<i>On-going</i>	Buildout analysis and under-utilized property study underway.
ED-1.2(b): Develop and monitor Sustainable Economic Indicators	10-4	City	<i>On-going</i>	Community Indicators Report
ED-1.5(a): Support programs that support locally produced products	10-5	City/County	<i>On-going</i>	Farmers Market, NW Colorado Products, Community Ag Alliance
ED-1.5(b): Promote agricultural tourism	10-5	City/County	<i>On-going</i>	Heritage Tourism. Community Ag. Alliance
ED-1.6(a): Develop a Regional Economic Strategic Plan	10-6	City/County	<i>On-going</i>	Council working on ED Plan. RCEDC Regional Economic Strategic Plan adopted by Council and County Commissioners.
ED-1.7(a): Coordinate economic development activities	10-6	City/County	<i>On-going</i>	Council working on ED Plan. Also ongoing through RCEDC.
ED-3.1(a): Channel funds to improve infrastructure and beautify downtown	10-8	City	<i>On-going</i>	Main Street. Downtown Streetscape project underway.
ED-3.1(b): Focus on ski base area improvements	10-8	City	<i>C</i>	Complete. Promenade

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<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
				complete this summer.
ED-3.1(c): Strengthen the role of the regional medical center	10-8	City	<i>On-going</i>	Continued collaborative efforts on-going.
HP-2.4(b): Increase the role of the Tread of Pioneers Museum	11-6	City	<i>2</i>	No action taken at this time by City Staff. Property tax initiative approved.
HP-4.1(a): Consider whether to implement historic districts for Old Town	11-13	City	<i>On-going</i>	Historic districts are permitted in the new HP ordinance and districts are encouraged.
CF-1.1(a): Prepare a Cost of Community Services study	12-3	City	<i>C</i>	Model completed with Steamboat 700 annexation.
CF-1.2(a): Develop and adopt Level of Service standards	12-3	City/County	<i>2</i>	No action taken at this time.
CF-1.3(a): Stabilize revenues through a property tax/mill levy	12-3	City/County	<i>On-going</i>	Tax Advisory Board exploring options. County has property tax.
CF-1.3(b): Explore use of Business Improvement Districts in certain locations	12-4	City	<i>On-going</i>	Downtown. Base area.
CF-1.3(c): Consider Special Districts for new development	12-4	City	<i>On-going</i>	WSSAP
CF-1.5(a): Implement a Concurrency Management System	12-6	City	<i>2</i>	No action taken at this time. White paper presented to CC in 2008.
SPA-1.2(a): Develop contextual design standards for Old Town	13-3	City	<i>2</i>	No action taken at this time.
SPA-2.1(b): Use incentives to promote redevelopment of the Mt. Werner base area	13-5	City	<i>C</i>	Complete. URA
SPA-2.1(c): Explore funding options for the Mountain Area, such as a Business Improvement District	13-6	City	<i>C</i>	Complete. URA
SPA-2.5(a): Implement the Mountain Town Sub-Area Plan recommendations for the Highway 40 Corridor	13-6	City	<i>2</i>	No action taken at this time.

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<i>Strategy/Action</i>	<i>Plan Page Number</i>	<i>Responsible Party/ Parties</i>	<i>Priority</i>	<i>Status</i>
SPA-4.3(a): Evaluate use of an Overlay District for RCR 36	13-9	County	2	No action taken at this time.
<i>Long-Term Actions (i.e., To be Initiated after 2009)</i>				
CD-1.1(a): Establish a neighborhood planning program	5-4	City/County	3	No action taken at this time.
CD-1.1(b): Develop design standards for neighborhoods	5-4	City	C	Completed with TND.
T-2.7(a): Fund and construct East Side Park and Ride	6-8	City	<i>Underway</i>	Walton Creek park and ride underway.
T-2.7(b): Fund and construct West of Steamboat Springs Park and Rides	6-8	City	3	No action taken at this time.
T-2.8(b): Develop West of Steamboat Springs multi-modal facilities	6-8	City	3	No action taken at this time.
T-2.8(d): Provide 20-minute interval bus service for West of Steamboat Springs	6-9	City	C	Complete
T-2.9(a): Construct US 40 widening improvements (Near-Term)	6-9	City	3	No action taken at this time. NEPA Study completed
T-2.9(b): Construct capacity improvements on US 40 (Long-Term)	6-9	City	3	No action taken at this time. NEPA Study completed
T-3.2(b): Outlying towns rideshare/vanpool—bus transit	6-11	City/County	C	Hayden/Craig regional Bus and Oak Creek Shuttle.
T-3.2(d): Explore passenger rail options	6-11	City/County	<i>On-going</i>	Rocky Mountain Rail Authority Feasibility Study completed.
H-1.2(f): Use market intervention techniques if affordability becomes a more severe problem	9-5	City	3	No action taken at this time.
SPA-1.6(a): Prepare a Downtown View Corridor study	13-4	City	<i>On-going</i>	CY Standards review on-going.

DRAFT**Discussion on Community Area Plan**

Discussion on this agenda item started at approximately 5:25 pm.

STAFF PRESENTATION

Jason Peasley and Rebecca Bessey –

A presentation was given with requests for questions and comments at the end.

PUBLIC COMMENTS

Steve Lewis –

The presentation was great. When we talk about growth are we talking about population or construction? The 1994 update had a lot of community involvement and buy in. The 2004 smaller portion of community engaged. If you reach back to the original then you would be able to bring back much of the community to the update of this plan.

John Spezia

I want to compliment the staff for putting some time into this and I thought that it was a good presentation. Instead of yes & no maybe have five choices. The 1990 update was very well done and much of the community participated. They had four scenarios to talk about growth. It was percentage of population, of how many units you build a year, etc. They gave the percentages and what the impacts are. The 2004 was very disappointing. We had ten groups and attendance was poor. I didn't feel that the 2004 update was very representative, but the 1990 update was much more representative. I caution you to make sure that this community wide and that you go before them more than 2-4 times. Good ways to attract the community is on the weekends if they're still in Steamboat and have other incentives such as music, prizes, etc. in order to attract the public. After scoping, who makes the decision of where we're going next with this? What is the next step and what's that process?

COMMISSIONER QUESTIONS

City Commissioner Lacy –

If you look at pg. 2 in our packet staff has put together 3 questions that will help to get all of the input that we have from the presentation.

The 1st question; is there any additional information needed to describe the changed conditions from 2004 to 2011?

County Commissioner Fry –

I think that the economic conditions say there is.

County Commissioner Goodrich –

I think a baseline of what 2004 was. I have no idea of what the community was like. If this was where we were in 2004 and this is where we are in 2011 that people could grasp I think would be very helpful.

County Commissioner Benjamin –

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What about going back to the previous update as these few gentlemen had mentioned and they're line of thought is that the questions being asked have changed significantly. Why has that change occurred? Is that relevant at all to the discussion at hand?

County Commissioner Adamo –

Somewhere in here we have to think about the City's response to the last thing that was brought forward based on that land and what is the relevance of that statement? Was it an antigrowth statement? Was it a just give enough statement? How does that affect us as we go forward into writing the existing plan? If you write a plan that no one is going to look at or you write a plan that anybody that goes through has to sit back and wonder what the City's residents are going to do if it goes to a vote again? I fear that if I was a developer I wouldn't even begin to think about it because of the economic times and the reaction of when somebody met what was written in 2004 and then it was turned down flat. Do we need to table the plan and say there isn't any room for growth? You need to address that first. Do we want growth and if we do is there room outside or for infill?

County Commissioner Gibson –

I think that you'll find that out with the priorities. Infill is pretty high up there. I think that the question is there anything missed in the presentation? They're asking us if we're missing any data.

City Commissioner Hanlen –

I liked the presentation and the way it led up to the questions, but once we get to the questions it seems like they were so broad. With the group that was pulled together when it was asked is this a priority? 50% said that that's a priority and this is a priority. At the end you ended up with ten questions and all of them were a priority. We end up right back where we started with the 2004 plan with all of these seemingly fully weighted important topics. In some cases they come in complete conflict with one another. I would push for further questions. When you asked question #5 it was a very broad one where promote stewardship of natural scenic and environmental areas. Is that important with what we've been doing out in the county and what we've been doing in the City important? A lot of times they're not the same answer. When Rebecca Bessey made the comment about preservation of historic resources that's not just buildings, but the water and historical ranches. All of a sudden it turns into this massive topic. Who knows why people are voting one way or another on it. It seems like it needs to be split into buildings, ranches, or way of life. What does community character mean? Of course it's going to mean different stuff to different people. It's worthless to put it up on this questionnaire. Do you want to preserve community character? Is that our base area, or our historical ranch community? What does that mean? Until that gets split out I don't think that means anything. We need each of these topics to be broken down into the different components in order to get any information from this.

City Commissioner Lacy –

I have the same concern. I understand your desire to keep this fairly broad, but when you're looking at infrastructure and public services and whether or not we're doing well with those things. Maybe some people think that we're doing well with fire protection, but police is bad. Whatever it might be. I know that you don't want the presentation and questions to be too long, but we might need to get a little bit more detail on a little bit more detailed

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questions as far so we can get some good information on what the responses really mean and what particular areas we need to work on.

County Commissioner Ayer –

You've got such a range of familiarity with the background of the action items and priorities and all of the detailed information that really defines those things. There is a practicality there and if the thing comes down to that we're going to face the same thing on this questionnaire and survey. You're going to have an audience full of people with no experience with the plan. There's some degree of homework that's expected in order for us to achieve our objectives. I don't know how you achieve that homework before people get here. It might be good to have the visual and slides in a handout that mentions the slides so that people can be looking at it the whole time. You might need some sort of summary of each one of those so that even if someone did their homework before they came to the meeting. If you make the meetings too long then you're going to lose people. The results are going to be harder to tabulate.

City Commissioner Hanlen –

When you throw in at the tail end of that infrastructure then everyone is going to vote yes I want preservation of open space. We need to expand the sewage treatment plant. It's a misleading question as far as is it a priority. There's a reality that we need to meet whether or not the community votes for it being an important piece of the puzzle or not.

County Commissioner Ayer –

In the prioritization of the ten items there are some comments to new comments that would lead them to believe that there hasn't been any action on some of those items. For example development and open lands program we've made a lot of open land purchases and conservation easements. It's not so much as developing one as maintaining what we have.

City Commissioner Brookshire –

I saw a slide tonight about where are we and where do we go? I think that providing a lot of context to a lot of the comments my thoughts and suggestions had to do with housing, sales tax revenues, number of vacation homes/condos, population, and infrastructure. I don't know what those numbers were in 1995 or 2004. I don't know where they are in 2011. If we're trying to provide context as to where have we been, where are we at, and where do we go? Those are a few bullets that would provide the type of context to say this is where we were in the '95 plan, the update, and now. The revenue side of that would be an important component to try to pull into the plan.

City Commissioner Lacy –

You're saying maybe get a little bit more information about where we are now other than they did give some information on employment and how that's grown or fallen off in certain categories. Would you say put a few more things in the presentation that show some more community statistics.

City Commissioner Brookshire –

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I appreciate your point about big picture. I'm not saying that we need to get into each sector of the economy, but in trying to compare apples to apples here's the number of condos/town homes or second homes. I don't know that the statistics are necessarily kept. I think that there was reference to the fact that we've looked at a lot of vacant land analysis recently and those numbers have varied a lot. If we could look back and say this was where it was even if it's just '04. John Spezia's comment was very good in saying here was the plan in '95 that had a lot of community buy in. I know that we can't hire consultants and we have limited staff. I think that keeping it fairly broad, but for me its providing context. How much have we grown since '95? How many more single family permits? How many more building permits were issued between 2004 and 2011? I don't know. I think that it's available. You can have your charts and find out some base line types of stuff.

City Commissioner Hanlen –

I like John Spezia's point about preservation of open space. Was it 1992 when implemented the County property tax? If it was 1992 and showing the amount of money and the total number of acres that have been purchased.

County Commissioner Ayer –

The City was very active before PDR in terms of purchasing lands.

City Commissioner Hanlen –

Before you give the question you show the history. Here's the PDR program, the purchase of land and you show the history of what we've done over the last 25 years and then you lead into the question. Instead of should we develop a program since we've already done that. Should we continue to or should we increase or decrease? A question like that based off of here's what we've been doing. You comment about the history whether someone moved here two years ago or they've lived here they're whole life they should be able to walk in and understand the presentation. We can't assume that everyone is going to walk in educated. We can assume that they won't.

County Commissioner Gibson –

You can take that a step further and there are 30 items on a list and we've completed 1/3, 1/3 is in process and let's see the list.

City Commissioner Lacy –

Are you going to use that action matrix as part of your presentation so that people can see that?

Jason Peasley –

A lot of that is supplement. I don't know that not too many people are going to get excited about that.

Chad Philips –

When we start thinking about the approach it started off with a good educational component. Is the plan still efficient with a score card that the community can fill out? It seemed a little bit unrealistic especially for a minor update. I'm not sure who is going to take the time and what kind of return we will get? When you look at the other end of the

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spectrum what don't you like? What the hope is that when we get the info back that the big issues rise to the top.

County Commissioner Ayer –

You brought up a point that we turn this process upside down. Right now this presentation with an audience with people with various experiences with a town that's geared to framing based on 2004. What is bothering you about town that concerns you the most and it is open ended one. The front end of this process I don't know if you could manage that to bring that back into those categories. It allows people to get feelings out. Is that a better way to do it to do it as an onset and then get it into these categories?

Jason Peasley

The interaction at then end when we ask what's missing from the plan that gives people the opportunity to say what do we need to address that we haven't talked about? Everything leading up to that is what's already in the plan. We've tried not to go too deep into that because it is a significant document. We wanted to keep this broad. We want to get people onto the big picture topics. Our goal is to define the scope for an update.

County Commissioner Ayer –

You will get people who don't know the issues from the past and the revisions that we've done.

County Commissioner Benjamin –

That's the whole process in general trying to be quantitative about people's feelings. I think that you made the point in keeping control of it at the beginning is more important letting comments come after. I can take those ten categories from the presentation and I can take each one of those categories and put it into a category that was already up on the board. There's always going to be that sense of ambiguity to it.

Jason Peasley –

As part of these presentations we will develop a comment card. It would also allow people to write down what they're thinking.

City Commissioner Lacy –

Not everyone wants to make spoken public comment.

County Commissioner Benjamin –

Do you feel like the presentation put together is leaning the information from it that you're looking for or do you feel that needs to be a sharper instrument. Some of the comments have been that there needs to more specific information gathered under each one of those categories.

City Commissioner Lacy –

Are these questions asked adequate to gauge the community's priorities for an updated Community Plan?

Jason Peasley –

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Once we get into the specifics of each one of those then it spiders. We could have fifteen questions for each question up there. We're getting a lot of good info, but are we utilizing people's time efficiently enough? In doing that we wanted to keep this brief to point and get to the main objective, which is are there areas where we need to work on the plan? If we can get that info in a short presentation then we're going to be doing good by the community. The big picture questions are our way of keeping the scope contained, but still getting the info that we need.

City Commissioner Hanlen –

I don't see how you can pull useful info out of the questions that we just answered. You get info, but I don't know how you turn it into something without it being broken down further

City Commissioner Lacy –

Ultimately what you will be doing if you get some responses that say we need to work on these three areas. You'll go back to the community and get some more specific questions answered.

Jason Peasley –

This is the first phase of a multiphase process. If the community tells us that moving forward we want to talk about growth priorities, etc. then those float to the top. Then we know that's where we need to focus our energy on. We can tell the Planning Commission and the County Commissioners that this is what the community wants to focus on.

County Commissioner Fry –

Is the community outreach campaign going to be enough to satisfy you as far as community outreach?

Steve Lewis –

I think it is good. I do wonder how you will have competing new idea if you ever got any of your original ten and if they go to all different groups. I'm curious how you handle that?

Jason Peasley –

Our anticipation is that there will be themes that will come out of this. It will be varied just by its nature of getting input from the community, but it will take some data analysis to see where that is.

Steve Lewis –

Your ten from the update I think that you will reach outside of the box for a couple of items that might be important.

City Commissioner Hanlen –

I think that it would be pretty preemptive to have a couple of additional ones or that you could anticipate would be on the list.

Jason Peasley –

We think that we're going to see some themes rise to the top. In our presentations to people to prompt them, at other meetings we've heard sustainability, etc.

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County Commissioner Benjamin –

It's not just hearing, you're getting that data instantaneously. The way of presenting it is that I would as that those responses stay up a little longer. There's info that can be gleaned just from those percentages. When you're in the audience and you see those percentages they might prompt you to ask another question on that. I saw a lot of trends and then all of a sudden that trend reversed on one of the questions. The trend turned in the opposite direction although the voting stayed the same whether it was important or very important. I think that the process is a good way to get info. How do you get people to come out and respond to that? There's obviously been a shift in people who live here. 2004 didn't get that much involvement. It's really tough to get the people out there and to get their input.

John Spezia –

Why did people vote the way they did for Steamboat 700? Our whole economy will be changing and so we need to look at some of the original plans and look at the things that are missing in them.

City Commissioner Lacy –

Are there any concluding comments where the presentation could be improved?

County Commissioner Gibson –

I'm worried about your timeframe. You have the end of ski season coming up and if you're wanting to catch the 20 somethings then they're gone. People with kids in school are going to go on spring break. I don't know if you can extend this into June for the summer season?

Jason Peasley –

We plan to run this process through at least May. When we get more of the demographic info then we'll understand are we missing that population and do we need to extend this into June?

City Commissioner Meyer –

I thought that the presentation was really good. Key pads are a technological breakthrough. You get the immediate feedback. I know that you're goal is to get this done in a ½ hour. Tonight we were going very fast with a very educated audience. We have a lot of personal knowledge. I would like to see the results left up there a few extra seconds. There were some real surprises up there for me tonight from just this group. It's up to you to stop us from wanting to go right into the plan and start debating the plan and to keep this on "this is scope" and this is the next step.

City Commissioner Lacy –

I think that if you do a little bit better job right up front of how this is going to work. Through this process the top three or five things get recognized as things that need to get addressed. We are going to go back to the community again to get more detailed input on what that means.

City Commissioner Hanlen –

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When you were asking us to pick three preferences and to prioritize your top five once you got past the top two that it starts to get blended together and I would question the usefulness once you go too deep. Maybe if there is just ten showing maybe just ask for the top two priorities. I think that the results can become muddy.

Jason Peasley –

Would three have been easier to work with?

City Commissioner Hanlen –

The shorter the list the shorter the number of choices. Trying to ask for three choices out of six I can tell you that I only had one and I had to come up with the other two to add.

County Commissioner Benjamin –

I thought that I caught something at the end saying that this was going to be available online. Is the survey going to be available on line as well? Is there any way to grab Main Street and have them help with incentives? The biggest one that John Spezia had was the impact to the outlying community. Steamboat Springs has a huge impact on south Routt in general. We're a bedroom community right now with the loss of all of our businesses. That's an important question that needs to be looked into more is how does what's going on here really impact everywhere else?

Jason Peasley –

We plan to take this outside of Steamboat. I think that through the update process it's important to look at that.

County Commissioner Benjamin –

I think that defining those questions would be a little bit more difficult as well. How are those impacts on those outlying communities?

County Commissioner Goodrich –

You said that people are going to be able to go online and see those results of these community surveys? Is there any way for the community to participate in these surveys?

Jason Peasley –

Our intention is to either have a flash player that would go through this entire presentation or a survey monkey that would go through the same exact series of questions.

County Commissioner Gibson –

Have this live and then you could do it from your home.

City Commissioner Lacy –

Is there any way to try to track that to make sure that it's scientific so you don't get the same person answering 500 times?

Jason Peasley –

We'll have to work on that.

County Commissioner Benjamin –

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The response was between 16-18. You were asking questions are you ready knowing how many keypads are out there and being able to streamline your presentation.

Rebecca Bessey

The questions where you have to prioritize I think that the total on the screen means that some people have precedence.

Seth Lorson

Engage in how many there are and when we go through each one and we see 17 then we don't have to wait for the 10 seconds to tick down.

Jason Peasley –

It's easy to reset that slide and go over it again. We'll keep that in mind.

County Commissioner Arel –

Maybe we could have a range instead of just a yes or no since not all of those were just a yes or no to me.

County Commissioner Ayer –

They're trying to keep it as streamlined as possible. It has a tendency to spiral out of control. I think that it was an excellent presentation. It was very simple and clear.

County Commissioner Gibson –

I think that you need to keep using that word scoping constantly.

City Commissioner Lacy –

You'll have to keep steering people back to scope, because we'll want to dive into the details.

City Commissioner Brookshire –

Would the City like a finality summary of the TDR thing that the board did? I think that the board of County Commissioners said no to the TDR. If there was a component that had to be a receiving property in the City limits. Was there any discussion about that?

Chad Philips –

Two weeks ago the County Commissioners made their vote to deny the regulations. The Planning Commission recommended a denial just to move things forward since if they would have tabled it then they couldn't see the County Commissioners. There were good and bad comments. The main reason for the County Commissioner's denial was that it was not going to work w/out one of our municipalities. It's not a dead issue, but has been put on my shelf for a little while.

City Commissioner Brookshire –

Your expectation would be that if a property owner or developer came into the County would your direction be "go find a piece of land within the City limits as a receding area". Would that accurate or am I missing something?

Chad Philips –

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No, we would need to start at the plan level. We would need to go back not quite to square one depending on how the policies are interpreted. It would require a change in regulation.

Discussion on this agenda item ended at approximately 7:25 p.m. and County Commissioners were excused.

AGENDA ITEM # 7

CITY COUNCIL COMMUNICATION FORM

FROM: Vicki Barron - NW Co. VNA Community Health Educator; (970) 875-1883

THROUGH: Dan Foote, Staff Attorney (Ext. 223)

DATE: April 5th, 2011

ITEM: Presentation "Youth and Tobacco in Steamboat Springs" by N-CTRL leadership team representatives.

NEXT STEP:

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 RESOLUTION

I. REQUEST OR ISSUE:

Tobacco use among youth in the City of Steamboat Springs is a problem to be presented on April 5, 2011.

II. RECOMMENDED ACTION:

NONE.

III. FISCAL IMPACTS:

NONE.

IV. BACKGROUND INFORMATION:

National, State and Local Data, and Info. from Campaign for Tobacco Free Kids are attached.

V. LEGAL ISSUES:

None related to this presentation.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

NONE.

VII. SUMMARY AND ALTERNATIVES:

Members of Steamboat Springs Teen Council will present PowerPoint on Youth and Tobacco in Steamboat Springs.

LIST OF ATTACHMENTS

- | | |
|---------------|--|
| Attachment 1. | Tobacco marketing that reaches kids; point-of-purchase advertising and promotions. |
| Attachment 2. | Philip Morris and Targeting kids. |
| Attachment 3. | Smokeless tobacco and kids. |
| Attachment 4. | Smoking and other drug use. |
| Attachment 5. | Smoking and tobacco use fact sheet. |
| Attachment 6. | Presentation. |



TOBACCO MARKETING THAT REACHES KIDS POINT-OF-PURCHASE ADVERTISING AND PROMOTIONS

The tobacco industry currently spends more than \$12.8 billion to promote their products throughout the United States.¹ Studies show that such point-of-purchase advertising and promotion directly influences what products and brands kids buy and use. Point-of-purchase advertising and promotions target and attract shoppers right at the places where they can immediately buy the specific products or brands. More specifically, point-of-purchase tobacco advertising and promotions may have a direct impact not only on what brands of cigarettes kids buy, but also on the number of kids who buy cigarettes.

Tobacco Company Point-of-Sale Advertising

Point-of-purchase tobacco advertising consists of cigarette and spit tobacco ads and functional items (such as counter mats and change cups) located inside, outside, and on the property of convenience stores, drug stores, gas stations, and other retail sales outlets. The tobacco companies significantly increased their point-of-sale advertising after the state tobacco settlements' ban on tobacco billboards went into effect in April 1999.² In 2006 (the latest year for which data are available), the cigarette companies spent over \$242 million on point-of-sale advertising, a 33.1 percent increase from 2005. In 2006, smokeless tobacco companies spent over \$20.8 million on this type of advertising.³ Reflecting the increases in spending on point-of-purchase marketing by the tobacco companies, several studies have documented the increasing pervasiveness of tobacco promotion in retail outlets.

- Eighty percent of retail outlets have interior tobacco advertising, 60 percent have exterior advertising, and over 70 percent have tobacco functional items. Forty percent of the stores that sell gas have parking lot tobacco advertising.⁴
- A study of retail outlets in California found that, on average, California stores have 25 pieces of in-store cigarette advertisements. In addition, 80 percent of retail outlets in California have at least one ad for a sales promotion.⁵ An earlier study of California stores found that nearly 50 percent of the tobacco retailers had tobacco ads at young kids' eye level (three feet or lower), and 23 percent had cigarette product displays within six inches of candy.⁶
- A 2006 study of stores in Hawaii found more than 3,000 cigarette advertisements in just 184 stores, with nearly one-third of those stores being within 1,000 feet of a school.^{7*}

Tobacco Point-of-Purchase Promotional Efforts

In addition to advertising, tobacco company point-of-purchase promotional expenditures and "retail value added" expenditures include coupons, multi-pack discounts (e.g., buy two packs get one free) for which retailers are reimbursed, providing free gifts with cigarette or spit tobacco purchases, and other tobacco discounts and merchandizing given to customers at the sales outlets. Point-of-purchase promotional expenditures also include company payments to retailers to display the company's brands, ads, and related materials prominently or in specific store locations. Retailers are often paid to keep special tobacco-product self-serve display racks on or in front of the counter, paid to put tobacco products on

* The point-of-purchase tobacco marketing landscape is changing significantly because of the many provisions of the Family Smoking Prevention and Tobacco Control Act that went into effect on June 22, 2010 or before. The law has already eliminated the preexisting Federal Cigarette Labeling and Advertising Act's preemption of any state or local government restrictions on the time, place, and manner of cigarette advertising done for smoking and health purposes. But First Amendment constraints to government restrictions on tobacco product ads still apply. The new law's requirement that all cigarettes and smokeless tobacco ads not in adult-only facilities consist only of black text on a white background is currently being held up in court, and the provisions on outdoor advertising have been delayed.

As an effective complement to the FDA tobacco law's point-of-purchase restrictions on cigarette and smokeless ads, New York City implemented a law requiring educational warning signs to be posted wherever tobacco products are sold to provide consumers with information about tobacco use health harms and cessation assistance. Retailers have complied with the law, but formal enforcement has been delayed due to recent legal challenges.

'good' shelving space (slotting allowances), and given other promotional items for the store (i.e. open/closed signs, counter mats).⁸ These materials are often coordinated with current advertising campaigns to promote the images and appeal of specific tobacco products.⁹

- In 2006, promotional allowances made up 81 percent of the domestic cigarette advertising and promotional expenditures, totaling \$10.1 billion. The "promotional allowance" category was separated into four categories: price discounts, promotional allowances paid to retailers, promotional allowances paid to wholesalers, and other promotional allowances. Price discounting (e.g., off-invoice discounts, buy downs and voluntary price reductions to reduce the price of cigarettes to consumers) was by far the largest category, accounting for 73.7 percent of total cigarette company marketing expenditures. Promotional allowances by smokeless tobacco companies made up 61.1 percent of all marketing spending in 2006, with price discounts accounting for 57.5 percent of all marketing expenditures – a 104.3 percent increase from the year before.¹⁰
- A study of retail outlets in Santa Clara County, California, found that 62.4 percent of stores had received slotting/display allowances from tobacco makers. This is higher than allowances received for candy, snack foods, and soft drinks. These incentives motivate retailers to display, promote, and advertise tobacco products.¹¹

Point-of-Purchase Tobacco Advertising and Promotions Affects Kids

According to the trade association Point of Purchase Advertising International, point-of-purchase advertising and promotions target consumers at the place where they will actually buy the product, attract the attention of the shopper, and remind them of previously seen selling messages.¹² It is also clear that such promotions – including the enormous amount done by the cigarette and spit tobacco companies – have an especially powerful impact on kids as three out of four teenagers shop at a convenience store at least once a week.¹³

- A study published in the May 2007 issue of *Archives of Pediatrics and Adolescent Medicine* found that retail cigarette advertising increased the likelihood that youth would initiate smoking; pricing strategies contributed to increases all along the smoking continuum, from initiation and experimentation to regular smoking; and cigarette promotions increased the likelihood that youth will move from experimentation to regular smoking. The researchers also found that reducing or eliminating these retail marketing practices would significantly reduce youth smoking.¹⁴
- The frequency of exposure to in-store displays can also influence kids' smoking. A 2009 study in *Tobacco Control* found that more frequent visits to stores selling tobacco and greater awareness of cigarettes sold in stores increased the likelihood of teenagers being susceptible to initiating, experimenting, or becoming current smokers.¹⁵ A 2010 longitudinal study in *Pediatrics* similarly found that more visits to stores per week increased the odds of teens initiating smoking, even over time. In fact, the study found that the odds of initiation more than doubled for teens who visited a store with point-of-sale tobacco ads at least twice a week.¹⁶
- A 2008 study in *Preventive Medicine* found that current smoking was 3.2 percentage points higher at schools in neighborhoods with more than five tobacco-selling retailers than the smoking rate at schools in neighborhoods without any tobacco-selling retailers.¹⁷
- Studies from Australia indicate that point-of-purchase cigarette displays act as a form of advertising and provide cues to smoke. A 2008 study in *Addiction* found that cigarette pack displays stimulate impulse purchases among smokers and that those trying to avoid smoking commonly experience urges to purchase cigarettes when confronted with these displays, suggesting that cigarette pack displays at the point-of-purchase may undermine intentions to quit among established smokers.¹⁸ Similarly, a 2009 study based on interviews with persons having just bought cigarettes at retail outlets with point-of-purchase displays found that more than one out of five of the purchases were unplanned.¹⁹
- A 2004 study of 6th, 7th, and 8th graders concluded that those students who visited a convenience, liquor or small grocery store at least weekly, and therefore were more exposed to retail tobacco marketing, had a 50 percent greater odds of ever smoking. This effect is approximately the equivalent to the effect a smoking parent or household member has over youth ever smoking.²⁰

- Point-of-purchase advertising and displays have been found to increase average tobacco sales by 12 percent.²¹
- A 2004 study in *Tobacco Control* found that stores that teens shop at the most contained more point-of-purchase advertising than stores less frequented by teens. There were three times more cigarette ads on windows of stores popular among adolescents than stores that were not as popular. In addition, more than three times more marketing materials and two times more shelf space in the stores popular among adolescents were for Marlboro, Camel, and Newport, the three most heavily smoked brands by teenagers.²²
- A 2002 study in *Tobacco Control* comparing photographs of stores with no tobacco advertising and stores with advertising found students perceived easier access to tobacco products at the stores with tobacco advertising.²³
- A study of 7th graders found that more than 99 percent reported seeing tobacco advertising and promotions and that 70 percent indicated a level of receptivity to tobacco marketing materials more than just being aware of the advertising and promotions.²⁴
- A 1999 study in the *U.S. Distribution Journal* found that teens are more likely than adults to be influenced by promotional pieces in convenience stores (73 percent to 47 percent).²⁵ The same study also found that more than half of all teenagers say they are influenced by in-store displays; 47 percent are influenced by banner/window signs; and 44 percent are influenced by in-store promotional signage.²⁶
- A study published in the *Journal of Health Communications* determined that the choice of Marlboro as their usual brand among high school smokers was associated with a Marlboro promotional item with purchase and more Marlboro interior and exterior advertising in local convenience stores. There was a 54 percent increase in the odds of choosing Marlboro as a usual brand when a “gift-with-purchase” promotion was present, a 33 percent greater odds with each percentage increase in brand share of interior advertising and a 27 percent greater odds with each percentage increase in brand share of exterior advertising.²⁷
- A longitudinal 1999 study published in the *American Journal of Public Health* showed that adolescents who owned a tobacco promotional item and named a cigarette brand whose advertising attracted their attention were twice as likely to become established smokers as those who did neither.²⁸
- Despite tobacco industry claims that promotional items are meant for smokers over age 21, one study found that 30 percent of all kids (12 to 17 years old) owned at least one tobacco promotional item, such as T-shirts, backpacks, and CD players.²⁹
- According to a 1994 U.S. Surgeon General's report, the use of value-added or coupon promotions makes cigarettes appear more affordable, especially to those with less financial resources, including kids. Coupons also affect new users by encouraging them to smoke more, moving from the trial stage to being a regular smoker.³⁰
- Self-service displays make it easier for kids to purchase cigarettes or even steal them; and studies indicate that roughly five percent of young smokers steal cigarettes.³¹
- A 1996 study found that Marlboro “gift with purchase” promotional items were significantly more common in states with comprehensive tobacco control programs than in states without programs. States with comprehensive tobacco control programs had 22 percent more interior tobacco advertisements and 49 percent more exterior tobacco advertisements than states without programs.³²

Campaign for Tobacco-Free Kids, July 27, 2010 / Meg Riordan

Additional Campaign Factsheets on Tobacco Company Marketing to Kids are available at
<http://tobaccofreekids.org/research/factsheets/index.php?CategoryID=23>

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³¹ Florida Department of Health, *Florida Youth Tobacco Survey*, 1999. See also, Campaign for Tobacco-Free Kids Factsheet, *Where Do Youth Smokers Get Their Cigarettes*, <http://www.tobaccofreekids.org/research/factsheets/pdf/0073.pdf>.

³² Slater, S, et al., "State variation in retail promotions and advertising for Marlboro cigarettes," *Tobacco Control* 10:337-339, 2001.

CAMPAIGN For TOBACCO-FREE Kids®

PHILIP MORRIS AND TARGETING KIDS

The Philip Morris cigarette company is trying to persuade the public that it is a good corporate citizen, despite its deadly product. The company is spending \$100 million on a campaign to improve its corporate image, and another \$100 million on a directly related campaign (including television ads) that purports to combat teen smoking. Philip Morris is also actively seeking new “anti-youth-smoking” partnerships with youth service organizations, state school systems, and major universities. But recent research and internal Philip Morris documents disclosed in the tobacco lawsuits indicate that the company’s efforts are designed to generate much-needed positive publicity for the company rather than actually reduce youth smoking.

The Current Situation

Philip Morris’ Marlboro brand is the most popular brand among kids, accounting for 60 percent of the underage market (another Philip Morris brand, Parliament, is number four).¹ That means that roughly 2,000 kids become regular Marlboro smokers every day, with more than 600 of them likely to die prematurely because of their smoking.² To look at it another way, if current trends continue roughly five million kids alive today will die from smoking -- and about three million of them will have started their smoking habit with Marlboro cigarettes.³

The U.S. cigarette companies spend more than \$5.6 billion to promote their cigarettes each year.⁴ Philip Morris, which controls almost 50 percent of the total U.S. cigarette market, is responsible for the lion’s share of that spending. Marlboro is the most heavily advertised brand in the United States.⁵

Philip Morris continues to advertise heavily in magazines with large youth audiences, although it could easily reach adult smokers through ads in publications with far fewer non-adult readers. Philip Morris also opposes measures that would make it much harder for kids to obtain cigarettes but not significantly inconvenience any adult smokers -- such as restricting vending machines to adult-only locations, permanently banning sales of single cigarettes or “kiddie packs” (cigarette packs of fewer than 20 cigarettes), requiring that cigarette packs be placed behind sales counters, or prohibiting cigarette sales by mail or over the Internet.

Philip Morris’ Anti-Youth-Smoking Television Ads

A recent study found that Philip Morris’ new anti-youth-smoking ads were less effective than those already being used in California, Massachusetts, Arizona and Florida in their statewide tobacco prevention programs. More specifically, the study found that:

- Ads that graphically, dramatically, and emotionally portray the serious negative consequences of smoking were consistently rated highest by respondents in terms of making them “stop and think about not using tobacco.” But the Philip Morris ads said little or nothing about negative health consequences from smoking.
- Ads that focused on the “choice” theme (i.e., be yourself, you can choose whether to smoke), such as those run by Philip Morris, were consistently rated lowest.⁶

If Philip Morris really wanted to reduce youth smoking, it is clear that the company could spend the millions of dollars it has allocated to anti-youth-smoking efforts more effectively. But that is

not surprising given Philip Morris' history of marketing to kids and ineffectual "anti-youth-smoking" initiatives.

What Philip Morris Says In Public

We don't want kids to smoke. We're intensifying our efforts that we started a number of years ago by launching this new smoking-intervention initiative, starting with these ads. [Michael E. Szymanczyk, president of Philip Morris USA, *New York Times*, December 3, 1998.]

In all my years at Philip Morris, I've never heard anyone talk about marketing to youth. [Geoffrey Bible, CEO of Philip Morris, *Minneapolis-St. Paul Star Tribune*, March 4, 1998.]

What They Say In Private: Marketing to Kids

Marlboro's phenomenal growth rate in the past has been attributable in large part to our high market penetration among young smokers . . . 15 to 19 years old . . . my own data, which includes younger teenagers, shows even higher Marlboro market penetration among 15-17-year-olds. [Philip Morris Document #1000024921/4927, May 21, 1975]

Sales—Outstanding! Outstanding! Outstanding! . . . This account is located 2 blocks from Bellingham High School. Our pre-sell has sold through. The account had reordered and received more product. Sales field report. [PM Doc. #87051949, March 8, 1988]

[To support Marlboro's growth, Marlboro must] *continue growth among new, young smokers... While Marlboro continues to attract increasing shares of young smokers, expected declines in the number of young people restrict future volume gains from this source.* [PM Doc. #2043440057/0112, 1985]

Because of our high share of the market among the youngest smokers, Philip Morris will suffer more than the other companies from the decline in the number of teenage smokers. [PM Doc. #1000390803/0855, March 31, 1981]

[T]he success of Marlboro Red during its most rapid growth period was because it became the brand of choice among teenagers who then stuck with it as they grew older. [Special Report, "Young Smokers: Prevalence, Trends, Implications, and Related Demographic Trends," PM Doc. #1000390803/55, March 31, 1981]

Thus, the ability to attract new smokers and develop them into a young adult franchise is key to brand development. [PM Doc. #2044895379/484, 1992]

What They Say In Private: Behavioral Research About Kids

It is important to know as much as possible about teenage smoking patterns and attitudes. Today's teenager is tomorrow's potential regular customer, and the overwhelming majority of smokers first begin to smoke while in their teens . . . it is during the teenage years that the initial brand choice is made. [Special Report, "Young Smokers: Prevalence, Trends, Implications, and Related Demographic Trends," PM Document #1000390803/55, March 31, 1981]

We wonder whether such children may not eventually become cigarette smokers in their teenage years as they discover the advantage of self-stimulation via nicotine. We have already collaborated with a local school system in identifying some such children in the third grade. . . Report on study of hyperactive children. [PM Doc. #1003288122, June 10, 1974]

A Philip Morris Marketing Research Department document highlights that within a "probability sample of 452 teen-agers ages 12-17" 13 percent smoke an average of 10.6 cigarettes per day and that "the data from the study are consonant with the findings of other such studies, both at Philip Morris and without." [PM Doc. #2041761791, May 18, 1973]

As the preceding quotes demonstrate, Philip Morris has targeted kids as customers and done extensive research on youth smoking and related behaviors. In fact, Philip Morris' Senior Vice President of Youth Smoking Prevention who is in charge of the company's \$100 million anti-youth smoking campaign, Dr. Carolyn Levy, previously worked in the Philip Morris research department on studies on nicotine effects and smoking behaviors.⁷ Dr. Levy was also one of two Philip Morris researchers who formally approved the previously quoted special report that stated "Today's teenager is tomorrow's potential regular customer."

What They Say In Private: Anti-Youth Smoking As A Public Relations Ploy

If we don't do something fast to project the sense of industry responsibility regarding the youth access issue, we are going to be looking at severe marketing restrictions in a very short time. Those restrictions will pave the way for equally severe legislation or regulation on where adults are allowed to smoke. [Philip Morris Senior Vice President Ellen Merlo, 1995]

The youth [anti-smoking] program and its individual parts support The [Tobacco] Institute's objective of discouraging . . . federal, state, and local restrictions on cigarette advertising. [Tobacco Institute "Discussion Paper," Doc. #TIMN0164422/4424, January 29, 1991]

[If Philip Morris took] a more progressive position on tobacco, it would enable the company to move onto a higher moral playing field, to neutralize the tobacco issue and to focus attention on other, more appealing products. [PM Doc. #2023586677, December 3, 1992]

It seems to me our objective is . . . a 'media event' which in itself promises a lot but produces little. [Tobacco Institute memo from Executive Vice President Franklin Dryden recommending a "pre-adult education" program, 1979]

The National Center For Tobacco Free Kids, October 8, 1999

¹ Johnson, L. D., et al., Institute for Social Research, University of Michigan, *Cigarette Brand Preferences Among Adolescents*, Monitoring the Future Occasional Paper 45 (1999).

² U.S. Centers for Disease Control and Prevention (CDC), "Incidence of Initiation of Cigarette Smoking – United States 1965-1996," *Morbidity and Mortality Weekly Report (MMWR)* 47(39): 837-40 (October 9, 1998).

³ CDC, "Projected Smoking-Related Deaths Among Youths – USA," *MMWR* 45(44): 971-974 (November 8, 1996).

⁴ Federal Trade Commission (FTC), *Report to Congress for 1997 Pursuant to the Federal Cigarette Labeling and Advertising Act* (1999).

⁵ "Leading National Advertisers," *Advertising Age* (September 28, 1998).

⁶ Teenage Research Unlimited, *Counter-Tobacco Advertising Exploratory Summary Report January – March, 1999* (March 1999).

⁷ See, e.g., Philip Morris Memorandum, "Smoker Psychology" (PM Doc. #1003293097).



SMOKELESS TOBACCO AND KIDS

Since 1970, smokeless, or spit, tobacco has gone from a product used primarily by older men to one used predominantly by young men and boys. This trend has occurred as smokeless tobacco promotions have increased dramatically and a new generation of smokeless tobacco products has hit the market. Far from being a “safe” alternative to cigarette smoking, smokeless tobacco use increases the risk of developing many health problems. Furthermore, evidence shows that adolescent boys who use smokeless tobacco products have a higher risk of becoming cigarette smokers within four years.¹

In 1970, men 65 and older were almost six times as likely as those aged 18 to 24 to use spit tobacco regularly (12.7 vs. 2.2 percent). By 1991, however, young men were 50 percent more likely than the oldest men to be regular users. (8.4 vs. 5.6 percent).² This pattern holds especially true for moist snuff, the most popular type of smokeless tobacco. From 1970 to 1991, the regular use of moist snuff by 18 to 24 year old men increased almost ten-fold, from less than one percent to 6.2 percent. Conversely, use among men 65 and older decreased by almost half, from four percent to 2.2 percent.³ Among all high school seniors who have ever used spit tobacco, almost three-fourths began by the ninth grade.⁴

Despite the decline in youth spit tobacco use from 1997 to 2003, 15.0 percent of U.S. high school boys were current smokeless tobacco users in 2009 – a 36 percent increase from 2003. In some states, smokeless tobacco use among high school boys in 2009 was particularly high, including Alabama (20.5%), Alaska (19.3%), Arkansas (19.9%), Kentucky (24.7%), Montana (24.1%), North Dakota (23.2%), South Dakota (23.4%), Tennessee (21.3%), West Virginia (24.2%), and Wyoming (24.7%).⁵ The 2010 Monitoring the Future survey found a 39.3 percent increase in 12th graders using smokeless tobacco from 2006 (6.1%) to 2010 (8.5%). Among 10th graders, there was a 53 percent increase in smokeless tobacco use from 2004 to 2010 (4.9% to 7.5%).⁶

The U.S. Smokeless Tobacco Company (UST), now a subsidiary of Altria, the parent company of Philip Morris USA, is the biggest smokeless tobacco company in the U.S. and controls more than half (55.3%) of the moist snuff tobacco market (with leading premium brands Skoal and Copenhagen).⁷ Reynolds American, Inc., owns the second largest smokeless tobacco company in the U.S., American Snuff Company (formerly Conwood Tobacco Company), the makers of Grizzly and Kodiak, which has more than one-fourth share of the moist snuff market,⁸ and other cigarette companies have also test-marketed their own smokeless tobacco products.

Marketing Smokeless Tobacco to Kids

According to internal company documents, UST developed a strategy for hooking new spit-tobacco users, meaning kids, some time ago. As one document states:

*New users of smokeless tobacco -- attracted to the product for a variety of reasons -- are most likely to begin with products that are milder tasting, more flavored, and/or easier to control in the mouth. After a period of time, there is a natural progression of product switching to brands that are more full-bodied, less flavored, have more concentrated 'tobacco taste' than the entry brand.*⁹

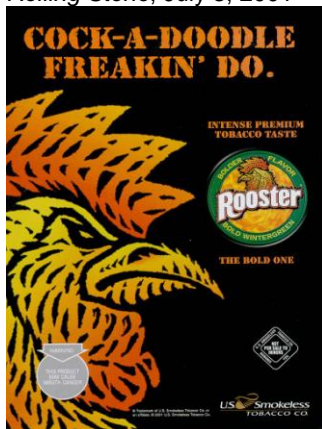
Following this strategy, between 1983 to 1984, UST introduced Skoal Bandits and Skoal Long Cut, designed to “graduate” new users from beginner strength to stronger, more potent products. A 1985 internal UST newsletter indicates the company’s desire to appeal to youth: “Skoal Bandits is the introductory product, and then we look towards establishing a normal graduation process.”¹⁰ In 1993, cherry flavoring was added to UST’s Skoal Long Cut, another starter product. A former UST sales representative revealed that “Cherry Skoal is for somebody who likes the taste of candy, if you know what I’m saying.”¹¹ According to UST’s 2005 Annual Report, flavored products (that now include flavors such as apple, peach, vanilla, berry blend, and citrus blend) account for more than 11 percent of all moist snuff sales.¹² UST launched “new and improved” Skoal Bandits in August 2006.¹³ **Between 2000 and 2006, UST increased the number of its sub-brands by 140 percent, creating a larger variety of products with which to “cast a wide net” and appeal to as many potential users as possible.**¹⁴

Smokeless tobacco products have been marketed to youth through a number of channels, including sporting events like auto racing and rodeos that are widely attended by kids. Although the state tobacco settlement agreements have limited UST's ability to continue to do brand-name sponsorships of events and teams, UST continues to be a promotional sponsor of both professional motorsports and rodeo and bull riding.¹⁵ As the general manager of the College Finals said, "U.S. Tobacco is the oldest and best friend college rodeo ever had."¹⁶ Some cities, including Boulder and Greeley, CO, have prohibited free tobacco product giveaways, making it more difficult for UST to lure new users at these events.

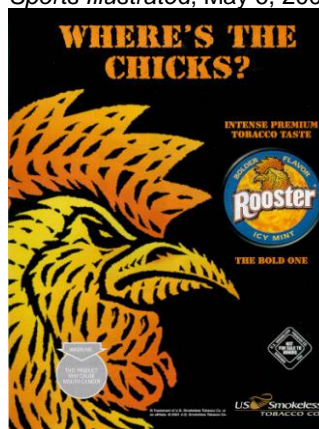
Back in 1999, UST ran a full-color advertising insert for its Rooster brand smokeless tobacco in San Diego State University's college paper, the *Daily Aztec*. The ad offered a sweepstakes for an all expenses paid trip to the Playboy mansion and, in direct violation of California law, included a \$1.00 coupon. State enforcement efforts related to the ad forced UST to pay a fine of \$150,000 and pay for a parallel ad insert opposing smokeless tobacco use.

Continuing its efforts to lure and maintain young users, in 2001, UST ran a magazine ad for its Rooster brand in *Rolling Stone* with the phrase, "Cock-A-Doodle Freakin' Do." After UST received criticism for the ad's blatant appeal to youth, it promised not to use those ads anymore. But less than a year later, ads for Rooster appeared in *Sports Illustrated*, bearing the same image as before, but with the phrases, "Where's The Chicks?," and "Birds of a Feather Party Together."

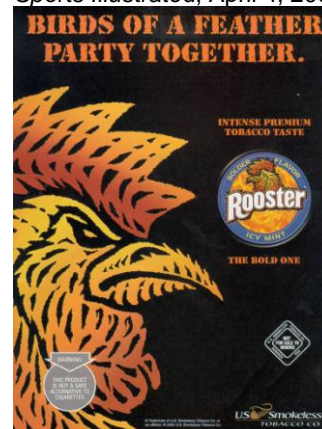
Rolling Stone, July 3, 2001



Sports Illustrated, May 6, 2002



Sports Illustrated, April 4, 2002



From 1998 to 2006 (the most recent year for which data are available), the total advertising and marketing expenditures of the top-five smokeless tobacco companies in the U.S. (Conwood Company, National Tobacco Company, Swedish Match North America, Inc., Swisher International, and UST) increased by 143.4 percent. In 2006, these smokeless tobacco companies spent a record \$354.1 million to advertise and market their products, a 41.2 percent increase more than in the previous year.¹⁷ Some of these funds pay for smokeless tobacco ads in magazines with high youth readership, such as *Sports Illustrated* and *Rolling Stone*.¹⁸ In fact, despite the restrictions placed on youth advertising by the Smokeless Tobacco Master Settlement Agreement, UST has continued to advertise in youth-oriented magazines. From 1997 to 2001, UST's expenditures in youth magazines increased 161 percent, from \$3.6 million to \$9.4 million.¹⁹

Given the track record of UST and its marketing behavior aimed at kids and adolescents, of equal or greater concern is the recent entry of Reynolds-American – labeled as a "serial violator" of the Master Settlement Agreement by the U.S. Department of Justice – into the smokeless tobacco market with its purchase of Conwood. For instance, in 2006, the California Supreme Court ruled that R.J. Reynolds had violated state's ban on free distribution of cigarettes at events attended by minors on six separate occasions.²⁰

Tobacco companies have marketed smokeless tobacco products as a way to use tobacco in places or situations when smoking is not allowed or is not socially acceptable for years, and that practice continues today. Seeing the downward trend in smoking rates and the increasing popularity of smokeless tobacco products, cigarette companies have released their own smokeless tobacco products that draw on the brand names of their popular cigarettes to attract new users. R.J. Reynolds's Camel Snus and Philip Morris USA's Marlboro Snus are now sold nationally, and Liggett Group's Grand Prix Snus and Lorillard's Triumph Snus were test-marketed in 2008. Snus are small, teabag-like pouches containing tobacco and other flavorings that users place between their upper gum and lip. Because these products do not require spitting, their use

can be easily concealed. One high school student admitted using Camel Snus during class, saying, "It's easy, it's super-discreet...and none of the teachers will ever know what I'm doing."²¹

In addition to Star Scientific's Ariva tobacco lozenges and Stonewall Hard Snuff, both forms of dissolvable tobacco pellets, R.J. Reynolds began test-marketing its own new line of dissolvable tobacco products, again under the Camel brand name, in three cities in January 2009 and in two different test cities beginning March 2011.²² Camel Orbs are pellets of ground tobacco resembling tic tacs, Camel Strips are flat sheets of ground tobacco that work like dissolvable breath strips, and Camel Sticks are toothpick-like sticks of ground tobacco. The Indiana Poison Center issued a warning that the products' resemblance to non-tobacco products put children at risk for accidental poisoning. Currently, under the Family Smoking Prevention and Tobacco Control Act of 2009, the U.S. Federal Drug Administration is studying these and other dissolvable tobacco products for their potential appeal to children.²³

Altria, Inc., the parent company of Marlboro-maker PM USA and Skoal-maker UST, has been test-marketing Marlboro Sticks and Skoal Sticks, both toothpick-type sticks coated in tobacco, since March 2011 in various places in Kansas. By placing the new brand extensions both with cigarettes (Marlboro Sticks) and with smokeless tobacco products (Skoal Sticks), the company seems to be testing which market is more viable for their product.²⁴

These new products concern public health organizations because they may lure even more kids into smokeless tobacco use and addiction – because of their novelty, the misconception that they are a harmless form of tobacco use, and they can be consumed much less conspicuously than either cigarettes or existing spit tobacco products at home, in school, and in other locations. Furthermore, cigarette smokers who might ultimately quit because of the social stigma associated with smoking, the inconvenience caused by smoking restrictions at work and elsewhere, or a desire to protect their family and friends from secondhand smoke may instead switch to smokeless tobacco products and end up perpetuating and increasing their nicotine addiction.

Harms from Smokeless Tobacco Use

Smokeless tobacco use can lead to oral cancer, gum disease, and nicotine addiction.²⁵ More specifically:

- Smokeless tobacco causes leukoplakia, a disease of the mouth characterized by white patches and oral lesions on the cheeks, gums, and/or tongue. Leukoplakia, which can lead to oral cancer, occurs in more than half of all users in the first three years of use. Studies have found that 60 to 78 percent of spit tobacco users have oral lesions.²⁶
- Constant exposure to tobacco juice causes cancer of the esophagus, pharynx, larynx, stomach and pancreas. Smokeless tobacco users are at heightened risk for oral cancer compared to non-users and these cancers can form within five years of regular use.²⁷
- A 2008 study from the WHO International Agency for Research on Cancer concluded that smokeless tobacco users have an 80 percent higher risk of developing oral cancer and a 60 percent higher risk of developing pancreatic and esophageal cancer.²⁸
- Smokeless tobacco contains nitrosamines – proven and potent carcinogens.²⁹ A study by the American Health Foundation for the Commonwealth of Massachusetts found that the level of cancer causing tobacco specific nitrosamines (TSNAs) in U.S. oral moist snuff brands were significantly higher than comparable Swedish Match brands. These data suggest that it is possible for smokeless tobacco companies to produce oral snuff with significantly lower TSNA levels.³⁰
- A 2009 study found that moist snuff tobacco contained a considerable number of carcinogenic polycyclic aromatic hydrocarbons (PAHs) in varying amounts, depending on the product and brand. Because of this variation, the researchers concluded that tobacco companies could minimize the levels of PAHs in their products.³¹
- Chewing tobacco has been linked to dental caries. A study by the National Institutes of Health and the Centers for Disease Control and Prevention found chewing tobacco users were four times more likely

^{*} Under the Family Smoking Prevention and Tobacco Control Act, tobacco companies must prove the validity of any health claims to the U.S. Food and Drug Administration before using them in promotional materials. Additionally, any new smokeless tobacco products must go through independent testing regarding either their inherent harmfulness or their likely impact on overall tobacco use levels or public health before entering the market.

than non-users to have decayed dental root surfaces. Spit tobacco also causes gum disease (gingivitis), which can lead to bone and tooth loss.³²

- A study in the *American Journal of Preventive Medicine* found that “snuff use may be a gateway form of nicotine dosing among males in the United States that may lead to subsequent cigarette smoking.” Further, the study found that “the prevalence of smoking was substantially higher among men who had quit using snuff than among those who had never used snuff, suggesting that more than 40% of men who had been snuff users continued or initiated smoking.”³³
- A 2008 study showed how smokeless tobacco manufacturers intentionally changed free nicotine levels – and thus the addictiveness of products – by manipulating pH levels in smokeless tobacco products over time. For instance, between 2000 and 2006, Conwood Smokeless Tobacco Company (now American Snuff Company, a Reynolds American subsidiary) increased the free nicotine level by 31.1 percent across all its brands. This nicotine manipulation supports manufacturers’ graduation strategy – starting off new users at low nicotine levels and then creating brand loyalty with fully addicted users with high nicotine levels. Researchers found that established, addicted, long-term smokeless tobacco users preferred products with the highest levels of free nicotine, whereas those who used smokeless tobacco with lower free nicotine content tended to be fairly new users.³⁴

Despite all the evidence of the harms of smokeless tobacco, in April 1999, a spokesperson for UST, quoted in the *Providence Journal*, claimed that it has not been “scientifically established” that smokeless tobacco is “a cause of oral cancer.” The Rhode Island Attorney General subsequently filed a legal action against UST for violating the multi-state settlement agreement’s provisions prohibiting false statements about the health effects of tobacco products. As a result, UST was required to formally acknowledge that the Surgeon General and other public health authorities have concluded that smokeless tobacco is addictive and can cause oral cancer and to pay \$15,000 to the Attorney General’s office for efforts to prevent Rhode Island youths from using tobacco.

Spit Tobacco and Other Drugs

High school students who use spit tobacco 20 to 30 days per month are nearly four times more likely to currently use marijuana than nonusers, almost three times more likely to ever use cocaine, and nearly three times more likely to ever use inhalants to get high. In addition, heavy users of smokeless or spit tobacco are almost 16 times more likely than nonusers are to currently consume alcohol, as well.³⁵

Campaign for Tobacco-Free Kids, February 28, 2011 / Ann Boonn

Types of Spit Tobacco

- *Oral (moist) snuff* is a finely cut, processed tobacco, which the user places between the cheek and gum that releases nicotine which, in turn, is absorbed by the membranes of the mouth.
- *Snus (or pouches)* is a tea-bag like packet of moist snuff tobacco and flavorings, placed between the upper gum and lip. The product design does not require the user to spit, unlike traditional moist snuff.
- *Dissolvable tobacco products* are made of ground tobacco and flavorings, shaped into pellets, strips, or other forms, that the user ingests orally. These products do not require spitting.
- *Looseleaf* chewing tobacco is stripped and processed cigar-type tobacco leaves, loosely packed to form small strips. It is often sold in a foil-lined pouch and usually treated with sugar or licorice.
- *Plug* chewing tobacco consists of small, oblong blocks of semi-soft chewing tobacco that often contain sweeteners and other flavoring agents.
- *Nasal snuff* is a fine tobacco powder that is sniffed into the nostrils. Flavorings may be added during fermentation, and perfumes may be added after grinding.

¹ Tomar, S, “Is use of smokeless tobacco a risk factor for cigarette smoking? The U.S. experience,” *Nicotine & Tobacco Research* 5(4):561-569, August 2003.

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- ²⁰ Campaign for Tobacco-Free Kids (TFK), *RJ Reynolds Tobacco Company Hasn't Changed: Company Continues to Market to Kids, Oppose Real Solutions*, Press Release, April 24, 2006.
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- ³⁴ Alpert, HR, et al., "Free nicotine content and strategic marketing of moist snuff tobacco products in the United States: 2000-2006," *Tobacco Control* 17:332-338, 2008.
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CAMPAIGN For TOBACCO-FREE Kids®

Smoking and Other Drug Use

Teen smoking is an early warning sign for additional substance abuse problems. Youths age 12-17 who smoke are more than 11 times as likely to use illicit drugs and 16 times as likely to drink heavily as youths who do not smoke.¹ As the U.S. Supreme Court noted in 1962, "The first step toward addiction may be as innocent as a boy's puff on a cigarette in an alleyway."²

Smoking and Illegal Drugs

Smoking typically precedes other drug use. Among youths who have used both cigarettes and marijuana by the 12th grade, 65 percent smoked cigarettes before marijuana; and 98 percent of those who had used both cocaine and cigarettes smoked cigarettes first.³

The earlier a person uses tobacco, the more likely they are to experiment with cocaine, heroin or other illicit drugs. Those who start smoking as a child are three times more likely to use marijuana and four times more likely to use cocaine than those who do not smoke as children.⁴ In addition, more than half of all persons who start smoking before age 15 use an illicit drug in their lifetime, compared to only a quarter of those who do not start smoking until they are beyond age 17 -- with those who start smoking before age 15 are more than three times more likely to use cocaine. And those who start smoking before age 15 are seven times more likely to use cocaine than those who never smoke cigarettes at all.⁵

The earlier a person uses tobacco, the more likely he or she is to become a *regular* drug user as an adult. People who start smoking as children are almost four times more likely to be *regular* users of an illicit drug and three times more likely to use cocaine *regularly* than those who do not smoke as children.⁶

Heavy smokers are much more likely to use marijuana or harder drugs. Youths who smoke more than 15 cigarettes a day are more than twice as likely to use an illicit drug and 16 times more likely to use cocaine than those who smoke less frequently -- and are 10 times more likely to use an illicit drug and more than 100 times more likely to use cocaine than those who never smoke. Children who smoke a pack a day are also 13 times more likely to use heroin than children who smoke less heavily.⁷ In addition, 12- to 17-year-old daily smokers who smoke daily are approximately 14 times more likely to have binged on alcohol than those who do not smoke, more than 100 times more likely to have used marijuana at least ten times, and 32 times more likely to have used cocaine at least ten times.⁸

Heavy users of smokeless tobacco are significantly more likely to experiment with or regularly abuse illegal drugs. High school kids who use spit tobacco 20 to 30 days per month are nearly four times more likely to currently use marijuana than nonusers, almost three times more likely to ever use cocaine, and nearly three times more likely to ever use inhalants.⁹

Increases in cigarette prices reduce the demand for cigarettes and marijuana. Cigarette and marijuana are not substitutes (users do not increase their use of marijuana to compensate for smoking less -- or vice versa) and increases in cigarette prices, which reduce smoking, also reduce marijuana use.¹⁰

Smoking and Alcohol

Smokers, especially heavy smokers, are more likely to drink alcohol and to become problem drinkers than nonsmokers. Adolescent smokers, for example, are three times more likely to use alcohol than adolescents who do not smoke.¹¹ In addition:

- Smokers are over 30% more likely to consume alcohol and ten times more likely to develop alcoholism than nonsmokers.
- 80% to 95% of all alcoholics also smoke cigarettes, and 70% of all alcoholics are heavy smokers who consume more than one pack of cigarettes per day.
- The initiation of regular cigarette smoking typically precedes the onset of alcoholism by many years.¹²

Youths who have drunk alcohol and smoked cigarettes at least once in the past month are 30 times more likely to have smoked marijuana than those who report refraining from smoking or drinking alcohol.¹³

Heavy users of smokeless or spit tobacco are almost 16 times more likely than nonusers to currently consume alcohol, as well.¹⁴

The National Center for Tobacco-Free Kids, January 3, 2002

¹ Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services, *Summary of Findings from the 1998 National Household Survey on Drug Abuse* (August 1999), www.health.org/pubs/nhsda/.

² *Robinson v. California*, 370 U.S. 660 (June 25, 1962), <http://www.findlaw.com/casecode/supreme.html>.

³ U.S. Department of Health and Human Services, *Preventing Tobacco Use Among Young People: A Report of the Surgeon General* (1994).

⁴ Center on Addiction and Substance Abuse (CASA), Columbia University, *Cigarettes, Alcohol, Marijuana: Gateways to Illicit Drug Use* (October 1994), www.casacolumbia.org.

⁵ CASA, *Cigarettes, Alcohol, Marijuana: Gateways to Illicit Drug Use*.

⁶ CASA, *Cigarettes, Alcohol, Marijuana: Gateways to Illicit Drug Use*.

⁷ CASA, *Cigarettes, Alcohol, Marijuana: Gateways to Illicit Drug Use*.

⁸ HHS, *Preventing Tobacco Use Among Young People: A Report of the Surgeon General* (1994).

⁹ Everett, Sherry et al. "Other Substance Use Among High School Students Who Use Tobacco." *Journal of Adolescent Health* (November 1998).

¹⁰ Chaloupka, F., et al., "Do Higher Cigarette Prices Encourage Youth to Use Marijuana?," National Bureau of Economic Research (February 1999), www.uic.edu/~fjc/Presentations/Papers/W6939.pdf. Farrelly, M., et al., "The Joint Demand for Cigarettes and Marijuana: Evidence from the National Household Surveys on Drug Abuse," *Journal of Health Economics* 20: 51-68, 2001.

¹¹ National Institute on Alcohol Abuse and Alcoholism (NIAAA), *Alcohol Alerts: Alcohol and Tobacco* (January 1998).

¹² NIAAA, *Alcohol Alerts: Alcohol and Tobacco* (January 1998).

¹³ Commission on Substance Abuse Among America's Adolescents, *Substance Abuse and the American Adolescent* (August 1997).

¹⁴ Everett, Sherry et al. "Other Substance Use Among High School Students Who Use Tobacco." *Journal of Adolescent Health* (November 1998).



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Tobacco Industry Marketing

- [Overview](#)
- [Marketing to Specific Populations](#)

- [References](#)
- [For Further Information](#)

Overview

Cigarette and smokeless tobacco companies spend billions of dollars each year to market their products.^{1,2}

- In 2006 (latest data available), cigarette companies spent \$12.4 billion on advertising and promotional expenses in the United States alone, down from \$13.1 billion in 2005, but more than double what was spent in 1997.¹
- The five major U.S. smokeless tobacco manufacturers spent \$354 million on smokeless tobacco advertising and promotion in 2006 (latest data available).²

The money cigarette companies spent in 2006 on U.S. marketing amounted to approximately—

- \$34 million per day,
- \$42 for every person in the United States, and
- more than \$275 for each U.S. smoker aged 18 years or older.^{1,3,4}

The following four categories comprised more than 90% of cigarette company marketing expenditures in 2006:¹

1. Price discounts paid to retailers or wholesalers to reduce the price of cigarettes (\$9 billion, or 74% of total marketing expenditures)
2. Promotional allowances, such as payments to retailers or wholesalers for stocking, displaying, and merchandising particular brands (\$905 million, or 7% of total marketing expenditures)
3. Retail value added involving bonus cigarettes (\$817 million, or 6.5% of total marketing expenditures)
4. Coupons for smokers to purchase products (\$625 million, or 5% of total marketing expenditures)

Marketing to Specific Populations

Youth

The three most heavily advertised brands—Marlboro, Newport, and Camel—were the preferred brands of cigarettes smoked by high school and middle school smokers in 2004 and 2006.⁵

Brand Preferences of Middle School Students:⁵

- 43% preferred Marlboro
 - 26% preferred Newport
 - 9% preferred Camel
-
- 15% preferred other brands
 - 7% preferred no usual brand

Brand Preferences of High School Students:⁵

- 52% preferred Marlboro
 - 21% preferred Newport
 - 13% preferred Camel
-
- 10% preferred other brands
 - 3% preferred no usual brand

Women

Women have been targeted by the tobacco industry, and tobacco companies have produced brands specifically for women. Marketing toward women is dominated by themes of social desirability and independence, which are conveyed by advertisements featuring slim, attractive, and athletic models.^{6,7}

Racial/Ethnic Communities

Advertisement and promotion of certain tobacco products appear to be targeted to members of racial/minority communities.^{5,7,8}

- Marketing to Hispanics and American Indians/Alaska Natives has included advertising and promotion of cigarette brands with names such as Rio, Dorado, and American Spirit.^{7,8}
- The tobacco industry has sponsored events celebrating racial/ethnic pride and culture such as rodeos, dance companies, parades, festivals, and also activities relating to national heritage month observances.^{7,8}
- The tobacco industry has targeted black communities in its advertisements and promotional efforts for menthol cigarettes (e.g., campaigns that use urban culture and

language to promote menthol cigarettes, tobacco-sponsored hip-hop bar nights with samples of specialty menthol cigarettes, targeted direct mail promotions).^{5,7}

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2. Federal Trade Commission. **Smokeless Tobacco Report for the Year 2006** [↗](#). (PDF–307.77 KB) Washington: Federal Trade Commission, 2009 [accessed 2011 Mar 11].
3. Census Bureau. **2006 American Community Survey** [↗](#). Washington: U.S. Department of Commerce, Census Bureau, 2007 [accessed 2011 Mar 11].
4. Centers for Disease Control and Prevention. **Cigarette Smoking Among Adults—United States, 2006**. Morbidity and Mortality Weekly Report 2007;56(44):1157–61 [accessed 2011 Mar 11].
5. Centers for Disease Control and Prevention. **Cigarette Brand Preference Among Middle and High School Students Who Are Established Smokers—United States, 2004 and 2006**. Morbidity and Mortality Weekly Report 2009;58(05):112–15 [accessed 2011 Mar 11].
6. U.S. Department of Health and Human Services. **Women and Smoking: A Report of the Surgeon General**. Atlanta: U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2001 [accessed 2011 Mar 11].
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For Further Information

Centers for Disease Control and Prevention

National Center for Chronic Disease Prevention and Health Promotion

Office on Smoking and Health

E-mail: tobaccoinfo@cdc.gov

Phone: 1-800-CDC-INFO

Media Inquiries: Contact CDC's Office on Smoking and Health press line at 770-488-5493.

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Content source: Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion

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800-CDC-INFO (800-232-4636) TTY: (888) 232-6348, 24 Hours/Every Day - cdcinfo@cdc.gov

YOUTH AND TOBACCO IN THE CITY OF STEAMBOAT SPRINGS



TOBACCO IS STILL THE LEADING CAUSE OF PREVENTABLE DEATH IN THE UNITED STATES

In the U.S., smoking causes more deaths than HIV, illegal drug use, alcohol use, motor vehicle injuries, suicides, and murders COMBINED.[†]

[†] MMWR (2008), 57 (45): 1226 – 1228; CDC (2009), *Health, United States, 2008*; Mokdad AH, Marks JS, Stroup DF, Gerberding JL. Actual Causes of Death in the United States. *JAMA: Journal of the American Medical Association* 2004;291(10):1238–1245 .

EACH YEAR IN COLORADO

- 5,700 youth become regular smokers*
- 92,000 of those eventually die prematurely from smoking (This is more than 7.5 times the ENTIRE population of Steamboat Springs!)*

COLORADO LAW

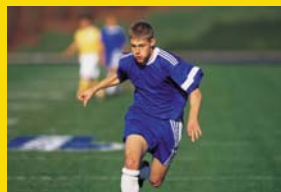
In the State of Colorado it is
illegal to sell TOBACCO PRODUCTS
TO ANYONE
UNDER THE AGE OF 18.....

Yet 6 out of 10 teens
reported being able to purchase
tobacco illegally in Colorado!



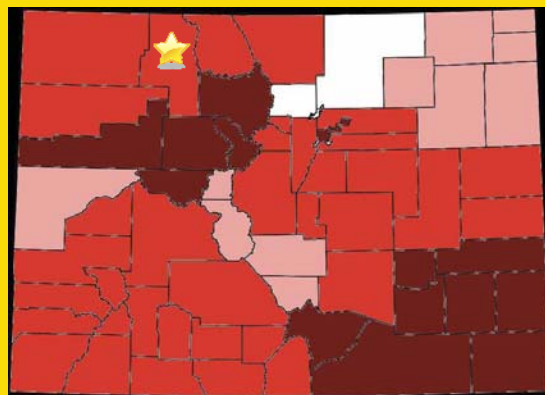
Healthy Kids Colorado Survey Results, 2008

And 80-90% of adult
tobacco users started
BEFORE they were 18!



Do we have a
problem with youth
tobacco use here
in Steamboat
Springs?.....

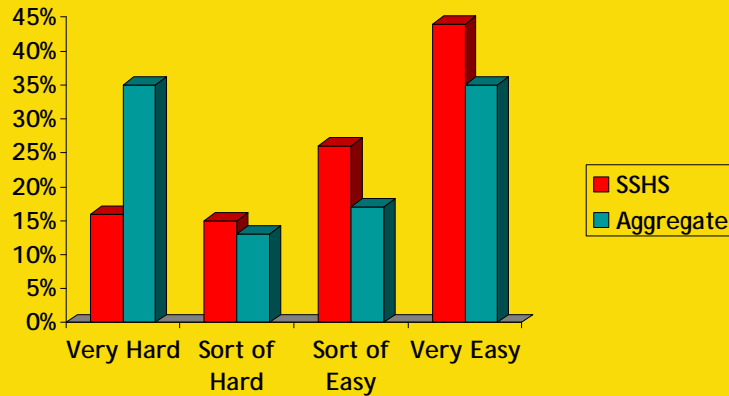
IN THESE COLORADO COUNTIES KIDS ARE BEING
SOLD TOBACCO ILLEGALLY



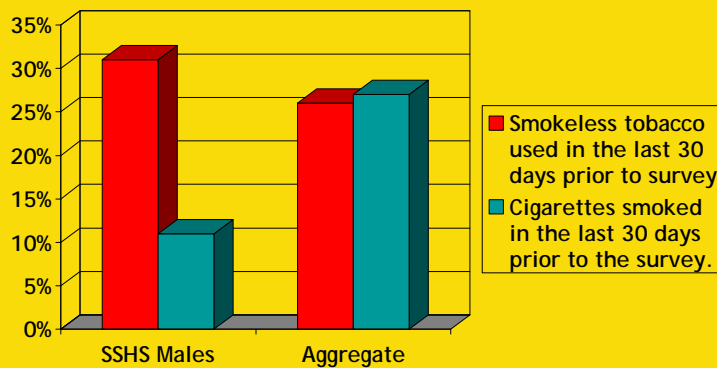
- Pink 3% (0 – 5.9%).
- Red: 11.9% (8.9 – 14.9%).
- Maroon: 22.4% (12.6 – 32.1%).
- White – Large enough sample not available

Data Source: Colorado Youth Tobacco, Attitudes and Behavior Survey (TABS) 2008

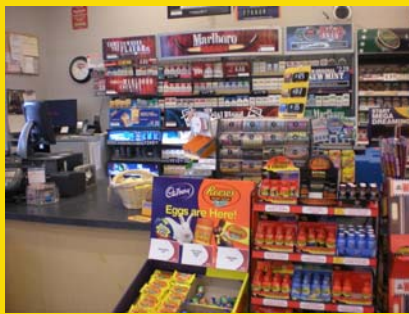
SSHS HKCS 2010 asked "If you wanted to get cigarettes, how easy would it be to get some?"



SSHS HKCS 2010 question: "During the past 30 days, how many days did you use chewing tobacco, snuff, or dip, such as Redman, Levi Garrett, Beechnut, SKoal, SKoal Bandits or Copenhagen?"



Locally Available Tobacco Products

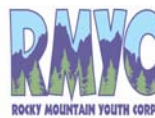


“Cherry Skoal is for somebody who likes the taste of candy, if you know what I’m saying.”

U.S. Tobacco Executive

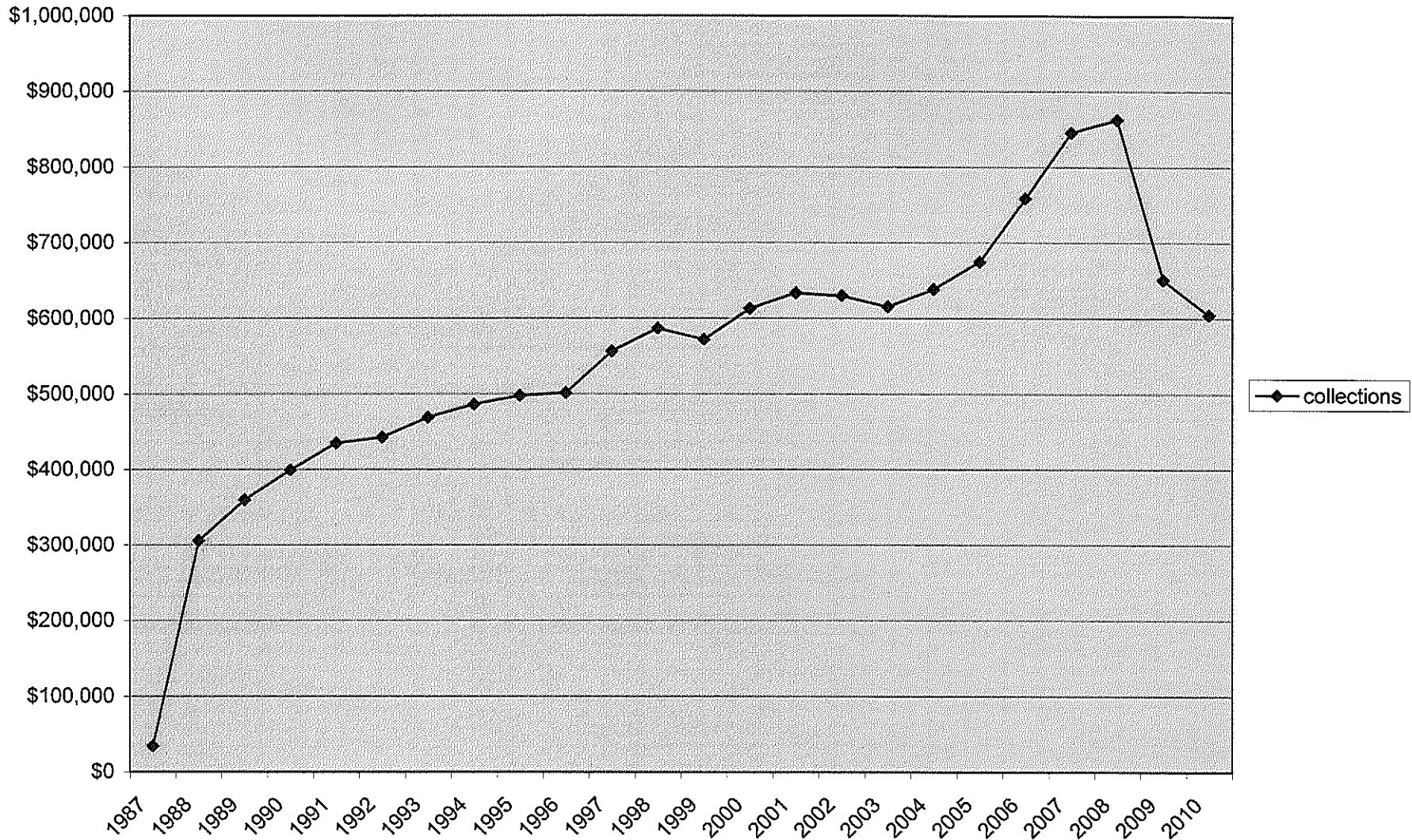
Freedman, A, “Juiced up: How a tobacco giant doctors snuff brands to boost their ‘kick”
Wall Street Journal, October 26, 1994[quoting former UST sales representative].

THANKS TO OUR SUPPORT PARTNERS



AGENDA ITEM # 8

Accommodations Tax Collections



Accommodations Tax Obligations

	Source	Use	Balance
Funds on Hand 12/31/09			\$1,383,572
Accommodations Tax 2010	\$604,673		\$1,988,245 93% of prior year's revenues
2010 Debt Service Bonds		\$227,935	\$1,760,310
2010 Lease Payment		\$413,450	\$1,346,860
Accommodations Tax 2011	\$610,720		\$1,957,580 101% of 2010 revenues
2011 Debt Service		\$227,935	\$1,729,645
2011 Lease Payment		\$407,879	\$1,321,766
Accommodations Tax 2012	\$616,827		\$1,938,593
2012 Debt Service		\$227,935	\$1,710,658
2012 Lease Payment		\$411,470	\$1,299,188
Accommodations Tax 2013	\$155,749		\$1,454,936 Debt Service due at end of first quarter
2013 Debt Service		\$1,475,004	-\$20,067
2013 Lease Payment		\$409,001	-\$429,068

AGENDA ITEM # 9

CITY COUNCIL COMMUNICATION FORM

FROM: Tyler Gibbs, AIA, Director of Planning and Community Development (Ext. 244)

THROUGH: Wendy DuBord, Interim City Manager (Ext. 219)

DATE: April 5, 2011

RE: Amendment to Steamboat Springs Municipal Code, Article III Noise Pollution.

NEXT STEP: This item will be scheduled for Planning Commission and City Council Public Hearings in April and May.

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 RESOLUTION

- I. PROJECT NAME:** **Noise Ordinance:** Revisions providing clear, measurable standards governing the creation, measurement, effects and enforcement measures related to noise having off-site impacts.
- II. REQUEST OR ISSUE:** Provide recommendation for further action, including, but not limited to, moving ordinance forward to public hearing at Planning Commission and City Council.
- III. LOCATION:** All zone districts
- III. FISCAL IMPACTS:** No direct implementation costs. Sound monitoring equipment and training has already been obtained. Benefits may include more efficient confirmation of noise complaints and more reliable enforcement of documented violations.

IV. EXECUTIVE SUMMARY:

1. Background

Controversy and conflicts between venues featuring live entertainment and surrounding residential uses have frequently been prominent public issues during the past year. Representatives of local entertainment venues have appeared before council to present their efforts to mitigate impacts, promote the value of their businesses to the Steamboat's resort economy, and request unambiguous criteria to guide what is acceptable and what is not. Residents and guests have also shared stories of unanticipated disturbance and interrupted vacations.

The Steamboat Springs community recognizes the immense value of both a thriving entertainment scene as well as the ongoing revitalization of our downtown and mountain village as true mixed-use neighborhoods. Successful cities across the country have seen perhaps their greatest renaissance in the success of their most diverse urban districts. Steamboat is not unique in the need to address the challenges of this success.

In response, the City has begun several initiatives seeking to address and mitigate these issues. A survey of ordinances from around the country has been compiled to provide background on how other communities have responded to the need for noise regulation. Both similar resort communities as well as large cities with vibrant mixed-use districts have been included.

In addition, the City has acquired more sophisticated noise measurement equipment that allows a digital record of a noise monitoring session to be downloaded to a computer for an accurate, lasting record. The program also allows for the comparison of typical background noise relative to specific over laid sources. Police officers have been trained in the use of this equipment and have begun to monitor noise levels at a variety of local venues to gain experience as well as understanding of the potential implementation of the proposed code.

The proposed ordinance has been provided to interested parties and the planning director has met with representatives of the entertainment venues.

2. Proposal Summary

The proposed amendments to Steamboat Springs' current noise ordinance address both standards and enforcement.

- Maximum noise levels in a commercial district during the evening hours would be raised from the current 55 decibels to 60 decibels.
- Evening hours would be defined as 11:00PM to 7:00AM rather than the current 7:00PM to 7:00AM.
- Better definition is provided as to what may be considered separate violations when excessive noise is either intermittent or continuous during the period of time that it is monitored.
- Reference is provided to the State Liquor Code to affirm that repeated noise

ordinance violations may be considered a violation of the State's "conduct of business" regulations and therefore relevant to any hearings pertaining to liquor license renewal, suspension or revocation. This is current practice whether directly referenced or not and has been considered in license reviews in Telluride and Golden among other communities.

3. Next Steps

With the City Council's direction, staff will move the proposed ordinance to public hearing at Planning Commission and City Council. Staff also recommends continuing to work with all parties and the Responsible Hospitality Institute to implement strategies for cooperative working relationships based on common sense and appropriate courtesy and tolerance.

V. LIST OF ATTACHMENTS:

- Attachment 1. Proposed Ordinance Amending Article III, Chapter 7 of the Steamboat Springs Revised Municipal Code.
- Attachment 2. Table: Comparison of Allowable Noise Levels in 14 Cities.
- Attachment 3. Chapter 15, Community Noise; co-authored by Dennis Driscoll, Certified Noise Control Engineer and consultant to the City. Although much of this gets fairly technical, pages 601-608 provide a good overview of the basis for Federal, State and Local noise regulations. The section titled "Factors Other Than Absolute Sound Level Influencing Community Reaction to Noise" (pgs 607-608) provides some real-world observations on how people react to noise disturbances. This is drawn from research by the EPA and others in the field.

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 7 OF THE STEAMBOAT SPRINGS REVISED MUNICIPAL CODE

WHEREAS, the City of Steamboat Springs wishes to promote vibrant mixed-use districts with the community; and

WHEREAS, live music is a valued part of the community’s arts and entertainment offerings; and

WHEREAS, full time and vacation residential uses are an important component of active, 24 hour districts; and

WHEREAS, considerations for compatible design and operation of entertainment and residential uses are key to the success of our mixed-use districts; and

WHEREAS, clear enforceable standards are a necessary complement to appropriate courtesy and tolerance in mixed-use districts.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS THAT:

SECTION 1. Article III, Chapter 7 of the Steamboat Springs Revised Municipal Code is hereby amended to read as follows:

“ARTICLE III. NOISE POLLUTION.

Sec. 7.61 - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Commercial zone* means:

- a. An area where offices, clinics and the facilities needed to serve them are located;
- b. An area with local shopping, entertainment and service establishments located within walking distances of the residents served;
- c. A tourist-oriented area where hotels, motels, retail, entertainment and services ~~and gasoline stations~~ are located;
- d. A large integrated regional shopping center;
- e. A business strip along a main street containing offices, retail businesses and commercial enterprises;
- f. A central business district; or
- g. A commercially dominated mixed-use area with multiple-unit dwellings.

- (2) *db(A)* means sound levels in decibels measured on the "A" scale of a standard sound level meter having characteristics defined by the American National Standards Institute, publication S1.4-1971, and approved by the industrial commission of the state.
- (3) *Decibel* is a unit used to express the magnitude of a change in sound level. The difference in decibels between two (2) sound pressure levels is twenty (20) times the common logarithm of their ratio. In sound pressure measurements sound levels are defined as twenty (20) times the common logarithm of the ratio of that sound pressure level to a reference level of 2×10^{-5} newtons per square meter. As an example of the effect of the formula, a three-decibel change is a one hundred (100) percent increase or decrease in the sound level, and a ten-decibel change is a one thousand (1,000) percent increase or decrease in the sound level.
- (4) *Industrial zone* means an area in which noise restrictions on industry are necessary to protect the value of adjacent properties for other economic activity, but shall not include agricultural operations.
- (5) *Light industrial and commercial zone* means:
- a. An area containing clean and quiet research laboratories;
 - b. An area containing light industrial activities which are clean and quiet;
 - c. An area containing warehousing; or
 - d. An area in which other activities are conducted where the general environment is free from concentrated industrial activity.
- (6) *Residential zone* means an area of single-family or multifamily dwellings, where businesses may or may not be conducted in such dwellings. The zone includes an area where multiple-unit dwellings, high-rise apartment districts and redevelopment districts are located. A residential zone may include areas containing accommodations for transients such as motels and hotels and residential areas with limited office development, but it may not include retail shopping facilities. The term "residential zone" includes hospitals, nursing homes and similar institutional facilities.

Sec. 7-62. - Exemptions.

- (a) *Emergency vehicles.* The requirements, prohibitions and terms of this article shall not apply to any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- (b) *Parades, fireworks and other special activities.* The terms of this article shall not apply to those activities of a temporary duration permitted by law for which a license or permit has been granted by the city, including but not limited to parades, and fireworks displays.
- (c) *Commercial refuse haulers.* The terms of this article shall not apply to the activities of commercial refuse haulers operating under a license issued pursuant to the provisions of division 2, of article II, of chapter 19 of this Code when such commercial refuse haulers operate between the hours of 5:00 a.m. and 7:00 a.m. in all industrial zone districts and in commercial zone districts located within Old Town, Ski Time Square, Gondola Square. For purposes of this subsection Old Town shall be deemed to be the area bounded by Oak, Yampa, Third, and Twelfth Streets, including all lots accessible from said streets. Ski Time Square shall be deemed to be Ski Time Square Drive and all streets, alleys, and parking lots accessible from Ski Time

Square Drive, and Gondola Square shall be deemed to be all streets, alleys, and parking lots serving Gondola Square and located east of Mt. Werner Circle, north of Apres Ski Way, and South of Ski Time Square.

Sec. 7-63. - Authority to grant relief from noise level standards.

- (a) Applications for a permit for relief from the noise level designated in this article on the basis of undue hardship may be made to the city manager or his duly authorized representative. Any permit granted by the city manager under this section shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective. The city manager or his duly authorized representative may grant the relief as applied for if he finds that:
 - (1) Additional time is necessary for the applicant to alter or modify his activity or operation to comply with this article;
 - (2) The activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with this article; or
 - (3) No other reasonable alternative is available to the applicant.
- (b) The city manager may prescribe any conditions or requirements he deems necessary to minimize adverse effects upon the surrounding neighborhood.

Sec. 7-64. - Prohibited noise generally.

- (a) The making and creating of an excessive or unusually loud noise within the city as heard without measurement or heard and measured in the manner prescribed in section 7-65 is unlawful, except as exempted under the provisions of section 7-62 or when made under and in compliance with a permit issued pursuant to section 7-63 or 7-66.
- (b) No person shall operate any type of vehicle, machine or device or carry on any other activity in such a manner as would be a violation of subsection (a) of this section.

Sec. 7-65. - Maximum noise levels.

For the purpose of determining and classifying any noise as excessive or unusually loud as declared to be unlawful and prohibited by this article, the following test measurements and requirements may be applied; ~~provided, however, a violation of this article may occur without the measurements being made: The point of measurement for determining violation shall be at the property line of the impacted property.~~

- (1) Every activity to which this article is applicable shall be conducted in a manner so that any noise produced is not objectionable due to intermittence, beat frequency or shrillness. Sound levels of noise radiating from any property ~~line at a distance of twenty five (25) feet or more therefrom~~ in excess of the db(A) established for the following time periods and zones shall constitute prima facie evidence that such noise is a public nuisance:

Zone	7:00 a.m. to next 7 11:00 p.m.	7 11:00 p.m. to next 7:00 a.m.
Residential	55 db(A)	55 55 db(A)
Commercial	60 65 db(A)	55 60 db(A)
Light industrial	70 db(A)	65 db(A)
Industrial	80 db(A)	75 db(A)
Agriculture and recreation	55db(A)	55db(A)

(including parks and open space)

~~(2) In the hours between 7:00 a.m. and the next 7:00 p.m., the noise levels permitted in subsection (1) of this section may be increased by ten (10) db(A) for a period not to exceed fifteen (15) minutes in any one hour period. [t1]~~

Intermittent violations by the same source separated in time by five (5) minutes or more may be considered individual violations within each five minute period.

~~(3) Continuous violations from a single source exceeding 15 minutes in duration may be considered multiple violations for every 15 minutes the violation continues.~~

~~(43) Periodic, impulsive noise including low frequency and/or shrill noises shall be considered a public nuisance when such noises are at a sound level of five (5) db(A) less than those listed in subsection (1) of this section.~~

~~(45) This section is not intended to apply to the operation of aircraft or to other activities which are subject to federal law with respect to noise control.~~

~~(65) Construction projects shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority or, if no time limitation is imposed, for a reasonable period of time for completion of project. Construction projects in residential neighborhoods shall not exceed 55db(A).~~

~~(76) All railroad rights-of-way shall be considered as industrial zones for the purposes of this section, and the operation of trains shall be subject to the maximum permissible noise levels specified for such zone.~~

~~(87) This section is not applicable to the use of property for purposes of conducting speed or endurance events involving motor vehicles or other vehicles, but such exception is effective only during the specific period to time within which such use of the property is authorized by the political subdivision or governmental agency having lawful jurisdiction to authorize such use.~~

~~(98) For the purposes of this section, measurements with sound level meters shall be made when the wind velocity at the time and place of such measurement is not more than five (5) miles per hour.~~

~~(109) In all sound level measurements, consideration shall be given to the effect of the ambient noise level created by the encompassing noise of the environment from all sources at the time and place of such sound level measurement.~~

~~(110) This section is not applicable to the use of property for the purpose of manufacturing, maintaining or grooming machine-made snow.~~

~~(121) This article shall not apply to the operation of snow removal equipment for purposes of snow removal.~~

Sec. 7-66. - Use of vehicle equipped with loudspeaker, amplifier, etc.

It is unlawful to play, operate or use any device known as a sound truck, or any loudspeaker, sound

amplifier, radio or phonograph with loudspeaker or sound amplifier, or instruments of any kind or character which emits loud or raucous noises and which is attached to and upon any vehicle upon a public place, unless the person in charge of such vehicle has first applied to and received permission from the city manager or his duly authorized representative to operate any such vehicle so equipped.

Sec. 7-67. - Muffler required on motor vehicles.

It is unlawful for any person to operate a motor vehicle which is not at all times equipped with a muffler upon the exhaust thereof in good working order and in constant operation to prevent excessive or unusual noise, and it is unlawful for any person operating any motor vehicle to use a cutout, bypass or similar muffler elimination appliance.

Sec. 7-68 – Penalties

(1) Individuals or businesses found to be in violation of the provisions of Article III, Noise Pollution may shall be assessed fines as follows:

<u>Number of Violations</u>	<u>Maximumimuminimum Fine</u>
<u>1</u>	<u>Warning</u>
<u>21</u>	<u>\$250.00</u>
<u>32</u>	<u>\$500.00</u>
<u>43 or more</u>	<u>\$999.00</u>
<u>Continuing</u>	<u>See Section 7-68 (2)</u>

(2) In addition to the penalties for general violations of the City’s municipal code set forth in Sec. 1-15 entitled “General penalty; continuing violations”, or Sec. 7-68(1), a fourth or subsequent conviction for violating this Chapter 7 by a person licensed under Article 46, 47, or 48 of Title 12, Colorado Revised Statutes, generally referred to as the State Liquor Code, or by any employee or agent of such licensee, may be considered by the local liquor licensing authority as a violation of the “conduct of business” regulation of the state liquor code, currently set forth in Colorado Code of Regulations, 1 CCR 203-2, Regulation 47-900 entitled “Conduct of Establishment” and may be the basis for a suspension or revocation hearing for said liquor license, or for the non-renewal of said license.”

Section 2. The City Council hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of the public peace, health, and safety.

Section 3. That pursuant to Section 7-11 of the Charter of the City of Steamboat Springs, Colorado, the second publication of this ordinance may be by reference, utilizing the ordinance title.

Section 4. This ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6(h) of the Steamboat Springs Home Rule Charter.

Section 5. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 6. A public hearing on this ordinance shall be held on _____, 2011, at 5:15 P.M. in the City Council Chambers at Centennial Hall, Steamboat Springs, Colorado.

INTRODUCED, READ AND ORDERED published, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the ____ day of _____, 2011.

x _____
Cari Hermacinski, President
Steamboat Springs City Council

Julie Franklin, City Clerk

FINALLY READ, PASSED AND APPROVED this ____ day of _____, 2011.

x _____
Cari Hermacinski, President
Steamboat Springs City Council

Julie Franklin, City Clerk

Comparison of Allowable Noise Levels in 14 Cities					
City	Point of Measurement	Residential		Commercial	
		Day	Evening/Night	Day	Evening/Night
Aspen	Prop line of Impacted Prop	<u>7:00AM – 9:00PM</u> Res. 55dBA Lodging 60dBA	<u>9:00PM – 7:00AM</u> 50dBA 55dBA	<u>7:00AM – 9:00PM</u> 65dBA	<u>9:00PM – 7:00AM</u> 60dBA
Austin	Prop line of Source	<u>10:00AM-10:00PM</u> 75dBA	<u>10:00PM-7:00AM</u> Not allowed if audible to adj. property	<u>10:00AM–2:00AM</u> 85dBA Com. Recreation District 70dBA Restaurant 70dBA Outdoor Music 70dBA	<u>2:00AM -10:00AM</u> Not allowed if audible at property line
Boulder		<u>7:00AM – 11:00PM</u> 55dBA	<u>11:00PM - 7:00AM</u> 50dBA	<u>7:00AM – 11:00PM</u> 65dBA	
Breckenridge	Prop line of Source	<u>7:00AM – 11:00PM</u> 55dBA	<u>11:00PM - 7:00AM</u> 50dBA	<u>7:00AM – 11:00PM</u> 70dBA	<u>11:00PM – 7:00AM</u> 65dBA
Carbondale	Prop line of Source	<u>7:00AM – 8:00PM</u> Res. 60 db Lodging 60dB	<u>8:00PM – 7:00AM</u> Res. 55 db Lodging 55dB	<u>7:00AM – 8:00PM</u> <u>75dB</u>	<u>8:00PM – 7:00AM</u> <u>60dB</u>
Denver	Prop line of Impacted Prop	<u>7:00AM-10:00PM</u> 55dBA	<u>10:00PM-7:00AM</u> 50dBA	<u>7:00AM-10:00PM</u> 65dBA	<u>10:00PM-7:00AM</u> 60dBA
Durango	25' from Prop line of Source	To be determined by officer based on time of day, nature of source, type of neighborhood and disruptive effect.			
Park City	Prop line of Source	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>10:00PM – 7:00AM</u> Not permitted to be audible beyond prop. line of source

San Diego	Prop line of Source	<u>7:00AM-7:00PM</u> 55/60dBA	<u>7:00PM-10:00PM</u> 50/55dBA <u>10:00PM-7:00AM</u> 45/50dBA	<u>7:00AM-7:00PM</u> 65dBA	<u>7:00PM-10:00PM</u> 60dBA <u>10:00PM-7:00AM</u> 60dBA
Seattle	Prop line of Impacted Prop	<u>7:00AM-10:00PM</u> 55dBA	<u>10:00PM-7:00AM</u> 45dBA	<u>7:00AM-10:00PM</u> 60dBA	<u>10:00PM-7:00AM</u> 60dBA
Telluride	50 feet from building or source				<u>9:00PM-7:00AM</u> Plainly audible at 50'
Vail	Prop line of Source	<u>7:00AM – 11:00 PM</u> 55 dB	<u>11:00PM – 7:00AM</u> 50 dB	<u>7:00AM – 11:00 PM</u> 65 dB	<u>11:00PM – 7:00AM</u> 60 dB
Washington DC	Prop line of Source	<u>7:00AM-9:00PM</u> 60dBA	<u>9:00PM-7:00AM</u> 55dBA	<u>7:00AM-9:00PM</u> 65dBA	<u>9:00PM-7:00AM</u> 60dBA
Steamboat Springs	25' from Prop line of Source	<u>7:00AM – 7:00PM</u> 55dBA	<u>7:00PM – 7:00AM</u> 55dBA	<u>7:00AM – 7:00PM</u> 60dBA	<u>7:00PM – 7:00AM</u> 55dBA

There is a great deal of consistency in limiting noise levels to the 55dBA-60dBA range during late evening hours. Some cities measure at the property line of the source, some at the property line of the impacted property, others at an arbitrary distance.

15

Community Noise

Dennis P. Driscoll, Noral D. Stewart,
and Robert R. Anderson

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Concepts in Community Noise

Introduction

There are historic references to noise being a problem in cities. In the 1920s, noise sources such as new modes of transportation, ventilation systems, industrial plants, and loudspeakers were becoming more common. The coming of jet aircraft renewed interest in environmental noise in the 1960s. In fact, transportation noise as a whole is a major source of community annoyance. However, this chapter will focus on sources the industrial hygienist can control, namely industrial noise.

In 1972 the United States Congress affirmed the growing danger that noise presents to the health and welfare of the nation's population, particularly in urban areas, through its Congressional finding and statement of policy (Anon., 1972). Over 25 years later this statement is being echoed by the recent formation of public action and awareness groups,¹ and the increased attention in the media to noise in our society. This attention has led to the call for rational environmental noise standards in local communities (Erdreich, 1998).

The primary reasons for limiting noise in the community are to reduce speech and/or sleep interference, and to limit annoyance. People are not usually annoyed if the sound is of the level and quality they expect in their community, and does not interfere with speech or sleep. A side effect of annoyance is stress that can affect some health conditions. Besides the physical effect on people, increased noise in a previously quiet community can change the value of property.

The quality of the sound and a community's characteristics also must be considered. Much depends on the existing conditions and expectations of the community. In densely populated areas, the emphasis is on controlling the overall growth of noise. However, in quieter, less densely populated areas, a new noise that might go undetected in a noisier community can become very noticeable and cause complaints. Often, in these quieter areas, the quality of the sound is as

¹ A clearinghouse of related information is available from the public awareness group at Noise Pollution Clearinghouse, Montpelier, VT, and through their website at www.nonoise.org.

important as the quantity. Unusual sounds such as discrete tones and impulsive sounds need more attention. Sometimes tones are masked near a source, but clearly audible in quieter areas farther away. The frequency content of sound changes with distance. A source with an acceptable spectrum nearby can sound like a rumble at greater distances. Sounds with strong low-frequency content require special attention (Berglund and Lindvall, 1995; Berglund et al., 1996). Most criteria for community noise based on overall sound levels measured outdoors assume a balanced sound spectrum. When there is strong low-frequency dominance, the sound can more easily penetrate homes. Thus, such sounds are more annoying indoors than a sound of similar overall level but balanced spectrum.

Congress intended that states and cities retain primary responsibility for control of community noise when it passed the Noise Control Act of 1972. This has resulted today in a diversity of noise regulations among local communities and states, as well as in many locations that lack any noise ordinances at all. The widely varying approaches to regulating noise in communities pose a significant challenge to companies that operate multiple facilities, and to the people charged with the responsibility to assess compliance with those regulations.

An industrial hygienist may need to evaluate community noise for several reasons:

- Compliance of noise produced by facilities operating in regions with local ordinances,
- Determination of acceptable noise levels and noise characteristics for new equipment,
- Evaluation of site suitability for a new facility,
- Resolution of complaints from neighbors.

Research on community noise has concentrated on sources related to transportation (airports, trains, highway and street traffic, etc.), military (aircraft low-level fly-overs, heavy vehicles maneuvering, firing ranges, etc.), and ventilation systems (outside air conditioners and blowers, noise from ventilation stacks, etc.). These sources are widespread, affect large areas, and there are readily available mechanisms to fund the research. This research has emphasized establishing acceptable quantities of sound for typical areas that are affected, and reducing sound accordingly. Less research is available on isolated and unique noise sources in quieter communities where the noise is unexpected. An industrial hygienist is most likely to be faced with noise from an industrial plant disturbing a few local neighbors. However, in some cases, distinctive or new sounds can annoy neighbors several kilometers away. In some circumstances people farther from the source can be more annoyed than those near it.

Measures of Noise in the Community

The basic noise measures or descriptors used in community noise are discussed in Chapter 3. These include the sound level, the *equivalent continuous sound level* ($L_{eq,T}$) (now called time-average sound level in most standards), and the sound exposure level (SEL). Overall sound levels for community noise are usually A-weighted. The C-weighted sound level is used in special circum-

stances related to impulsive noise. A 3-dB (equal-energy) exchange rate is always used for time-average sound levels. Octave-band or 1/3 octave-band levels are sometimes used to evaluate sound quality.

A long-term average sound level over a 24-hour period can be used to describe community noise. The *day-night average sound level* (DNL), symbolized as L_{dn} , has a 10-dBA night-time penalty added to all sound between 10:00 p.m. and 7:00 a.m. (Equation 15.1a). A variation of this adds an evening penalty of 5 dBA from 7:00 p.m. until 10:00 p.m. It is used primarily in California, where it is called the *community noise equivalent level* (CNEL). Communities with very different noise characteristics can have the same DNL. Without a strong local noise source, such as an airport, freeway, or industrial plant, the expected DNL in communities of at least 200 people per km² can be estimated using Equation 15.1b (EPA, 1974).

$$L_{dn} = 10 \log 1/24[15 \times 10^{(L_d/10)} + 9 \times 10^{(L_n+10)/10}] \text{ dBA} \quad (15.1a)$$

where, L_d is the equivalent-continuous sound level from 7 a.m. until 10 p.m.

L_n is the equivalent-continuous sound level from 10 p.m. until 7 a.m.

$$L_{dn} = 26 + 10 \log (\text{number of people/km}^2) \text{ dBA} \quad (15.1b)$$

Community sound levels are also sometimes analyzed using statistical measures. The sound level is sampled using a fast or slow time response, or sometimes very short samples of equivalent (time-average) sound level. The levels exceeded various percentages of time are calculated, with the results, which are called percentile levels, used to give an indication of the variation in the sound. The level exceeded 90% of the time is often used as a measure of the background sound present without transient or intermittent sounds. Many early regulations, before the widespread availability of averaging meters, were based on the sound level exceeded 10% of a measurement period. The number of samples measured should be at least 10 times the difference in decibels between the highest and lowest level.

United States Federal Government Guidelines and Regulations

Most United States federal guidelines for community noise are based on the DNL (EPA, 1974). The Environmental Protection Agency (EPA) recommended that DNL should be kept below 55 dBA in residential areas “to protect public health and welfare with an adequate margin of safety” (EPA, 1974). This level corresponds to that normally present in a typical suburban community of about 770 people per km². This goal did not consider economic or technological feasibility and was not intended as a regulation. The study recognized that many people lived in both quieter and noisier areas, including densely populated urban areas. It provided methods to evaluate problems and the potential for noise complaints based on DNL. These involved adjusting or normalizing the DNL for specific circumstances before comparing the DNL to criteria based primarily on expectations in densely populated urban areas.

The United States Department of Housing and Urban Development (HUD) has noise criteria for areas where it funds or finances housing (HUD, 1979). These recognize the need to build housing in densely populated areas where the desirable noise levels of DNL 55 cannot be achieved. They are based on surveys of the percentage of people highly annoyed by existing noise in areas where they live. Sound levels up to DNL 65 dBA are considered normally acceptable by HUD. Sound levels between DNL 65 and DNL 75 are normally unacceptable. However, housing can be funded when steps are taken to reduce the noise reaching the interior of homes. For single-family homes, there is often a requirement for barriers to reduce outside noise over DNL 70. The Department of Defense and Federal Aviation Administration also use DNL 65 as their regulatory goal. They do not recognize significant noise impacts from aircraft or military activities below this level. The Federal Highway Administration (FHA) uses a 1-hour equivalent (time-average) sound level criteria of 67 dBA to determine when to consider noise barriers for new highway projects. Before actually building barriers, the project has to further qualify based on the cost and benefit of the barrier per protected home.

DNL and normalized DNL work best to characterize the long-term acoustical character of a community as influenced by noise sources that are continually present as steady-state sounds or frequently occurring events over most of the day every day. DNL does not work well for infrequently occurring loud sounds that may be disturbing to a community without strongly affecting the long-term average sound level. Even the normalized DNL for continuous sounds may not always properly account for unique characteristics of the sound. For instance, the correction for discrete tone sounds may be insufficient (see *Assessment for Prediction of Community Response*). DNL also is not a practical measure for enforcement use by communities because of the long-term evaluations needed to establish it.

Local Noise Ordinances

Noise from industry and business in North America is regulated, if at all, primarily by local governments. There are state noise regulations in approximately 13 states; however, enforcement is often tenuous at best. Community ordinances can be classified as general nuisance ordinances or as a combination of nuisance and quantitative components. A nuisance ordinance is typically a prohibition of making or allowing to be made any unreasonable or excessive noise. Because this type of ordinance does not specify a sound level limit, compliance is a matter of satisfying subjective response by typically two or more listeners. Quantitative ordinances specify sound level limits and usually provide stronger legal control over undesirable sound levels than is attainable with an ordinance containing only nuisance provisions. However, these ordinances can vary greatly in the measurements required. They can range from a single not-to-exceed A-weighted sound level at a nonspecified location, to a matrix of source and receiver land-use categories with different limits for day and night and requirements for averaging or sampling over specified periods. Some also can contain octave or 1/3 octave-band criteria, or criteria to evaluate discrete-tone noises.

Quantitative ordinances usually require measurements over periods of less than an hour. The measurement method may be a simple A-weighted sound level, an equivalent (time-average) sound level, and/or a level exceeded 10% or 50% of the measurement period. If the measurement does not involve sampling or averaging, the regulation may have different limits depending on the duration of the noise. If the primary limit is based on levels exceeded 10% or 50% of the time, there is often a higher limit never to be exceeded. Sometimes the ordinance will only mention a level not to be exceeded using slow response. The limits in such cases are often too low for a sound of short duration or too high for continuous sounds.

The primary limits for sound entering residential areas are usually 55 to 60 dBA in the daytime, and 50 to 55 dBA at night as measured at the boundary or property line of the complainant. It is worth noting that some local ordinances impose limits on noise at the boundary of the source property. Sometimes, night-time limits are as low as 45 dBA especially in rural areas or less densely populated cities, and daytime limits are as high as 65 dBA especially in densely populated areas (EPA, 1975). Ordinances will usually allow higher levels for sound entering commercial or industrial properties. Sometimes, ordinances allow more noise entering residential areas from industrial properties than from other residential properties. The definition of daytime and night-time varies, but night is most commonly 10:00 p.m. until 7:00 a.m. Without access to expert advice, local governments sometimes set limits unreasonably high or low, or require instruments no longer available. Because conditions and expectations vary within different parts of most local jurisdictions, and the ordinances must usually be kept simple, they cannot prevent all problems. Sound levels that comply with the ordinance can still be objectionable to a portion of the population. It is particularly difficult to prevent problems from distinctive sounds like discrete tones without some complexity in the ordinance.

Voluntary Noise Measurement and Assessment Standards

Where there is no regulatory requirement, or when there are complaints in spite of regulatory compliance, the investigator must determine the best way to evaluate the noise. Sometimes, a voluntary standard developed by a national or international group such as the International Standards Organization (ISO) can help. Many countries (but not the United States) have adopted a three-part international standard for description and measurement of environmental noise which addresses (1) basic quantities and procedures (ISO, 1982), (2) acquisition of data pertinent to land use (ISO, 1987a, 1998), and (3) application to noise limits (ISO, 1987b).

In North America, the Acoustical Society of America develops American National Standards Institute (ANSI) standards related to community noise. Additional standards are also provided by the American Society for Testing and Materials (ASTM). The ANSI standards concentrate primarily on measurement and evaluation methods rather than setting specific criteria for acceptability based on those methods.

ANSI S12.9, *American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound*, is a five-part standard which (in separate documents) addresses (1) descriptors for noise (ANSI, 1988), (2) measurement of long-term, wide-area sound (ANSI, 1992), (3) short-term measurements with an observer present (ANSI, 1993), (4) noise assessment and prediction of long-term community response (ANSI, 1996), and (5) sound level descriptors for determination of compatible land use (ANSI, 1998). Part Four provides adjustments to measured sound levels for certain sound characteristics such as tonality and impulsiveness. Note that long-term community response and land-use compatibility are best used as indicators of acceptance of existing noise by people who choose to live with it. They may not indicate the reaction of an existing community to a new noise. The land-use compatibility and community-response criteria assume noises without characteristics such as tonality, impulsiveness, low-frequency dominance, or clearly heard speech or music.

ASTM E1686 *Standard Guide for Selection of Environmental Noise Measurements and Criteria* (ASTM, 1996a) discusses additional methods to measure and evaluate community noise which are not covered in this chapter. Other ASTM standards include the guide E1014 for measuring sound levels using simple instruments (ASTM, 1984), guide E1780 for measuring outdoor sound received from a nearby fixed source (ASTM, 1996c), and guide E1779 for preparing a measurement plan for conducting outdoor sound measurements (ASTM, 1996b). ASTM E1503 *Standard Test Method for Conducting Outdoor Sound Measurements Using a Digital Statistical Analysis System* (ASTM, 1992) provides a detailed method for using sophisticated instruments in major studies.

Sometimes the sound emitted by a source must be established to allow calculation of the sound expected at a distant location. Standards for individual sources include ANSI/ASTM PTC 36 (ASME, 1985), ANSI S12.34 (ANSI, 1997a), and ANSI S12.36 (ANSI, 1997b). ISO 8297 (ISO, 1994) provides a method to determine the sound emission of multi-source industrial plants.

Factors Other Than Absolute Sound Level Influencing Community Reaction to Noise

Most noise regulations are based on sound level, possibly with lower limits at night or penalties for sounds with tonal or impulsive characteristics. However, research indicates many important factors influence community reaction and annoyance produced by noise. Those identified by the EPA (1974) were:

- Frequency content of the noise,
- Duration of the noise,
- Time of day the noise occurs,
- Time of year the noise occurs,
- History of prior exposure to the noise source,
- Perceived attitude of the noise source owner,
- Special characteristics of the noise that make it especially irritating,
- Ratio of intruding noise level to normal background noise level.

Other studies have identified additional factors that are very much related to community reaction and annoyance. These include whether the complainant believes s/he is being ignored or treated unfairly, or perceives the noise as:

- Unnecessary, or unnecessarily loud,
- A threat to personal health or safety,
- A threat to economic investment (property value),
- Beyond his or her control.

A most important factor is the difference in sound level between a new noise and other expected and existing noise in the neighborhood. The most significant finding of the EPA community reaction studies (EPA, 1974) was that widespread complaints and legal actions are likely when the average level of nondistinctive noise from a single source is regularly more than 5 dB above the average level of other existing sounds in the community. Vigorous community action results for differences of 20 dB. Some noises such as discrete tones are more irritating or difficult to ignore because of the way they sound. People expect not only quiet, but a pleasant sound quality if sound is audible. These unpleasant and distinctive sounds often cause complaints if they are detectable at any level. The acoustical designers of vehicles, appliances, and other products today spend much of their effort on “sound quality.” Some common industrial sources such as high-pressure or material-handling fans or positive-displacement blowers produce strong discrete tones. Power presses can produce repetitive impulsive sounds. Speech and music have information content that makes them difficult to ignore. These factors affect the quality of the sound in the community even at otherwise acceptable levels.

Factors and Conditions Affecting Sound Propagation Outdoors

As sound propagates outdoors it generally decreases in magnitude with increasing distance from the source; however, the attenuation is not totally a function of spherical divergence. There are several meteorological and physical conditions that affect the rate of attenuation. The meteorological conditions include variations in air temperature with increased elevation, relative humidity, wind speed and direction, and atmospheric factors such as cloud coverage. The physical effects include topography, natural and artificial barriers, and vegetation.

Often a primary question one needs to answer is what will be the effect on community noise when an industrial plant is built, expands, or adds new equipment outside the building, or a residential subdivision encroaches upon the facility’s property line? To answer this question it is important to know what factors affect outdoor sound propagation, and how to estimate attenuation to select locations. ANSI S12.18, *American National Standard for Outdoor Measurement of Sound Pressure Level (SPL)* describes procedures for outdoor sound measurement,

including a discussion of the attenuation effects due to the various elements mentioned above (ANSI, 1994). This standard is useful, not only for measurement procedures, but also for estimating SPLs at different locations from the source. For sound radiating from a point source in a free field (directivity factor, $Q=1$), the SPL per octave band at a given distance may be calculated from:

$$L_p = L_w - A_{\text{total}} - 10.9, \text{ dB} \quad (15.2)$$

where,

- L_p = the octave-band sound pressure level, in dB, at the location of interest,
- L_w = the octave-band sound power level (PWL) of the source, in dB, and
- A_{total} = the total attenuation at each octave band, in dB.

The total attenuation (A_{total}) for each octave band in Equation 15.2 is calculated by:

$$A_{\text{total}} = A_{\text{div}} + A_{\text{air}} + A_{\text{env}} + A_{\text{misc}}, \text{ dB} \quad (15.3)$$

where,

- A_{div} is the attenuation due to geometrical divergence,
- A_{air} is the air absorption,
- A_{env} is the sound reduction due to the effects of the environment, and
- A_{misc} is the attenuation resulting from all other factors, such as foliage, barriers, etc.

Because high-frequency sounds have relatively short wavelengths their sound energy will decrease rapidly with increasing distance due to atmospheric absorption. Conversely, low-frequency sounds with much longer wavelengths will often carry several kilometers from the source and are usually the cause of complaints from citizens. This variation by frequency must be accounted for when calculating the total attenuation. Once the individual attenuation values are known for each octave band, they can be logarithmically added together using Equation 2.11, and the resultant value may be used in Equation 15.2 along with the known PWL to estimate the SPL (see example problem presented later in this chapter).

Geometrical Divergence (A_{div})

Geometrical divergence, often termed spreading losses, occurs as sound waves propagate and expand from a source, and in turn become less intense as they disperse over larger spherical areas. The divergence is not a function of frequency, and attenuation is estimated by:

$$A_{\text{div}} = 20 \log (r/r_0), \text{ dB} \quad (15.4)$$

Where,

- r = distance from the point source in meters (m), and
 r_0 = reference distance of 1 m.

For distances far from the source, the geometrical divergence results in a 6-dB decrease per doubling of distance from a point source, which equates to a 20-dB decrease for each tenfold increase of distance. For a line source, such as a busy highway or long runs of noisy pipelines stretching perpendicular to the measurement location (e.g., a petrochemical plant), the geometrical divergence will be 3-dB decrease per doubling of distance.

Air Attenuation or Atmospheric Absorption (A_{air})

Sound energy decreases in a quiet calm atmosphere by two mechanisms: (1) heat conduction and viscosity in the air, and (2) relaxation of air molecules as they vibrate (Kurze and Beranek, 1988). The atmospheric absorption losses depend on frequency, temperature, and relative humidity. Of these three factors, relative humidity is the dominant variable, followed by the frequency and then the temperature.

For various temperatures the attenuation due to air absorption may be determined by (Piercy and Daigle, 1991):

$$A_{\text{air}} = \alpha' r / 1000 \text{ dB} \quad (15.5)$$

where,

- α' = the air attenuation coefficient, dB/km, and
 r = distance from source to receiver, m.

The air attenuation coefficient values are presented in Table 15.1 for various temperatures and relative humidity, as a function of frequency (ANSI, 1994). Should temperature and humidity values differ from those presented in Table 15.1, interpolation may be used to estimate the air attenuation coefficients. Calculations employing Equation 15.5 reveal that air attenuation becomes significant at distances over 300 m and frequencies above 1000 Hz. For example, at 20°C and relative humidity of 70%, the attenuation at 1000 Hz is 5.0 dB/km. At 200 meters this amounts to an attenuation of 1.0 dB. However, at 2 km the attenuation is a significant 10 dB. For dry air with a relative humidity of 10%, these attenuation values are 2.8 dB and 28 dB for 200 m and 2 km, respectively. For the same 10% relative humidity at 20°C, at a distance of 2 km using the absorption coefficients at 250 Hz and 2000 Hz, these attenuation values are 3.2 dB and 90 dB, respectively. Clearly, as distance from the source increases, there is a significant increase in sound attenuation at the higher frequencies with a relatively small increase at the lower frequencies (see Table 15.1).

TABLE 15.1
Air attenuation coefficients α' , at 1 atmosphere for sound propagation in open air (db/km).*

Temperature	Relative Humidity (Percent)	Octave-Band Frequency (Hz)					
		125	250	500	1000	2000	4000
30°C (86°F)	10	0.96	1.8	3.4	8.7	29	96
	20	0.73	1.9	3.4	6.0	15	47
	30	0.54	1.7	3.7	6.2	12	33
	50	0.35	1.3	3.6	7.0	12	25
	70	0.26	0.96	3.1	7.4	13	23
	90	0.20	0.78	2.7	7.3	14	24
20°C (68°F)	10	0.78	1.6	4.3	14	45	109
	20	0.71	1.4	2.6	6.5	22	74
	30	0.62	1.4	2.5	5.0	14	49
	50	0.45	1.3	2.7	4.7	9.9	29
	70	0.34	1.1	2.8	5.0	9.0	23
	90	0.27	0.97	2.7	5.3	9.1	20
10°C (50°F)	10	0.79	2.3	7.5	22	42	57
	20	0.58	1.2	3.3	11	36	92
	30	0.55	1.1	2.3	6.8	24	77
	50	0.49	1.1	1.9	4.3	13	47
	70	0.41	1.0	1.9	3.7	9.7	33
	90	0.35	1.0	2.0	3.5	8.1	26
0°C (32°F)	10	1.3	4.0	9.3	14	17	19
	20	0.61	1.9	6.2	18	35	47
	30	0.47	1.2	3.7	13	36	69
	50	0.41	0.82	2.1	6.8	24	71
	70	0.39	0.76	1.6	4.6	16	56
	90	0.38	0.76	1.5	3.7	12	43

*Note: Air attenuation coefficient values of temperature and relative humidity (or frequency) intermediate to those shown in the table may be obtained by interpolation.

Source: From ANSI S12.18-1994: "Outdoor Measurement of Sound Pressure Level," with permission.

Attenuation Due to Environmental Effects (A_{env})

In addition to divergence and air absorption, sound propagating from a source is also attenuated by the environment, such as the ground, wind, and temperature gradients. Figure 15.1 illustrates the propagation path from source to receiver. The magnitude of the reflected sound will depend upon the type of ground surface, the angle of incidence (ψ), and frequency (Piercy and Daigle, 1991). ANSI S12.18 classifies ground surfaces for grazing angles less than 20° as follows (ANSI, 1994):

- *Hard Ground*—Open water, asphalt, or concrete pavement, and other ground surfaces having very low porosity tend to be highly reflective, absorbing very little acoustic energy upon reflection. Tamped ground, for example, as often occurs around industrial sites, can be considered as hard ground.

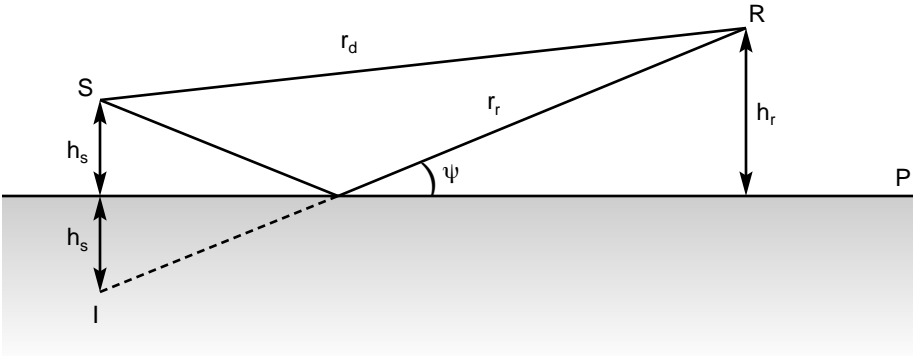
Attenuation by the Environment (A_{env})

Figure 15.1 — Paths for propagation from source S to receiver R. The direct ray is r_d , and the ray reflected from the plane P (which effectively comes from image source I) is r_r , whose length is measured from plane P to R. Source: From Piercy and Daigle (1991), with permission.

- *Soft Ground*—Ground covered by grass, shrubs, or other vegetation, and all other porous grounds suitable for the growth of vegetation such as farming land.
- *Very Soft Ground*—New-fallen snow is even more absorptive at low frequencies than grass-covered ground, as is ground covered in pine needles or similarly loose material. It is recommended by ANSI that measurements above snow-covered ground be avoided unless operation of the sound source is intimately tied with the ground condition.
- *Mixed Ground*—A ground surface which includes both hard and soft areas.
- *At angles off the ground greater than 20°* , which can commonly occur at short ranges or in the case of elevated sources, soft ground becomes a good reflector of sound and can be considered hard ground.

Sound outdoors reaches a receiver by both direct and reflected paths. For distances of approximately 100 m or less, termed short-range propagation, the attenuation values are primarily due to ground effects and the presence of any barriers. Table 15.2 presents the attenuation values at each octave band from 125 – 4000 Hz for hard, soft, and very soft ground surfaces. For mixed ground conditions the attenuation values will need to be calculated for both hard and soft surface areas. A_{env} then becomes the value interpolated between these two results based on the proportion of soft to hard ground.

For distances over 100 m, termed long-range propagation, the wind and temperature conditions will play an important role, while barriers and ground effects have minimal influence. The effects of wind and temperature on sound transmission are described later in this chapter; however, for purposes of determining the long-range attenuation of sound these conditions should be assumed to be

TABLE 15.2
Values of environmental attenuation A_{env} in decibels for short-range propagation [$r < 100$ m (300 ft)].*

<i>Hard ground (asphalt, concrete)</i>	
$(r_r - r_d) \ll \text{all } \lambda$	$(r_r - r_d) \geq \text{all } \lambda$
- 6.0	

Soft ground (grass, vegetation), $h_r = 1.8$ m

Source Height (m)	Distance (m)	Frequency (Hz)					
		125	250	500	1000	2000	4000
0.01	10	- 5.7	- 5.0	- 3.6	- 1.4	1.1	4.1
	20	- 5.6	- 4.6	- 1.8	1.9	5.1	8.5
	40	- 5.5	- 3.9	- 1.4	6.7	10.1	13.7
	60	- 5.4	- 3.3	4.2	9.8	13.2	16.9
	80	- 5.4	- 2.7	6.8	12.2	15.5	19.3
	100	- 5.3	- 2.2	9.2	14.0	17.4	21.1
0.3	10	- 5.4	- 4.3	- 0.9	5.9	- 2.5	- 1.9
	20	- 5.4	- 4.0	- 0.1	6.3	- 0.1	- 3.0
	40	- 5.4	- 3.4	2.9	10.2	4.1	- 2.9
	60	- 5.3	- 2.8	5.8	13.1	7.1	- 0.4
	80	- 5.2	- 2.2	8.4	15.3	9.3	1.7
	100	- 5.2	- 1.7	10.8	17.1	11.1	3.4
1.2	10	- 4.0	2.0	0.1	- 3.0	- 3.0	- 3.0
	20	- 4.8	- 1.9	7.5	- 2.7	- 3.0	- 3.0
	40	- 4.9	- 2.1	6.9	0.5	- 3.0	- 3.0
	60	- 4.9	- 1.6	9.1	2.9	- 3.0	- 3.0
	80	- 4.8	- 1.0	11.6	4.8	- 2.8	- 3.0
	100	- 4.8	- 0.5	13.8	6.4	- 1.5	- 3.0

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*Note: Refer to Figure 15.1 for illustration of r_d and r_r , which are the paths for sound wave propagation from source to reviewer.

Source: From Piercy and Daigle (1991), with permission.

TABLE 15.2 — continued
Values of environmental attenuation A_{env} in decibels for short-range propagation [$r < 100$ m (300 ft)].*

<i>Very soft ground (snow, pine forest), $h_r = 1.8$ m</i>							
<i>Source</i>	<i>Distance</i>	<i>Frequency (Hz)</i>					
<i>Height (m)</i>	<i>(m)</i>	<i>125</i>	<i>250</i>	<i>500</i>	<i>1000</i>	<i>2000</i>	<i>4000</i>
0.01	10	- 3.1	0.8	3.9	6.0	7.3	7.0
	20	- 1.5	5.2	8.6	10.9	12.3	11.9
	40	1.4	11.1	14.0	16.3	17.7	17.3
	60	3.9	14.8	17.3	19.6	21.0	20.7
	80	6.2	17.3	19.7	22.0	23.4	23.1
	100	8.4	19.3	21.6	23.8	25.3	24.9
0.3	10	- 2.3	2.8	5.0	- 0.8	- 3.0	- 3.0
	20	- 0.8	7.0	9.1	2.9	- 2.9	- 3.0
	40	2.0	12.8	14.2	7.9	1.4	- 3.0
	60	4.6	16.5	17.5	11.2	4.5	- 1.3
	80	6.9	19.0	18.2	13.5	6.8	0.8
	100	9.1	21.0	21.7	15.4	8.6	2.6
1.2	10	0.1	4.5	- 2.5	- 2.5	- 2.5	- 2.5
	20	0.9	7.0	- 0.7	- 3.0	- 3.0	- 3.0
	40	3.6	11.6	3.3	- 3.0	- 3.0	- 3.0
	60	6.3	14.8	6.3	- 0.6	- 3.0	- 3.0
	80	8.7	17.1	8.5	- 1.5	- 3.0	- 3.0
	100	10.9	18.9	10.3	3.2	- 2.6	- 3.0

*Note: Refer to Figure 15.1 for illustration of r_d and r_r , which are the paths for sound wave propagation from source to receiver.

Source: From Piercy and Daigle (1991), with permission.

advantageous to sound propagation. Toward long-range propagation, the distance between source and receiver is divided into three zones, as depicted in Figure 15.2. The environmental factor for each zone is as follows (Piercy and Daigle, 1991):

1. The *source zone* covers a distance of $30h_s$ between the source and receiver (see Figure 15.2), with a maximum of r , where h_s is the source height and r is the distance from the source S to receiver R .

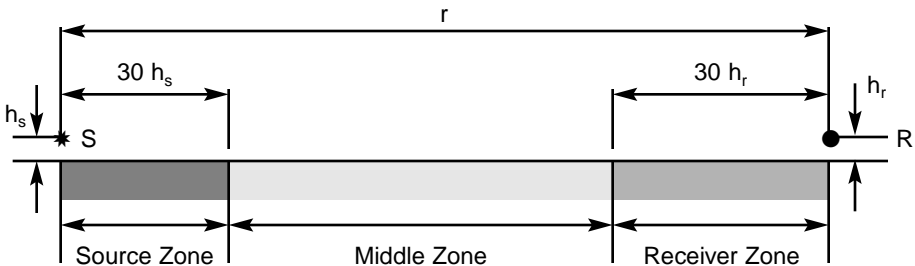


Figure 15.2 — Three zones between a source S and receiver R separated by distance r , used in determining the ground attenuation A_{env} at long ranges.

Source: From Piercy and Daigle (1991), with permission.

2. The *receiver zone* starts at the receiver and stretches back a distance of $30 h_r$, with a maximum of r , where h_r is the receiver height.
3. The *middle zone* covers the region between the source and receiver zones.

The surface area around each zone has the following *ground factor* G :

Hard ground: $G = 0$,

Soft ground: $G = 1$,

Mixed ground: G equals the fraction of the ground that is soft.

Note: For very soft ground there is no available value. However, it is suggested a value of 1 be used. The user is cautioned that using a factor of 1 for very soft ground will underestimate the actual ground attenuation, particularly in the lower frequency range from 100 – 500 Hz.

For the octave-band environmental attenuation values at long-range, Table 15.3 is utilized as follows:

TABLE 15.3
Expressions to be used in calculating the octave-band environmental attenuation (A_{env}) in decibels at long range.*

<i>Octave-Band Frequency (Hz)</i>	<i>A_s and A_r (dB)</i>		<i>A_m (dB)</i>		
63	- 1.5		- 3e		
125	(a)(G) - 1.5		- 3e(1 - G)		
250	(b)(G) - 1.5		- 3e(1 - G)		
500	(c)(G) - 1.5		- 3e(1 - G)		
1000	(d)(G) - 1.5		- 3e(1 - G)		
2000	(1 - G)(- 1.5)		- 3e(1 - G)		
4000	(1 - G)(- 1.5)		- 3e(1 - G)		
8000	(1 - G)(- 1.5)		- 3e(1 - G)		

<i>Distance r(m)</i>	<i>Source or Receiver Height (m)</i>				
	<i>0.5</i>	<i>1.5</i>	<i>3.0</i>	<i>6.0</i>	<i>> 10.0</i>
Factor a					
50	1.7	2.0	2.7	3.2	1.6
100	1.9	2.2	3.2	3.8	1.6
200	2.3	2.7	3.6	4.1	1.6
500	4.6	4.5	4.6	4.3	1.6
> 1000	7.0	6.6	5.7	4.4	1.7
Factor b					
50	6.8	5.9	3.9	1.7	1.5
100	8.8	7.6	4.8	1.8	1.5
> 200	9.8	8.4	5.3	1.8	1.5

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* G is the ground factor, h is height, and r is distance from source to receiver. The subscripts s , r , and m indicate source, receiver, and middle zones, respectively. (See Figure 15.2.) The factor e is equal to $\{1 - [30(h_s + h_r)/r]\}$.

Source: From Piercy and Daigle (1991), with permission.

TABLE 15.3 — continued
Expressions to be used in calculating the octave-band environmental attenuation (A_{env}) in decibels at long range.*

Distance (m)	Source or Receiver Height (m)				
	0.5	1.5	3.0	6.0	> 10.0
Factor c					
50	9.4	4.6	1.6	1.5	1.5
100	12.3	5.8	1.7	1.5	1.5
> 200	13.8	6.5	1.7	1.5	1.5
Factor d					
50	4.0	1.9	1.5	1.5	1.5
> 100	5.0	2.1	1.5	1.5	1.5

*G is the ground factor, h is height, and r is distance from source to receiver. The subscripts s, r, and m indicate source, receiver, and middle zones, respectively. (See Figure 15.2.) The factor e is equal to $\{1 - [30(h_s + h_r)/r]\}$.

Source: From Piercy and Daigle (1991), with permission.

- Step 1: Determine A_s , which is the source zone attenuation portion of A_{env} , using the appropriate ground factors,
- Step 2: Determine A_r , which is the receiver zone attenuation portion of A_{env} ,
- Step 3: Calculate A_m , which is the middle zone attenuation portion of A_{env} . Note: for the middle zone to exist, $r > 30(h_s + h_r)$ must be satisfied,
- Step 4: The total A_{env} in any octave band will be:

$$A_{env} = A_s + A_r + A_m \tag{15.6}$$

EXAMPLE 15.1, Predicting Sound Levels at the Property Line

Consider the following example:

Management of a manufacturing plant plans an expansion that will include a large gas turbine located in the center of a 20 m × 20 m concrete skid or pad outside the new building structure. It is anticipated the turbine’s exhaust will be a dominant source of noise and could significantly impact a residential area located at the facility’s property line 1450 meters away. The point of the turbine discharge is 3 m above grade and the receiver height is 1.5 m. The ground surface area around the concrete skid and at the receiver is grass, while the ground cover between the source and receiver zones is 75% grass and 25% asphalt parking lot. Finally, there is no foliage or trees between the source and receiver locations. To investigate whether a potential community noise problem will result, it is necessary to estimate the overall A-weighted sound level at the property line. The turbine manufacturer reports the following exhaust sound power levels per octave band:

Octave-band center frequency (Hz):	<u>125</u>	<u>250</u>	<u>500</u>	<u>1000</u>	<u>2000</u>	<u>4000</u>
Exhaust L_w (dB):	144	145	144	138	137	134

Equation 15.2 is used to calculate the SPL at the location of interest, however, Equation 15.3 is needed to first determine the total attenuation (Recall $A_{\text{total}} = A_{\text{div}} + A_{\text{air}} + A_{\text{env}} + A_{\text{misc}}$). Note: many of the attenuation factors are frequency-dependent. For purposes of this example and to demonstrate use of the equations and tables, *all values will be estimated for 250 Hz.*

Step 1: Use Equation 15.4 to predict A_{div} , the attenuation due to divergence

$$\begin{aligned} A_{\text{div}} &= 20 \log r/r_0 \\ &= 20 \log (1450/1) = 63.2 \text{ dB} \end{aligned}$$

Step 2: Calculate the A_{air} value using Equation 15.5 and Table 15.1. For calculation purposes assume the temperature is 20°C with a relative humidity of 70%. From Table 15.1 at 250 Hz for the given temperature and relative humidity, the attenuation coefficient is 1.1 dB/km. Therefore, the A_{air} at this frequency is:

$$A_{\text{air}} = \alpha'r/1000 = (1.1)(1450)/1000 = 1.6 \text{ dB}$$

Step 3: Calculate the environmental attenuation using Equation 15.6 and Table 15.3. Recall that Equation 15.6 is:

$$A_{\text{env}} = A_s + A_r + A_m \text{ dB}$$

The first term to determine is A_s :

$$\text{For the source zone: } 30h_s = (30)(3) = 90 \text{ m,}$$

Next, from Table 15.3 at 250 Hz:

$$A_s = (b)(G) - 1.5 \text{ dB}$$

Note: Since the proposed turbine is to be located in the center of a 20 m × 20 m concrete skid, 10 m of the source zone is classified as “hard,” and the remaining 80 m is grass or “soft.”

Thus, the ground factor G is:

$$G = (90 - 10)/90 = 0.89$$

Therefore, using Table 15.3:

$$A_s = (b)(G) - 1.5 = (5.3)(0.89) - 1.5 = 3.2 \text{ dB}$$

Note: $b = 5.3$ at 250 Hz, which is given in the table.

The second term to calculate is A_r :

$$\text{Here for the receiver zone: } 30h_r = (30)(1.5) = 45 \text{ m,}$$

From Table 15.3 at 250 Hz:

$$A_r = (b)(G) - 1.5 \text{ dB}$$

Since the receiver is located on grass, the ground is considered “soft” and $G = 1$. Therefore,

$$A_r = (b)(G) - 1.5 = (8.4)(1) - 1.5 = 6.9 \text{ dB}$$

Note: $b = 8.4$ at 250 Hz, which is given in the table.

The final component to determine is the middle zone. Recall for A_m to exist the expression

$r > 30(h_s + h_r)$ must be satisfied. In this example, $r = 1450$, and $1450 > 30(3 + 1.5) = 135$ is satisfied.

Therefore, from Table 15.3 at 250 Hz:

$A_m = -3e(1 - G)$ dB, where $e = \{1 - [30(h_s + h_r)/r]\}$

Now, $e = \{1 - [30(3 + 1.5)/1450]\} = 0.91$

and,

$A_m = -3(0.91)(1 - 0.75) = -0.7$ dB

Note: $G = 0.75$ since 75% of the ground cover in the middle is grass.

Finally, sum up each term to get A_{env} :

$$\begin{aligned} A_{env} &= A_s + A_r + A_m \text{ dB} \\ &= 3.2 + 6.9 - 0.7 = 9.4 \text{ dB} \end{aligned}$$

Step 4: Since there is no interfering foliage or trees to provide additional attenuation, A_{misc} is zero.

Step 5: Determine the total attenuation at 250 Hz from Equation 15.3:
 $A_{total} = A_{div} + A_{air} + A_{env} + A_{misc} = 63.2 + 1.6 + 9.4 = 74.2$ dB

Step 6: Use Equation 15.2 to calculate the L_p at this frequency:
 $L_p = L_W - A_{total} - 10.9$ dB
 $= 145 - 74.2 - 10.9 = 59.9$ dB

Step 7: Find the A-weighted sound level for the 250-Hz octave band: The sound level for the 250-Hz band is $59.9 - 8.6 = 51.3$ dBA. Note: the -8.6 value is the conversion factor at 250 Hz when going from linear SPL to A-weighting (see Table 3.1).

Step 8: Repeat steps 1–7 for all other frequencies of concern, then use Equation 2.11 to logarithmically add all A-weighted octave-band values to calculate the overall A-weighted sound level at the property line. Completing steps 1–7 for 125, 500, 1000, 2000, and 4000 Hz, yields A-weighted octave-band values of 45.3, 58.3, 56.9, 52.0, and 28.4 dBA, respectively. Then inputting these data into Equation 2.11, including 51.3 dBA at 250 Hz, results in an estimated overall sound level of 62 dBA. As discussed previously, many local noise ordinances limit sound entering residential areas to 55–60 dBA during daytime hours and 50–55 dBA at night; therefore, it is likely that a sound level of approximately 62 dBA will be unacceptable according to the local noise ordinance, as well as in the perception of the neighbors.

Effects of Wind and Temperature

Sound wave propagation follows a predictable model in a still environment. However, sound will not conform to any predictable pattern in windy conditions. As temperature changes occur, there is a corresponding change in the speed of sound as follows:

$$c = c_0 \sqrt{\frac{T}{T_0}} \quad (15.7)$$

Where,

c = speed of sound

T = temperature (K° or R°)

c_0 = speed of sound in air at reference temperature T_0

It is a natural phenomenon that temperature usually decreases with increasing elevation during daytime hours, and increases with elevation at night. Under normal daytime conditions, the velocity of sound is greatest at lower elevations, and sound waves bend or refract upward as depicted in Figure 15.3. This often results in a shadow zone near the ground, and the attenuation significantly increases with distance. This additional sound reduction will typically be 10–20 dB or more above the expected attenuation due to ground effects.

Figure 15.4 exhibits the sound spreading pattern that occurs during temperature inversions when the temperature increases with elevation. This condition is more common at night due to radiation cooling of the ground, and during sunrise and sunset. Since the speed of sound is faster in warmer upper layers of air,

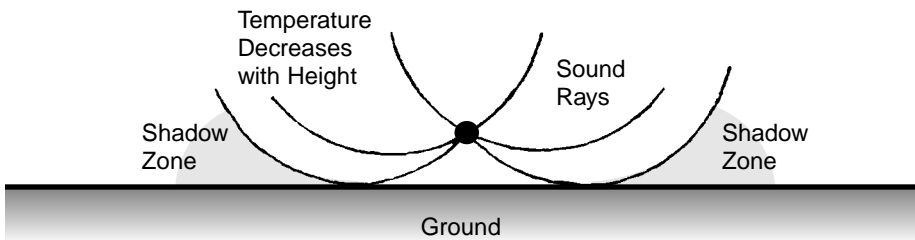


Figure 15.3 — Wave propagation during daytime.

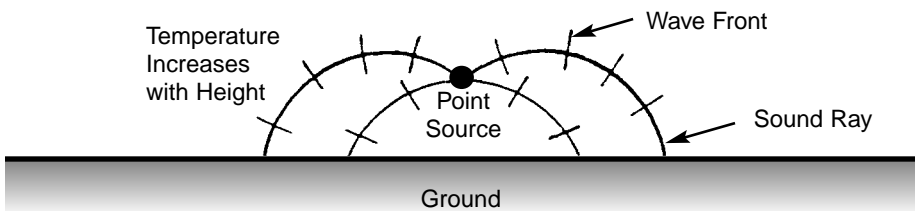


Figure 15.4 — Wave propagation during inversion.

sound waves will actually bend downward as they propagate from the source. This condition results in little to no attenuation due to the environment for several hundred meters, and produces a favorable condition for sound propagation.

Figure 15.5 illustrates how sound wave propagation behaves with wind gradients. As sound extends upwind, the spreading waves refract upward and create a shadow zone with excess attenuation near the ground. Because of this condition, it is not recommended that sound level measurements be conducted upwind of the source. On the other hand, as sound radiates downwind, the waves bend downward resulting in a condition advantageous to propagation. This explains why sound levels downwind of a noise source are more easily detected or heard as compared to the listening conditions upwind. Consequently, it is recommended that measurements be conducted downwind of the source.

One other phenomenon that often occurs is sound traversing large distances. Since spreading patterns for sound will vary or fluctuate with increased elevation, wind, and temperature, it is common to hear or detect sound as a warble or intermittent event several kilometers away. This is especially true for low-frequency sounds, such as a locomotive horn, or an outside warning alarm at an industrial facility.

Miscellaneous Attenuation Effects (A_{misc})

Attenuation of sound resulting from rain, dense fog, and falling snow is practically zero. Therefore, these conditions may be ignored, with the possible exception of snow-covered ground that may change the classification of the ground-surface rating as described previously. For the most part, these conditions affect other environmental factors such as altering the wind and temperature gradients, which are accounted for when calculating the air and environmental attenuation values.

A common misconception is that a few rows of trees can be planted along the property line to help reduce community noise. While it is true that trees often block the visual line of sight to the source, and as a result provide a psychological noise-reduction benefit, in reality a series of trees a few meters deep is acoustically transparent and provides no measurable attenuation. Table 15.4 presents the attenuation due to sound propagation through foliage, such as trees

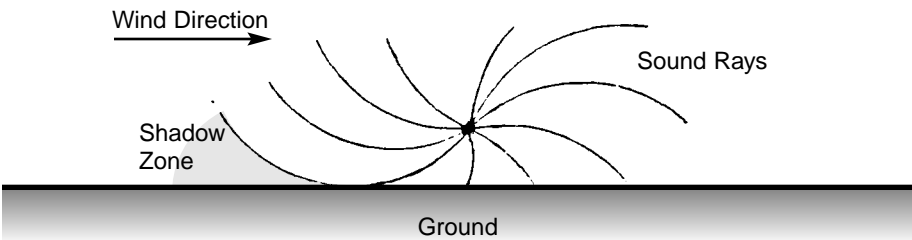


Figure 15.5 — Wave propagation with wind.

TABLE 15.4
The attenuation due to propagation through foliage, such as trees and bushes.

	<i>Octave-Band Center Frequency (Hz)</i>								
	31.5	63	125	250	500	1000	2000	4000	8000
A_{misc} (dB/m)	0.02	0.02	0.03	0.04	0.04	0.05	0.06	0.08	0.12

Source: From Piercy and Daigle (1991), with permission.

and bushes. The type of tree, density of planting, and noise source characteristics are the controlling factors toward their acoustical benefit. A good rule of thumb is that for the first 100 m of dense forest, the average attenuation will be approximately 4–8 dBA provided both the source and receiver are within, or relatively close to, the trees. For distances greater than 100 m, no rule of thumb applies, however, a more detailed discussion of this issue may be found in Piercy and Daigle (1991).

Measuring Community Noise

A person measuring community noise must often comply with the requirements of appropriate ordinances and standards. The referenced standards provide technical guidelines, some of which are discussed briefly in this section. The measurement guidelines should match the goal of the sound survey. Some standards require that measurements be conducted under the most favorable weather and physical conditions for sound propagation. This requirement ensures that data are collected during sound propagation conditions that typically correspond to a majority of complaints from neighbors. However, the goal of many community noise measurements is to document noise in the community for various propagation conditions.

Factors that Influence Community Noise Measurement

Seasonal factors, weather, measurement locations, and source operating parameters are all conditions that will affect community noise measurement results. These factors should be identified during the planning of the measurement process, and should be accounted for to the greatest degree practical.

Seasonal Factors Affecting Sound Present in a Community

Seasonal variations in plant, insect, and wildlife conditions can influence the sound present. Suppose the distance between the source and receiver is less than 100 m and heavily forested with deciduous trees. Sound levels from the source reaching the receiver could be much less in the summer than the winter. Insects and wildlife produce sound that will significantly influence sound measurements. In some cases, almost steady sound from insects, tree frogs, or large flocks of wild birds can dominate the overall A-weighted sound level.

Intermittent bird sounds can be eliminated by measuring percentile levels. Frequency analysis is essential when the overall level is dominated by steady, high-frequency insect sounds. It is not unusual in some places for insect sounds to exceed the limits of local ordinances for several hours, especially at night. However, this high-frequency insect noise does not mask annoying noises with lower spectral content.

Monitoring and Documenting Meteorological Conditions

Weather has a major effect on the propagation of sound as described previously. Therefore, weather conditions must be monitored and documented for community noise measurements.

- Wind speed and direction should be monitored directly at the measurement site and documented. Measurements should be avoided when wind speeds approach 19 kph (5 meters per second, 12 mph). For low SPLs or low-frequency sound, even winds more than 10 kph can cause problems. One problem is wind interaction with the microphone. Therefore, a windscreen should always be used to minimize this problem. Sound levels radiated from sources at considerable distances in the presence of high wind speeds may be highly variable and not representative of conditions with lesser wind.
- Ambient air temperature, relative humidity, barometric pressure and cloud cover corresponding to time of measurement should be recorded. These data are typically available via radio or the Internet from a nearby meteorological station, usually located at an airport.
- Measurements should not be conducted during measurable precipitation or thunder, since these conditions will artificially raise the background sound level, as well as potentially affect the performance of the acoustical instrumentation.
- Recognize that snow cover or water-saturated ground can influence results (see *Attenuation Due to Environmental Effects*).

Measurement Location

Measurement location factors directly influence measurement results. They include distance from the source, topography, ground surface cover, and reflective surfaces. Locations of measurement sites should be documented on a scaled map to permit estimation of distance from the source as well as to facilitate repeat measurements. The following factors should be noted and considered in the selection of the measurement sites.

- Topography and elevation changes affecting line-of-sight to the source are factors to consider in selection of measurement location(s).
- Measurements over large paved areas should be avoided unless the goal is specifically to document the sound level at such areas.
- Large reflecting surfaces such as buildings will influence sound levels. The locations of such surfaces should be carefully documented. If the goal is to obtain data easily related to the output of a source, measurements should be avoided near such surfaces. In such cases, measure at least

7.5 m and preferably 15 m from such surfaces. However, the goal of community noise measurements is often to measure sound at and near a home. In those cases, measurements are appropriately made at locations near the home with documentation of reflecting surfaces. It is a good survey procedure to locate the microphone at least 1.5 m from smaller objects such as trees, posts, bushes, etc., if possible.

Source Conditions

The operating conditions of the source also influence measurement results. The operating conditions desired for testing should be selected and documented. This may include particular production or process conditions correlated to the time of measurement. When measurements are made far from a source, simultaneous measurements near the source are advisable, especially if source output is variable.

Measurement Protocol

Site Selection

Selecting a measurement location will depend upon the purpose of the sample. If the goal is to assess the sound reaching a specific location at a specific time, then the terrain must be accepted as is. However, if the primary purpose is to document the sound output of a specific source, it is best to optimize the conditions. The site may be specified by standard or ordinance. Otherwise, measurement sites should be selected to allow for description of the acoustic environment and to be able to assess its impact on the surrounding community. The most common location to start with is the source property line near potentially affected neighbors. This site will allow for initial assessment without intrusion. Sometimes it may not be possible to measure at the boundary line. That location may not be feasible or representative because of extreme elevation differences, obstructions to the source, etc. In this case, select a location closer to and within line of sight of the source in question.

Microphone Height and Orientation

The microphone position above the ground should usually be between 1.2 and 1.8 m. This may be specified by ordinance or standard. Higher microphone locations may be needed if the line of sight between source and receiver is high above the ground. The microphone orientation should provide a sound incidence angle for the primary source according to manufacturer's instructions. Brief measurements can be made with a hand-held sound level meter being careful to hold it away from the body. For longer measurement periods, the meter or preferably the microphone should be mounted on a tripod. This allows the operator to stay away from the microphone during measurements.

Measurement and Observation

The sensitivity calibration of the measurement system should be checked before and after the survey period. While measurements are occurring, the per-

son conducting the tests should note environmental conditions and events, logging them with observations of levels. Background sound levels with the source under study shut down should be measured where possible. If this is not possible, try to estimate the background level with a measurement at a similar site removed from the source.

The measurement period will often be specified by a standard, regulation, or local ordinance. Otherwise, professional judgment is required by the surveyor to determine the appropriate amount of sampling time needed to satisfy the goals of the survey. The purpose of the measurements and the characteristics of the sound must then be considered. If the measurement only needs to demonstrate levels above a given criterion, and steady sound is clearly above that criterion, a very short period (less than 1 minute) can be acceptable. However, very long periods may be necessary to document statistically reliable indications of long-term sound levels. For DNL measurements it may be necessary to sample the noise over several days, even weeks.

Instrumentation

The quantities to be measured and required instrumentation will vary depending on the goals of the measurement and the procedure specified by standard, regulation, or ordinance.

Conventional Sound Level Meter

For simple ordinances specifying sound levels not to be exceeded, and for steady sound near a source, a conventional sound level meter can be used. Sampled data with a conventional meter also can be used to estimate a time-average sound level or percentile sound levels. This method is not advised if the data are part of a litigation record, unless the method is specified by the governing ordinance. The period of observation should be established based on the operating characteristics of the source. If the noise is comparatively steady, less time is needed (e.g., 5 minutes). If the noise fluctuates, more sampling time (e.g., 20 minutes) is recommended. Set the instrument for slow response and log the sound level at 10-second intervals. See both ANSI S12.9 Part 3 and ASTM 1014 for additional information and guidance on measurement procedures (ANSI, 1993; ASTM, 1984).

Integrating Sound Level Meter

An integrating sound level meter can be used to measure time-average sound level, maximum sound level, and peak sound pressure levels. The measurement period should be established based on the nature of the source and local ordinance requirements. Measurement periods typically range from 10 minutes to 1 hour. During the measurement, log events and conditions that may influence the measurement. The log will serve as the record to explain the measurement. An example log sheet is shown below (see Figure 15.6).

Time	L_{AS}	L_{ASmax}	Local Noise/Traffic	Train	Plane	Tone?	Description of Events	Wind Dir	Wind Speed (mph)	Temp (Deg F)	Cloud Cover
10:00	67	84			X		Plane overhead, intermittent traffic	WSW	<10	67	Cloudy
10:10	64	76					Intermittent traffic	WSW	<10	67	Cloudy
10:20	63	73					Intermittent traffic	WSW	<10	67	Cloudy
10:30	64	76					Intermittent traffic	WSW	<10	67	Cloudy
10:40	67	82	X				Intermittent traffic, lawn mowing	WSW	<10	67	Cloudy
10:50	68	83	X				Intermittent traffic, lawn mowing	WSW	<10	67	Cloudy
11:00	64	75					Intermittent traffic	WSW	<10	67	Cloudy
11:10	62	72					Intermittent traffic	WSW	<10	67	Cloudy
11:20	61	73					Intermittent traffic	WSW	<10	67	Cloudy
11:30	65	79			X		Plane overhead, intermittent traffic	WSW	<10	67	Cloudy
11:40	64	71					Intermittent traffic	WSW	<10	67	Cloudy
11:50	65	81		X			Distant train horn	WSW	<10	67	Cloudy
12:00	64	79					Intermittent traffic	WSW	<10	67	Cloudy

Figure 15.6 — Example data log sheet.

Data-Logging Devices

There are a variety of microprocessor-based data-logging devices that may be used to maintain descriptive statistics of the data sampled. These systems range from the more sophisticated integrating sound level meters to environmental monitoring stations. Industrial dosimeters also can be used. However, make sure they are set for a 3-dB exchange rate and an adequately low threshold level (not the default threshold of 80 dB). Data logged by the instrument are stored in memory for later retrieval and analysis. These devices are typically programmable and can include valuable statistics such as percentile levels and DNL. Measurement periods are typically designed to be longer in these instruments with sampling rates corresponding to sample length (limited by memory). These instruments can be left unattended. However, it is advisable to have an observer, especially if the data are to be used in litigation. The most useful percentile levels are the time-average sound levels that are exceeded 10% and 90% of the time. The level exceeded 10% of the time is a criterion used in some ordinances. The 90th percentile level can help define the steady noise level in the absence of intermittent noises. The level exceeded 1% of the time can be a useful indication of normal maximum sound levels due to short events when the actual maximum varies among events. Note that the percentile levels and maximum levels will be influenced by the selection of fast or slow response, or sample duration for instruments using short samples of time-average sound level.

Frequency Analyzers

The frequency spectrum of the community sounds can be measured and recorded using octave-band or 1/3 octave-band filters or fast Fourier transform (FFT) analyzers. Octave-band and 1/3 octave-band filters may allow measurement of all frequencies simultaneously or require serial measurement of each band. The data can be compared to criteria specified in an ordinance or regulation. Some ordinances specify a method of evaluating the presence of a discrete tone using 1/3 octave-band data. For the tone to be considered present, the 1/3 octave band of concern must exceed the arithmetic average for the two adjacent bands by some specified amount. Annex C of ANSI S12.9-1996 Part 4 gives guidance defining these differences, as shown in Table 15.5 (ANSI, 1996). This method will not always properly identify a discrete-tone problem. The user of Table 15.5

TABLE 15.5
Guidance for determining the existence of a pure tone.

<i>Range of 1/3 Octave-Band Center Frequencies (Hz)</i>	<i>Difference Between Arithmetic Average of SPLs in Two Adjacent Bands (dB)</i>
25-125	15
160-400	8
500-10,000	5

Note: Obtain the arithmetic average of the SPLs in the 1/3 octave bands immediately above and below the frequency of concern. Subtract this average value from the SPL in the 1/3 octave band containing the suspected pure tone. If the difference equals or exceeds the value indicated for the respective frequency range listed in Table 15.5, a discrete or pure tone may be assumed to exist.

Source: From ANSI S12.9-1996 Part 4, Annex C, with permission.

is cautioned that a tone at or near the boundary between 1/3 octave bands will share the sound energy between the two bands giving a false indication of no tone. Also, nontonal sound covering most of a band, but with little content in adjacent bands, will falsely indicate that a tone is present. An FFT analyzer is used to measure narrow-band frequencies, with the frequency resolution determined by the surveyor. A method using FFT analysis over octave-band and 1/3 octave-band measurements to more clearly identify the presence of a pure tone is described by Lilly (1994).

Interpreting Results

After collection, data must be organized and analyzed. Similar techniques can be applied to project the effect of new noise sources and to evaluate the need for noise control. There are numerous methods for describing and classifying community noise. This section will discuss interpreting the data for compliance with existing or potential regulations, and for community reaction.

Compliance with Existing or Potential Regulations

Depending on the jurisdiction (local, state, or provincial), rules limiting noise in the community may be found in general ordinances, zoning codes, or health regulations. However, compliance with these regulations does not assure community satisfaction. Most businesses want to be perceived as good neighbors. Regulatory compliance also is not always a satisfactory defense in legal proceedings. Many local ordinances contain specific clauses preserving the rights of plaintiffs to bring legal action against noise sources that comply with the ordinance. The plaintiff faces a heavy burden in that case, to prove the noise either is a nuisance or reduces property value. In some communities there also may be multiple applicable regulations. If there are no regulations, it is advisable to search for regulations in nearby jurisdictions. This could suggest the type of regulation the community might adopt in the future. Realize that simplified ordinances can sometimes be very restrictive. A 55-dBA limit is more stringent for unsteady sound if interpreted as a maximum or instantaneous level rather than an average level over a reasonable time. Lacking local guidance, typical regulation limits can be considered as references.

Assessment for Prediction of Community Response

A procedure for evaluating community reaction based on DNL was proposed by the EPA (1974) and updated by two of the original authors (von Gierke and Eldred, 1993). This procedure works best when the sound is broad-band in content, and present most days for much of the day. It normalizes the sound for various factors including existing sound levels. The expected DNL of the new source alone is first determined and adjusted by the factors shown in Table 15.6. These factors correct for seasonal variation, previous exposure and community attitudes, and the presence of tones or impulses. Larger correction factors than the EPA-proposed values, taken from ANSI S12.9 Part 4, have been added to this

TABLE 15.6
Corrections added to the measured noise level to obtain normalized level.

<i>Type of Correction</i>	<i>Description</i>	<i>Amount Added to Measured Level in dB</i>
Seasonal correction	Summer (or year-round operation).	0
	Winter only (or windows always closed).	- 5
Correction for previous exposure & community attitudes	No prior experience with intruding noise.	+5
	Community has had some previous exposure to intruding noise, but little effort is being made to control the noise. This correction may also be applied in a situation where the community has not been exposed to the noise previously, but the people are aware that bona fide efforts are being made to control the noise.	0
	Community has had considerable previous exposure to the intruding noise, and the noise maker's relations with the community are good.	- 5
	Community is aware that operation causing noise is very necessary and it will not continue indefinitely. This correction can be applied for an operation of limited duration and under emergency circumstances.	-10
Pure tone or impulse	No pure tone or impulsive character.	0
	Pure tone or impulsive character present.	+5
	Highly impulsive sounds, gunfire, hammering, drop hammering, pile driving, drop forging, pneumatic hammering, pavement breaking, metal impacts during rail-yard shunting operation, and riveting.	+12

Source: From EPA (1974).

table for highly impulsive sounds. The existing DNL without the new source is then arithmetically subtracted from the DNL expected for the new source alone. The DNL existing in the community can be estimated from sound measurements using Equation 15.1a, Equation 15.1b or from Table 15.7. The resulting difference is then compared to Table 15.8 to predict response. Notice that even the addition of a new sound, equal in level to the existing sound, will produce an increase in the overall level. Thus, some sporadic complaints are expected even when the normalized change is zero. A clearly dominant sound from a single new source will produce widespread complaints.

TABLE 15.7
Typical community noise levels.

<i>Community Description</i>	<i>DNL (dBA)</i>
Rural and sparsely populated areas	35–50
Quiet suburban (260 people/km ² , remote from large cities and from industrial activity and trucking)	50
Normal suburban community (770 people/km ² not located near industrial activity)	55
Urban residential community (2600 people/km ² not immediately adjacent to heavily traveled roads and industrial areas)	60
Noisy urban residential community (near relatively busy road or industry or 7700 people/km ²)	65
Very noisy urban residential community (26,000 people/km ²)	70

Source: Adapted from EPA (1974).

TABLE 15.8
Expected community reaction for normalized DNL difference.

<i>Normalized Change in DNL (dBA)</i>	<i>Reaction</i>
- 5	None
0	Sporadic complaints
+ 5	Widespread complaints
+ 14	Threats of legal action
+ 21	Vigorous action

Source: From EPA (1974).

EXAMPLE 15.2, Expected Community Reaction to a New Noise Source

For example, suppose a new industrial plant is to be built in a suburban area. It is not near other industry but there are two existing residential communities nearby. Noise controls can eliminate tones and impulsive sounds, and the sound produced will be steady 24 hours a day. Atmospheric effects will produce some variation in sound level reaching the communities. The DNL reaching the communities will be 52 – 55 dBA for the closer community and 45 – 46 dBA for the other. The population densities are about 500 people per km² for the closer community and 1000 people per km² for the other. What is the expected reaction in the two communities?

Table 15.7 indicates the existing DNL in the communities will be close to 55 dBA. Actual DNL for the two communities can be estimated to be 53 and 56 dBA using Equation 15.1b. Since the communities have no prior experience with or expectation of the noise, Table 15.6 indicates 5 dBA should be added to the source noise level or DNL reaching each community (52 – 55 dBA and 45 – 46 dBA) as described above. This gives a normalized DNL for the source of 57 – 60 dBA in the closer community and 50 – 51 dBA in the other. Next, we subtract the estimated existing DNL in the communities from the normalized DNL due to the source. For the closer community we subtract 53 from 57 – 60 and get a difference of 4 to 7 dBA. For the other community, we subtract 56 from 50 – 51 and get -4 to -5 dBA. From Table 15.8, we see there will probably be no reaction in the more distant and densely populated community. However, we can expect widespread complaints from the closer and more sparsely populated area.

In some cases the use of DNL will underestimate community reaction. This is most likely when the sound occurs only occasionally (once a day or less) in short periods of loud sound not typical for the community. These short periods of noise could be loud when they occur but not significantly change the DNL. This can be a particular problem if the noise occurs during evening or weekend periods when people are home and possibly trying to enjoy the outdoors. It is better in these cases to use actual sound levels during the events, rather than the DNL, for both the new noise and the existing noise. Using actual sound levels may overestimate community reaction but will be more reliable when the normalized change is large with them and small using DNL.

DNL or any measure based on overall A-weighted sound levels will not work well for distinctive sounds, such as speech, music, or discrete tones. The A-weighted sound level also can be misleading for strong low-frequency sounds where the C-weighted sound level is more than 10 dB greater than the A-weighted sound level. This includes high-energy impulsive sounds such as quarry and mining explosions, demolition and industrial processes using high explosives, explosive industrial circuit breakers, and other explosive sources where the equivalent mass of dynamite exceeds 25 g. Other sources of disturbing low-frequency noise include industrial exhaust stacks, outside blowers or fans, vacuum trucks used to clean parking lots, heavy vehicles (e.g, 18-wheel trucks) traveling on highways and over bridges, wind turbines, etc. It is worth noting that when the SPLs are less than 65 dB and relatively steady at the octave-band frequencies of 16, 31.5, and 63 Hz, it is unlikely that an annoyance problem exists. Residents may be annoyed, however, when sound less than 65 dB in these same frequencies fluctuates rapidly. See Annexes B and D of ANSI S12.9 Part 4 (1996) for guidance.

Often the problems due to strong low-frequency noise are evident only inside homes. The long wavelengths of low-frequency sounds can easily penetrate a building's structure and excite room resonances. The results include audible

sound and possibly rattles due to vibration induced by the noise. Such rattles make the annoyance equivalent to a noise at least 10-dB higher. Resonant tones will often be amplified leaving the sound inside the home even more dominated by low frequencies.

Adjustments to Account for Background Sound Levels

When the difference between the level due to the source of concern and the background level is less than 10 dB, it is sometimes desirable to determine the level due solely to the primary source. This can be done by using Equation 2.13. The result can also be approximated using Table 15.9.

TABLE 15.9
Adjustments to account for background sound levels.
The contribution of the background sound level (without source under study operating) may be accounted for under the following conditions.

<i>Condition</i>	<i>Comment</i>	<i>Action</i>
The sound pressure level increases over the background sound pressure level by 10 dB or more.	The measured operating sound pressure level is due to the source.	No adjustment necessary.
The sound pressure level increases over the background sound pressure level between 4 and 10 dB.	The measured operating sound pressure level consists of elements of both source and background.	Apply adjustment to measured level using Table.
The sound pressure level increases over the background sound pressure level by 3 dB or less.	The sound pressure level due to the source is equal to or less than the background sound pressure level.	The two contributions cannot be separated.

NOTE: Where the difference is 3 dB or less, report the unadjusted source level and identify it as being “masked” by the background level.

Adjustment of measured level to account for the effect of background sound.

<i>Difference Between Measured Level and Background Level (dB)</i>	<i>Adjustment to be Made to Measured Level (dB) to Obtain Corrected Source Level</i>
4	- 2.2
5	- 1.7
6	- 1.3
7	- 1.0
8	- 0.8
9	- 0.6
10	- 0.4
Greater than 10	0

Source: From ANSI S12.18-1994, with permission.

Report and Documentation

The report of noise measurements taken in the community should reflect the purpose of the study. The report must adequately describe the conditions of the measurements so that the findings are taken in context. Furthermore, in the event that measurements need to be repeated, the report should be sufficient to serve as a reference for future measurements.

Elements that should be considered for a report include:

1. A clear statement of the purpose of the measurements (e.g., cursory check of conditions, documentation of a source output, evaluation of ordinance compliance, evaluation of land use compatibility, prediction of community response, etc.).
2. Description of methodology for obtaining measurements—including rationale for choice (e.g., ordinance specification, satisfaction of purpose, limitations in source operation, etc.).
3. Description of the setting—including the surrounding area, terrain, land use classifications, etc.
4. Description of noise source(s) within the environment—including temporal characteristics, tonal qualities, operation/process relationship of major sources. The description should also include background and transient sources.
5. Description of measurement site(s)—including specific location of site, rationale for selection, position relative to source(s), description of terrain and objects near the site.
6. Plan view of site—a topographic map including source locations, measurement sites, significant objects such as buildings, major vegetation, and other locations of interest (including nearby residences etc.). Significant ground slopes should also be indicated. An example of a plan view is shown in Figure 15.7.
7. The sound descriptors (e.g., maximum sound level, equivalent sound level, percentile sound level, day–night average sound level, etc.) used to describe/evaluate the source(s)—including rationale for use of such descriptors.
8. Documentation of instrumentation—including manufacturer, model, and serial numbers of all meters, microphones, calibrators, and other instrumentation used in the study. Sampling rates and settings should also be included, as well as the pre- and postsurvey calibration readings.
9. Description of meteorological conditions—including typical wind speed and direction, temperature, relative humidity, and cloud cover, supplemented with a brief description of weather conditions during time of measurements. Wind speed and direction corresponding to time intervals should also be documented in a separate log appended to the report.
10. Exceptions to standard procedures—including deviations due to ordinance requirements, site limitations, or purpose.
11. Other observations—including description of occurrences during the measurement periods that could have an effect on the data collected.

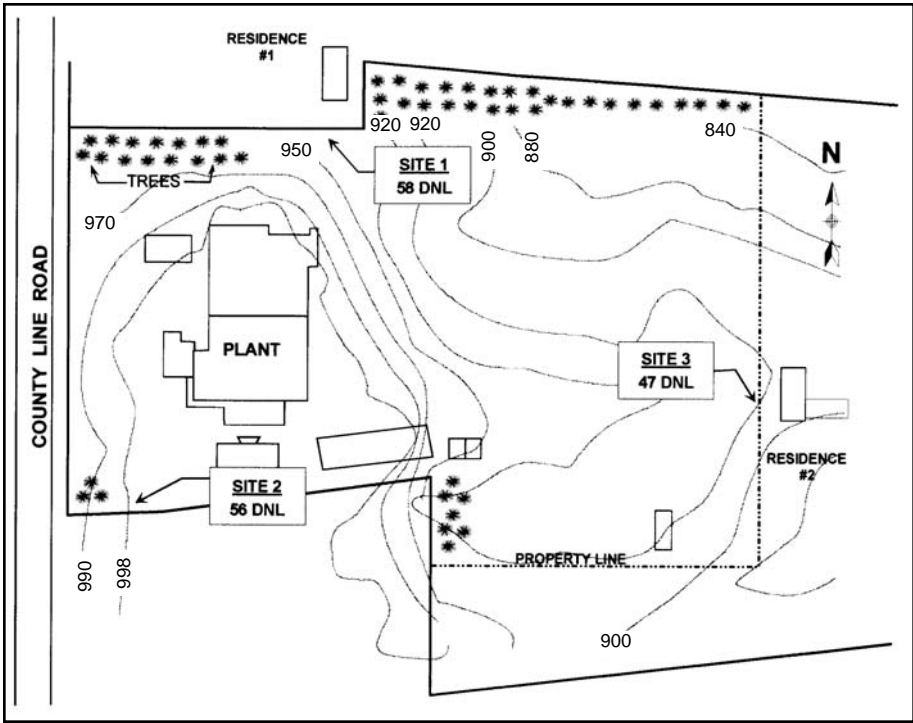


Figure 15.7 — Example plot plan depicting the two residences, three measurement sites, principal geographic features, elevation contours, and measured sound descriptors.

12. Acoustical data—including measurement data (background and source test data), results of comparisons to criteria or ordinances, and other conclusions. Measurement data should be presented with the knowledge that the readers may not have any technical understanding of sound or the evaluation criteria. Methods to simplify understanding should be used where possible. A time-history of the measurement can be illustrative of the conditions as shown in Figure 15.8.
13. Executive summary—it is recommended that a summary of the study including purpose and findings be included at the beginning of the report.

Summary

Most industrial companies will face the potential of a community noise problem. Each surrounding community is different and will tolerate varying levels of noise. Factors influencing community tolerance include:

- Visibility of noise source. Some members of the community may be more concerned with “visual” noise sources (e.g., stacks, vents, etc.).

- Noise sources that cannot be associated with the operation of the facility or seem foreign to the community. Some members of the community may interpret these sources as potentially dangerous.
- Noise centered within a narrow frequency band (pure tones).
- Noises that can startle the community (impulsive noise).
- Noise that is random in occurrence and duration (may be related to lack of control).
- Low-frequency noise that may cause vibrations and/or resonances within residential structures.
- A very low pre-existing background noise level.

If a community noise problem is suspected, the following information should be considered:

- Review current local noise control ordinance. If there is none, refer to any state guidelines for information on what is expected for monitoring and compliance.
- Conduct perimeter (property line) sound level measurements. Compare to limits specified in the local ordinance. Check for pure tones. Many ordinances have definitions and special restrictions for tone generation.
- Be aware of the time of the noise complaint. Certain sounds may be noticed at greater distances in the evening or early morning due to meteorological effects, as well as lower background noise, and may not be discernable during the day.

Additional follow-up steps may include the following:

- Meet with the community/complainant. This shows that the company is concerned about being a good neighbor. Sometimes the noise complaint is related to another issue and noise is being used to get attention and response.
- Open communications. Consider creating a “noise hot-line” that the community can call 24 hours a day. Avoidance or quick resolution of a noise issue is always in the plant’s best interest. In addition, a well-documented list of complaint calls can be cross-referenced with plant operating conditions to track down possible problems.
- Inform the community of any unusual noise emissions prior to noise generation. Typically, complaints will come when a “normal” noise environment changes. In addition, a noise generated between 7 p.m. and 7 a.m. is generally more likely to cause complaints than an identical noise occurring during daytime hours.
- Elimination of noise sources may also cause complaints—if the old noise source masked a dominant tone or other “offensive” noise.

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AGENDA ITEM # 10

CITY COUNCIL COMMUNICATION FORM

FROM: Dan Foote, Staff Attorney (Ext. 223)

THROUGH: Wendy DuBord, Interim City Manager (Ext. 219)

DATE: April 5, 2011

ITEM: A RESOLUTION DENYING AN APPEAL BY SIX OWNERS OF RESIDENTIAL UNITS IN THE CLOCKTOWER COMMERCIAL CONDOMINIUM BUILDING OF THE DIRECTOR'S APPROVAL OF CHANGE OF USE APPLICATION COU 10-01 FOR UNITS C1-C3 OF THE CLOCKTOWER COMMERCIAL CONDOMINIUM BUILDING. (Foote)

NEXT STEP: Adopt the resolution

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

I. REQUEST OR ISSUE:

Adopt a resolution affirming the City Council's March 15, 2011 decision to deny an appeal of the Director of Planning Services approval of COU 10-01.

II. RECOMMENDED ACTION:

Adopt the resolution.

III. BACKGROUND INFORMATION:

On January 27, 2011 the Director of Planning Services approved COU 10-01, a change of use application for Units C-1, C-2, and C-2 of the Clocktower Square Building. The change of use authorized a change from office uses to a nightclub use. The owners of residential units appealed. On March 15, 2011 the City Council denied their appeal. The

CDC requires the City Council to adopt a resolution stating the reasons for the denial. The proposed resolution is intended to satisfy the CDC requirement.

IV. LEGAL ISSUES.

None.

V. FISCAL IMPACTS.

None.

CITY OF STEAMBOAT SPRINGS, COLORADO

RESOLUTION NO. _____

A RESOLUTION DENYING AN APPEAL BY SIX OWNERS OF RESIDENTIAL UNITS IN THE CLOCKTOWER COMMERCIAL CONDOMINIUM BUILDING OF THE DIRECTOR'S APPROVAL OF CHANGE OF USE APPLICATION COU-10-01 FOR UNITS C1-C3 OF THE CLOCKTOWER COMMERCIAL CONDOMINIUM BUILDING.

WHEREAS, on January 27, 2011 the Director of Planning Services approved by administrative action COU 10-01, a change of use from office to nightclub for units C1, C2, and C3 of the Clocktower Commercial Condominium Building, and announced the decision in a letter dated February 7, 2011; and

WHEREAS, the owners of six residential units in the Clocktower Square building on February 3, 2011 appealed, by and through their attorney, Jill Brabec, Holloway, Brabec, & Karet, PC, the Director's decision to the City Council; and

WHEREAS, the City of Steamboat Springs Planning Commission on February 24, 2011 voted 6-0 to deny the appeal; and

WHEREAS, the City of Steamboat Springs City Council held a public hearing on March 15, 2011, at which time the appellants and other interested persons had an opportunity to submit evidence and to testify either in support or opposition to the proposal and voted 6-0 to deny the appeal; and

WHEREAS, public hearing notices were mailed to adjacent property owners, posted on the subject property, and published in the Steamboat Pilot, consistent with the requirements of Section 26-51 of the Steamboat Springs Community Development Code ("CDC"); and

WHEREAS, the City Council having denied the appeal on the grounds that the Director correctly applied the applicable provisions of the Community Development Code, CDC Section 26-48(b)(2)(b)(5) requires the approval of a resolution stating the reasons for denial of the appeal.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. **PARKING REQUIREMENTS.** The City Council finds that the Director's interpretation of Section 26-139(d)(1) pertaining to offstreet

parking requirements is more consistent with the CDC than that of the appellants for the following reasons:

- a) The parking requirement for residential units in the G-2 zone district is $\frac{1}{2}$ a parking space per unit. Though the CDC omits this standard, the City Council finds that the Director's interpretation of $\frac{1}{2}$ of a space per residential unit is more consistent with the CDC than the appellant's determination of $1\frac{1}{2}$ to 2 spaces per residential unit. The other base area zone districts, G-1, RR-1, and RR-2 have parking requirements ranging from $\frac{1}{2}$ to $\frac{3}{4}$ of a space per residential unit. The City has consistently applied a $\frac{1}{2}$ space requirement in recent G-2 district developments such as One Steamboat Place, Thunderhead, and Ski Time Square development plan approvals.
- b) The Council finds the Director's interpretation of the parking requirements applicable to the Christie Sports uses is more consistent with the CDC than the appellants' interpretation. Parking requirements are based on the principal use of a unit or structure. The office and delivery uses of the Christie Sports units are accessory uses. The parking requirements are determined by reference to the principal, retail use.
- c) As a result of the findings in paragraphs a) and b), the City Council concludes that the parking requirement for the Clocktower Square building with the proposed change of use is 26 spaces. Appellants acknowledge that 29 spaces are available.
- d) The City Council acknowledges that Section 26-139(e)(6) requires parking in G-2 zone districts to be located underground. The City Council finds that converting the existing Clocktower Square building surface parking lot to underground parking would be prohibitively expensive, if not impossible and that no rational basis would exist between such a condition and the proposed change of use. Consequently, the City Council finds that the provisions of CDC Section 26-42 render the underground parking requirement inapplicable in this case.
- e) The City Council further finds that, for the reasons set forth in Section 2, below, that additional offsite parking is available on the adjacent parking lot site to satisfy the parking requirements set forth in Section 26-139(d)(1).

Section 2. **LOADING REQUIREMENTS.** The City Council finds that the Director's interpretation of Section 26-139(d)(2) pertaining to offstreet loading requirements is more consistent with the CDC than that of the appellants for the following reasons:

- a) At least three excess parking spaces exist on site. These excess spaces may be used for loading.
- b) Adequate loading facilities currently exist and are in current use on the adjacent parking lot site. Applicant is the beneficiary of a lease with the owners of the adjacent parking lot site.
- c) The Council finds that the applicant's lease rights are adequate to satisfy the requirements of Section 26-139(d)(3) relating to offsite facilities. The offsite

facilities are within six hundred feet of the proposed use. The operation of the offsite parking and loading facilities will fulfill the purpose of Section 26-139, will be more useable and convenient, due to their location, than the on site facilities, and will not cause traffic congestion or an unsightly concentration of parked cars. The lease, though short term in nature, has been in effect for eighteen years; the lessor owns the units that are the subject of this application and supports the application; and any redevelopment of the adjacent parking lot site is likely to include the Clocktower Square building.

Section 3. **NOISE AND OTHER IMPACTS.** The City Council finds that the Director's interpretation of the CDC with respect to noise and other impacts of the proposed use is more consistent with the CDC than that of the appellant for the following reasons:

- a) CDC provisions pertaining to the nightclub use in the G-2 zone district do not include any standards relating to building design or noise suppression. The City lacks the authority to deny the proposed change of use on the basis of noise concerns.
- b) The City Council finds that the applicant has made substantial efforts to mitigate noise and other impacts to the residential units and that the proposed use as represented by the applicant is not incompatible with the residential uses in the Clocktower Square building.

Section 4. Based upon the preceding findings, the appeal of the Director's January 27, 2011 decision approving COU 10-01 is hereby denied.

PASSED, ADOPTED AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AGENDA ITEM # 11

CITY COUNCIL COMMUNICATION FORM

FROM: Philo Shelton, Public Works Director (871-8204)

THROUGH: Jon Roberts, City Manager

DATE: April 5, 2011

RE: A RESOLUTION ADOPTING AMENDED BY-LAWS OF THE YAMPA VALLEY AIRPORT COMMISSION AND SECOND AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT ESTABLISHING THE YAMPA VALLEY AIRPORT COMMISSION.

NEXT STEP: No additional steps are required.

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

I. REQUEST OR ISSUE:

Discussion and consideration to approve and recommend that the Steamboat Springs City Council approve the amended Yampa Valley Airport Commission (YVAC) Bylaws and Second Amended and Restated Intergovernmental Agreement (IGA) Establishing the Yampa Valley Airport Commission to provide for alternate board members.

II. RECOMMENDED ACTION:

Motion is needed to approve the amended bylaws and Second Amended and Restated IGA Establishing the Yampa Valley Airport Commission.

III. FISCAL IMPACTS:

Proposed Expenditure: NA
Funding Source: NA

IV. BACKGROUND INFORMATION:

The YVAC gave direction during a meeting to prepare an amendment to the Bylaws and IGA to provide for alternate board members.

The YVAC and the Routt County BCC have signed the amendments. Copies are attached.

V. LEGAL ISSUES:

The City Attorney and John Merrill (County Attorney's office), have reviewed the amended language.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None.

VII. SUMMARY AND ALTERNATIVES:

Maintain the current Bylaws and IGA of the YVAC.

CITY OF STEAMBOAT SPRINGS, COLORADO

RESOLUTION NO. _____

A RESOLUTION ADOPTING AMENDED BY-LAWS OF THE YAMPA VALLEY AIRPORT COMMISSION AND SECOND AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT ESTABLISHING THE YAMPA VALLEY AIRPORT COMMISSION.

WHEREAS, the City of Steamboat Springs and Routt County have heretofore entered into an Intergovernmental Agreement Establishing the Yampa Valley Airport Commission dated as of August 5, 2003 pursuant to which the Yampa Valley Airport Commission (the "Airport Commission") was established, and

WHEREAS, the Yampa Valley Airport Commission (YVAC) gave direction during a meeting to prepare an amendment to the by-laws to establish alternate board members; and

WHEREAS, the Yampa Valley Airport Commission, as heretofore established, was confirmed as a commission of both the County and City; and

WHEREAS, the revised and the Second Amended and Restated Intergovernmental Agreement establishing the Yampa Valley Airport Commission was adopted on February 10, 2011; and

WHEREAS, the attached Amended By-laws and the Second Amended and Restated Intergovernmental Agreement establishing the Yampa Valley Airport Commission were drafted by the County Attorney and adopted by Routt County on February 10, 2011; and

WHEREAS, the attached Amended Bylaws and the Second Amended and Restated Intergovernmental Agreement establishing the Yampa Valley Airport Commission have been reviewed and approved by City legal staff.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO, THAT:

Section 1. The Amended By-laws of the Yampa Valley Airport Commission (attached hereto as Exhibit A) and the Second Amended and Restated Intergovernmental Agreement establishing the Yampa Valley Airport Commission (attached hereto as Exhibit B) are hereby approved.

PASSED, ADOPTED AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AMENDED BY-LAWS
OF THE
YAMPA VALLEY AIRPORT COMMISSION

This Commission has been established pursuant to an Intergovernmental Agreement (the “IGA”) between the City of Steamboat Springs and Routt County. In the event of any conflict between the rules and procedures in these by-laws and the IGA, the IGA shall control.

Article I. Election

A. There shall be elected a Chair and a Vice Chair. Said officers shall be elected at the first regular meeting of the year, except that successors shall be elected at the first regular meeting following resignation or removal of any officer from the Yampa Valley Airport Commission (“Commission”). Elections of officers shall be the first order of business at the appropriate meeting and the election shall be held by member voting on seconded nominations. In case of a tie vote, additional seconded nominations shall be taken for the tied contestants and additional seconded nominations and votes shall be taken until one person has received a majority vote. Following the election of a Chair, the Vice Chair shall be elected.

B. Chair

The Chair shall take the chair at the hour appointed for the Commission meeting, and shall immediately call the members to order. He/she shall preserve decorum and decide all questions of order, subject to appeal of the Commission. If members transgress the rules of the Commission, the Chair shall call them to order.

C. Vice Chair

The Vice Chair shall perform the duties of Chair during the latter’s absence or disability.

D. Temporary Chair

In the event of the absence of the Chair and Vice Chair, the Yampa Valley Regional Airport (“YVRA”) Airport Manager or the Steamboat Springs Airport Manager, or a representative of either office, shall call the Commission to order and call the roll of the members. If a quorum is found to be present, the Commission shall

proceed to elect, by a majority vote of those present, a Chair for the meeting to act until the Chair or Vice Chair appears.

Article II. Sessions

A. Regular Meetings

The Commission shall meet in regular session bi-monthly on the second Thursday of the month with other meetings scheduled by motion on the fourth Thursday of the month. When a regular meeting is scheduled on a holiday, the regular meeting shall be held on the following Thursday unless otherwise provided for by motion. All regular meetings shall commence at 6:00 p.m. in the Yampa Valley Regional Airport Administration Building, the FBO of Bob Adams Field, or such other suitable public spaces as may be determined by vote of the Commission at its previous meeting.

B. Special Meetings

Special meetings shall be called by the staff upon the request of the Chair, or by any two members of the Commission, and the staff shall provide at least 24 hours' notice to each member of the Commission. No special meeting shall be held unless all members are personally notified of said meeting, and a quorum of the Commission is present.

C. Adjourned Sessions

Any session of the Commission may be continued or adjourned from day to day or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting thereafter.

D. Quorum

A quorum consisting of a simple majority of the seated members of the Commission is required for the transaction of business at all Commission meetings. All regular members shall be entitled to vote. Alternate representatives may be nominated and appointed for Seats One, Two, Three, Four, Five and Seven by the same organizations and in the same manner as provided above for the nomination and appointment of the primary representatives occupying those seats. In the absence of the primary representative member, the alternate representative member shall be considered seated and entitled to vote.

Article III. Officers and Employees

A. Secretary

The YVRA Airport Manager or the Steamboat Springs Airport Manager, or a staff representative of either office, shall serve as secretary to the Commission and shall keep minutes of meetings and perform such other and further duties in the meeting as may be ordered by the Chair. The Secretary shall furnish each member of the Commission with a copy of the minutes of all Commission meetings. The Secretary shall attest to the signature of the Chair on all documents where necessary and shall perform such other duties as may be required by law.

B. Other Duties of Staff

The YVRA Airport Manager or the Steamboat Springs Airport Manager, or a staff representative of either office, shall attend all Commission meetings, and shall advise the Commission of relevant regulations and factual data requested by the Commission. The staff shall conduct such investigations and direct such planning efforts that may reasonably be assigned by the Commission.

C. Other City or County Officers and Employees

When the Commission wishes to confer with the head of any department or any office or employee of the County on any matter relating to the Yampa Valley Regional Airport or the Steamboat Springs Airport, the City or County Managers shall be asked to request that such official or employee attend a regular, adjourned or special meeting.

Article IV. Order of Business

A. The agenda for all regular or special meetings of the Commission shall be set by the Commission Chair, in consultation with the YVRA Airport Manager and the Steamboat Springs Airport Manager. Copies of meeting agendas shall be provided to the Commission members as far in advance as possible of the meetings to which they pertain.

B. The Commission shall assign committees as necessary in the conduct of normal business.

Article V. Duties and Privileges of Members

A. Attendance

When any member is absent for three meetings in a twelve (12) month period, the Commission shall so notify the appropriate appointing authority. Said member shall be replaced by the appointing authority unless it is determined that exceptional circumstances existed and that there are sound reasons to believe that the member’s attendance will improve. This rule may be waived by a vote of the majority of the members of the Commission if they determine that exceptional circumstances existed and that there are sound reasons to believe that the member’s attendance will improve.

B. Right of Floor

When recognized by the Chair, members shall confine themselves to the questions under debate, avoid personalities, and refrain from impugning the motives of any member’s argument or vote.

C. Voting

The vote by “Yes” and “No” shall be taken following the seconding of all motions and entered into the minutes of the Commission proceedings. No member of the Commission shall vote on any question in which she/he has a financial interest, other than the common public interest, or on any question concerning his/her own conduct. It shall not be in order for members to explain their vote during the roll call.

D. Making Motions

The Presiding Officer shall have the same rights and privileges of making motions as any other member.

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E. In matters not covered within these rules, Robert’s Rules of Order shall control.

Adopted this ___ day of _____, 2011 by the Yampa Valley Airport Commission.

ATTEST:

YVAC Secretary

by: _____
Paul Hughes, Chairman

Ratified this ___ day of _____, 2011 by Routt County, Colorado.

ATTEST:

_____ by:

Kay Weinland
Routt County Clerk

Diane Mitsch Bush, Chair
Routt County Board of County
Commissioners

Ratified this ___ day of _____, 2011 by the City of Steamboat Springs,
Colorado.

ATTEST:

_____ by:

Julie Franklin
City Clerk

Cari Hermacinski, President
Steamboat Springs City Council

**SECOND AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT
ESTABLISHING THE YAMPA VALLEY AIRPORT COMMISSION**

This Second Amended and Restated Intergovernmental Agreement Establishing the Yampa Valley Airport Commission (the "Amended Agreement") dated as of **February 10**, 2011, is between the City of Steamboat Springs, Colorado, a municipality chartered pursuant to the laws of the State of Colorado ("City") and Routt County, Colorado ("County") acting by and through its Board of County Commissioners.

Recitals

A. City is the owner and operator of the Steamboat Springs Airport at Bob Adams Field ("BAF").

B. County is the owner and operator of the Yampa Valley Regional Airport ("YVRA") located at Hayden, Colorado. Collectively, BAF and YVRA are sometimes referred to hereinafter as the "Airports."

C. City and County have extensively discussed the need for and advantages of having unified policies and long-range planning for the Airports and the possibility of forming a statutory airport authority pursuant to the Colorado Public Airport Authority Act (C.R.S. Section 41-3-101, et seq.) to obtain those objectives.

D. City and County have concluded that, rather than forming a statutory airport authority, forming an airport commission by an intergovernmental agreement is more consistent with the above objectives while allowing each to maintain ownership of its airport.

E. City and County have heretofore entered into an Intergovernmental Agreement Establishing the Yampa Valley Airport Commission (the "Agreement") dated as of August 5, 2003 and amended and restated as of January 10, 2006 and December 22, 2009, pursuant to which the Yampa Valley Airport Commission (the "Airport Commission") was established.

F. City and County desire to further amend the Agreement in certain respects.

G. City and County intend by this Second Amended Agreement to amend and restate the Agreement and to set forth the terms and conditions under which the Airport Commission will exist and operate and to further set forth the relationships among City, County and the Airport Commission.

Terms and Conditions

Section 1. Airport Commission Established:

The Yampa Valley Airport Commission, as heretofore established, is hereby confirmed as a commission of both County and City. City and County agree to share equally in the start-up and operational costs of the Airport Commission, such as the cost of obtaining stationery, advertising for commission members, the salary for the Commission's minute taker, and expense incurred by commission members in the performance of their duties.

Section 2. Selection of Airport Commission Members:

There shall be nine regular members of the Airport Commission whose qualifications and manner of selection shall be as follows:

- a. Seat One shall be occupied by a member of the City Council of the City of Steamboat Springs, as selected by said City Council.
- b. Seat Two shall be occupied by a member of the Board of County Commissioners of Routt County, as selected by said Board of County Commissioners.
- c. Seat Three shall be occupied by a resident of Moffat County, Colorado, to be nominated by the Board of County Commissioners of Moffat County and the City Council of the City of Craig, Colorado, and appointed jointly by the City Council of Steamboat Springs and the Board of County Commissioners of Routt County.
- d. Seat Four shall be occupied by a resident of the Town of Hayden, Colorado, to be nominated by the Town of Hayden Town Board, and appointed jointly by the City Council of Steamboat Springs and the Board of County Commissioners of Routt County.
- e. Seat Five shall be occupied by an officer, director or employee of the Steamboat Ski & Resort Corporation, to be nominated by the President of said corporation, and appointed jointly by the City Council of Steamboat Springs and the Board of County Commissioners of Routt County.
- f. Seat Six shall be occupied by a resident of Routt County, to be appointed jointly by the City Council of Steamboat Springs and the Board of County Commissioners of Routt County, based upon the nomination of the Interview Committee established pursuant to Section 4 of this Agreement.
- g. Seat Seven shall be occupied by a resident of Routt County active in the general business community to be nominated by the Steamboat Springs Chamber Resort Association. Said member shall be appointed jointly by

the City Council of Steamboat Springs and the Board of County Commissioners of Routt County.

h. Seats Eight and Nine shall be occupied by residents of Routt County active in the aviation community. Said members shall be appointed jointly by the City Council of Steamboat Springs and the Board of County Commissioners of Routt County based upon the nomination of the Interview Committee established pursuant to Section 4 of this Agreement.

With the exception of the member occupying Seat Three, all members of the Airport Commission must be full-time residents of Routt County.

Where appointments are specified to be made jointly by the City Council of Steamboat Springs and the Board of County Commissioners of Routt County, said bodies' actions of appointment shall be by separate vote although said bodies may deliberate such action at a joint meeting.

All regular members shall be entitled to vote. Alternate representatives may be nominated and appointed for Seats One, Two, Three, Four, Five and Seven by the same organizations and in the same manner as provided above for the nomination and appointment of the primary representatives occupying those seats. In the absence of the primary representative member, the alternate representative member shall be considered seated and entitled to vote. A majority of the members entitled to vote shall constitute a quorum of the Airport Commission.

Section 3. Term of Airport Commission Members:

The terms of the members occupying Seats One and Two shall be indefinite and determined by the elective body, that is the City Council or Board of County Commissioners, selecting such members; provided, however, that the terms of such members shall automatically expire upon termination of such member's term on the elective body which they represent. All other members of the Airport Commission except those occupying Seats One and Two shall serve four year terms; provided, however, that the terms of the members initially occupying Seats Three, Seven, Eight and Nine shall end on June 30, 2007.

All members of the Airport Commission other than those occupying Seats One and Two shall serve at the pleasure of both the City Council and the Board of County Commissioners and may be removed at any time, with or without cause, by action of both such bodies. The foregoing provisions notwithstanding, any duly

appointed member of the Airport Commission shall continue to serve until the member's successor has been appointed. Members may be appointed to serve successive terms without limitation.

All members of the Airport Commission shall serve without compensation except for such amounts determined appropriate by the County Manager or County Commissioners and City Manager or City Council to offset expenses incurred by Airport Commission members in the performance of their duties as Airport Commission members.

The City Manager of the City of Steamboat Springs and the County Manager of Routt County or their designees shall serve as liaisons to the Commission on behalf of their respective employers.

Section 4. Interview Committee:

The Interview Committee shall consist of three members of the City Council of Steamboat Springs and three members of the Board of County Commissioners of Routt County.

The Interview Committee shall be responsible for notifying those parties having nominating power with respect to members of the Airport Commission of that power and the deadlines for exercising that power. The Interview Committee shall also be responsible for providing notice to the public including, without limitation, by advertisements in the newspapers designated as the official publications of the City and the County, that the Interview Committee is accepting letters of interest and resumes for such seats on the Airport Commission as the Interview Committee has responsibility for making recommendations to the City and the County.

The Interview Committee shall make recommendations to the City Council and the Board of County Commissioners as to replacements for members occupying Seats Six, Seven, Eight and Nine in the event that any of those seats should become vacant for any reason during a term. In such case, the Interview Committee shall make its recommendation within 45 days after the seat becomes vacant.

Additionally, the Interview Committee shall make recommendations as to the members to occupy Seats Six, Seven, Eight and Nine no later than 45 days before the expiration of the terms of the members occupying those seats in accordance with Paragraph 3 hereof.

The Interview Committee shall request the Board of County Commissioners of Moffat County and the City Council of the City of Craig to provide their nomination for Seat Three in the event that such seat becomes vacant during a term and shall also request their nomination for that seat at least 90 days prior to the end of the term of Seat Three. In the event that the Board of County Commissioners of Moffat County and the City Council of the City of

Craig fail to make the requested nomination within 30 days after the request is made by the Interview Committee, then the Interview Committee shall make a recommendation to the City Council of the City of Steamboat Springs and the Board of County Commissioners of Routt County as to the member to occupy such seat within 30 days after the expiration of the 30 day period for nominations by those entities.

The Interview Committee shall request the Town Council of Hayden to provide its nomination for Seat Four in the event that such seat becomes vacant during a term and shall also request their nomination for that seat at least 90 days prior to the end of the term of Seat Four. In the event that the Town Council of Hayden fails to make the requested nomination within 30 days after the request is made by the Interview Committee, then the Interview Committee shall make a recommendation to the City Council of the City of Steamboat Springs and the Board of County Commissioners of Routt County as to the member to occupy such seat within 30 days after the expiration of the 30 day period for nominations by those entities.

The Interview Committee shall request the Steamboat Springs Chamber Resort Association to provide its nomination for Seat Seven, in the event that such Seat becomes vacant during a term and shall also request its nomination for Seat Seven at least 90 days prior to the end of the term for Seat Seven. In the event that the Steamboat Springs Chamber Resort Association fails to make the requested nomination within 30 days after the request is made by the Interview Committee, then the Interview Committee shall make a recommendation to the City Council of the City of Steamboat Springs and the Board of County Commissioners of Routt County as to the member to occupy such Seat within 30 days after the expiration of the 30 day period for nomination by such entity.

In the event that the Interview Committee fails to make any recommendation required of it hereunder, the City Council and the Board of County Commissioners may jointly appoint members to seats for which no recommendation had been made without such recommendation.

Section 5. Meetings:

The Airport Commission shall meet at least bi-monthly with the managers of the Airports. Meetings of the Airport Commission shall be held at such place and time as a majority of the Airport Commission may agree. City and County shall make such of their facilities available to the Airport Commission for meetings upon request of the Airport Commission and to the extent consistent with other uses of those facilities. Minutes shall be kept of all Airport Commission meetings. The Airport Commission shall have the responsibility and authority to select, for hiring through the Airport Manager of YVRA, qualified minute takers for all meetings of the Airport Commission. The Airport Commission shall comply with all requirements of the Open Public Meetings Act, (C.R.S.

Section 24-6-401 et seq.) applicable to "local public bodies" as defined in that Act as well as any applicable provisions of the Charter of the City of Steamboat Springs, ordinances of the City of Steamboat Springs and resolutions of the Board of County Commissioners of Routt County.

In addition, the Airport Commission shall conduct its proceedings in accordance with Robert's Rules of Order, Revised.

Section 6. Authority and Responsibilities of the Airport Commission:

a. Policy Direction To Airport Managers Regarding the Operation and Management of Airports. The Airport Commission shall provide policy direction to the Airport Manager of YVRA and the Airport Manager of BAF in relation to the operation and management of the airport for which each is responsible. The Airport Manager of YVRA shall remain an employee of County and, subject to the authority of the Airport Commission to provide policy direction to the Airport Manager of YVRA concerning matters related to the operation and management of YVRA, under the direction of the County Manager. The Airport Manager of BAF shall remain an employee of City and, subject to the authority of the Airport Commission to provide policy direction to the Airport Manager concerning matters related to the operation and management of BAF, under the direction of the City Manager. All personnel actions, such as discipline or termination, taken with respect to the Airport Manager of YVRA shall be taken only by the County Manager or the Board of County Commissioners following consultation with the Airport Commission. All personnel actions, such as discipline or termination, taken with respect to the Airport Manager of BAF shall be taken only by the City Manager following consultation with the Airport Commission.

b. Airport Budget Preparation. The Airport Commission, with the assistance of the Airport Managers, shall be responsible for preparing and presenting operations, personnel and capital budgets for YVRA and BAF. These budgets shall comply with the accounting and budgeting procedures of the County or City, as applicable and shall be subject to the approval and adoption by the Board of County Commissioners or the City Council, as applicable. The Airport Commission shall also prepare and present a budget for each budget year commencing with 2004 for the operational expenses of the Airport Commission. This budget for the operational expenses of the Airport Commission shall also be subject to approval and adoption of both the Board of County Commissioners and the City Council, it being the intent that County and City shall share equally in these expenses.

c. Limitations on Authority of the Airport Commission. The foregoing provisions notwithstanding, the Airport Commission shall not have the authority to do any of the following without the consent of the City or County, or both, as applicable:

- i. to make substantial changes in the operations of either of the Airports;
- ii. to acquire or dispose of real property or other assets subject to the Airport Commission's management;
- iii. to commit or expend funds except in accordance with an adopted budget;
- iv. to borrow or lend money;
- v. to hire, terminate, discipline, promote, demote or reassign the personnel of either Airport;
- vi. to transfer funds, personnel or equipment from one airport to the other except on a short-term basis in response to special circumstances.

d. Capital Improvements Planning. The Airport Commission shall formulate and forward to the Board of County Commissioners and City Council, short, medium and long-range capital improvement plans for each of the Airports.

Section 7. No Joint Venture or Partnership Created:

BAF and all assets of the City used in connection with BAF shall remain assets of the City. YVRA and all assets of the County used in connection with YVRA shall remain assets of the County. No assumption of indebtedness by City or County of the other's indebtedness shall result from this Agreement or the operation of the Airport Commission. No joint venture or partnership is created hereby. It is the intention of City and County that the Airport Commission provide for unified direction of BAF and YVRA, but City shall continue to fund the operations of BAF and County shall continue to fund the operations of the YVRA.

Section 8. Allocation of Liability and Provision for Insurance:

City shall indemnify, defend and hold County, the Board of County Commissioners, all members of the Yampa Valley Airport Commission, and all employees and insurers of the County harmless from any claim, lawsuit or other liability made against all or any of them arising out of the operation of BAF. County shall indemnify, defend and hold City, the City Council, all members of the Yampa Valley Airport Commission, and all employees and insurers of City harmless from any claim, lawsuit or other liability arising out of the operation of YVRA.

In order to protect themselves, City and County at all times during the term of this Agreement shall each maintain standard form comprehensive airport liability and omissions public officials/professional coverage which is mutually acceptable to the City and County. Worker's compensation insurance for County employees shall be the responsibility of County, and worker's compensation insurance for City employees shall be the responsibility of City.

Section 9. Notice:

Any notice required under this Agreement may be personally delivered or mailed in the United States mails, first class postage prepaid to the party to be served at the following addresses:

City: City Council
c/o City Manager
P.O. Box 775088
Steamboat Springs, Colorado 80477

County: Board of County Commissioners
c/o County Manager
P.O. Box 773598
Steamboat Springs, Colorado 80477

Notices personally served shall be deemed served on the date of delivery. Notices mailed shall be deemed served the next business day following the date of mailing if mailed in Steamboat Springs, Colorado.

Section 10. Amendments:

This Agreement may not be amended except by a written document executed by both City and County.

Section 11. Term and Termination of Agreement:

This Agreement shall be effective as of August 5, 2003. The initial term of this Agreement shall be from August 5, 2003, through December 31, 2003. Thereafter, its term shall automatically be extended annually for the following year unless either party gives written notice of termination to the other party at least 90 days prior to the commencement of the renewal period. In addition, this Agreement may be terminated at any time by either party hereto upon 90 days written notice to the other party to this Agreement.

Upon termination, the obligations of the parties hereunder shall terminate. Upon termination, the assets originally those of City shall remain City's and those originally those of County shall remain County's. Any assets purchased jointly by City and County for use at a particular airport shall become assets of the party (i.e., City or County) at whose airport they are in use at the time of termination. Any assets purchased jointly by City and County for use at both airports shall remain assets jointly owned by City and County in proportion to their contribution to the purchase price of such assets.

Section 12. Covenant of Good Faith:

Kay Weinland
Routt County Clerk

Diane Mitsch Bush, Chair

Attest:

CITY OF STEAMBOAT SPRINGS,
COLORADO

Julie Franklin
City Clerk

By: _____
Cari Hermacinski,
Council President
Steamboat Springs City
Council

L:\AIRPORT\AIRPORT AUTHORITY\YVAC.IGA.AMEND&RESTATEV2.DOC (2/8/2011)

AGENDA ITEM # 12

COUNCIL COMMUNICATION FORM

FROM: Deb Hinsvark, Director of Financial Services (Ext. 240)
Philo Shelton, Director of Public Works

THROUGH: Wendy DuBord, Interim City Manager

DATE: April 5, 2011

ITEM: A RESOLUTION OF THE CITY OF STEAMBOAT SPRINGS, COLORADO, RELATING TO FINANCING IMPROVEMENTS TO THE CITY'S WATER AND WASTEWATER FACILITIES, INCLUDING FORMALLY ESTABLISHING THE "CITY OF STEAMBOAT SPRINGS UTILITIES FUND ENTERPRISE"; AUTHORIZING CERTAIN AMENDMENTS TO OUTSTANDING LOAN AGREEMENTS WITH THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY; EXPRESSING THE INTENT OF THE CITY TO BE REIMBURSED FOR CERTAIN EXPENSES RELATING TO THE CONSTRUCTION OF WATER AND WASTEWATER IMPROVEMENTS; AND RELATED MATTERS.

NEXT STEP: Staff will complete bond documents and present to Council in May.

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 RESOLUTION

I. REQUEST OR ISSUE:

According to the 2010 Water Rate Study and the subsequent rate increase, the Utility Fund is planning to issue Revenue Bonds this year to make certain capital improvements. This resolution establishes the City's intent.

II. RECOMMENDED ACTION:

Pass the resolution which is in preparation for issuing bonds. A Bond Ordinance will be presented to Council later for review and approval of the transaction.

III. FISCAL IMPACTS:

To issue these revenue bonds, the Utility Fund, in this resolution, declares itself as a TABOR fund. By doing so, it can issue Revenue Bonds. However, it also requires that the Fund not receive more than 10% of its annual income in any year from Colorado state or local grants or taxes. This could limit the Fund's acceptance of future grant revenues.

Projects identified in the Water Rate Study will be funded with the proceeds of this bond. If the Utilities Division spends any capital funds on these projects before the bonds are issued, this resolution will enable the City to pay itself back with bond proceeds when the bonds are issued.

IV. BACKGROUND INFORMATION:

The Water and Wastewater Funds participated in a 2010 Rate Study that identified a number of deferred maintenance and improvement capital projects and recommended increased rates and financing to keep the funds whole and to accomplish the capital projects that were needed in the next few years. A 20 year financing was recommended and debt service limits were established that would work within the framework of the new rates. Council adopted the rates, and Public Works applied to the Colorado Water Resources and Power Development Authority (the "CWRPDA") for a loan as it had done in the past. Unfortunately, Steamboat's utility division could not obtain a loan from the CWRPDA this year and decided to look to the possibility of issuing debt to fund the construction for the next two years.

Municipal bond rates remain low enough, and the City's general credit rating is high enough, that the Utility Fund can issue 20 year debt and experience debt service in-line with the anticipated debt service in the Rate Study.

To enhance the Utility Fund's credit, the revenues from both Wastewater and Water Funds will be pledged equally to the bond. To keep the bond on parity with the earlier loans, the loans had to be amended to pledge both streams of revenue as well. This was done and approved by the board of the CWRPDA and is in this resolution for the Council's approval.

V. LEGAL ISSUES:

We will work with Sherman & Howard to construct bond documents that accommodate the City's legal requirements relative to providing a moral obligation.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None.

VII. SUMMARY AND ALTERNATIVES:

- 1) Council could pass this resolution and the finance team will continue to work toward a bond issuance this summer.
- 2) Council could amend the resolution.
- 3) Council could decide to deny the resolution.

CITY OF STEAMBOAT SPRINGS, COLORADO

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF STEAMBOAT SPRINGS, COLORADO, RELATING TO FINANCING IMPROVEMENTS TO THE CITY'S WATER AND WASTEWATER FACILITIES, INCLUDING FORMALLY ESTABLISHING THE "CITY OF STEAMBOAT SPRINGS UTILITIES FUND ENTERPRISE"; AUTHORIZING CERTAIN AMENDMENTS TO OUTSTANDING LOAN AGREEMENTS WITH THE COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY; EXPRESSING THE INTENT OF THE CITY TO BE REIMBURSED FOR CERTAIN EXPENSES RELATING TO THE CONSTRUCTION OF WATER AND WASTEWATER IMPROVEMENTS; AND RELATED MATTERS.

WHEREAS, the City of Steamboat Springs (the "City"), in the County of Routt and State of Colorado (the "State"), is a home rule municipal corporation duly organized and existing under the laws of the State; and

WHEREAS, pursuant to the provisions of Title 35, Article 31, Part 4, Colorado Revised Statutes, the City is authorized to operate and maintain water and sewerage facilities consisting of any one or more: (i) works and improvements used in and as a part of the collection, treatment, or distribution of water for the beneficial uses and purposes for which the water has been or may be appropriated; and (ii) of the various devices used in the collection, treatment, or disposition of sewage or industrial wastes of a liquid nature or storm, flood, or surface drainage waters, respectively; and

WHEREAS, the City has determined and hereby determines that it is in the best interests of the City and its inhabitants to construct certain improvements to the City's water and wastewater facilities; and

WHEREAS, pursuant to the provisions of Title 35, Article 31, Part 4, Colorado Revised Statutes the City has its own bonding capacity for the acquisition, construction, reconstruction, lease, improvement, betterment, or extension of any water facilities or sewer facilities; and

WHEREAS, pursuant to the provisions of Title 37, Article 45.1, Colorado Revised Statutes (the "Water Activity Law"), State and local governmental entities which have their own bonding capacity under applicable law are authorized: (i) to establish or continue to maintain water activity enterprises for the purpose of pursuing or continuing water activities, including the construction,

operation, repair, and replacement of water or wastewater facilities; and (ii) to issue or reissue bonds, notes, or other obligations payable from the revenues derived or to be derived from the function, service, benefits, or facility or from the combined functions, services, benefits or facilities of the enterprise or from any other available funds of the enterprise; and

WHEREAS, in order to qualify as a water activity enterprise under the Water Activity Law, the enterprise must consist of a government water activity business owned by a governmental entity, such as the City, which enterprise receives under 10% of its annual revenues in grants from all Colorado state and local governments combined, and which is authorized to issue its own revenue bonds pursuant to the Water Activity Law or any other applicable law; and

WHEREAS, the City has determined that combining both the City's water facilities and sewer facilities so that they are operated and maintained as a single public utility and income-producing project will be more efficient, will allow greater security for bonds or other obligations issued by the City for water or sewer purposes and thus allow the City to take advantage of lower interest rates, and will be in the best interests of the City and its residents; and

WHEREAS, the City currently accounts for the financial operations of the combined water and sewer facilities in the City's Utilities Fund; and

WHEREAS, the combined water and sewer operation of the City has been and continues to be operated as a "water activity enterprise" within the meaning of the Water Activity Law; and

WHEREAS, it is the intent of the City to continue the operation of the combined water and sewer operation of the City as a water activity enterprise, and to formally establish the "City of Steamboat Springs Utilities Fund Enterprise" (the "Enterprise") under the Water Activity Law; and

WHEREAS, the City, acting by and through the Enterprise, currently has outstanding a Loan Agreement with the Colorado Water Resources and Power Development Authority (the "CWRPDA") dated as of May 1, 1995 (the "1995 Loan Agreement") and a Loan Agreement with the CWRPDA dated as of July 1, 1999 (the "1999 Loan Agreement"), that were initially secured by a pledge of the net revenues of the wastewater system, and the City has determined that it is in the best interests of the City to additionally pledge the net revenues of the water system to the payment of the 1995 Loan Agreement and the 1999 Loan Agreement; and

WHEREAS, there has been presented to the City Council the form of amendments to the 1995 Loan Agreement and the 1999 Loan Agreement

(collectively, the "Loan Agreement Amendments") that pledge the net revenues of the City's combined water and sewer system to the payment of the 1995 Loan Agreement and the 1999 Loan Agreement; and

WHEREAS, it is the current intention of the City, acting by and through the Enterprise, to construct certain water and sewer improvements to the water and sewer facilities of the City (the "Project"); and

WHEREAS, the City reasonably expects to issue certain tax-exempt water activity enterprise revenue bonds or enter into a loan agreement with the CWRPDA or enter into other financial obligations (collectively, the "Obligations") to finance the Project; and

WHEREAS, the City reasonably expects that prior to the issuance of the Obligations the City will make certain capital expenditures for or in connection with the Project with the expectation of reimbursing itself from proceeds of the Obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. ***Establishment of Enterprise.*** There is hereby established, pursuant to the terms and provisions of the Water Activity Law, Title 37, Article 45.1, Colorado Revised Statutes, the "City of Steamboat Springs Utilities Fund Enterprise" (the "Enterprise"). The Enterprise shall consist of the business represented by all of the City's water and sewer facilities and properties, now owned or hereafter acquired, whether situated within or without the City boundaries, including all present or future improvements, extensions, enlargements, betterments, replacements, or additions thereof or thereto (collectively, the "System"). The Enterprise shall have all of the authority, powers, rights, obligations, and duties as may be provided or permitted by the Water Activity Law and the Colorado Constitution, and as may be further prescribed by ordinance or resolution of the City.

Section 2. ***Governing Body.*** The governing body of the Enterprise (the "Governing Body") shall be the City Council of the City, and shall be subject to all of the applicable laws, rules, and regulations pertaining to the City Council. Whenever the City Council is in session, the Governing Body shall also be deemed to be in session. It shall not be necessary for the Governing Body to meet separately from the regular and special meetings of the City Council, nor shall it be necessary for the Governing Body to specifically announce or acknowledge that actions taken thereby are taken by the Governing Body of the Enterprise. The Governing Body may conduct its affairs in the same manner and subject to the same laws which apply to the City Council for the same or similar

matters; provided that in accordance with §37-45.1-104(2), C.R.S., the Governing Body may authorize the issuance of bonds by adoption of a resolution.

Section 3. ***Maintenance of Enterprise Status.*** The Enterprise shall at all times and in all ways conduct its affairs so as to continue to qualify as a "water activity enterprise" within the meaning of §37-45.1-102, C.R.S., and as an "enterprise" within the meaning of Article X, Section 20 of the Colorado Constitution. Specifically, but not by way of limitation: (i) the Enterprise is not authorized, and shall not, receive 10% or more of its annual revenue in grants from all Colorado state and local governments combined; (ii) the Enterprise shall have no taxing power or authority of any kind; (iii) the Enterprise will execute such documents, incur such obligations, give such notices, and make such certifications and filings and as may be necessary to maintain its status as a "water activity enterprise" within the meaning of §37-45.1-102, C.R.S.

Section 4. ***Issuance of Bonds.*** The Enterprise is authorized to issue bonds, notes, or other obligations payable from the revenues derived or to be derived from the System in accordance with the Water Activity Law. The City Council may also authorize the issuance of such bonds, notes, or other obligations in accordance with applicable State laws and its home rule Charter, and in so doing shall be deemed to be acting as both the Governing Body and the City Council.

Section 5. ***Authorization of Loan Agreement Amendments.*** The forms of the Loan Agreement Amendments presented at this meeting are incorporated herein by reference and are hereby approved by the City, acting by and through the Enterprise, in substantially the forms presented to this meeting, with such changes therein as are not inconsistent herewith and as are hereafter approved by the President of the City Council (the "President") or the Director of Financial Services of the City. The President or Council President Pro-Tem of the City (the "President Pro-Tem") and City Clerk of the City (the "City Clerk") are hereby authorized and directed to execute the Loan Agreement Amendments and to affix the seal of the City thereto. The execution of the Loan Agreement Amendments by the President or President Pro-Tem and City Clerk shall be conclusive evidence of the approval by the City, acting by and through the Enterprise, of the Loan Agreement Amendments.

Section 6. ***Official Intent.*** The City, acting by and through the Enterprise, intends to issue or enter into the Obligations in an amount not to exceed \$14,000,000 to pay the costs of financing all or a portion of the Project including the reimbursement of certain costs incurred by the City prior to the execution and delivery of the Obligations, upon terms acceptable to the City, and to take all further action which is necessary or desirable in connection therewith.

This resolution is intended to be a declaration of "official intent" to reimburse expenditures within the meaning of Treasury Regulation §1.150-2.

Section 7. ***Ratification and Approval of Prior Actions.*** All actions heretofore taken by the officers of the City and the members of the City Council, not inconsistent with the provisions of this resolution, relating to the operation or creation of the Enterprise, the Loan Agreement Amendments and the financing or construction of the Project are hereby ratified, approved, and confirmed.

Section 8. ***Repealer.*** All orders, bylaws and resolutions of the City or parts thereof, inconsistent or in conflict with this resolution are hereby repealed to the extent only of such inconsistency or conflict.

Section 9. ***Severability.*** If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution, the intent being that the same are severable.

Section 10. ***Effective Date.*** This resolution shall be in full force and effect upon its passage and adoption.

PASSED, ADOPTED AND APPROVED this ____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

STATE OF COLORADO)
) SS.
 CITY OF STEAMBOAT SPRINGS)

I, Julie Franklin, the City Clerk of the City of Steamboat Springs, Colorado (the "City"), do hereby certify that:

1. The foregoing pages are a true and correct copy of Resolution No. 2011 – ____ (the "Resolution").

2. Copies of the Resolution were made available to the City Council and to the public.

3. The Resolution was duly introduced, read by title, moved and seconded and the Resolution was approved by the City Council at a regular meeting of the City Council at Centennial Hall, 124 10th Street, the regular meeting place thereof, on Tuesday, April 5, 2011, by an affirmative vote of a majority of the members present at the meeting as follows:

Name	"Yes"	"No"	Absent	Abstain
Cari Hermacinski, President				
Jon Quinn, President Pro-Tem				
Kenny Reisman				
Bart Kounovsky				
Walter Magill				
Meg Bentley				
Scott Myller				

4. The members of the City Council were present at such meeting and voted on the passage of such Resolution as set forth above.

5. A true copy of the Resolution has been authenticated by the President of the Council and by myself as City Clerk of the City, sealed with the seal of the City, and numbered and recorded in the official records of the City.

6. Notice of the meeting of April 5, 2011, in the form attached hereto as Exhibit A, was posted at Centennial Hall, the downtown Post Office, and City Market, in the City, not less than twenty-four (24) hours prior to the meeting in accordance with law.

WITNESS my hand and the seal of the City affixed this April ____, 2011.

 Julie Franklin, CMC
 City Clerk

(SEAL)

Exhibit A

(Attach Notice of Meeting on April 5, 2011)

AGENDA ITEM # 13

CITY COUNCIL COMMUNICATION FORM

FROM: Dan Foote, Staff Attorney (Ext. 223)

THROUGH: Jon Roberts, City Manager (Ext. 228)
Philo Shelton, Director of Public Works (Ext. 204)

DATE: April 5, 2011

ITEM: **FIRST READING OF ORDINANCE: AN ORDINANCE AMENDING ARTICLE II, CHAPTER 25 OF THE STEAMBOAT SPRINGS REVISED MUNICIPAL CODE BY THE ADDITION OF REGULATIONS RELATING TO CROSS CONNECTION CONTROLS. (Foote)**

NEXT STEP: Introduce the ordinance on first reading.

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

I. REQUEST OR ISSUE:

Introduce an ordinance regulating cross connections between the City's drinking water supply and source of nonpotable water.

II. RECOMMENDED ACTION:

Adopt the ordinance.

III. BACKGROUND INFORMATION:

The Colorado Department of Public Health has adopted regulations requiring operators of public water systems, including the City of Steamboat Springs, to prohibit uncontrolled cross connections. A cross connection is any connection between the City's drinking water supply and other sources of water or other substances that could result in the contamination of the City's drinking water supply. The purpose of the regulations is to allow the City to prohibit water customers from making connections to the City's

water supply that would allow the possibility of backflow of water or other substances into the City's water supply.

IV. LEGAL ISSUES.

State drinking water regulations require the City to prohibit uncontrolled cross connections.

V. CONFLICTS OR PROBLEMS.

None.

VI. FISCAL IMPACTS.

None.

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE II, CHAPTER 25 OF THE STEAMBOAT SPRINGS REVISED MUNICIPAL CODE BY THE ADDITION OF REGULATIONS RELATING TO CROSS CONNECTION CONTROLS.

WHEREAS, the Colorado Department of Public Health has adopted regulations known as the Colorado Primary Drinking Water regulations, which are codified at 5 CCR 1003-1; and

WHEREAS, Article 12 of the Primary Drinking Water Regulations requires the City to protect the water system from contamination by requiring hazardous cross connections to be controlled; and

WHEREAS, the City Council finds it necessary to the public health, safety, and welfare to adopt the following regulations for the purpose of controlling cross connections to the City's water system.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. Section 25-1 of the Steamboat Springs Revised Municipal Code is hereby amended by the addition of the following definition:

"Sec. 25-1 (6.5) *Cross-connection* means any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substance not meeting drinking water requirements in these regulations. By-pass arrangements, jumper connections, removable sections, swivel or changeover devices and other temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross-connections."

Section 2. Article II, Chapter 25 of the Steamboat Springs Revised Municipal Code is hereby amended by the addition of the following Section 25-77:

"Sec. 25-77 Cross Connection Controls

a) Cross connections to the City of Steamboat Springs water system are prohibited unless controlled by an approved backflow prevention device. All devices used to control cross connections shall be approved by the City of Steamboat Springs Utility Division. All such backflow prevention devices shall be devices that have been identified by the University of Southern California Cross Connection Control and Backflow Prevention list (most recent edition) of approved devices as acceptable for the specific installation. Backflow prevention devices are required where necessary to control any hazardous cross connection or where otherwise required by the Colorado Department of Public Health and Environment..

b) All backflow prevention devices shall be inspected, tested, and approved by a person certified pursuant to the Colorado Primary Drinking Water Regulations, 5 CCR 1003-1 as a Cross Connection Control Technician. Inspections shall occur under the following circumstances: upon installation; after repairs; after relocation or replacement; on responding to a reported back flow incident; and upon the expiration of one year from the last inspection. All costs associated with backflow devices, installation, testing, and maintenance is the responsibility of the owner and/or consumer. All inspection reports are required to be sent to the Public Works Department, Utility Division.

c) No water service connection will be allowed by the City of Steamboat Springs Utility Division unless the water supply is protected as required by this Section. Water service to any premises may be discontinued by the City of Steamboat Springs if a hazardous cross connection exists. Hazardous cross connections include, but are not limited to, cross connections where: a backflow prevention device is required but has not been installed and inspected; a backflow prevention device fails; a backflow prevention device has been removed or bypassed; or the circumstances of the cross connection present a danger of contamination of the City water system. Service will not be restored until such conditions or defects are corrected.

d) Water service is provided to all premises on the condition that such premises are open for inspection at all times to authorized representatives of the City of Steamboat Springs to determine whether hazardous cross-connections or other structural or sanitary hazards exist. The City may discontinue water service to

any premises if the owner or consumer denies access for inspection of the premises.

e) When a hazardous cross connection becomes known to the City by inspection or otherwise, the City will give notice to correct such problem as identified in the notice. Such notice shall be in writing and shall be hand delivered to the consumer or owner at the premises. If the owner or consumer is not available to receive such a notice it may be posted on the premise and mailed to the consumer or owner at the billing address on file with the City. If within 10 days after the giving of such notice, the consumer or owner has failed to correct the problem, the City of Steamboat Springs may discontinue water service to the premises without further notice, until the consumer or owner has corrected the condition(s) in conformance with this Section. If the Public Works Director determines that a cross connection presents an immediate threat to the health and well being of any water consumer, then, without further notice, the City of Steamboat Springs may immediately discontinue service to the premises without notice to the consumer or owner until the customer has corrected the condition in conformance to City of Steamboat Springs municipal code requirements."

Section 3. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 4. If any provision of this Ordinance shall be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining provisions of this Ordinance shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 5. The City Council hereby finds, determines and declares that this Ordinance is necessary for the preservation of the public peace, health and safety.

Section 6. This Ordinance shall take effect immediately upon the expiration of five (5) days from and after publication following final passage, as provided in Section 7.6(h) of the Steamboat Springs Home Rule Charter.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED, AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AGENDA ITEM # 14

COUNCIL COMMUNICATION FORM

FROM: Kim Weber, Manager of Budget and Tax (Ext. 250)

THROUGH: Deb Hinsvark, Finance Director (Ext. 240)
Wendy DuBord, Interim City Manager, (Ext. 219)

DATE: April 5, 2011

ITEM: FIRST READING OF ORDINANCE: TENTH 2010 BUDGET SUPPLEMENTAL APPROPRIATION ORDINANCE.

NEXT STEP: Approve at second reading.

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 RESOLUTION

I. REQUEST OR ISSUE:

The Colorado Revised Statutes require municipalities to spend within appropriation limits. The purpose of this supplemental budget appropriation is to reallocate funds from areas that were under budget to areas that were over budget or didn't meet their revenue projections.

II. RECOMMENDED ACTION:

Approval.

III. FISCAL IMPACTS:

Revenues:

Muni Surcharge Fund-Surplus Revenue	\$2,000
Tennis Center Fund-Surplus Revenue	<u>6,190</u>
Total Revenue	\$8,190

Expenditures:

General Fund:

Financial Services	\$19,000
Public Works	20,000
Parks, Open Space, & Rec. Svc.	22,000
Community Development	(61,000)
Transfer to Employee Housing	144,000
Transfer to Airport	25,000
Transfer to Ice Arena	87,000
Transfer to Tennis Center	6,000
General Fund Transfers	<u>(262,000)</u>

Total General Fund 0

Employee Housing Fund	3,300
Muni Surcharge Fund	2,000
Howelsen Ice Arena Fund	13,000
Tennis Center Fund	<u>11,500</u>
Total Expenditures	\$29,800

IV. BACKGROUND INFORMATION:

The Employee Housing Fund and the Howelsen Ice Arena Fund did not meet their expected revenue collections therefore the General Fund must transfer additional funds to cover the shortfall. The Municipal Surcharge Fund had additional expenditures and had the additional revenue to cover these, but their budget appropriation was less than the amount spent. The Tennis Center Fund's expenditures exceeded the budgeted amount; however it was able to cover about half of the excess with additional revenue and half with a transfer of additional funds from the General Fund. The General Fund's expenditures in their entirety did not exceed the budget, however the budget was originally appropriated by department and some departments exceeded their budgets. Therefore, this ordinance will appropriately move budgeted amounts between departments and funds.

V. LEGAL ISSUES:

The City of Steamboat Springs is prohibited by state statute from spending more than it appropriates.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None.

VII. SUMMARY AND ALTERNATIVES:

Council may choose to approve the supplemental appropriation; they can amend the appropriation, or can deny it.

We are able to make these adjustments at this time because we are close to having 2010 figures finalized and ready for our auditors. If there are any additional accruals or deferrals are recommended by our auditors we may need an additional appropriation.

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

TENTH 2010 BUDGET SUPPLEMENTAL APPROPRIATION
ORDINANCE.

WHEREAS, the City of Steamboat Springs is prohibited by state statute from spending more than it appropriates; and

WHEREAS, certain enterprise funds needed more monetary support from the General Fund in 2010, because they did not meet their revenue projections; and

WHEREAS, expenditures outside the budget process are required by law, to be appropriated in this manner; and

WHEREAS, the City Council wishes to acknowledge the source of revenue and appropriate these additional expenditures, as follows:

Revenue Sources:

Municipal Surcharge Fund-Traffic Fines	2,000
Tennis Center Fund-Fees	<u>6,190</u>
Total Revenue	\$8,190

Expenditures:

General Fund:	
Financial Services	\$19,000
Public Works	20,000
Parks, Open Space, & Recreational Services	22,000
Community Development	<u>(61,000)</u>
Total General Fund Expenditures	\$0
Employee Housing Fund	3,300
Municipal Surcharge Fund	2,000
Howelsen Ice Arena Fund	13,000
Tennis Center Fund	<u>11,500</u>
Total Expenditures	\$29,800

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. Supplemental Appropriation. That pursuant to Section 9.10 (a) of the City of Steamboat Springs Home Rule Charter, the City Council hereby appropriates the following sums of money or that portion necessary for the purposes herein named:

Expenditures:

General Fund:	
Financial Services	\$19,000
Public Works	20,000
Parks, Open Space, & Recreational Services	22,000
Community Development	<u>(61,000)</u>
Total General Fund Expenditures	\$0
Employee Housing Fund	3,300
Municipal Surcharge Fund	2,000
Howelsen Ice Arena Fund	13,000
Tennis Center Fund	<u>11,500</u>
Total Expenditures	to be Appropriated
\$29,800	

Section 2. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 3. If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof, to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 4. The City Council hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health and safety.

Section 5. This Ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6(h) of the Steamboat Springs Home Rule Charter.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AGENDA ITEM # 15

COUNCIL COMMUNICATION FORM

FROM: Kim Weber, Manager of Budget and Tax (Ext. 250)

THROUGH: Deb Hinsvark, Finance Director (Ext. 240)
Wendy DuBord, Interim City Manager, (Ext. 219)

DATE: April 5, 2011

ITEM: 2011 carryover ordinance for 2010 funds.

NEXT STEP: Approve at second reading.

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 RESOLUTION

I. REQUEST OR ISSUE:

The purpose of this supplemental budget appropriation is to appropriate additional expenditures that were budgeted in 2010, but not spent. These are items that are either an on-going project or there is a contract in place for the money to be spent.

II. RECOMMENDED ACTION:

Approval.

III. FISCAL IMPACTS:

All of the expenditures included in this supplemental appropriation were previously budgeted in 2010. Since they weren't spent in 2010 they will be shown as use of reserves in 2011. The detail is provided as an attachment to this communication form.

IV. BACKGROUND INFORMATION:

The City Purchasing Department did not close 2010 purchase orders that were either under contract or for a continuing project. Items on the detail attachment that

are related to open purchase orders are identified as encumbrances. Therefore, the amount of money to cover these purchase orders must be budgeted in 2011. Also, Directors have evaluated their capital projects and determined the amount of money needed for 2011 out of the amount that was left in the budget at the end of 2010. Each project has been evaluated on an individual basis. The amount of supplemental revenue plus reserves is greater than the amount of supplemental expenditures because we are expecting to receive funds from an Airport grant in 2011, but the expenditures were budgeted and spent in 2010.

V. LEGAL ISSUES:

None.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None.

VII. SUMMARY AND ALTERNATIVES:

Council may choose to approve the supplemental appropriation; they can amend the appropriation, or can deny it.

ATTACHMENTS:

Attachment 1.Carryover Detail.

**CITY OF STEAMBOAT SPRINGS
SUPPLEMENTAL APPROPRIATION ORDINANCE 2011**

Supplemental Revenues		Supplemental Expenditures	
<u>General Fund - Revenues</u>	<u>Amount</u>	<u>General Fund - Expenditures</u>	<u>Amount</u>
Government Grant	\$ 33,608	Police Department, Training Travel & Mtgs	\$ 33,608
		Finance-Other Outside Services (encumbrance)	5,000
		I.T.-Hardware/Software (encumbrance)	770
		I.T.-Non-Capital Equipment (encumbrance)	7,527
		Facilities Maint-Operating Supplies (encumbrance)	2,847
		Facilities Maint-R&M Buildings & Grounds (encumbrance)	81
		Facilities Maint-R&M Depot (encumbrance)	100
		Shared Services-Computer Replace. (encumbrance)	1,836
		Animal Control-R&M Buildings & Grounds (encumbrance)	155
		Fire-R&M Buildings & Grounds (encumbrance)	77
		Fire-R&M Buildings & Grounds (encumbrance)	116
		Open Space-R&M Parks (encumbrance)	8,500
		Public Safety-Land Improve (encumbrance)	7,476
		Streets-Non-Capital Equipment (encumbrance)	27,080
		General Fund Expenditures	<u>95,173</u>
		Change in Ending reserves	<u>(61,565)</u>
	<u>\$ 33,608</u>		<u>\$ 33,608</u>
 <u>Community Housing Fund - Revenues</u>		 <u>Community Housing Fund - Expenditures</u>	
		Yampa Valley Housing Authority	89,582
		Community Housing Fund Expenditures	<u>89,582</u>
		Change in Ending reserves	<u>(89,582)</u>
	<u>\$ -</u>		<u>\$ -</u>
 <u>Capital Projects Fund - Revenues</u>		 <u>Capital Projects Fund - Expenditures</u>	
Government Grants	\$ 360,000	Computer Equipment	\$ 213,266
Government Grants	192,000	Transit Coach Replacement	786,635
Contributions-Routt County	85,477	Ball Field Improvements	76,041
Government Grants	64,754	Bus Shelter Encumbrance	19,821
Government Grants	772	Document Management	11,115
Government Grants	120,400	Downtown Improvements	85,752
Government Grants	102,000	New Victory Highway	581,930
Government Grants	750,321	Fish Creek Falls Road Underpass	327,722
Government Grants	227,680	South Extension of Legacy Trail	74,117
		Fire/EMS Cardiac Monitoring Equip.	966
		Soda Creek Bank Stabilization	85,000
		Fire/EMS Ambulance Replacement	150,500
		Trails-Casey's Pond	127,500
		W. Lincoln Park Bridge	777,131
		Walton Creek Park & Ride	275,010
		River Restoration	26,912
		Fire Fuels Mitigation	46,258
		US 40 Corridor Improvements	22,189
		More Barn Preservation	1,323
		Capital Projects Fund Expenditures	<u>3,689,188</u>
		Change in Ending reserves	<u>(1,785,784)</u>
	<u>\$ 1,903,404</u>		<u>\$ 1,903,404</u>
 <u>Airport Fund - Revenues</u>		 <u>Airport Fund - Expenditures</u>	
Airport Improvement Gov't Grant	\$ 164,523	Construction (encumbrance)	\$ 800
		Construction (encumbrance)	383
		Land Acquisition	91,529
		Airport Fund Expenditures	<u>92,712</u>
		Change in Ending reserves	<u>71,811</u>
	<u>\$ 164,523</u>		<u>\$ 164,523</u>
 <u>Fleet Fund - Revenues</u>		 <u>Fleet Fund - Expenditures</u>	

		Buildings & Facilities (encumbrance)	495
		Muni Surcharge Fund Expenditures	495
		Change in Ending reserves	(495)
	<u>\$ -</u>		<u>\$ -</u>
<u>Howelsen Ice Arena Fund - Revenues</u>		<u>Howelsen Ice Arena Fund - Expenditures</u>	
		R&M Buildings & Grounds (encumbrance)	247
		Construction (encumbrance)	10,521
		Howelsen Ice Arena Fund Expenditures	10,768
		Change in Ending reserves	(10,768)
	<u>\$ -</u>		<u>\$ -</u>
<u>Tennis Center Fund - Revenues</u>		<u>Tennis Center Fund - Expenditures</u>	
		Construction (encumbrance)	4,896
		Tennis Center Fund Expenditures	4,896
		Change in Ending reserves	(4,896)
	<u>\$ -</u>		<u>\$ -</u>
<u>Wastewater Fund - Revenues</u>		<u>Wastewater Fund - Expenditures</u>	
		Sewer Lagoon Reclamation	8,567
		WW Polishing Pond Liner	68,137
		WW Main Improvements	665,749
		Lower Field Improvements	108,857
		Bar Screen Replacement	486,842
		Sewer Interceptor Improvements	21,128
		Treatment Plant Expansion	396,800
		Wastewater Fund Expenditures	1,756,080
		Change in Ending reserves	(1,756,080)
	<u>\$ -</u>		<u>\$ -</u>
<u>Water Fund - Revenues</u>		<u>Water Fund - Expenditures</u>	
		R&M Buildings & Grounds (encumbrance)	233
		R&M Treatment Facilities (encumbrance)	5,680
		R&M Treatment Facilities (encumbrance)	95,050
		Airport Water Redundancy	300,000
		Water Main Improvements	201,418
		Water Fund Expenditures	602,381
		Change in Ending reserves	(602,381)
	<u>\$ -</u>		<u>\$ -</u>
<u>Golf Fund - Revenues</u>		<u>Golf Fund - Expenditures</u>	
		R&M Buildings & Grounds (encumbrance)	131
		Rehder Building Fund Expenditures	131
		Change in Ending reserves	(131)
	<u>\$ -</u>		<u>\$ -</u>
<u>Rehder Building Fund - Revenues</u>		<u>Rehder Building Fund - Expenditures</u>	
Government Grants	\$ 150,000	Construction	405,391
		Rehder Building Fund Expenditures	405,391
		Change in Ending reserves	(255,391)
	<u>\$ 150,000</u>		<u>\$ 150,000</u>

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

2011 CARRYOVER ORDINANCE FOR 2010 FUNDS.

WHEREAS, there are certain projects within the jurisdiction of the City of Steamboat Springs that were started in the year 2010, and not completed; and

WHEREAS, the budgeted, unused funds from these projects need to be carried over into the 2011 Budget; and

WHEREAS, contracts were also issued via purchase order in 2010, and not fulfilled; therefore, that open business also needs to be carried over into the 2011 fiscal year; and

WHEREAS, the City Council believes that such appropriation is important to the economic health and welfare of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. **Supplemental Revenue and Usage of Reserves.** That the following supplemental revenues are available in the stated amounts, in the form of carry-overs from 2010:

General Fund-Reserves	\$ 61,565
General Fund-Government Grants	33,608
Community Housing Fund-Reserves	89,582
Capital Projects Fund-Government Grants	1,817,927
Capital Projects Fund-Routt County Contribution	85,477
Capital Projects Fund-Reserves	1,785,784
Airport Fund-Government Grants	164,523
Fleet Fund-Reserves	495
Howelsen Ice Arena-Reserves	10,768
Tennis Center Fund-Reserves	4,896
Wastewater Fund-Reserves	1,756,080
Water Fund-Reserves	602,381
Golf Fund-Reserves	131

Rehder Building Fund-Government Grants	150,000
Rehder Building Fund-Reserves	<u>255,391</u>
Total Supplemental Revenue and Use of Reserves	\$6,818,608

Section 2. **Supplemental Appropriation.** That pursuant to Section 9.10 (a) of the City of Steamboat Springs Home Rule Charter, the City Council hereby appropriates the following sums of money or that portion necessary for the purposes herein named:

General Fund-Encumbrances from 2010	\$ 95,173
Community Housing Fund	89,582
Capital Projects Fund	3,689,188
Airport Fund	92,712
Fleet Fund	495
Howelsen Ice Arena Fund	10,768
Tennis Center Fund	4,896
Wastewater Fund	1,756,080
Water Fund	602,381
Golf Fund	131
Rehder Building Fund	<u>405,391</u>
Total Expenditures to be Appropriated	\$6,746,797

Section 3. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts thereof, are in conflict herewith.

Section 4. If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof, to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 5. The City Council hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health and safety.

Section 6. This Ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6(h) of the Steamboat Springs Home Rule Charter.

INTRODUCED, READ AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AGENDA ITEM # 16

CITY COUNCIL COMMUNICATION FORM

FROM: Dan Foote, Staff Attorney (Ext. 223)

THROUGH: Jon Roberts, City Manager

DATE: April 5, 2011

ITEM: **FIRST READING OF ORDINANCE: AN ORDINANCE AMENDING PROVISIONS RELATING TO MEDICAL MARIJUANA BUSINESSES SET FORTH IN CHAPTER 12, ARTICLE VI AND SECTION 26-92 OF THE REVISED MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND REPEALING ALL CONFLICTING ORDINANCES. (Foote)**

NEXT STEP: Introduce the ordinance on first reading.

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

I. REQUEST OR ISSUE:

Introduce an ordinance amending city regulations pertaining to medical marijuana licensing and land use.

II. BACKGROUND INFORMATION:

Ordinance No. 2296, adopted by the City Council on January 5, 2010, regulates the operation of medical marijuana dispensaries in Steamboat Springs. At the time of its adoption, medical marijuana dispensaries operated pursuant to Article XVIII, Section 14 of the Colorado Constitution, which was approved by the voters in 2000 as Amendment 20. Amendment 20 authorizes medical marijuana patients and their primary caregivers to cultivate, possess, and dispense medical marijuana.

Although Amendment 20 did not specifically authorize dispensary operations, the industry adopted a business model whereby dispensaries claimed to be operating as primary caregivers for each of their patients. Colorado state courts accepted this

formulation in concept. Ordinance No. 2296 was drafted to regulate dispensaries operating in the caregiver model.

Dissatisfaction with the caregiver model and the general state of the industry led the Colorado General Assembly to adopt legislation, HB 10-1284, that substantially revised the status of medical marijuana retailers. HB 1284 has two major parts. The first limits primary caregivers to no more than five patients each. This provision effectively eliminates the ability of caregivers to operate as medical marijuana dispensaries, i.e. large scale retail outlets.

The second part of HB 1284 authorizes the operation of three types of licensed medical marijuana businesses, medical marijuana centers, optional premises cultivation operations, and medical marijuana infused products manufacturers.

A medical marijuana center is a business that sells medical marijuana to patients. A medical marijuana center may cultivate medical marijuana on site and is required to cultivate at least 70% of the product it sells.

A medical marijuana center wishing to cultivate medical marijuana off site may operate an optional premise cultivation site. Optional premises cultivation is merely the cultivation of medical marijuana by a center at a different location. Only a licensed medical marijuana center or a medical marijuana infused products manufacturer may obtain a state license for optional premises cultivation.

Medical marijuana infused products manufacturing is the manufacture of foods, beverages, tinctures, lotions, or any other product containing marijuana that is used or consumed by any means other than smoking.

In summary, the passage of HB 1284 significantly changed the legal landscape relating to the regulation of medical marijuana businesses. Prior to HB 1284, medical marijuana businesses all tended to be of a single type operating pursuant to the primary caregiver provisions of Amendment 20. Now there are four types, some operating as primary caregivers pursuant to Amendment 20, the others operating pursuant to statutory authority pursuant to HB 1284.

The draft ordinance attached to this memo is a redlined revision of Ordinance No. 2296. Sections 1 and 2 of the ordinance address revisions to land use regulations pertaining to medical marijuana uses. The City Council originally reviewed this draft ordinance on October 19, 2010. Planning Commission has since reviewed the ordinance at hearings on February 10, 2011 and March 10, 2011. Planning Commission recommended three substantial revisions, which are summarized as follows:

- 1) Planning Commission recommended all medical marijuana uses other than cultivation uses should be reviewed as conditional uses. Conditional use approvals require public hearings before the City Council. Previously, these uses were proposed to be handled administratively as uses with criteria.

- 2) Planning Commission recommended that cultivation and infused products manufacturing uses be permitted to operate as home occupations. Previously, these uses were proposed to be prohibited as home occupations.
- 3) Planning Commission recommended restricting the content of print advertising pertaining to medical marijuana centers. As proposed, advertising would be limited to the businesses status, name, hours, location, and contact information. The stated goal of this provision is to eliminate certain pricing and promotions advertising that the Planning Commission perceived to promote recreational use of marijuana. If adopted by the Council, staff recommends applying these restrictions to primary caregivers as well as to the centers.

The Planning Commission revisions appear as the italicized text in Sections 1 and 2 of the proposed ordinance.

Section 3 of the ordinance addresses revisions to City licensing requirements for medical marijuana businesses. The revisions to the City's licensing requirements are intended to make the City's licensing regulations consistent with HB 1284. The revisions relate to application requirements, procedural details, and approval criteria. For the most part, these revisions use language taken directly from HB 1284. Staff recommends adopting the licensing revisions as drafted, except as to the matters identified as discussion items in the next section of this memorandum.

III. DISCUSSION ITEMS:

- a) Council on October 19, 2010 directed staff to consider methods for protecting residential uses from impacts from medical marijuana businesses. Staff sought to accomplish this goal by prohibiting medical marijuana uses from operating on lots adjacent to residential zone districts. The ordinance does not protect residential uses located in industrial and commercial zone districts other than the Community Commercial (CC) district.
- b) There is some question whether allowing cultivation and infused products manufacturing uses to (?) operate as home occupations promotes the Council's goal of protecting residential uses. The Planning Commission discussion on this issue focused on the stringent restrictions applicable to home occupations.
- c) The advertising restrictions proposed by the Planning Commission may be subject to challenge as a violation of the freedom of expression guarantees set forth in the U.S. and Colorado Constitutions. If Council wishes to adopt these restrictions, it may be prudent to table the ordinance, or at least the advertising restrictions, to allow staff time to investigate the relationship between existing advertising and unlawful uses of marijuana.

- d) The proposed ordinance continues the policy of limiting to three the number of medical marijuana centers. Council directed staff to allow the issuance of three cultivation and three infused products manufacturing licenses. At the time it was thought that this policy would provide an adequate number of infused products manufacturing licenses to accommodate an existing infused products manufacturer who wishes to operate independently of the centers. Since the October 19 meeting all three of the City's centers have applied for infused products manufacturing licenses. Accommodating the independent manufacturer would require amending the proposed ordinance to permit the City to issue a fourth infused products manufacturing license.

IV. CONFLICTS OR PROBLEMS:

None.

V. FISCAL IMPACTS:

Staff expects that the expenditure of staff and Council time and other resources in processing planning and licensing applications will be offset by application fees.

ATTACHMENTS

- Attachment 1.** January 18, 2011 Police Department Memorandum.
Attachment 2. February 10, 2011 Planning Commission hearing minutes.
Attachment 3. March 10, 2011 Planning Commission hearing minutes.
Attachment 4. Public Comment.



Steamboat Springs Police Services

MEMORANDUM

TO: City of Steamboat Springs Planning Commission

THROUGH: JD Hays, Chief of Police

FROM: Joel Rae, Captain

DATE: **January 18, 2011**

SUBJECT: **Law Enforcement Perspective on Medical Marijuana Centers**

The latest discussion at City Council regarding the update of the existing Medical Marijuana Ordinance gave direction to City Staff to provide Planning Commission with any information available for consideration in their recommended Medical Marijuana (MMJ) Ordinance. Outside of coming into compliance with House Bill 1284, the police department also has included additional information for your consideration.

Staff also received direction from City Council to provide any quantifiable data that was available concerning the effects that Medical Marijuana Dispensaries have had on the youth in our community.

- Attachment #1 is an excerpt of the Healthy Kids Colorado Survey from 2010. Please be reminded that Medical Marijuana Dispensaries had only been open for approximately 3 months when Steamboat Springs Middle School and High School students completed the survey and that only 45 Steamboat Springs High School Seniors participated.
- Attachment #2 is a spread sheet containing an informal survey that was given to the Steamboat Springs High School Leadership Class and the Steamboat Springs Middle School 8th Grade Health class by School Resource Officer Josh Carrell. Students were asked to write down their perspective on Medical Marijuana Dispensaries and the effects of MMJ dispensaries within the community.
- Attachment #3 contains data relating to Driving under the Influence of Drugs (DUID) (primarily marijuana) Arrests and possession of marijuana arrests from 2009 (pre-MMJ dispensary) and 2010 (post- MMJ dispensary).

From a law enforcement perspective, the police department has concerns with the negative messages MMJ centers send to the youth in our community. We also have concerns of ensuring MMJ centers within the City are operating within compliance of all State laws and within our existing/updated ordinance. From a numbers perspective, the more dispensaries that are authorized, licensed and operational, the more difficult this task will be. Although the Colorado Department of Revenue, Medical Marijuana Enforcement Division, will have a Medical Marijuana Enforcement Detail, it is unknown how much attention they will be able to provide to Steamboat Springs. If it is similar to the Division of Liquor Enforcement, the answer is very little, as the Department of Revenue has had only 2 Liquor Enforcement officers for our region of the state for the past several years. Law Enforcement has not received any assistance from the state level on the MMJ issue to date. At this point, and for the foreseeable future, ensuring compliance and enforcement is the responsibility of the Steamboat Springs Police Department.

Another Law Enforcement's concern is Medical Marijuana products ending up in the hands of non-medical marijuana card holders, especially or youth. Increased marijuana use, whether this is a direct effect of Medical Marijuana Dispensaries or not, have caused a spike in persons driving under the influence of marijuana within the City of Steamboat Springs. Steamboat Springs Police Officers have discovered medical marijuana containers bearing the name of licensed dispensaries in the hands of people who do not hold medical marijuana cards. This is a major public safety concern, as it is illegal to drive while under the influence of marijuana, medical or not. The National Highway Traffic Safety Administration has concluded that marijuana in recreational doses reduces a person's reaction time, leads to altered time and space perception, lack of concentration, impaired learning and memory, alterations in thought formation and expression, drowsiness, and sedation. All of these factors impact a person's ability to safely operate a motor vehicle. This concern is magnified when looking at the Healthy Kids Colorado Survey and the frequency of teenagers operating or riding in a vehicle driven by a person under the influence of marijuana. Given the fact that teenage drivers are already inexperienced, coupled with the known effects mentioned above, it will only be a matter of time before a crash primarily caused by a person who is driving under the influence of marijuana results in serious injury or the loss of life in our community.

Law Enforcement, community health advocates and our State Legislature must play catch up in the enforcement of illegal marijuana use, educating youth on the dangers and effects of marijuana and the adoption of state law creating a "Driving per se" level for THC, respectively.

Police Department Staff recommends that The City of Steamboat Springs not be in a hurry to open the gates for more dispensaries until more resources are in place to deal with all of the issues surrounding medical marijuana centers.

		2008 SS	2010 SS	2010 State	# Change from 2008-2010 Increase/Decrease	# Change from State to 2010 Higher/Lower	
Alcohol	Have you ever drank alcohol in your lifetime?	7th	0%	11%	38%	11% Increase	-27% Lower
		8th	50%	12%	53%	-38% Decrease	-41% Lower
		9th	59%	53%	65%	-6% Decrease	-12% Lower
		10th	74%	66%	72%	-8% Decrease	-6% Lower
		11th	78%	78%	78%	0% Decrease	0% Same
		12th	84%	83%	82%	-1% Decrease	1% Higher
		# Change from 2008-2010					
Alcohol	Past 30 days, have you drank?	7th	0%	6%	19%	6% Increase	-13% Lower
		8th	28%	6%	31%	-22% Decrease	-25% Lower
		9th	28%	31%	40%	3% Increase	-9% Lower
		10th	40%	37%	45%	-3% Decrease	-8% Lower
		11th	58%	41%	48%	-17% Decrease	-7% Lower
		12th	69%	57%	54%	-12% Decrease	3% Higher
		# Change from 2008-2010					
Alcohol	Past 30 Days, had 5+ drinks within a couple of hours?	7th	0%	0%	13%	0% Decrease	-13% Lower
		8th	8%	0%	19%	-8% Decrease	-19% Lower
		9th	22%	22%	26%	0% Decrease	-4% Lower
		10th	28%	20%	35%	-8% Decrease	-15% Lower
		11th	35%	25%	37%	-10% Decrease	-12% Lower
		12th	48%	28%	39%	-20% Decrease	-11% Lower
		# Change from 2008-2010					
Alcohol	If wanted some, how easy would it be to get some? Easy and Very Easy Responses	7th	0%	34%	34%	34% Increase	0% Same
		8th	0%	57%	50%	57% Increase	7% Higher
		9th	61%	68%	59%	7% Increase	9% Higher
		10th	72%	63%	67%	-9% Decrease	-4% Lower
		11th	66%	67%	72%	1% Increase	-5% Lower
		12th	77%	73%	76%	-4% Decrease	-3% Lower
		# Change from 2008-2010					
Tobacco	In the past 30 days, on how many days did you smoke a cigarette? *Responses show at least one use.	7th	0%	0%	9%	No change	-9% Lower
		8th	6%	0%	15%	-6% Decrease	-15% Lower
		9th	0%	5%	19%	5% Increase	-14% Lower
		10th	9%	0%	22%	-9% Decrease	-22% Lower
		11th	7%	17%	24%	10% Increase	-7% Lower
		12th	14%	0%	27%	-14% Decrease	-27% Lower
		# Change from 2008-2010					
Tobacco	How old were you when you smoked a whole cigarette? *Responses show tried between Ages 8-17	7th	0%	0%	17%	Increase	-17% Lower
		8th	14%	0%	26%	-14% Decrease	-26% Lower
		9th	13%	6%	34%	-7% Decrease	-28% Lower
		10th	21%	20%	39%	-1% Decrease	-19% Lower
		11th	30%	15%	44%	-15% Decrease	-29% Lower
		12th	38%	12%	47%	-26% Decrease	-35% Lower
		# Change from 2008-2010					
Tobacco	During the past 30 days, on the days you smoked, how many cigarettes did you smoke per day? *Responses show one cigarette or more per day.	7th	0%	0%	5%	0% Decrease	-5% Lower
		8th	8%	0%	11%	-8% Decrease	-11% Lower
		9th	4%	0%	14%	-4% Decrease	-14% Lower
		10th	0%	0%	16%	0% Decrease	-16% Lower
		11th	10%	0%	18%	-10% Decrease	-18% Lower
		12th	17%	0%	21%	-17% Decrease	-21% Lower
		# Change from 2008-2010					
Tobacco	During the past 30 days, on how many days did you use chewing tobacco, snuff, or dip, such as Redman, Levi Garrett, Beechnut, Skoal, Skoal Bandits, or Copenhagen?	7th	0%	0%	6%	0% Decrease	-6% Lower
		8th	5%	0%	7%	-5% Decrease	-7% Lower
		9th	0%	4%	13%	4% Increase	-9% Lower
		10th	9%	8%	14%	-1% Decrease	-6% Lower
		11th	14%	17%	14%	3% Increase	3% Higher
		12th	17%	0%	18%	-17% Decrease	-18% Lower
		# Change from 2008-2010					
Tobacco	If you wanted to get some cigarettes, how easy would it be for you to get some? *Responses show Easy/Very Easy	7th	0%	20%	32%	Increase	-12% Lower
		# Change from 2008-2010					

8th	51%	34%	47%	-17% Decrease	-13% Lower
9th	54%	0%	60%	-54% Decrease	-60% Lower
10th	72%	66%	67%	-6% Decrease	-1% Lower
11th	75%	74%	76%	-1% Decrease	-2% Lower
12th	87%	90%	84%	3% Increase	6% Higher

Marijuana Used marijuana in lifetime?

	2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th	0%	4%	15%	4% Increase	-11% Lower
8th	10%	5%	26%	-5% Decrease	-21% Lower
9th	19%	37%	37%	18% Increase	0% Same
10th	50%	43%	44%	-7% Decrease	-1% Lower
11th	55%	56%	49%	1% Increase	7% Higher
12th	79%	14%	54%	-65% Decrease	-40% Lower

Marijuana Past 30 Days, used marijuana?

* 2010-- trace of individuals that smoked mj in past 30 days

	2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th	0%	0%	4%	0% Decrease	-4% Lower
8th	10%	0%	5%	-10% Decrease	-5% Lower
9th	12%	19%	23%	7% Increase	-4% Lower
10th	25%	26%	25%	1% Increase	1% Higher
11th	25%	33%	29%	8% Increase	4% Higher
12th	49%	29%	29%	-20% Decrease	0% Same

* All responses, only one time.

Marijuana If wanted some marijuana, how easy would it be to get some?

Easy and Very Easy Responses

	2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th	0%	15%	21%	15% Increase	-6% Lower
8th	0%	23%	35%	23% Increase	-12% Lower
9th	55%	66%	50%	11% Increase	16% Higher
10th	70%	61%	58%	-9% Decrease	3% Higher
11th	70%	72%	65%	2% Increase	7% Higher
12th	76%	73%	67%	-3% Decrease	6% Higher

* 11th grade, 11% 1 time, 16% 6 times or more

Painkillers Used prescription drug without a doctor's prescription in lifetime?

	2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th	0%	5%	14%	5% Increase	-9% Lower
8th	12%	4%	19%	-8% Decrease	-15% Lower
9th	12%	23%	22%	11% Increase	1% Higher
10th	28%	14%	25%	-14% Decrease	-11% Lower
11th	30%	13%	26%	-17% Decrease	-13% Lower
12th	50%	0%	31%	-50% Decrease	-31% Lower

Alcohol Past 30 days, ridden in a car driven by someone who had been drinking alcohol?

	2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th	0%	6%	19%	6% Increase	-13% Lower
8th	17%	21%	25%	4% Increase	-4% Lower
9th	18%	25%	28%	7% Increase	-3% Lower
10th	33%	15%	30%	-18% Decrease	-15% Lower
11th	26%	28%	31%	2% Increase	-3% Lower
12th	45%	11%	29%	-34% Decrease	-18% Lower

Marijuana Past 30 Days, been in car of someone who has used marijuana?

	2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th	0%	0%	16%	0% Decrease	-16% Lower
8th	9%	4%	20%	-5% Decrease	-16% Lower
9th	26%	37%	27%	11% Increase	10% Higher
10th	40%	37%	29%	-3% Decrease	8% Higher
11th	31%	48%	33%	17% Increase	15% Higher
12th	55%	40%	33%	-15% Decrease	7% Higher

Alcohol Past 30 Days, drove a car of under the influence of alcohol?

	2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th	0%	0%	0%	0% Decrease	0% Same
8th	0%	0%	0%	0% Decrease	0% Same
9th	3%	5%	10%	2% Increase	-5% Lower
10th	14%	8%	12%	-6% Decrease	-4% Lower
11th	13%	14%	15%	1% Increase	-1% Lower
12th	34%	11%	18%	-23% Decrease	-7% Lower

Marijuana Past 30 Days, drove a car of under the influence of marijuana?

	2008 SS	2010 SS	2010 State	# Change from 2008-2010	
7th	0%	0%	0%	0% No change	0% Same
8th	0%	0%	0%	0% No change	0% Same
9th	4%	4%	13%	0% No change	-9% Lower
10th	14%	11%	14%	-3% Decrease	-3% Lower
11th	16%	27%	19%	11% Increase	8% Higher
12th	35%	14%	20%	-21% Decrease	-6% Lower

What do you know about alcohol?		
Topic	Student	Comments
Alcohol	1	It's bad for you if you have too much, you can drink alcohol when you are 21, it's gross I think, messes with your brain.
	2	It is bad for you it's sorta kinda a drug, it kills brain cells, can't drink till your 21, lots of underage drinking goes on in this town, you get drunk if you have too much.
	3	It can be bad if you drink too much, you could get drunk or crash in a car. Alcohol is okay if you don't drink a lot.
	4	It messes with your brain. Illegal under age 21. Bad for your body. Makes you feel good at first, then after you get a hangover.
	5	Messes with your brain, poison to body, illegal until 21
	6	Drunk, costs money, addictive, hangover, #1 in Steamboat, depressant
	7	Bad for you, messes with your brain, makes you feel good, but then your hungover.
	8	Well if you drink too much it causes brain damage, you can get drunk.
	9	Is really addictive, depressant, "deletose blood", Alcoholism is genetic, relaxer, kills liver, illegal yull 21, expensive, brain.
	10	It can destroy your liver, It is bad for you brain, your thinking skills deteriorate. Bad for you. Not illegal if your over 21.
	11	Alcohol is bad for children. It can destroy your liver and give you alcohol poisoning. Also it can make you pass out. It is illegal for children, It can mess up your judgement. 21 is legal age.
	12	It's bad for the brain and the liver. Your thinking skills deteriorates. Bad for you. Illegal for being under 21. An effect on the body.
	13	It is illegal to buy under 21. It is illegal to drink under 21. It is bad for you. Lose brain cells, get a hangover. Lots of types.
	14	It causes brain damage, it's addictive, its bad to drink when you are a kid, it gives you hangovers. It's not illegal, you must be 21 to drink it. There's many different types of it. You can get drunk.
	15	It is bad for you, if you drink to much you get a hangover, it's addictive
	16	It gets you drunk when you drink too much, it affects your brain, makes you make bad decisions, there are many types of alcohol.
	17	That it is a substance that should not be used because of its negative effects on people and their lives. It reduced you common sense and makes your judgement useless.
	18	Different types, not agoof for liver, hangover, drunk.

	19	21 is the legal age, bad for your liver, illegal to drive after drinking, beer has a low content, hangover, safety issue, metabolic poisoning, use in cooking, fermenting, abused often, addictive, depressant, drug.
	20	Different kinds, parent drink it, can be used for cooking, drunk, safety
	21	Bad for your liver, bad to drive drunk, kills brain cells when young, have to be 21 to drink
	22	It is bad for the brain, it causes bad choices, it makes your thinking poor, it ia a depressant.
	23	Bad for you, you can be addicted, you can get a DUI for drinking and driving, you can go to jail for being under the influence, you can get a hangover, safety issue, alcohol poion, have to be 21 to drink, abused by teens, slows you down, a drug
	24	Alcohol can get you drunk and lose brain cells, If you go to sleep drunk you get a hangover, 21 is the legal age, many people in Steamboat drink, slurring words
	25	I think that I know that alcohol is a poison to your mind and bosity, I think it makes you do stupid or irresponsible things, and dulls your sense to the point where your own safety and others is put in danger. It also causes liver failure.
	26	Alcohol is bad for the human body. Alcohol is very addicting, is bad for the brain. Once you try some you get addicted and get drunk. Drinking while driving is really bad and illegal. 21 is the legal age, slow body down.
	27	It is abused.
What do you know about Marijuana?		
Topic	Student	Comments
Marijuana	1	It's bad for you, it is green, gross!
	2	It's illegal, it can be medical, it is a drug, it's addictive, it has nictotine in it (I think), it's really bad for you, it's green, it's yucky, it's gross.
	3	It is very bad, it is addictive and can kill you. Some people use it for a medical reason. If you don't have a good reason you shouldn't take it.
	4	Illegal, messes with your brain, bad for your body, lung cance, may help you feel better
	5	Easy to become addicted, plant, green, all different kinds, you smoke it, has many street names, weed, pot, reefer, matry-jane, hash. There is medical marijuana that is legal from doctors.
	6	Hash, illegal, meese up brain, effects athletes, #2 in Steamboat, gateway, plant, depressant, halucinagen, hurts development. Tobacco, super addictive, 10/11 additives, cocaine makes time go faster.
	7	Also bad for you, you can get lung cance, it's a plant.

	8	Marijuana you get high and it causes lung cancer.
	9	Is really addictive, lung cancer, brain cell get killed, pain killer, depressant, hallucinations, plant, pot, weed, gateway drug.
	10	It destroys your brain. You can't learn, you forget stuff. It's addictive. It can cause cancer. Causes you to make bad decisions. Lowers desire to be active. Bad for you. It's illegal, unless for medical problems.
	11	It has many different forms. It is illegal. There is medical purposes. It is a plant.
	12	It's addictive, damages the brain. Fills lungs with smoke can give you cancer. Lowers desire to do activities. It's bad for you, illegal unless for medical needs.
	13	It is illegal, terrible for you. Lose brain cells, get high. It's not addictive. Many kids try it.
	14	It's illegal, people sell it, it makes you high, it's addictive, there's medical marijuana, you can get arrested, people can die cause of it.
	15	You can smoke it, it's bad for your lungs.
	16	It's a plant, it affects your brain, makes you have bad decisions, it is illegal to have without a medical license.
	17	That is a highly addictive drug that can control your life. It can make you start doing other drugs. Also it can make you start doing other drugs. Also it can make you do anything for the drug.
	18	It can help people who have disabilities.
	19	2nd most illegal substance in Steamboat, messes with your brain, smuggled over Mexican border, addictive, dilated pupil, medical uses, THC, easy to get, depressant or stimulant or hallucinogenic.
	20	I've seen it, it smells horrible, can be used medically, pupils dilate, also called weed.
	21	Illegal, kills brain cells, bad for your lungs, it's a plant, also known as pot, weed, reefer.
	22	Makes the eyes puffy and red, makes pupils dilate.
	23	Poison, illegal to do or sell, medical marijuana can be prescribed to you, dilates your eyes, THC, easy to get, bad for you - puts holes in your brain, depressant, putting your safety and other in danger, many nicknames, comes from a plant, a drug.
	24	Weed is the most common smoking drug that you can get high. If you smoke it you get high, people who do it tell me it's not addictive, there is no legal age for weed it is against the law, many people in Steamboat smoke marijuana, there is medical marijuana, your eyes get puffy and bloodshot, if you are under the influence your brain works four times harder.

	25	I think that I know that marijuana is definitely a bad drug and a bad idea I think it detached you from everything else and makes you want only it, care about only it. I also think it destroys brain cells (like alcohol), it might also give you a relaxed feeling from stress, but when its done you feel depressed.
	26	Marijuana is an addicting drug, marijuana is bad for your brain, body and health.
	27	Plant, 3-9 leaves, smoked.
Have Medical Marijuana Dispensaries Changed your perception about marijuana		
Topic	Student	Comments
Medical Marijuana	1	I think we should not have it. Yes because I think it is still wrong to have it. No, I don't think its bad and I have not thought about it.
	2	I don't like it even if it is medical. No, because it is still a drug and it can still hurt people. No, because it is easier to get for teens and it can still hurt people.
	3	I think it is good and bad because if people need it they can get it. It could also fall in the wrong hands. No, it hasn't because people still can get it even if they aren't sick. Yes.
	4	I think medical marijuana is okay because it's a pain relief and can make you feel better. Not really. I haven't really though about it.
	5	Did not give answer.
	6	It is a pain reliver and some people are getting it for invalid reasons. Some people no one really needs it because they have invented things that will better off the same. No I believe they are giving it out too freely, but I'm not too concerned.
	7	I don't know, I don't care, Not sure.
	8	I don't care about it.
	9	A way for cancer patients to get their appetite back, pain control for agonizing pain. Yes, it's a type of medicine for some people, but not me. I don't know.
	10	It's terrible and some people just use it when they don't need to. I think it made it worde because it made it easier for people to get.
	11	It may fix some ailments, but people are just abusing the system and getting weed. If it continues like this they should make weed legal. No, because nobody really needs it, they just think they do.
	12	I don't think it was a very good idea. It allows kids to get it with out really having an excuse. Yes, because it makes it seem okay, when its really not.
	13	It is horrible for everyone, everywhere. It shouldn't be so easy to get it. I haven't thought about that, but I don't think so. They're both bad and can be addictive.

	14	I think it's good for some people who need it. But I think some people mis-use it. I still think it is bad.
	15	I don't know anything about it. No, because it hasn't changed how bad it is for you. Alcohol is bad for you in large amounts, it's addicting.
	16	It is bad for some and good for others. I think it shouldn't be legal to have on the street, only legal by a prescription. Yes, because I used to think it was only for druggies, but it actually helps people.
	17	It is dumb. It should not be legal in Colorado and should not be easy to get. No, because I think that it is bad no matter the situation.
	18	I think it is okay for some people but I also strongly disagree with using medical marijuana. It is still horrible but only okay for very few people.
	19	I think its okay if somebody actually needs it, but in other cases that it should not be permitted. No, it's still a drug that in most cases should not be used.
	20	It is good for someone who needs it but for someone who gets the prescription just to have it is bad. It is really easy to get. Yes, and mostly no - it is still bad.
	21	It helps some people, but it shouldn't be so easy to get. You should have to at least see a doctor in person to get a prescription. I haven't really thought about it.
	22	I think that it is dumb because it is so easy for people to get it. No, I haven't thought about it.
	23	I think doctors should be able to prescribe it to anyone. No, because it is still bad
	24	No idea. No, because it still gets you high and its still addictive.
	25	I think medical marijuana has its ups and downs if used appropriately and if needed I think its okay, but if used for wrong reasons or not needed or abused I think its bad. No, I still think of it as a drug, something not to be abused.
	26	Marijuana is an addicting drug and it is very bad for your health, mind, body. I think marijuana is horrible drug to put in town because it is bad.
	27	It is abused. It only should be used when helping someone with health issues. It should be contained better. Yes, it shows me how much people use it badly.
	28	Medical marijuana is good for some but not others. Marijuana shouldn't be given to everyone, just the people with real problems. They make it look good, but still they shouldn't give it to just anyone.

Steamboat Springs Police Department Statistics

2009 DUID Arrests	
Adult vs. Juvenile	Total
Adult	11
Grand Total	11

2010 DUID Arrests		
Adult vs. Juvenile	Total	
Adult	16	89%
Juv	2	11%
Grand Total	18	100%

2009 Marijuana Arrests		
Adult vs. Juvenile	Total	
Adult	70	82%
Juv	15	18%
Grand Total	85	100%

2010 Marijuana Arrests		
Adult vs. Juvenile	Total	
Adult	84	86%
Juv	14	14%
Grand Total	98	100%

2009 DUID Arrests		
Age at Time of Arrest	Total	
Age 18 - 20	2	18%
Age 21 - 29	3	27%
Age 30 - 39	3	27%
Age 40 - 49	2	18%
Age 60 - 69	1	9%
Grand Total	11	100%

2010 DUID Arrests		
Age at Time of Arrest	Total	
Age 15 - 17	2	11%
Age 18 - 20	6	33%
Age 21 - 29	5	28%
Age 30 - 39	1	6%
Age 40 - 49	1	6%
Age 50 - 59	3	17%
Grand Total	18	100%

2009 Marijuana Arrests		
Age at Time of Arrest	Total	
Age 15 - 17	15	18%
Age 18 - 20	20	24%
Age 21 - 29	29	34%
Age 30 - 39	13	15%
Age 40 - 49	7	8%
Age 50 - 59	1	1%
Grand Total	85	100%

2010 Marijuana Arrests		
Age at Time of Arrest	Total	
Age 15 - 17	14	14%
Age 18 - 20	24	24%
Age 21 - 29	33	34%
Age 30 - 39	23	23%
Age 40 - 49	3	3%
Age 60 - 69	1	1%
Grand Total	98	100%

* SSPD does not close cases to auditing, updating or editing. Therefore, statistics are subject to minor changes over time as cases are reviewed and/or updated. The number of arrest is arrived at by counting unique arrestee numbers in arrest modules of RMS program.

Medical Marijuana *TABLED 1/27/11*

Discussion on this agenda item started at approximately 5:22 p.m.

Disclosure

Commissioner Robbins –

I have clients that can benefit from however this turns out.

STAFF PRESENTATION

Dan Foote –

This ordinance is motivated by HB 10-1284 which was adopted by the State Legislature last year. It had the effect of changing how the medical marijuana is operated in this state. Our existing ordinance was addressed in the fact that they were primary care givers and their customers were patients. This ordinance broke the industry up into 4 different types of businesses. There are a couple of production types and then retail and primary care givers who are limited to only 5 patients and are not going to be the basis of a retail operation. In the context of addressing the land use issues with these new business operations the City Council has asked that we look into providing some greater degree of protection to residential uses from medical marijuana uses.

COMMISSIONER QUESTIONS

Commissioner Robbins –

Where you talk about the cultivation of infused product manufacturing that's restricted to the industrial zone districts that can only occur in the industrial zone district? What would happen if a medical marijuana center that already exists has an infused manufacturing at their facility now? Would they not be able to do that if they're not in the industrial zone district?

Dan Foote –

That's correct. They would have to move their infused product manufacturing to an industrial zone district.

Commissioner Levy –

What was the nature of the complaint from Foxcreek and the adjacent dispensary?

Dan Foote –

At Foxcreek we had a dispensary that was a full retail operation and the concern was odor and foot traffic. There are people with children that don't feel that it's appropriate to have near their children.

Commissioner Levy –

Was the odor from the establishment itself or other activities associated with it?

Dan Foote –

We haven't had complaints in that much detail. We've had complaints regarding odor, but nothing to do with the use of marijuana. It had to do with the growing of marijuana or stock on hand.

Commissioner Levy –

On pg 3-4 at the top ‘medical marijuana centers shall not be located within 500’...’ is that standard language? Is that the same language we have for alcohol or other things that are detrimental to schools and campuses?

Dan Foote –

That’s the existing language that we use for a medical marijuana facility criteria. I took this out of the liquor licensing statute.

Commissioner Robbins –

I think that it’s in conflict with HB 1284, because that requires it to be 1000’.

Dan Foote –

We’re allowed to modify the distance restrictions.

Commissioner Lacy –

Has there been any thought about modifying that language to include other places such as childcare centers or home daycares or anything like that?

Dan Foote –

It was decided that might be impractical since there’s daycare centers all over the place and we don’t know where they all are.

Commissioner Hanlen –

Instead of putting in this language about not allowing uses adjacent to the following zone districts, would it make more sense to change it from a use with criteria to a conditional use? Are we creating such a contentious ordinance by having so many restrictions on where it can be when there may be instances where it would make sense to have it in a certain location as opposed to a blanket restriction on all of these locations?

Dan Foote –

Everywhere where we have uses with criteria to change those to conditional uses?

Commissioner Hanlen –

It would go through the public process. Usually I’m not for taking the process public if it doesn’t need to be. If that seems to be the whole problem is the public’s concern about adjacency. It’s not like we’re talking about 10 applications a year since there’s only 3 businesses allowed in town. It seems like a fairly restricted expansion.

Dan Foote –

That’s an interesting point. City Council would get a chance to evaluate these adjacencies.

Commissioner Hanlen –

Can we do that and simplify the ordinance and reduce its size just to keep it from getting more complicated and larger than it needs to be?

Commissioner Lacy –

How do other Commissioners feel about that as far as conditional use versus use with criteria?

Commissioner Robbins –

I think it's a solid idea.

Commissioner Slavik –

I like the idea that it would be reviewed publicly in terms of that location and conditional use. We talked about what if it was going into an industrial park that had morphed into something that's less industrial? It would allow us to say under these conditions we do or do not allow it to be. It seems like it gives us the right amount of review over the location.

Commissioner Hanlen –

Maybe as an interim step would it be possible to keep it as a use with criteria and apply the potential for a call-up revision as opposed to it being merely administrative? If nobody has an objection then it can sail on through and if someone has an objection then City Council or Planning Commission would have the ability to have a call-up revision. Would that be an in-between step?

Commissioner Slavik –

Does that still allow the public to know that it's going to happen?

Commissioner Hanlen –

Use with criteria gets publicly noticed, doesn't it?

Tyler Gibbs –

I think so.

Commissioner Hanlen –

Any adjacent property owner is going to be noticed anyways. They would have the opportunity then. If nobody calls it up or complains about it, would it have to go through the whole public process? We keep it simple if nobody is objecting, but if somebody does object then it goes through the public form.

Commissioner Levy –

I'm more likely to support that. I think with the conditional use then it becomes more of who shows up at that meeting to complain? People want to have a more clear answer to whether a business can be located there.

Commissioner Brookshire –

It seems like to me that if you list them in the ordinance then you're identifying that it's not allowed in those zone districts. I'm not interested in listing them all, because then it's affirmative then you're saying that it's not allowed here.

Commissioner Beauregard –
Because it says the adjacent portion I agree with Commissioner Hanlen.

Commissioner Levy –
It takes the same review as whether there's a school within 500'. Staff is going to have to take an actual measurement and say how far is the nearest school. The applicant may not be aware of a seminary that's a school in the area. Staff is going to have to do that work anyways.

Commissioner Hanlen –
Is there a definition for adjacency?

Dan Foote –
There is a definition for adjacency. If a property is next to each other or a right of way between them then it's adjacent. With respect to medical marijuana cultivation we're not going to be able to have a conditional use process. The location of medical marijuana cultivation facilities is required to be kept confidential. In January the State did introduce a bill that would change the confidentiality, but it hasn't been voted on yet.

Commissioner Levy –
I would think the same things for the infused product facilities. Is that also protected?

Dan Foote –
Those are not protected.

Commissioner Levy –
It's all the same issues where they're worried about theft and things like that.

Commissioner Lacy –
What you're saying is you wouldn't say that staff would necessarily be supportive of.

Dan Foote –
I don't think that we can do that with cultivation. I believe that process exists right now where you can do a call-up for a public hearing with the use with criteria approvals. When the director decides to approve something he sends a notice to the City Council. I wonder how affective that's going to be.

Commissioner Hanlen –
How would we find out if it was a cultivation facility?

Dan Foote –
You won't.

Commissioner Hanlen –
Should we be concerning ourselves with that?

Dan Foote –

Staff gets to know where the location is. If we went with the existing language then staff would know where the proposed location is and be able to check to see if there are any residential zone districts.

Commissioner Slavik –

I still think that the conditional use makes some sense. This isn't going to happen very often. There is always going to be a lot of controversy where you're putting this kind of thing. I would like it to be more transparent than less transparent.

Dan Foote –

If you take cultivation out of it then I don't disagree with that. The existing 3 operations have at least 1. You could be talking about 5-6 public hearings a year. I can see the advantages of doing it that way.

Commissioner Meyer –

What role does the police department play right now in the approval of these sites?

Dan Foote –

They're not involved at all.

Commissioner Meyer –

They don't even have a list of where these places are.

Dan Foote –

They are involved in the licensing. They are included in the City Clerk's red robin process.

Bob Keenan –

The primary care center is a little bit different than the medical center. The primary care center is going to be allowed as a home operation. If we make it a conditional use then there's a \$1,500 application for up to 5 patients. I'm afraid that they won't come in to get the approval. We may get better compliance through an administrative approval.

Commissioner Hanlen –

With use with criteria we're still notifying surrounding property owners?

Bob Keenan –

No.

Commissioner Hanlen –

Do we just add that provision where we notify surrounding property owners and then there's a call-up provision for use with criteria. We keep it from becoming conditional use and keep the process simplified. I'm looking at a way to condense this code without making it too onerous.

Commissioner Slavik –

I'm wondering if that makes it more confusing, because we're not using a standard operating procedure we're creating another one.

Dan Foote –
We're already coloring out of the lines with this adjacency concept.

Commissioner Hanlen –
I would just like to have it simple and as straight forward as possible. You're looking at hopefully 1 place for the information.

Commissioner Slavik –
What's a surrounding property as opposed to an adjacent property?

Commissioner Beauregard –
I like the idea of a notification.

Commissioner Hanlen –
The exception to that would be the primary care giver and the cultivation and infused products are kept secret.

Commissioner Brookshire –
Just cultivation.

Commissioner Hanlen –
The care giver gets noticed? That seems non-necessary for notification. What's the difference between that and cultivation?

Commissioner Lacy –
The cultivation by statute nobody can receive notification.

Commissioner Hanlen –
Why would a primary care giver be any different?

Dan Foote –
The cultivation sites are offsite from the premise and are by statute confidential. If you're a primary care giver and you're cultivating onsite then that restriction doesn't apply. A primary care giver can't grow more than 25 plants.

Commissioner Robbins –
You have provisions in here that their requirements would change under the ordinance if they were granted that exception to have more than 5.

Dan Foote –
Yes. They wouldn't be operating as home occupations.

Commissioner Hanlen –

The notification only applied to the marijuana center?

Dan Foote –

You could use the use with criteria plus public notice. We can do that for any of the center's, infused products, and the care givers that are looking for approval to operate in the commercial districts.

Commissioner Slavik –

With public notice we get a lot more transparency. I don't want anyone to think that the process is in any way not as transparent as it can be.

Bob Keenan –

It's important to note that with the use with criteria's that they're basically use by rights. If that's the way you want to go is with a more transparent process then it should be a conditional use. They might not like it being next door to them, but if they meet all of the use with criteria then they can't do anything about it.

Commissioner Hanlen –

How do you protect both property owners in that case?

Dan Foote –

The goal is to modify the adjacency provisions or dispense with them.

Commissioner Hanlen –

You mean remove that whole language?

Dan Foote –

Correct.

Commissioner Lacy –

To accomplish the goal that I'm hearing is that we would almost have to by default have to go back to conditional use.

Commissioner Brookshire –

That sounds better to me.

Dan Foote –

You can do it with criteria, we would just have to have this criteria addressed to not have it next to a home.

Commissioner Hanlen –

My concern would be protecting both side's rights where a person can't simply make a token you would have to give some legal language where Council would be able to role with based off of a given criteria. I don't know how to phrase that where both sides feel protected in that.

Commissioner Beauregard –

That brings up the whole issue of the home care giver. If it's a home occupancy then you could have it in the residential zone district right? There are no criteria that it wouldn't be able to meet most likely. You're just notifying the neighbors to make them mad essentially.

Dan Foote –

A home occupation doesn't require any approval at all.

Bob Keenan –

A lot of them are conformance requirements where you can't have more than 1 trip to the home per week. You can't say they don't meet that ahead of time, but something that you need to monitor.

Commissioner Robbins –

The language that you have here says that you can't visit the dwelling unit.

Bob Keenan –

The home delivery can only happen once a week. That's in addition to the home occupation criteria that would not allow patients to go to the home.

Commissioner Robbins –

The legislation for being a care giver you have to be providing more than just medical marijuana as a service. If the patient can't come to you and you're providing them the service other than just medical marijuana how can they go about doing that if they can't visit the home?

Dan Foote –

The home is the grow site and the primary care giver is traveling to the patients.

Commissioner Robbins –

The scenario that I was thinking of is that the care giver has equipment or supplies that they have at the home to be providing the service for their patient. How can they do that if the patient can't visit the home?

Dan Foote –

They're going to have to find a location in the commercial district.

Commissioner Meyer –

If an HOA has a prohibition against commercial uses, I know that the City doesn't enforce HOA rules; do we need to put the community on notice? Does the state law trump an HOA rule?

Dan Foote –

No. If primary care giving is considered a commercial use then the HOA is able to prohibit that use.

Commissioner Hanlen –

I would like to keep it use with criteria just to keep the process as simple as possible. If we need to add a public notice provision for the centers then I would try and limit it to that just for the potential scale of that. Try and reduce as much of the language as possible in the ordinance as possible and keep this as simple as possible. I think there needs to be some kind of criteria where they can rule on it so both sides feel protected where it isn't just somebody voicing an objection and all of a sudden the proposal dies.

Commissioner Slavik –

I'm leaning more towards the conditional use permit. In terms of protection in conditional uses there is an appeal process. It gives both sides the opportunity to agree or disagree with whatever the conditional use decision use is. I will still prefer the increased transparency and process associated with conditional use.

Bob Keenan –

Is that for all of those uses except for the cultivation or just the center?

Commissioner Slavik –

All of those uses.

Commissioner Beauregard –

I agree with Commissioner Slavik except for the primary care givers I think we should pull them out of the conditional use. I think that Bob Keenan is correct. If we make it difficult for them then they're not going to come in here. They're not going to get a license. I still think that if they're doing that inside their home and nobody is coming to their house. If they want to do that inside their home then I don't think that it's going to bother anybody anyways.

Commissioner Meyer –

I will go with the conditional use. The reason is that we're looking at limited numbers. The state law is still shifting. It's easier to loosen it up than to tighten it up. I would rather be a little bit tighter as far as public scrutiny in the beginning and public rights. I think the unintended consequence we can't envision all of them. I would rather error on the side of caution and go to conditional use.

Commissioner Lacy –

I would agree with that too. I feel like that's more appropriate given the ever changing state of the law and the limited numbers.

Commissioner Levy –

I'm going in the opposite direction. I think the medical marijuana centers should be regulated related to other commercial operations including liquor. I'm not convinced that the grow centers especially the infused products manufacturing are much of an imposition on their neighbors. In the past the only way that I've heard about us finding out about grow operations is that somebody rats them out or they have to use infrared material. Or you can look at their electric bill to see that they are growing over night. If growing centers were

creating that much odor then you would think that we would be able to find them a lot easier than any of the examples that I've seen in the paper of us catching illegal growing operations. I'm not that keen on the complaints of the neighbors as I've seen for cultivation. It's another in home use. It's got to happen somewhere. I think that it's going a little bit overboard with regulations.

Commissioner Robbins –

I'm on the side of conditional use because of the ever changing state laws with regards to the medical marijuana use. I don't want to make it overly burdensome.

Commissioner Brookshire –

I'm with Commissioner Meyer and Commissioner Slavik on conditional use. I think it's the best thing for now.

Public Comment was taken.

Home Occupation

Commissioner Robbins –

I'm wondering why you decided as the home occupation that no patients could visit the home? If you can only have 5 patients anyways then you're not going to have a lot of foot traffic anyways. How do you regulate that if someone is just coming over to hang out? How do you know that they're not coming over to do something else?

Dan Foote –

We don't know in every case. There may be some cases where the neighbors may say that they've got a primary care giver operating next to them. We want to be able to respond to those situations.

Bob Keenan –

As far as limiting that is just typical of a home occupation.

Commissioner Robbins –

Usually you can have 2 visitors a day. Why did you limit it to '0' instead of the standard for home occupations of '2'?

Dan Foote –

We want to limit the impacts as much as possible.

Commissioner Brookshire –

Apparently the state law says that they have to provide some sort of care or service. What is that care or service?

Dan Foote –

Some of these people got prosecuted for the distribution of marijuana, but claimed that they were primary care givers. One of these people ended up in the court of appeals who said

that you have to do something other than distribute the marijuana. We don't know what that means.

Commissioner Levy –

In my previous comment about growing and infused product not being able to be a home occupation is the same thing. I'm really not convinced that they're going to be onerous to neighbors. They're not allowed commercial visitors already. I'm assuming that they're not getting huge deliveries. The other home occupation rules would make it acceptable in my mind.

Commissioner Beauregard –

It's just the primary care giver at the home occupation correct and then they get a state license?

Dan Foote –

Correct, and they do need a state license.

Commissioner Beauregard –

They can't exceed 30 plants and that's what the police will count. It's hard to tie in the 5 patient's right?

Dan Foote –

They have to have some kind of documentation that the patient has designated them as the care giver. For each patient they can possess up to 6 plants and 2 oz. of marijuana. We're making the care giver go to the patient. The care givers aren't supposed to be making a profit on the marijuana that they're growing.

Commissioner Beauregard –

How do you get these licenses?

Dan Foote –

Colorado Department of Public Health.

Commissioner Beauregard –

How do you find your patients? Do you advertise for that? The advertising must be the most appalling to me. The whole ordinance and medical marijuana if I didn't have to read the advertisements in the paper I'd be unaware that it even exists. If we have 50 people advertising as a primary care and distributor and they have to find their 5 patients.

Dan Foote –

I don't think that we're going to have a lot of advertising from primary care givers. I've seen the ads that you're talking about. If they can only have 5 patients then they probably won't need to advertise.

Commissioner Slavik –

I think that if we're going to allow this as a home occupation we've been pretty strict on what we allow home occupations to do and the deliveries. I'm not sure that we need to add a lot more on here. If we continue to have a fairly transparent process in the beginning and it becomes approved as a conditional use in the home occupation then we should just stick with the home occupation requirements and if that's 2 visits a day. What's the difference between those 2 visits there and 2 visits to some other home occupation that's next door to your house?

Dan Foote –

Some people have the perception that this is essentially dealing of illegal drugs and that the patients are drug addicts.

Commissioner Lacy –

How do Commissioners feel about home occupations in general? Do we want restrictions over and above what we already have? .

Commissioner Brookshire –

On pg 3-17 it talks about how they won't give a license to a person whom authority to be a primary care giver is defined by CRS...has been revoked by the State Health agency. The primary care giver is licensed by a State Health Agency?

Dan Foote –

Yes.

Commissioner Brookshire –

If they've had their license revoked then they wouldn't issue them a new license?

Dan Foote –

Not only can you not get a license you can't get a license to operate a medical marijuana center or infused product manufacturer. We as a City don't have the ability to require those people to get a license.

Commissioner Brookshire –

A licensed physician won't be given a license?

Dan Foote –

A licensed physician who is making recommendations to patients.

Commissioner Brookshire –

I'm not in favor of the home occupation at all. I would prefer that I wouldn't have to go up and down neighborhoods. To me it's like a commercial business. A home occupation is like a commercial business. They should essentially be in commercial zone districts. I'm not opposed to the conditional process. I think that allows the advertisement and public to know about it and publicly to attend hearings.

Dan Foote –

It seems like this is going to be a potential problem for us. It's going to be difficult for us to allow these people to operate in these zone districts. There's a concern that these operations are so small that it's not going to be feasible for them to lease a commercial space to operate in. If we say they can't operate as a home occupation then we may get a whole bunch of them operating under ground. The fire marshal said that it's probably a good idea for these people to have inspections.

Commissioner Brookshire –

I would just assume get it out of the residential zone districts.

Commissioner Levy –

About the complaint issue, don't we have specific rules to protect against that? An example is the Ghost Ranch Saloon. They weren't in violation of decibel levels, but got a ticket because the neighbors had an expectation that wasn't met by them. Wouldn't that also apply for excessive noise, odors, any of these home occupations or a zone district other than industrial?

Dan Foote –

Yes, if primary care operators cause as much trouble as the Ghost Ranch did then that's what I'm concerned about.

Commissioner Beauregard –

You could get a State license and be legally in possession of these 30 plants and not have the City's approval to grow somewhere. If you got caught you would in a violation of a municipal CDC violation which is like nothing. In that sense we're just going to put it under ground.

Dan Foote –

Noncompliance of these regulations isn't going to put these people in noncompliance of the more serious criminal laws.

Commissioner Brookshire –

You have no recourse then. If it's not allowed in your zone district and it's happening and you find out about it then you have recourse by going to the City. If it's a conditional use that's been approved then there's no recourse.

Commissioner Robbins –

I don't have a problem with primary care givers operating out of their home. I don't think that we should place more stringent restrictions on home occupations than we have for other home occupations.

Commissioner Levy –

Allow home occupations for all uses except for medical marijuana centers.

Commissioner Lacy –

I would agree with that too.

Commissioner Meyer –
I'll agree with Commissioner Levy.

Commissioner Beauregard –
You're saying the infusing and everything except for the center? That puts it over the 30 plants if it's an actual grow center, right? Not just a primary care center, but also an actual grow center, right?

Commissioner Levy –
It's within the home occupation rules. How much of the house that it's allowed to occupy, which keeps it pretty small. You can't have retail sales, no deliveries, or deliveries are limited to once a week. There's quite a list that limits how big of an operation it can be. Only 25% of your space can be devoted to that.

Commissioner Beauregard –
I would go as far as the primary care giver.

Commissioner Slavik –
If we're going to allow this as a home occupation or any piece of it as a home occupation then regulate it under the home occupation requirement. I do like what Commissioner Beauregard said that maybe home occupation of the guys that are a small enough operation that it's not an issue then we could do that. When you get into the infused products and the cultivation then I think that you probably should keep those further away from the residential districts.

Commissioner Lacy –
You would be more in favor of having 5 patients or less?

Commissioner Slavik –
Yes.

Commissioner Hanlen –
I would agree with Commissioner Levy. I think that we should keep the home occupation standards the same for these businesses instead of creating a different form. I point to the one example of how many home occupation uses get busted in a given year. I can't think of any examples.

Dan Foote –
I can only think of one complaint 8 years ago and I don't think that we sited them.

Commissioner Hanlen –
The beauty of the home occupation rules is that they're there if it gets out of hand. Most people can occupy well within those rules. I think that these could serve just fine.

Dan Foote –

(He went over some of the requirements of the home occupation standards). It does give us a lot of regulatory authority.

Commissioner Hanlen –

I give that example, because if someone was using their garage then that can easily presents a skewed ratio and 25% can get hit pretty quickly. I was the one who was pushing for 50%. It wasn't in this context. If someone was using their garage and the average garage is 576 square feet that all of a sudden you hit that number pretty quick.

Commissioner Levy –

Isn't home occupation only applied to in the residential zone districts?

Bob Keenan –

Yes, I think so.

Commissioner Levy –

For a live/work unit they don't have to apply for that same kind of restriction.

Bob Keenan –

It does say residential dwelling unit.

Commissioner Levy –

If you had a live/work industrial unit then you wouldn't need a home occupation permit. It could be residential or it could be commercial. I don't understand how we only approved cultivation and infused products in certain zone districts excluding residential zone districts. As a home occupation we have to allow it in residential zone districts.

Bob Keenan –

Agreed.

Commissioner Brookshire –

When you have a home occupation does it have to be owner occupied and/or could a tenant have a home occupation?

Commissioner Lacy –

It doesn't differentiate. It could be a renter or an owner.

Remaining Items

Commissioner Robbins –

On pg 3-15 section 12-202 renewal fee (2) in the redirect section it says 'the city clerk shall not refer the renewal application for public hearings only if the licensee has had complaints filed against it'.

Dan Foote –

Ignore the 'not'.

Commissioner Robbins –

On pg. 3-18 section 12-206 (4) ‘the number of licenses issued by the City shall be limited to no more than three’. Is that all types of licenses or just medical marijuana licenses?

Dan Foote –

That’s going to change. There’s going to be 3 centers and the City Council wants to have those centers vertically integrated.

Commissioner Robbins –

Are you going to have no more than 3 medical marijuana licenses and no more than 4 infused product manufacturing licenses? How is that going to look?

Dan Foote –

It’ll probably say no more than 3 medical marijuana licenses. A center licensee can hold 2 of the other licenses as well. I have not modified this since the City Council hearing in October.

Commissioner Robbins –

On pg 3-19 section 12-207 you have ‘medical marijuana dispensary license’ and I think it should say ‘center’. The same issue is on pg 3-20 section 12-210. Then in that same section under (1) ‘medical marijuana centers shall provide clients’. I would prefer it to say ‘patients’. On (5) in that same section ‘medical marijuana centers shall operate on an appointment only basis’ and I was wondering why that is? People may come out of town that want to stop in to purchase their medical marijuana. Do they need to call and make an appointment? What’s the basis for that?

Dan Foote –

That language may need to change.

Commissioner Robbins –

On (7) in that same section in the last sentence do you want to say anything like ‘also in accordance with state law’?

Dan Foote –

We could add that. The current administration regulation is going to eliminate most of these privacy protections. I don’t know how City Council is going to want to do that since they may want our police department to operate under the higher privacy standards.

Commissioner Levy –

On pg 3-11 section 26-402 (1) (c) regarding drive-up windows if there’s going to be a facility with drive-up windows from what I can gather City Council will hardly approve the dispensing of prescription drugs via a drive-up window. We had a comment from a pharmacist that said that there’s much more misuse among drive-up pharmacy clientele. If City Council felt that wasn’t an issue then I’m not sure why it’s an issue in this instance.

Dan Foote –

I'll make a note of that.

Commissioner Lacy –

Are you going to make some revisions to this? Are we going to see this again before City Council?

Dan Foote –

We do have time to bring this back.

Commissioner Lacy –

As we've mentioned tonight I know that there's a lot of pending legislation on this issue and it may affect the ultimate outcome of how we should draft our local ordinance. I don't know if you have any thoughts on that. Maybe give this another couple of months to make a final decision.

Dan Foote –

The one introduced in January hasn't been voted on yet. It could be fall before we see anything. The state is going to be starting to issue licenses under the new regime at first and if we don't have our ordinance in place by then it's going to create some problems when people come in to issue licenses. The industry is going to want to have something in place so they don't run into those problems. I'd like to have this in place by July 1. The way that this is written now if the January bill passes it would be a matter of plugging in a couple of new terms. This bill would issue 2 new licenses. One would be a facility for joint manufacturing of medical marijuana infused products. The second issue is primary care giver with more than 5 patients may have a separate licensing provision.

Commissioner Lacy –

It mentions in here hearings officer is that the liquor licensing authority is that the same?

Dan Foote –

Jim Moylan is going to be our appointed officer although he'll be the medical marijuana licensing authority.

Commissioner Brookshire –

If a tenant is looking for a permit for a home occupation is it proper and could the City require a signoff by the property owner?

Dan Foote –

No the tenant would not need to obtain the landlord's permission. Did you decide if you wanted to see this again?

Commissioner Lacy –

I think that I would, but I don't know how the rest of the Commissioners feel.

Dan Foote –

I was anticipating bringing it back in 2 weeks before City Council sees it. The City Council meeting is on March 1, but we can push that back into April if we need to. Would you like to see the ordinance amended or do you want some time to sleep on these concepts and come back and give me different recommendations the 2nd time around?

Commissioner Lacy –

I think we gave some recommendations on the conditional use. It sounded like a 5-2 vote in favor of that. I would like a little bit more time to go through the language and maybe ask a few more questions and maybe propose a few more amendments.

Commissioner Beauregard –

I would like to see it as its amended and how it's going to be presented to City Council.

Bob Keenan –

Typically we have a vote on a new ordinance that deals with land uses and we don't have that set up for tonight so that's another reason to bring it back.

Commissioner Levy –

Isn't there a larger policy discussion that we were going to have on this? I thought that there was a bigger question that City Council wanted our input on the overall discussion of expanding medical marijuana centers.

Dan Foote –

I got that in the sense of how do we protect our residential uses.

Commissioner Levy –

You told us that the City has the ability and I assume is collecting sales tax on the sales of medical marijuana. If that's the case then City Council has indicated the need for economic development and revenue collection. I don't see why we should be limiting this. Kevin said that marijuana is already prevalent in the community and I don't see how more marijuana centers are going to give more people marijuana. If there is a PR issue with a lot of them but I think that it's just bringing a problem more to the surface instead of keeping it underground. I don't see any real practical reason in limiting the number of sales units. We do it with liquor and maybe it should be done at a similar basis. That's a limit in name only. I haven't seen a new liquor license application get turned down in a long time.

Commissioner Hanlen –

Wasn't the primary concern from the police department that we wanted to restrict the total number of centers because we could keep tighter tabs on those total centers?

Dan Foote –

Yes.

Commissioner Hanlen –

It was tough to pull a real opinion out of the letter that they sent. Other than overall sense of fear did they feel like they were able to adequately police the centers that we do have? Is this going to cause some undue burden by expanding that number?

Dan Foote –

Joel said we'll do what we need to do, but it would make our job easier if we had fewer.

Commissioner Beauregard –

It seems to me that the primary care givers are the heart ache for them if that's unlimited. If we're limiting it to 3 centers, but having unlimited care givers.

Dan Foote –

I think that you're right. The primary care givers have the most potential for abuse and the least oversight. The state doesn't give us the ability to license them and they are protected constitutionally.

Commissioner Beauregard –

The problem that I have is the advertising. There's nothing that we can do about that, right?

Dan Foote –

The 1st amendment protects commercial speech only if it concerns lawful activity. Medical marijuana is still illegal under federal law. We could say that there's no 1st amendment protection and so no advertising allowed.

Commissioner Beauregard –

That's the biggest impact on me. My biggest concern about the whole thing is the social acceptance to the youth. They don't care if the adults smoke or use it medically. That scares me about all of this. If we have 15 centers I don't care if you didn't see the advertising. We have them hidden and we're going to have 30 primary care givers. It's the advertising for me. I don't know if we can limit that or tone it down. For me the number of centers is irrelevant.

Dan Foote –

Theoretically it's possible.

Commissioner Lacy –

Has City Council given you any more thoughts on that if they would want to restrict or get rid of advertising all together?

Dan Foote –

This was discussed when we adopted the original ordinance. There is a prohibition on the marijuana leaf symbol. There was a discussion on extending that ban to print advertising. City Council elected not to do that.

Commissioner Slavik –

It seems like a pretty clear analogy with tobacco that we don't have tobacco advertising. I think that there is definitely an analogy there if we're trying to prevent young people from smoking tobacco. I would think that we would want to have the same inclination toward misuse of marijuana.

Dan Foote –

The tobacco regulations came from the big tobacco industry losing the lawsuit. Before that there weren't many restrictions on tobacco advertising.

Commissioner Slavik –

When did the Joe Camel thing happen? That was before the litigation wasn't it?

Dan Foote –

Yes.

Commissioner Robbins –

The state statute also has provisions on advertising that it can't be aimed towards minors.

Commissioner Slavik –

Free joints on Wednesdays is ok.

Commissioner Robbins –

Yes. You probably have some limitation on the language saying we already have that on signs that you can't use marijuana or any related language. Maybe you can switch that into advertising.

Dan Foote –

You're not allowed to sell liquor below cost.

Commissioner Lacy –

Is it just mainly that City Council was worried that we were going down a slippery slope and we may be opening ourselves up to litigation if we further restrict advertising?

Dan Foote –

I don't know.

Commissioner Beauregard –

If you look into that then I think that you should look into the radio ads that go beyond medical treatment.

Commissioner Hanlen –

That center isn't in the city.

Dan Foote –

We may have some real jurisdictional and 40 problems if we try to regulate what a radio does.

Commissioner Robbins –

I don't think that we need to regulate the number of centers. I think that we should have it an open free market.

Commissioner Hanlen –

I don't mind a cap on the number, but it could probably be a lot more than where we currently have it at.

Bob Keenan –

It may be appropriate to discuss the infused product and cultivation manufacturer. Those are tied towards what we allow for a center.

Commissioner Robbins –

That was what I was getting at when I was talking about that provision. We were working already with the number if there was going to be a restriction on the manufacture and infused product.

Dan Foote –

I didn't get the sense that there was a whole lot of interest in opening things up for operations that are for dispensaries operating outside the city. The City Council is in the same position that you're in tonight.

Commissioner Meyer –

Right now I think that 3 is the right number. I'm concerned that the expectation of medical marijuana when it was voted on by the voters was may be something different than it's turned into. It's really turned into a retail product. I would assume to go slow rather than open it up and say come one come all.

Commissioner Lacy –

I would agree with that too just for now. I have a hard time seeing the need being met with what we have right now. With all of the changes going on I think that we could certainly take our time before we banned the ability of those centers to operate.

Commissioner Robbins –

Is that just the number for the medical marijuana centers or is that the total number including cultivation and infused product?

Commissioner Lacy –

I don't have a problem with those centers being able to tie in and have those same licenses.

Commissioner Meyer –

As far as the infused products this is supposed to be medical marijuana. Some people can't smoke and so this is just a different delivery system of the same product. I don't have

a concern as long as they're regulated. I can definitely see it being integrated into a retail center.

Commissioner Robbins –

Would you want to have a license for manufacturing of infused product entity that's not specifically tied to one of the medical marijuana centers here? Is there another license available for that kind of scenario in your vision?

Dan Foote –

They are licensed separately.

Commissioner Meyer –

I can see where 1 infused product provider could be providing in all 3 of the products.

Commissioner Robbins –

3 isn't really the number, it's just the number of centers.

Dan Foote –

You could have a separate license for Keebler marijuana cookies and sell those throughout the country.

Commissioner Beauregard –

If we can't regulate the advertising then I'm fine leaving it at 3. I think that 3 is enough to reduce the cost to the patient. It's competitive enough. If you had 1 then they could jack the price up.

Commissioner Slavik –

I agree with what Commissioner Meyer said that I think that 3 makes sense. Let's just see how it goes and how the laws are going to be changing before we go too far.

Commissioner Beauregard –

It's going to be much harder to eliminate 3 than to disallow 3. If we're instantly at 6 or 10 and it's too many then it's going to be much more difficult. How do we decide who to eliminate and I think that the ever changing law and how odd this all is let's not let it get out of hand.

Commissioner Brookshire –

Maybe when this comes back you can create some kind of spreadsheet that says these are the uses under the 4 different classifications such as the centers, cultivation, primary care giver, etc. When I first picked this up I was terribly confused trying to figure it all out. Do you think that we could have a table and then have our 4 categories? I started to understand some of the text, but if we had a central sheet where we could take a quick glance that say for example here are the centers and here's what they're allowed, here's the home occupation and as proposed is this, capacities, numbers of clients, etc. Take all of this text and create some sort of spreadsheet it might help me get a better picture of the whole discussion.

Commissioner Beauregard –

Some of the information that I hear too that I didn't see in the packet was the percentage of age groups that are licensed in this town. I think that I saw it in the paper that 70% of the people are 20-25 years old. I think that would be helpful.

Dan Foote –

I'll try and track that down.

Commissioner Brookshire –

Why is that relevant?

Commissioner Beauregard –

It has to do with the overall social acceptance to the youth. If we're licensing youth then I think that's a problem. I'm talking about people with medical marijuana cards not the centers.

Dan Foote –

I just realized that I'll be out of town in 2 weeks so we'll have this again at the 1st meeting in March.

Commissioner Lacy –

That's March 10.

PUBLIC COMMENTS

Kevin Fisher –

I'm one of the owners of Rocky Mountain Remedies. Unless City Council allows additional dispensaries we are where we are. We are in an industrial zone district because that's where we knew where we would be the most welcomed. When I first started this with Planning there were a lot of open spots where we could have gone. As far as conditional use if you're going to get involved with the primary care giver first, there's a bill that's been introduced into legislature, that's going to allow state licensure for any primary care givers. There's going to be a record and the data base is going to be there. If you think that by making it a rule that they have to get approval from their neighbor then people are going to stay underground. The people who have been growing will continue growing even if it's illegally. I don't have any personal interest in that aspect at all.

FINAL STAFF COMMENTS

None

FINAL COMMISSIONER COMMENTS

None

RECOMMENDED MOTION

Staff recommends the Planning Commission approve the attached draft ordinance amending the Community Development Code provisions relating to medical marijuana dispensary uses to accommodate changes in state law pertaining to medical marijuana

uses. In particular, the proposed ordinance divides the existing “Medical Marijuana Dispensary” use into the following four uses: medical marijuana center, optional premises cultivation operation, medical marijuana infused products manufacturing, and primary caregiver.

Discussion on this agenda item ended at approximately 6:52 p.m.

3/10/11

DRAFT

MEDICAL MARIJUANA DISCUSSION

Discussion on this agenda item started at approximately 5:09 p.m.

STAFF PRESENTATION

Dan Foote –

Since the last meeting I've made 2 substantial changes to the ordinance. 1.) To the use table to make all of these uses except for the cultivation conditional uses instead of uses with criteria. 2.) Change the home occupation language to permit cultivation and infused product manufacturing to operate as home occupations.

COMMISSIONER QUESTIONS

Commissioner Robbins –

We turned marijuana infused product manufacturing into a home occupation and you added language allowing for medical marijuana cultivation as a home occupation. Under the use criteria (d) for both of them they're prohibited to properties adjacent to properties zoned RE, RN, RO, RR. How can that be a home occupation if it's not allowed in those zone districts?

Dan Foote –

I could see some conflict there. Medical marijuana cultivation is prohibited adjacent to these zone districts, but when it's a home occupation that's what it is and not medical marijuana cultivation. It does look like it's a little bit inconsistent.

Commissioner Robbins –

I represent clients that can benefit or not benefit from the regulation.

Commissioner Lacy –

Since we're in the legislative function and not in the judicial that's not a problem or conflict in this case.

Dan Foote –

That will be an issue when I present this to the City Council. They were interested in some greater protection to some residential uses. There's an argument to be made that if they're operating under the home occupation rules then it's a different use, because they can't have any impacts on the neighboring properties. That's not the same if an applicant were to get an application approved in the industrial or commercial districts.

Commissioner Robbins –

Do you think that it would make sense to add some language in that letter (d) like 'except if operating as a home occupation' so it's not in contradiction?

Dan Foote –

I think that would make sense.

Commissioner Beauregard –

3/10/11

DRAFT

In the community as a whole we've spent a lot of time trying to keep a negative image towards drug use, marijuana use, etc and keep the kids off of it. I think that the advertising is going to make it more acceptable to everybody in the community to use especially the nature of the advertising being not so much medical advertising, but use in recreation advertising. That's the only concern that I have with this is the potential perception and acceptance of the recreational use.

Commissioner Lacy –

Dan Foote mentioned at work session that if we were going to look at anything like that that we would need to consider print ads.

Commissioner Beauregard –

Any advertising, but it would be really tough to regulate the radio.

Commissioner Lacy –

You were telling us on Monday that we would have to either consider a blanket ban on print ads or no ban at all. That's what I understood.

Dan Foote –

I think that it would be difficult to do what Commissioner Beauregard is suggesting.

Commissioner Beauregard –

You did say that Tyler Gibbs recommendation of just basic information such as location, product, etc might be something that we can regulate.

Dan Foote –

I think that it's difficult to start regulating the contents. Tyler Gibbs suggestion was objective and would give us some language that we could enforce. It's problematic enough to regulate advertising and when you go an additional step and change the content then it makes it a little bit more difficult. I think that if the Commission thinks that it's important then you could make a recommendation.

Commissioner Slavik –

Do we have any kind of regulations right now in terms of tobacco?

Dan Foote –

The City does not.

Commissioner Slavik –

There are State regulations for not advertising tobacco?

Dan Foote –

I'm not 100% sure.

Commissioner Beauregard –

3/10/11

DRAFT

To me those aren't equal since tobacco is a legal recreational drug. We're talking about a legal medicine. It should be under the same regulations such as the Viagra drugs where it says consult your doctor. For those medications you've got to get a prescription for this. If this is a prescription drug then why do we need 3 columns of advertising in the paper?

Commissioner Lacy –

How do Commissioners feel about some kind of limitation whether its some limitations like what Tyler Gibbs mentioned as far as being able to list location, hours, and very generic ads like that?

Commissioner Hanlen –

The comment that we came back to was the 1 business that seemed to be advertising in that manner isn't in the City limits.

Commissioner Beauregard –

The things that we could regulate are the print ads within the City.

Dan Foote –

If we have a medical marijuana center in the county that's advertised in the county then there's nothing that we can do about it. Assuming that we don't have a 1st amendment issue then that's enough of a basis for us to invoke our jurisdiction.

Commissioner Robbins –

There is also language in the statute that says that you can't advertise geared towards minors. Isn't that in the statute?

Dan Foote –

I don't remember it being in 1284, but that's 60 pages so I could have missed it.

Commissioner Lacy –

I would agree with Commissioner Beauregard in that I would like to see some limitations.

Commissioner Robbins –

I agree with Commissioner Beauregard as well as long as we're not violating any 1st amendment rights.

Commissioner Beauregard –

I'm comfortable with it. I don't think that there's a big difference between tobacco and this. This is a prescription medication.

Commissioner Lacy –

When we're talking about limitations would we want something like they can advertise their location, hours, name, business, etc.?

Commissioner Slavik –

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Do we want to limit it to just medical marijuana or all prescription drugs? You go through a magazine today and you get 5-7 pages of Viagra ads or some other prescription drugs that are being advertised quite a bit in print. I don't know how far we go.

Dan Foote –

The fact that medical marijuana is still illegal under the federal law creates the possibility that we could regulate medical marijuana advertising. There's nothing we can do to restrict advertising for other prescription drugs.

Commissioner Slavik –

The issue is the legality of the medical marijuana.

Dan Foote –

Correct. The 1st amendment case law on commercial speech is that it can be regulated. It's only protected if it concerns lawful activity. Here we are talking about something that's legal under state law, but not under federal law. So far we have nothing telling us what that means under the 1st amendment case law.

Commissioner Meyer –

I don't have as big of a problem with the advertising. I would that we're going to be back here in 6 months with a potential litigation. Are you aware of any jurisdiction in the state that regulates advertising?

Dan Foote –

No.

Commissioner Meyer –

I would hate to see us be the guinea pig out there in terms of whether or not it's legal or not. So far what I've seen is businesses advertising businesses with the exception of the one entity out in the county that we can't regulate.

Commissioner Lacy –

We can regulate how they advertise within the City limits.

Commissioner Meyer –

I understand. I'm not ready to go there, but I will probably be in the minority. I am aware of the Grand Future survey that was recently done. It was just marijuana use in our high schools and middle schools. It was very surprising for me. I'm not saying that they're coming from a medical marijuana dispensary, but it's coming from somewhere especially when it comes to use in a vehicle. That's certainly has some public safety implications. I don't think the advertising is what's causing the fairly high numbers on that survey.

Commissioner Lacy –

No one wants to recommend anything that would be in violation of the 1st amendment or any constitutional or statutory law.

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Commissioner Hanlen –

I see it being problematic, while you can lay out nice simple rules that you can only advertise hours, location, and very simple stuff..... It just seems like it's going to be problematic to enforce taste.

Commissioner Lacy –

We won't be regulating radio ads at all.

Commissioner Hanlen –

It seems like a problematic thing to enforce well.

Commissioner Beauregard –

I think that it's a fair exchange. We're allowing the dispensaries in town. I don't want to allow them at the sacrifice of all of this work that people are doing to prevent children and everyone from thinking its ok. I think that it's a fair burden on their part to take a responsible act.

(Commissioners have a 4-2 vote regarding enforcing advertising for medical marijuana).

Commissioner Beauregard –

I would feel comfortable with just saying this is a medical marijuana store and that's it.

Commissioner Lacy –

Before any recommendations are made to City Council we want you to feel comfortable that this is something that could legally be defended.

Dan Foote –

I'm not at that comfort level, but that doesn't mean that you can't make a recommendation.

Commissioner Beauregard –

I would feel comfortable with just banning it all together. Just the fact that the paper has a special section for medical marijuana is enough for me.

Commissioner Lacy –

That's what we would be doing. We're not saying that we want to deal at all with radio; we're talking about print ads. What I'm hearing from you is that you want to see the name of the store, that it's a medical marijuana dispensary, the hours and location.

Commissioner Beauregard –

I'd feel comfortable eliminating all print within the City, but if that's what we come to agree on then that's fine.

Commissioner Slavik –

I think that I would agree with Commissioner Beauregard that it might be easier to just say no print advertising in the City.

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Commissioner Beauregard –

If it's so hard to get a license I mean you're going to be able to find these places.

Commissioner Robbins –

I don't think that I would feel comfortable with banning it. I think that it's a service that's provided and is supposed to be for patients. People come here that don't live here and how would they find it?

Commissioner Hanlen –

Print ads would apply to yellow pages as well.

Commissioner Lacy –

I'm more with you on that. I think that it's a little bit overreaching on our part to totally eliminate it.

Commissioner Beauregard –

If it's pretty cut and dry and medical looking like any other doctor's office would advertise.

Commissioner Robbins –

Under section 12-206 on pg 2-18 with the number of licenses issued I'm still a little bit confused to how that's working. You're saying that there are 3-4 different types of licenses and then you're saying that you're only issuing 3. I'm not clear on how many of each license. If you're just issuing 3 total licenses.

Dan Foote –

The idea is that we're going to issue 3 licenses for medical marijuana centers. The second sentence says off premise and infused products manufacturing licenses don't count against the 3 limit. This will allow the centers to also get cultivation and infused products manufacturing licenses as well.

Commissioner Robbins –

You wouldn't be able to get an off premise cultivation license unless you were an already existing medical marijuana center?

Dan Foote –

That would be the result of this ordinance and I think is part of the language for the House Bill 10-1284 as well.

Commissioner Robbins –

That's not the same for the infused product?

Dan Foote –

Correct.

Commissioner Robbins –

That's what this language has decided?

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Dan Foote –

There has been 1 lady that has petitioned the City Council to allow her to operate an infused product manufacturing facility. I'm not sure what's going to happen with that.

Commissioner Robbins –

This makes sense the way that you explained it, but if someone else is looking for a license that does not already exist this is saying that they can't have one.

Dan Foote –

Essentially that's what this is going to say.

Public Comment was taken.

Commissioner Robbins –

Under the state regulations in order to apply for a license you need to have your local authority's permission. If you're operating as a home occupation is there a way?

Dan Foote –

There's a line on the form that the applicant has to send to the state and it asks if you're in compliance with the local ordinance. I think that some of these operating as a home occupation we could have the City Clerk fill it out and say yes and be done with it.

Jason Peasley –

We also review home occupations as a use with criteria. You receive an approved use criteria for that home occupation use.

Commissioner Lacy –

On pg 2-11 on the use criteria I need you to remind me from the last meeting the 500' limitation and why a childcare center isn't in there?

Dan Foote –

There are a lot of child care centers in town that aren't advertising. If we say 500' limit from any of those then we might end up with a ban.

Commissioner Lacy –

Isn't our definition of a child care center one that's licensed?

Dan Foote –

I think that the in-home ones have to be licensed.

Commissioner Hanlen –

Once you're caring for 3 or more children that aren't of your blood you have to get a license in order to operate that, correct?

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Dan Foote –

I don't know what the limit is. I do know that it doesn't take many kids before you need a license.

Commissioner Lacy –

Does anyone have any questions regarding the use criteria on pg 2-11 under subpart (a)?

Commissioner Slavik –

It's repeated in each subsection.

Commissioner Lacy –

It talks about the centers and how they can't be located within 500' of a school, college, university, or seminary.

Commissioner Slavik –

We have to be careful. Is it just child care? We've talked about this in terms of what types of facilities are going into our industrial spaces whether it is a day care center or a gymnastic center. Where are we going to stop? I agree that childcare centers would be an important one. I'm almost more concerned about middle school and high school than I am the daycare in the final analysis. Let's use the Gymnastics center as an example kids might be riding their bikes there, they're taking the bus, or because of the potential ages daycares are normally pick-up and drop off by a parent. I'm still concerned about the potential access to children, but I'm more worried about that middle range.

Commissioner Beauregard –

I agree with Commissioner Slavik. If you just say that it just seems more of a residential activity than a playground or where kids are loitering around wondering what to do.

Commissioner Lacy –

I noticed a couple of spelling errors on pg 2-16 section 12-204 in the first sentence under subpart (1) 'appoint' should be 'appointed'. On the next page under subpart (h) under (f) 'remeday' should be 'remedy'. On pg 2-21 why was it that we changed the hours of operation to 8am instead of 7am on subpart (2)?

Dan Foote –

I did that because it's in 10-1284.

Commissioner Robbins –

On pg 2-13 in regards to the definition of home occupation are we still saying that patients still can't visit the dwelling unit? I know that the definition of home occupation allows for 2 visitors a day. Can you remind me again why we decided that it was going to be different?

Dan Foote –

That came out of my meetings with Bob Keenan and Tyler Gibbs.

Commissioner Lacy –

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Is that just worried about the residential use? I'm sure that we were keeping as close to the residential character as possible.

Dan Foote –

That wouldn't explain why we allow 2 visitors a day for other home occupations. I don't have a good answer.

Commissioner Lacy –

The current home occupation standards do allow for 2 visits a day. Do we have an inconsistency there between those 2 ordinances?

Dan Foote –

I wouldn't call it an inconsistency, but it is different.

Commissioner Robbins –

I was wondering why that would be the case.

Dan Foote –

We're expecting this to be a bit of a lightning rod and we're trying to minimize the amount of impacts.

Commissioner Slavik –

Can I recommend that we just leave it with the regular 2 and see what City Council says?

(Commissioners are ok with that).

Dan Foote –

I will delete that. Currently it is stated in the ordinance that visitors may not visit the dwelling unit, but we're going to delete that language and default to the home occupation language allowing no more than 2 visitors to the dwelling unit a day.

Commissioner Lacy –

I wanted to make sure that everyone had a copy of Commissioner Brookshire's comments and if you had any questions regarding those.

Dan Foote –

Should I include that email in the City Council packet?

Commissioner Lacy –

Yes.

PUBLIC COMMENTS

Kevin Fischer –

Speaking to the print ad issue we try to keep our advertising not like the county advertising. We do get complaints from our patients regarding the county advertising and what that's doing to the medical marijuana industry. I agree with that. We do have prices and specials

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DRAFT

in there since this is a competitive market. Medical marijuana use and the accessibility to the youth is statistically insignificant the change from now and pre-medical marijuana. I don't know that kids are using it more. I don't know that the community isn't better served by not having print ads. I'll see a full spread for Central Park Liquors. I think that liquor has a far more side effect than marijuana. 30% of the advertising in the Pilot is for liquor. The notion in keeping our kids safe by not having medical marijuana ads, but having liquor ads I think is a bit hypocritical.

JJ Southard –

I don't know if it's intended to discuss advertising for as long as we did. We're in agreement in some of the way the radio ads have been handled recently. I can see your point that it's strange to see that in the paper. None of us in the community would argue whatever the community wants in order to keep our children safe and keeping our parents happy we would be ok with. A chance to advertise in the paper gives us a chance to advertise to offer our services to people on the Front Range that might be coming up here. It gives them an easier chance to find us. The advertising does help a lot.

MOTION

Commissioner Robbins moved to approve the marijuana discussion with all of the amendments made tonight and Commissioner Meyer seconded the motion.

DISCUSSION ON MOTION

Commissioner Beauregard –

In this motion that doesn't include the advertising?

Commissioner Lacy –

Correct. We did have 4 people in support of that. The way that the motion was stated is that it was based off of all of the recommendations made tonight.

Commissioner Beauregard –

I didn't know if that was a side recommendation or tied to the ordinance or what.

Commissioner Lacy –

No.

VOTE

Vote: 6-0

Voting for approval of motion to approve: Lacy, Beauregard, Hanlen, Meyer, Robbins and Slavik

Absent: Brookshire and Levy

Discussion on this agenda item ended at approximately 5:46 p.m.

March 15, 2011

Dear City Council Members,

My name is Lisa Kamieniecki, owner of Sweet Dreams Baked Goods. I am a wholesale manufacturer of infused baked goods. In case it's not clear to all of you, I am not a dispensary and have no aspirations to become one. I am licensed to sell my products directly to dispensaries only. I currently have an Infused Manufacture License, one of the three in Steamboat, issued by the State.

My sole purpose is to provide a quality product for those in need. I love what I do and I take a lot of pride in what I produce. I use all natural and organic ingredients and make everything from scratch. As a local producer, I am able to provide items that meet the medical needs of those who require it. I bake sugar-free items for diabetics and gluten-free products for those that are gluten intolerant. The many testimonials that I have received from patients has fortified my belief that the service that I am providing is more than worthwhile.

If I am not able to receive a city license, the dispensaries will be forced to purchase all of their baked goods from sources outside of Steamboat Springs. This will cause an increase in prices, diminish the quality of what they offer and totally remove the option of providing special need products. Don't let that happen. Please consider my business for one of the Infused Manufacture licenses to be awarded by the city.

Thanks you for your time and consideration.

Sincerely,

Lisa Kamieniecki

Anja Tribble

From: Anja Tribble
Sent: Monday, March 21, 2011 11:53 AM
To: 'Bart Kounovsky'; 'Cari Hermacinski'; 'Jon Quinn'; 'Kenny Reisman'; 'Meg Bentley'; 'Scott Myller'; 'Walter Magill'; Wendy DuBord; Tony Lettunich; Dan Foote; Tyler Gibbs
Cc: Julie Franklin
Subject: FW: [City Council] medical marijuana

-----Original Message-----

From: Anja Tribble
Sent: Monday, March 21, 2011 11:52 AM
To: 'bumped@sbcglobal.net'
Subject: RE: [City Council] medical marijuana

Dear Carl

Thank you for your comment. Your e-mail has been forwarded to City Council and the appropriate staff members.

Sincerely,

Anja Tribble-Husi
Staff Assistant
City Clerk's Office
Steamboat Springs, Colorado

(970) 871-8225
atribble@steamboatsprings.net

-----Original Message-----

From: webmaster@steamboatsprings.net [mailto:webmaster@steamboatsprings.net] On Behalf Of bumped@sbcglobal.net
Sent: Friday, March 18, 2011 9:19 AM
To: Anja Tribble
Subject: [City Council] medical marijuana

Carl Bumpass sent a message using the contact form at http://steamboatsprings.net/contact/City_Council.

I would like to relate to the council my experience living next to a medical marijuana grower. My complaint is that this stuff stinks; badly. This is not the joint you remember from college. (or even getting on the gondola) These are resin encrusted buds with names like 'sour diesel'. Before i caught on that he was growing I first thought there was a skunk in the crawl space.

It's that bad, that pungent and that pervasive. It seeped through my walls and floor. No help was available from the police, the fire dept. (thousands of watts in grow lights) or public health. No one will touch this. Apparently there is no 'stink ordinance' I beg you to plug this gap. My condo was unlivable. There are filters and ventilation systems that would protect the public from the deterioration of their property value and quality of life.

Please require them.

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

AN ORDINANCE AMENDING PROVISIONS RELATING TO MEDICAL MARIJUANA BUSINESSES SET FORTH IN CHAPTER 12, ARTICLE VI AND SECTION 26-92 OF THE REVISED MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND REPEALING ALL CONFLICTING ORDINANCES.

WHEREAS, on January 5, 2010 the Steamboat Springs City Council adopted Ordinance No. 2296 for the purpose of regulating medical marijuana dispensaries, which are businesses that manufacture or distribute marijuana for medical use to persons registered as patients pursuant to Article XVIII, Section 14 of the Colorado Constitution, and which were organized on a theory that the dispensary and its suppliers of medical marijuana functioned as “primary caregivers” for registered medical marijuana patients pursuant to the terms of Article XVIII, Section 14; and

WHEREAS, the Colorado General Assembly has since adopted House Bill 10-1284, which provides statutory authority for the operation of businesses for the purpose of manufacturing, possessing, and distributing marijuana for medical purposes without regard to whether the business or its owner, managers, employees, or suppliers are “primary caregivers” per Article XVIII, Section 14; and

WHEREAS, House Bill 10-1284 also adopts different regulations for persons manufacturing, possessing, and distributing marijuana as “primary caregivers” per Article XVIII, Section 14; and

WHEREAS, HB 10-1284 redefines the legal framework for the lawful operation and regulation of businesses and caregivers who manufacture, possess, or distribute marijuana for medical purposes; and

WHEREAS, the City Council of the City of Steamboat Springs finds it necessary and appropriate to the public health, safety, and welfare to revise the provisions of Ordinance No. 2296 in order to harmonize the City’s regulations with the provisions of HB 10-1284 and to address new regulatory questions created by HB 10-1284.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. The Use Table codified at Section 26-92 of the Steamboat Springs Community Development Code shall be amended to read as follows:

Use Classification and Specific Principal Uses	Zoning Districts														
	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I
COMMERCIAL USES															
<u>Medical Marijuana Dispensary Center</u>										CRC	CRC	C		CRC	CRC
<u>Medical Marijuana Cultivation</u>															CR
<u>Medical Marijuana-Infused Products Manufacturing</u>															CRC
<u>Medical Marijuana Primary Caregiver</u>										CRC	CRC	CRC		CRC	CRC

Section 2. Section 26-402 of the Steamboat Springs Community Development Code shall be amended by the addition of the following definitions and use criteria:

Medical Marijuana Business means a medical marijuana center, medical marijuana cultivation, or medical marijuana infused products manufacturing.

Medical Marijuana ~~Dispensary Center~~ means any use of any property, structure, or vehicle to ~~dispense-sell or distribute~~ marijuana or marijuana infused products ~~in any form and in any manner~~ to patients or primary care givers, ~~or to grow or otherwise manufacture marijuana for such purpose,~~ in accordance with Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana

Act, C.R.S. 12-43.3-101, et. seq., and with any other statute or state administrative regulations implementing Article XVIII, Section 14. This definition shall not apply to the distribution of medical marijuana to patients by a primary caregiver in accordance with Article XVIII, Section 14 of the Colorado Constitution.

(1) Use criteria:

- (a) Medical marijuana ~~dispensaries-centers~~ shall not be located within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary. Distances described in this paragraph shall be calculated by measuring the distance from the nearest property line of the school to the building in which the medical marijuana ~~dispensary-center~~ is located.
- (b) Medical marijuana ~~dispensaries-centers~~ shall operate from a permanent and fixed location. No medical marijuana ~~dispensary-center~~ shall operate from a vehicle or other moveable location. Nor shall any medical marijuana ~~dispensary-center~~ provide delivery services except that deliveries may be made to patients whose medical condition precludes their travel to the medical marijuana ~~dispensary-center~~.
- (c) Medical marijuana ~~dispensaries-centers~~ shall have staff members present during hours of operation. No vending machines, ~~drive-up windows~~, or unsupervised transactions shall be permitted.
- (d) Medical marijuana ~~dispensaries-centers~~ shall not display signs visible from the exterior of the ~~dispensary~~-premises advertising the presence of marijuana on the premises. This restriction shall include, but shall not be limited to, the use of signage using the word "marijuana", its synonyms, or depictions of any portion of the marijuana plant. This restriction shall not apply to the use of the word "marijuana", its synonyms, or depictions ~~in print advertising or~~ broadcast advertising or the dissemination of informational materials or other documents by a medical marijuana ~~dispensary-center~~. *Print advertising for medical marijuana centers shall not include any content other than the name of the center; its hours, location, and contact information; and its status as a licensed medical marijuana center.*
- (e) Medical marijuana ~~dispensaries-centers~~ shall not be located on pedestrian levels of structures in the CY and CO zone districts.
- (f) Medical marijuana centers shall not operate on property adjacent to property zoned RE, RN, RO, RR, MH, MF, G-1, G-2, or CC.

(2) Medical marijuana ~~dispensaries-centers~~ shall not be permitted to operate as "home occupations.

Medical Marijuana Cultivation means the cultivation of marijuana by a medical marijuana center or a medical marijuana infused products manufacturer in accordance with the Colorado Medical Marijuana Act, C.R.S. 12-43.3-101, et. seq. and with any other statute or state administrative regulations. This definition shall not apply to the cultivation of medical marijuana by a patient for the patient's personal use pursuant to Article XVIII, Section 14. Nor shall this definition apply to the cultivation of medical marijuana by a caregiver registered with the Department of Public Health pursuant to C.R.S. 25-1.5-106 or the distribution of medical marijuana by such a caregiver to the caregiver's patients.

(1) Use criteria:

- (a) Medical marijuana cultivation uses shall not be located within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary. Distances described in this paragraph shall be calculated by measuring the distance from the nearest property line of the school to the building in which the medical marijuana center is located.
- (b) Medical marijuana cultivation uses shall operate from a permanent and fixed location. No medical marijuana cultivation use shall operate from a vehicle or other moveable location.
- (c) Medical marijuana cultivation uses shall not display signs visible from the exterior of the premises advertising the presence of marijuana on the premises. This restriction shall include, but shall not be limited to, the use of signage using the word "marijuana", its synonyms, or depictions of any portion of the marijuana plant. This restriction shall not apply to the use of the word "marijuana", its synonyms, or depictions *in print advertising* or broadcast advertising or the dissemination of informational materials or other documents by a medical marijuana center.
- (d) Medical marijuana cultivation uses shall not operate on property adjacent to property zoned RE, RN, RO, RR, MH, MF, G-1, G-2, or CC *except as permitted as a home occupation.*

(2) Medical marijuana cultivation uses shall not be permitted to *may* operate as home occupations *if the cultivation operation complies with the definition of a home occupation and after inspection of the cultivation site for compliance with applicable building and fire codes and payment of an inspection fee in the amount of \$ _____.*

Medical Marijuana Infused Products Manufacturing means the manufacture of products infused with medical marijuana intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, or tinctures, in accordance with the Colorado Medical Marijuana Act, C.R.S. 12-43.3-101, et. seq. and with any other statute or state administrative regulations.

(1) Use criteria:

- (a) Medical marijuana infused product manufacturing uses shall not be located within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary. Distances described in this paragraph shall be calculated by measuring the distance from the nearest property line of the school to the building in which the medical marijuana infused products manufacturing use is located.
- (b) Medical marijuana infused products manufacturing uses shall operate from a permanent and fixed location. No medical marijuana infused products manufacturing uses shall operate from a vehicle or other moveable location.
- (c) Medical marijuana infused products manufacturing uses shall not display signs visible from the exterior of the premises advertising the presence of marijuana on the premises. This restriction shall include, but shall not be limited to, the use of signage using the word "marijuana", its synonyms, or depictions of any portion of the marijuana plant. This restriction shall not apply to the use of the word "marijuana", its synonyms, or depictions *in print advertising* or broadcast advertising or the dissemination of informational materials or other documents by a medical marijuana infused products manufacturer.
- (d) Medical marijuana infused products manufacturing uses shall not operate on property adjacent to property zoned RE, RN, RO, RR, MH, MF, G-1, G-2, or CC *except as permitted as a home occupation.*

(2) Medical marijuana infused products manufacturing uses shall not be permitted to *may* operate as home occupations. *A medical marijuana infused products manufacturer operating as a home occupation may cultivate medical marijuana if the cultivation operation complies with the definition of a home occupation and after inspection of the cultivation site for compliance with applicable building and fire codes and payment of an inspection fee in the amount of \$ _____.*

Medical Marijuana Primary Caregiver shall mean the cultivation or distribution of medical marijuana to patients by a primary caregiver pursuant to Article XVIII, Section 14 of the Colorado Constitution and C.R.S. 25-1.5-106.

~~(1) Use criteria.~~ (1) Use criteria.

- (a) Medical marijuana primary caregivers shall not be located within 500 feet of any public or parochial school or the principal campus of any college, university, or seminary. Distances described in this paragraph shall be calculated by measuring the distance from the nearest property line of the

- school to the building in which the medical marijuana infused products manufacturing use is located.
- (b) Medical marijuana primary caregivers shall operate from a permanent and fixed location. No medical marijuana primary caregiver shall operate from a vehicle or other moveable location.
- (c) Medical marijuana primary caregivers shall not display signs visible from the exterior of the premises advertising the presence of marijuana on the premises. This restriction shall include, but shall not be limited to, the use of signage using the word "marijuana", its synonyms, or depictions of any portion of the marijuana plant. This restriction shall not apply to the use of the word "marijuana", its synonyms, or depictions *in print advertising or broadcast advertising or the dissemination of informational materials or other documents by a medical marijuana infused products manufacturer. Print advertising for medical marijuana primary caregivers shall not include any content other than the name of the caregiver; its hours, location, and contact information; and its status as a primary caregiver.*
- (d) Medical marijuana infused products manufacturing uses shall not operate on property adjacent to property zoned RE, RN, RO, RR, MH, MF, G-1, G-2, or CC except as permitted as a home occupation.
- (e) Medical marijuana centers shall have staff members present during hours of operation. No vending machines, ~~drive up windows~~, or unsupervised transactions shall be permitted.
- (f) Primary caregiver uses are prohibited from operating on pedestrian levels in CY and CO zone districts unless they are accessory to uses permitted to operate in those locations.

(2) Home Occupations. Primary caregivers with no more than five patients may operate in a dwelling unit as a home occupation if the use satisfies the home occupation requirements ~~and if patients do not visit the dwelling unit.~~ Primary caregivers operating as a home occupation may cultivate medical marijuana if the cultivation complies with the definition of a home occupation and after inspection of the cultivation site for compliance with applicable building and fire codes and payment of an inspection fee in the amount of \$ _____.

Section 3. Chapter 12 of the Steamboat Springs Revised Municipal Code is hereby revised by the addition of the following Article VI.

"Article VI. Medical Marijuana ~~Dispensaries~~Businesses.

Division 1. License.

Section 12-200. License required. It is unlawful for any person to own or operate a medical marijuana ~~dispensary~~business as that term is defined in the community development code without first obtaining a license as provided in this article. The following three types of business operations as defined in the Colorado Medical Marijuana Act, C.R.S. 12-43.3-101, et. seq. may be licensed hereunder: medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturing.

Section 12-201. Application; ~~term;~~ fee. Any person operating or proposing to operate a medical marijuana ~~dispensary~~business shall first procure from the city clerk a medical marijuana ~~dispensary~~business license, which the clerk shall issue in accordance with the following procedures:

- (1) A person seeking to obtain a license pursuant to this article shall submit an application to the city clerk. The form of the application shall be provided by the city clerk.
- (2) A license issued pursuant to this chapter does not eliminate the need for the licensee to obtain other required licenses and permits related to the operation of the medical marijuana ~~dispensary~~business, including, without limitation, any development approval required by the Community Development Code; a sales tax license; and a building, mechanical, plumbing, or electrical permit.
- (3) An application for a license under this article shall contain the following information and documents:
 - (a) ~~The applicant's name, address, telephone number, and social security number and, if the applicant is a partnership, the names and addresses of all the partners, and if the applicant is a corporation, the names and addresses of all the corporate officers, and if the applicant is a cooperative association, the names and addresses of its directors and officers~~completed state and local licensing authority application forms;
 - (b) A completed individual history form, including a set of the applicant's fingerprints, for the applicant and for any person owning ten percent or more of the medical marijuana business;
 - (c) The street address of the proposed medical marijuana ~~dispensary~~business;
 - (d) If the applicant is not the owner of the proposed location of the medical marijuana ~~dispensary~~business, a notarized statement ~~form~~ from the owner of such property authorizing the submission of the application;

(e) An acknowledgement by the applicant that the applicant and its owners, officers, and employees may be subject to prosecution under federal laws relating to the possession and distribution of controlled substances; that the City of Steamboat Springs accepts no legal liability in connection with the approval and subsequent operation of the medical marijuana ~~dispensary~~business; and that the application and documents submitted for other approvals relating to the medical marijuana dispensary operation, with the sole exception of the location of an optional premises cultivation operation, are subject to disclosure in accordance with the Colorado Open Records Act.

~~(f) In the case of a cooperative association, the application shall include articles of incorporation and/or any other documents necessary to demonstrate that the applicant is a cooperative association as defined in this article.~~

~~(f) A complete and accurate list of all owners, officers, managers, and employees of the medical marijuana business and of all persons having a direct or indirect financial interest, and the nature of such interest, in the medical marijuana business, including names and addresses for such persons.~~

~~(g) Plans and specifications for the interior of the building in which the medical marijuana business is to be located. If the building is not in existence, the applicant shall file a plot plan and detailed sketch for the interior and submit an architect's drawing of the building to be constructed.~~

~~(h) Evidence that the applicant is, or will be, entitled to possession of the premise for which application is made under a lease, rental agreement, or other arranged for possession of the premises, or by virtue of ownership of the premises.~~

(4) The applicant shall pay to the City a non-refundable application fee of \$400 when the application is filed. The purpose of the fee is to cover the administrative costs of processing the application.

~~(5) The City shall not accept or act upon an application for a medical marijuana business license if the application concerns a particular location that is the same as or within one thousand feet of a location for which, within the two years immediately preceding date of the application, the City or the state licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location.~~

Section 12-202 Renewal; fee. Each license issued pursuant to this chapter shall be valid for a period of ~~one year~~two years from the date of issuance, and may be renewed as provided in this section.

- (1) An application for renewal shall be made to the city clerk not less than forty-five days prior to the date of expiration and shall be accompanied by an application fee in the amount of \$100. The city clerk will accept late applications not more than ninety days after the date of expiration upon payment of a \$500 late application fee. The City Clerk will not in any circumstances accept renewal applications more than ninety days after the date of expiration.
- (2) The license shall be renewed by the city clerk unless it appears to the city clerk that ~~good cause~~grounds exists to deny the renewal application, in which case the city clerk shall refer the application to the hearings officer appointed by the City Council for review at a public hearing. The city clerk shall refer the renewal application for public hearings only if the licensee has had complaints filed against it, the licensee has a history of violations, or there are allegations against the licensee that would constitute good cause for denial of a license as defined in the Colorado Medical Marijuana Act. The City Council shall rely on Section 12-~~204~~206 in determining whether to renew a license.
- (3) The City shall not authorize a renewal until the applicant produces a license issued and granted by the state licensing authority covering the period for which the renewal is sought.

Section 12-~~202~~203. Investigation of applicant.

- (1) Upon receipt of an application for a license under this article, the city clerk shall transmit copies of the application to the Department of Public Safety, the City Manager, the Department of Community Development, and any other person or agency who the city clerk determines should participate in the review of the application. The City or any of its departments or officials may visit and inspect the plant or property in which the applicant proposes to conduct business and investigate the fitness to conduct such business of any person, or the officers and directors of any corporation, or the partners of any partnership applying for a license.
- (2) In investigating the fitness of the applicant, the City may obtain criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the City takes into consideration information concerning the applicant's criminal history record, the City shall also consider any information provided by the applicant regarding such criminal history record, including, but not limited to, evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a license.

(3) Not less than five days prior to the date of the public hearing on a license application or, in the event of an application for which no public hearing is scheduled, not less than five days prior to the decision whether to approve or deny an application, the city clerk shall make known the findings of the investigation in writing to the applicant and other parties of interest.

Section 12-204. Public hearings; notice; publication.

(1) Public hearings before the City Council or a hearings officer appointed by the City Council shall be required for the following types of applications and determinations:

- a) Applications for a medical marijuana center license or for the relocation of such a license, which shall be reviewed by the City Council;
- b) Renewal applications when the city clerk determines grounds exist for denial per Section 12-202(2) of this article, which shall be reviewed by the hearings officer appointed by the City Council;
- c) Suspensions or revocations of any license, which shall be heard by the hearings officer appointed by the City Council;

(2) The following types of licenses may be approved by the city clerk:

- a) Applications for optional premises cultivation operations or for the relocation of such a license;
- b) All renewal applications, unless the city clerk determines grounds exist for denial per Section 12-202(2) of this article;
- c) Applications for medical marijuana infused products manufacturing or for the relocation of such a license.

(3) In the event an application is scheduled for a public hearing the city clerk shall post and publish public notice thereof not less than ten days prior to the hearing.

- a) Public notice given by posting shall include sign of suitable material, not less than twenty two inches wide and twenty six inches high, composed of letters not less than one inch in height and stating the nature of the type of license applied for, the nature of the hearing, the date of the application, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. In the case of a new license application, the sign shall contain the names and addresses of the officers, directors, or manager of the facility to be licensed. The sign shall be placed on the subject premises in a location that is conspicuous and plainly visible to the general public.
- b) Public notice given by publication shall contain the same information as that required for signs.

Section 12-~~203~~205. Persons prohibited as licensees.

(1) No license provided by this article shall be issued to or held by:

- (a) Any person whose criminal history indicates the person is not of good moral character;
- (b) Any corporation, any of whose officers', directors', or stockholders' holding ten percent or more of the outstanding and issued capital stock thereof are criminal histories indicate such person is not of good moral character;
- (c) Any partnership, association, or company, any of whose officers', or any of whose members' holding ten percent or more interest therein, criminal histories indicate such person is are not of good moral character;
- (d) Any person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates such person is not of good moral character or who is not a resident of Colorado;
- (e) Any cooperative association, any of whose officers', directors', or stockholders' or members' holding ten percent or more of the outstanding and issued capital stock thereof are criminal histories indicate that such person is not of good moral character
- (f) A licensed physician making patient recommendations;
- (g) A person under twenty-one years of age;
- (h) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed to:
 - a) Provide surety bond or file any tax return with a taxing agency;
 - b) Pay any taxes interest, or penalties due;
 - c) Pay any judgments due to a government agency;
 - d) Stay out of default on a government issued student loan;
 - e) Pay child support; or
 - f) Remedy an outstanding delinquency for taxes owed, an outstanding delinquency for judgments owed to a government agency; or an outstanding delinquency for child support.
- (i) A person who has discharged a sentence in the five years immediately preceding the application date for a conviction of a felony or a person who at any time has been convicted of a felony pursuant to any state or federal law regarding the possession, distribution or use of a controlled substance
- (j) A person who employs another person at a medical marijuana facility who has not passed a criminal history record check;

- (k) A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;
- (l) A person whose authority to be a primary caregiver as defined in C.R.S. 25-1.5-106(2) has been revoked by the state health agency;
- (m) A person for a license for a location that is currently licensed as a retail food establishment or wholesale food establishment; or
- (n) A person who has not been a resident of Colorado for at least two years prior to the date of the person's application; except that for a person who submits an application for licensure pursuant to this article by December 15, 2010, this requirement shall not apply to that person if the person was a resident of the state of Colorado on December 15, 2009.

(2) In making a determination as to character or when considering the conviction of a crime, the City Council shall be governed by the provisions of Section 24-5-101, C.R.S.

(3) The focus of the inquiry into the moral character of any person associated with the operation of a medical marijuana business shall be whether the person's character is such that violations of state law or City ordinances pertaining to the possession and distribution of marijuana and/or the operation of medical marijuana dispensaries would be likely to result if a license were granted.

Section 12-~~204~~206. Issuance or denial of license.

(1) ~~The City Council shall issue a license under this article upon the following findings of the City Council.~~In determining whether to issue a license under this article, the City Council may consider the following:

- (a) ~~The Whether the~~ application is complete and signed by the applicant;
- (b) ~~The Whether the~~ applicant has paid the application fee;
- (c) ~~The Whether the~~ application complies with all the requirements of this article, the Colorado Medical Marijuana Act, and rules promulgated by the state licensing authority;
- (d) ~~The application does not contain~~Whether the application contains any material misrepresentations;
- (e) Whether the proposed medical marijuana business complies with applicable zoning regulations. The City Council shall make specific findings of fact with respect to whether the building in which the proposed medical marijuana business will be located conforms to the distance requirements set forth in the applicable use criteria.

- (f) The facts and evidence adduced as a result of its investigation;
- (g) Any other facts pertinent to the type of license for which application has been made, including the number, type, and availability of medical marijuana outlets located in or near the premises under consideration; and
- (h) In the case of an application for a second license, after considering the effect on competition of granting or denying the additional license, that the issuance of a second license will not have the effect of restraining competition.

(2) The City Council ~~shall~~ may deny the license application ~~if the application fails to meet any of the standards set forth in subsection (1) of this section or if the applicant or any its partners, officers, or directors, members, or shareholders is not of good moral character~~ for good cause as defined in C.R.S. 12-43.3-104(1). ~~The focus of the inquiry into the moral character of any person associated with the operation of a medical marijuana dispensary shall be whether the person's character is such that violations of state law or City ordinances pertaining to the possession and distribution of marijuana and/or the operation of medical marijuana dispensaries would be likely to result if a license were granted.~~

(3) The City Council may impose reasonable conditions upon any license issued pursuant to this article.

(4) The number of licenses issued by the City shall be limited to no more than three. Off premises cultivation and infused products manufacturing licenses shall not be subject to this limit if the applicant holds or has successfully applied for a medical marijuana center license. ~~One of the three licenses shall be issued only to an entity operating as a cooperative association, as defined by C.R.S. 7-55-101, et. seq., organized for the purpose of operating a marijuana dispensary, without gain to itself, for the sole benefit of its shareholders or members. The provisions of C.R.S. 7-55-101(a) notwithstanding, a cooperative shall be owned and controlled by its shareholders, partners, or members and shall dispense marijuana for medical purposes only to its shareholders or members. A cooperative association shall keep and maintain all books, records, and documents necessary to demonstrate its continued operation as a cooperative association and shall promptly produce such books, records, and documents upon request of the City Clerk.~~ In the case of multiple applications for an available license, the City Clerk shall publish the availability of the license and assign priority by lot to each completed application received within forty-five days of the date of publication. The foregoing notwithstanding, priority for the initial licensing round hereunder shall be assigned to existing operators of the ~~two~~ three

existing licensed medical marijuana dispensaries located in Steamboat Springs.

(5) Within thirty (30) days after the public hearing or completion of the application investigation, the City shall issue its decision approving or denying the application. The decision shall be in writing, shall state the reasons for the decision, and a copy of the decision shall be mailed by certified mail to the applicant at the address shown on the application.

(6) The City shall not issue a license until the building in which the business to be conducted is ready for occupancy and has been inspected for compliance with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

(7) After approval, the City shall notify the state licensing authority of such approval.

Section 12-~~205~~207. Contents and display of license. The licensee shall post the license in a conspicuous location at the medical marijuana dispensary. A medical marijuana dispensary center license shall contain the following information:

- (1) The name of the licensee;
- (2) The date of issuance of the license;
- (3) The street address at which the licensee is authorized to operate the medical marijuana dispensary;
- (4) Any conditions of approval imposed upon the license by the City Council;
- (5) The date of expiration of the license; and
- (6) The license shall be signed by the applicant and the city clerk.

Section 12-~~206~~208. Transfer/termination. ~~Licenses issued pursuant to this article are not transferable. Any attempt to transfer or assign a license voids the license. In the event of the sale of a licensee's medical marijuana dispensary business, the licensee shall give the City notice of the date of closing and the license shall terminate on that date. The purchaser of the medical marijuana dispensary may apply for a license hereunder prior to the closing date if the purchaser produces the purchase contract or other document evidencing the purchaser's right to purchase. The effective date of any application issued to a purchaser per this section shall be the date of closing.~~ A license holder wishing to transfer ownership of the medical marijuana business shall apply for such a transfer on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the City shall consider only the provisions of this article, of the Colorado Medical Marijuana Act, and any rules promulgated by the state licensing authority.

Section 12-~~207~~209. Suspension or revocation.

(1) A license issued pursuant to this article may be suspended or revoked by the City Council, or the hearings officer appointed by the City Council for the purpose, after a hearing for the following reasons:

- (a) Fraud, misrepresentation, or a false statement of material fact contained in the permit application;
- (b) Any violation of City ordinance or state law pertaining to the operation of a medical marijuana dispensary or the possession or distribution of marijuana.
- (c) A violation of any of the terms and conditions of the license;
- (d) A violation of any of the provisions of this chapter.

(2) In deciding whether a license should be suspended or revoked, and in deciding whether to impose conditions in the event of a suspension, the City Council, or the hearings officer appointed by the City Council, shall consider:

- (a) The nature and severity of the violation;
- (b) Corrective action, if any, taken by the licensee;
- (c) Prior violation(s), if any, by the licensee;
- (d) The likelihood of recurrence of the violation;
- (e) The circumstances of the violation;
- (f) Whether the violation was willful; and
- (g) Previous sanctions, if any, imposed on the licensee.

(3) The provisions of the Colorado Medical Marijuana Act shall govern proceedings for the suspension or revocation of a license issued hereunder.

(4) The hearings officer may impose a fine in lieu of a suspension in accordance with the provisions of C.R.S. 12-43.3-601(3).

Section 12-210. Change of Location.

(1) A licensee may move his or her permanent location to another location in the City, but is shall be unlawful to cultivate, manufacture, distribute, or sell medical marijuana at any such place until permission to do so is granted by the City and the state licensing authority.

(2) In permitting a change of location, the City shall consider all reasonable restrictions that are or may be placed on the new location and any such new location shall comply with all requirements of this

article, the Colorado Medical Marijuana Act, and rules promulgated by the state licensing authority.

(3) The City shall not authorize a change of location until the applicant produces a license issued and granted by the state licensing authority covering the period for which the change of location is sought.

Division 2. General requirements.

Section 12-211. Operational requirements. Medical marijuana ~~dispensaries~~ centers shall comply with the following operational requirements:

- (1) Medical marijuana ~~dispensaries-centers~~ shall provide ~~clients~~ patients contact information for local drug abuse treatment centers as well as educational materials regarding the hazards of substance abuse.
- (2) Medical marijuana ~~dispensaries-centers~~ shall operate only during the hours of 7:00 a.m. to 7:00 p.m.
- (3) Medical marijuana ~~dispensaries-businesses~~ shall provide adequate security on the ~~dispensary-business~~ premises, which shall include the following:
 - (a) Twenty-four hour security surveillance cameras to facilitate the investigation of crimes and to include video and audio capabilities, with a redundant power supply and circuitry to monitor entrances/exits and parking lot along with the interior and exterior of the premises. Fifteen days of security video and audio shall be preserved for 30 days. The dispensary owner may, but shall not be required to, provide segments of surveillance footage upon request to law enforcement officers investigating crimes committed against the dispensary or its patients. The dispensary owner shall not be required to produce surveillance footage disclosing the identity of dispensary patients and may edit surveillance footage to protect patient privacy. The resolution of these color cameras will be of sufficient quality to allow for the identification of the subject's facial features, in all lighting conditions, in the event of a crime.
 - (b) A burglar alarm system that is professionally monitored and maintained in good working order;
 - (c) A locking safe permanently affixed to the premises suitable for storage of the dispensaries' inventory and cash; all to be stored during non-business hours; live plants being cultivated shall not be deemed inventory requiring storage in a locked safe.
 - (d) Exterior lighting that illuminates the exterior walls of the dispensary and that complies with the lighting code set forth in this Community Development Code.

- (4) No firearms, knives, or other weapons shall be permitted in a marijuana ~~dispensary center~~ except those carried by sworn peace officers.
- ~~(5) Medical marijuana dispensaries centers shall operate on an appointment only basis.~~
- (6) Marijuana shall not be consumed or used on the premises of a medical marijuana ~~dispensary center~~ and it shall be unlawful for a medical marijuana licensee to allow medical marijuana to be consumed upon its licensed premises. In the case of a medical marijuana ~~dispensary business~~ located in a structure with a legal secondary unit or other legal dwelling unit, the dwelling unit shall not be considered part of the medical marijuana ~~dispensary business~~ premises if access to the dwelling unit is prohibited to the medical marijuana ~~dispensary patients business customers~~.
- (7) Medical marijuana ~~dispensaries businesses~~ shall comply with the provisions of Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Act, rules promulgated by the state licensing authority, and with any other relevant Colorado statute or administrative regulation. The operator of a medical marijuana ~~dispensary business~~ shall provide evidence of said compliance and shall permit the inspection of the premises upon request of any sworn peace officer in the employ of the City of Steamboat Springs Department of Public Safety. Inspection of the premises shall be limited to determining the quantity of marijuana and marijuana plants present on the premises and obtaining written evidence of the ~~operator's status as a patient or primary care giver to a patient or number of patients sufficient to establish the medical use of the marijuana licensee's authority to possess such quantity of medical marijuana~~. Registry identification cards with patient names and other identifying information redacted shall be deemed satisfactory written evidence if the registration identification cards' serial number(s) are not redacted. In the event the ~~dispensary medical marijuana center~~ serves patients who have applied for a registry identification card thirty five or more days prior to the inspection and who have not received such card, the operator may produce the patient's caregiver designation with the patient's name and identifying information redacted as evidence of compliance, in which case the operator shall produce the patient's redacted registry identification card when it is received by the patient. The operator of a medical marijuana ~~dispensary center~~ shall not be required to disclose patient name(s) or other identifying information except as required by a duly issued court order or warrant.
- (8) Medical marijuana dispensaries shall sell or distribute only marijuana lawfully grown in compliance with Article XVIII, Section 14 of the Colorado Constitution, the Colorado Medical Marijuana Act, rules promulgated by the state licensing authority, and with any other relevant Colorado statute or administrative regulation."

Section 4. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts, thereof, are in conflict herewith.

Section 5. If any section, subsection, clause, phrase or provision of this Ordinance is, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 6. The City Council hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health and safety.

Section 7. This Ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6 (h) of the Steamboat Springs Home Rule Charter.

Section 8. A public hearing on this ordinance shall be held on _____, 2011, at 5:00 P.M. in the Citizens Hall meeting room, Centennial Hall, Steamboat Springs, Colorado.

INTRODUCED, READ, AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AGENDA ITEM # 17

MARCH 14TH SSPC WORKSESSION TOPIC: BARRIERS TO MOBILE HOME PARK CONVERSIONS

In Attendance: SSPC:Kathi Meyer, Jason Lacey, Brian Hanlon, Rich Levy; Staff: Tyler Gibbs, Jason Peasley, Bob Keenan, Seth Lorson; YVHA: Mary Alice Paige; SSCC: Meg Bentley

We discussed how a community land trust and a cooperative might operate.

A few identified barriers:

- Some MH parks are not zoned MH
- The MH1 Zoning definition needs examining (ie: allowing removal of wheels/tongues, allowing modular or single family dwelling units)
- Parts of Fish Creek (limited), Dream Island and Whitehaven are within the floodplain/floodway
- Older parks have substantial infrastructure needs (that are also obstacles to conversion)
- per state statute anything over 40 years on a lease would mean it is a subdivision...YVHA wants a 99 year lease on the land if they were to purchase Sleepy Bear (for instance) and this would make it subject to our subdivision standards.

While conversions are desirable SSPC sees the need to keep some mobile home parks with lot rent to ensure affordability.

NEXT WORKSESSION: April 11th Topic: Mobile Home Protection Methods

AGENDA ITEM # 18

CITY COUNCIL COMMUNICATION FORM

FROM: Seth Lorson, City Planner (Ext. 280)
Tyler Gibbs, AIA, Director of Planning and Community Development
(Ext. 244)

THROUGH: Wendy DuBord, Interim City Manager, (Ext. 219)

DATE: April 5, 2011

ITEM: CDC text amendment – Temporary on-site real estate sales office

NEXT STEP: If City Council approves the second reading, the CDC will be changed accordingly.

ORDINANCE
 RESOLUTION
 MOTION
 DIRECTION
 INFORMATION

PROJECT NAME: Temporary on-site real estate sales office - #TXT-11-03

PETITION: Addition of *Office, temporary on-site real estate sales* and *On-site unit* to Section 26-402 Definitions and use criteria, and to Section 26-92 Use classifications of the Community Development Code (CDC).

LOCATION: All zone districts.

APPLICANT: City of Steamboat Springs
124 10th Street
Steamboat Springs, CO 80487

PC ACTION: Planning Commission voted to approve on February 24, 2010; Vote: 6-0.

CC ACTION: City Council voted to approve on March 15, 2011; Vote: 7-0.

EXECUTIVE SUMMARY:

1. Background:

The City of Steamboat Springs Department of Planning and Community Development have encouraged mixed-use development in our commercial centers of downtown and the ski mountain base area. Typically the mix of uses encouraged includes retail and dining uses on the ground/pedestrian level with residential in the upper levels. Mixed-use development fosters an active pedestrian environment, 24-hr active spaces, and increased safety due to “eyes on the street”. New mixed-use buildings need to sell units, both ground-level commercial and upper-level residential, to be successful per the intent of mixed-use development. Staff finds that allowing temporary pedestrian level real estate sales offices for on-site units is compatible with the long range intent of mixed-use development.

Currently, office use is prohibited along the pedestrian level street or other public access frontage in the CO and G-2 zone districts.

2. Planning Commission Discussion:

Planning commission’s discussion pertained to the usefulness of having an actual expiration for this use. It is staff’s perspective that because the definition is limited to the *first-time sales* of units, at a certain point in time the office will no longer justify its use to sell the few units that are remaining and the office will be more lucrative to be leased out or sold. Planning commission concurred with this perspective and the expiration criterion has been omitted.

3. Public Comment:

None.

4. New Information:

None.

5. Recommended Motion:

Planning Commission recommends approval of an ordinance to add definitions and use criteria for *Office, temporary on-site real estate sales* and *On-site unit* to CDC Sec. 26-402 as follows:

Office, temporary on-site real estate sales. An office used to advertise and execute the first-time sale of on-site units. This use may be located along a pedestrian level street or other public access in all zone districts in which it is allowed.

(1) Use criteria.

- a. Review shall be prior to or concurrent with development or building permit, as applicable.**
- b. Shall not facilitate rental of units.**
- c. Shall not advertise for off-site properties.**

***On-site unit.* An individual unit located within a portion of a development as defined by planning approval.**

And to add *Office, temporary on-site real estate sales* as a use with criteria in all zone districts to CDC Sec. 26-92 Use Classifications.

LIST OF ATTACHMENTS

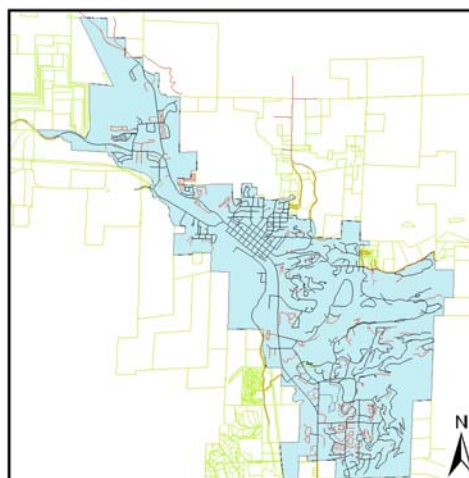
Attachment 1. – PC Staff Report TXT-11-03, February 24, 2011.

Attachment 2. - Planning Commission Minutes for February 24, 2011.



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT STAFF REPORT

PLANNING COMMISSION AGENDA ITEM # 5	
Project Name:	Office, temporary on-site real estate sales - #TXT-11-03
Prepared By:	Seth Lorson, City Planner (Ext. 280)
Through:	Tyler Gibbs, Director of Planning and Community Development (Ext. 224)
Planning Commission (PC):	February 24, 2011
City Council (CC):	1 st Reading: March 15, 2011 2 nd Reading: April 5, 2011
Request:	Text Amendments to the CDC to amend Section 26-402 Definitions and use criteria by adding a definition and use criteria for <i>Office, temporary on-site real estate sales</i> and a definition for <i>On-site unit</i> ; and amend Section 26-92 by adding <i>Office, temporary on-site real estate sale</i> to the use chart as a use with criteria in all zone districts.



Staff Report - Table of Contents		
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I. COMMUNITY DEVELOPMENT CODE (CDC) – STAFF ANALYSIS SUMMARY

CDC - Section 26-61(D): Criteria for approval. <i>Approval of the amendment shall be granted only if it appears by clear and convincing evidence presented during the public hearing before planning commission or city council that the following conditions exist:</i>					
Subsection		CONSISTENT			NOTES
		Yes	No	NA	
1)	Conformity with the community plan.	<input checked="" type="checkbox"/>			
2)	Error or goal/objective.	<input checked="" type="checkbox"/>			
3)	Public safety	<input checked="" type="checkbox"/>			
<p>Staff Finding: Staff finds that the proposed Community Development Code Text Amendment, #TXT-11-03, to amend Section 26-402 Definitions and use criteria by adding a definition and use criteria for <i>Office, temporary on-site real estate sales</i> and a definition for <i>On-site unit</i>; and amend Section 26-92 Use classifications by adding <i>Office, temporary on-site real estate sale</i> to the use chart as a use with criteria in all zone districts.</p>					

II. BACKGROUND INFORMATION

The City of Steamboat Springs Department of Planning and Community Development has encouraged mixed-use development in our commercial centers of downtown and the ski mountain base area. Typically the mix of uses encouraged includes retail and dining uses on the ground/pedestrian level with residential in the upper levels. Mixed-use development fosters an active pedestrian environment, 24-hr active spaces, and increased safety due to “eyes on the street”. New mixed-use buildings need to sell units, both ground-level commercial and upper-level residential, to be successful per the intent of mixed-use development. Staff finds that allowing temporary pedestrian level real estate sales offices for on-site units is compatible with the long range intent of mixed-use development.

III. PROPOSAL

Proposed additions to the Community Development Code:

CDC Section 26-402. Definitions and use criteria.

***Office, temporary on-site real estate sales.* An office used to advertise and execute the first-time sale of on-site units. This use may be located along a pedestrian level street or other public access in all zone districts in which it is allowed.**

(1) Use criteria.

- a. Review shall be prior to or concurrent with development or building permit, as applicable.**
- b. Shall not facilitate rental of units.**
- c. Shall not advertise for off-site properties.**
- d. Approval of use shall remain effective for a period of no more than two (2) years from date of approval. At which time the applicant may re-apply for an administrative review for compliance with current criteria.**

***On-site unit.* An individual unit located within a portion of a development as defined by planning approval.**

CDC Sec. 26-92. Use classifications.

Table of Permitted Principal Uses

R = Use by Right	CR = Use with Criteria	C = Conditional Use	Blank Cell = Prohibited
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COMMERCIAL USES																					
Use Classification and Specific Principal Uses*	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	T2-NE	T3- NG1	T3-NG2	T4-NC	T5-TC	SD
Amenity space/structure		C	C		R	R	R	R	R	C	C	C	C				R	R	R	R	R
Animal clinic											C	CR	CR	R					CR	R	R
Animal hospital													C	C	R				C	C	R
Animal kennel														CR	CR					CR	CR
Automatic Teller Machine (ATM)								R	R	R	R	R	R	R	R				R	R	
Automobile car wash													C	C	C				C	C	C
Automobile filling station										C			C	R	C				C	C	
Automobile major repair													C	CR	CR						CR
Automobile minor repair													C	CR	CR				CR	CR	CR
Automobile service station										C			C	R	C					C	
Automobile rental								C	C				C	C	C					C	
Automobile sales														C	C					C	
Bank								C	C	CR			CR	CR					CR	R	
Bed and breakfast		C	C	C				C			CR	CR				CR	CR	CR			
Building supplies/lumber yard														CR	CR					CR	CR
Business support services								R	R	R	R	R	R	R					R	R	
Campground	C																				
Commercial large									C				C	C	C				C	R	
Commercial, medium								C	R	R	C	C	R	R					CR	CR	
Commercial, outdoor														C	C						

Grocery store								C	R	R	C	C	R	R					R	R	
Commercial, over 12,000 square feet and under 40,000 square feet													PUD	PUD					R	R	
Commercial, over 40,000 square feet																			PUD	PUD	
Commercial, small								C	R	R	R	R	R	R					R	R	
Construction trailer	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Cottage industry										CR	CR	CR	CR	CR	R				CR	CR	CR
Farmers market								R	R	R	R	R							R	R	
Funeral home													C	C					C	C	
Garage sale	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		
Health club								C	C	C			C	C					CR	R	
Home occupation		CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Hostel				C	C			C	C	C	C	C							C	R	
Hotel					C			C	R	C			C	C					C	R	
Inn				C	C			C		R	R	R							R	R	
Lodge				C				C	C	R	R	C	C	C					R	R	
Medical marijuana dispensary										CR	CR	C	CR	CR	CR						
Movie theater									CR	CR									R	R	
Neighborhood store			CR	CR	C			C			CR	CR							CR	CR	
Nightclub								C	CR	CR	CR	CR	CR	CR	C				CR	CR	
Nursery											CR	CR	CR	CR	CR				CR	CR	
Office								C	CR	CR	R	R	R	R					R	R	
Office - medical and dental								C	C	C	C	C	R	R					R	R	
Office – temporary on-site real estate sales	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR

Outdoor equipment sales and rental															C	C								
Outdoor recreational equipment rental	C							C	CR	CR	CR	CR	CR	CR										C
Outdoor display								CR	CR	CR	CR	CR	CR	CR	CR								CR	CR
Outdoor seating								CR	CR	CR	CR	CR	CR	CR	CR								CR	CR
Outdoor sales	C							C	C	C	C	C	C	C								C	C	
Outdoor storage										C	C		C	C	C									CR
Parking lot/structure					C			C	C	C	C	C	C	C								C	C	
Real estate sales trailer		CR	CR		CR	CR	CR	CR	CR		C	C	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	
Performing arts facility	C							R	R	R	R	R	R	R								R	R	
Recreation center	C	C	C				C	C														R	R	R
Recreation, indoor	C			C			C	C	CR	CR	CR	CR	CR	C								CR	CR	R
Recreation, outdoor	C							C	C		C	C	C	C	C									R
Recreation outdoor - low impact	R	R	R	R	R	R	R	R	R		R	R	C	C	C	R	R	R	R	R	R	R	R	R
Restaurant								C	CR	CR	CR	CR	CR	CR	C							R	R	
Restaurant, drive-in														C	C								C	
Self-service storage facility															C	C								C
Studio								R	R	R	R	R	R	R	R							R	R	
Tavern								C	CR	R	R	C	CR	C								CR	CR	
Taxidermy															CR	CR								
Telecommunication facility	C							C	C	C	C	C	C	C	C							C	C	
Vacation home rental		CR	CR	CR	R		CR	R	R	CR	CR	CR	CR				CR	CR	CR					
Timeshare					R			R	R	C			C	C			R	R	R	R	R			

IV. CODE ANALYSIS:

CDC Sec. 26-61. CDC text amendments.

(d) *Criteria for approval.* In considering any application for amendment to the CDC, the following criteria shall govern unless otherwise expressly required by the CDC. Approval of the amendment shall be granted only if it appears by clear and convincing evidence presented during the public hearing before planning commission or city council that the following conditions exist:

- (1) *Conformance with the community plan.* The amendment to the CDC will substantially conform with and further the community plan's preferred direction and policies.

*Staff Analysis: **Consistent:*** The proposed CDC Text Amendment are consistent with the following Steamboat Springs Area Community Plan goals:

- *Goal LU-1: Our community will promote a functional, compact, and mixed-use pattern that integrates and balances residential and non-residential land uses.*
- *Goal CD-2: New neighborhoods will help project a positive image for our community, and will incorporate mixed-use development principles and open space.*
- *Goal ED-1: Steamboat Springs will have a vital, sustainable, and diverse year-round economy.*

- (2) *Error or goal/objective.* The amendment to the CDC will correct an error, or will further a public goal or objective.

*Staff Analysis: **Consistent:*** The proposed CDC Text Amendment will further the public goals of promoting mixed-use developments and economic development.

- (3) *Public safety.* The amendment to the CDC is necessary to ensure public health, safety and welfare.

*Staff Analysis: **Consistent:*** The proposed CDC Text Amendments is necessary to ensure the public health, safety and welfare by furthering the goals and policies of the Steamboat Springs Area Community Plan.

V. STAFF FINDING & CONDITIONS

Finding

Staff finds that the proposed Community Development Code Text Amendment, #TXT-11-03, to amend Section 26-402 Definitions and use criteria by adding a definition and use criteria for *Office, temporary on-site real estate sales* and a definition for *On-site unit*; and amend Section 26-92 Use classification by adding *Office, temporary on-site real estate sale* to the use chart as a use with criteria in all zone districts.

VI. LIST OF ATTACHMENTS

Attachment 1: Ordinance (by request)

DRAFT**Text Amendment to the CDC – On-Site Real Estate Office #TXT-11-03 CDC Text Amendment to add a definition of the use On-site Real Estate Sales Office to Sec. 26-402, Definitions and use criteria and to Sec. 26-92, Table of Permitted Principal Uses to allow as an Use with criteria in all zone districts.**

Discussion on this agenda item started at approximately 5:47 p.m.

STAFF PRESENTATION

Seth Lorson –

What we're proposing is a temporary onsite real estate office to be a use with criteria in all zone districts. Currently office is prohibited on the ground pedestrian level in the CO and G-2 zone districts, which are zone districts that we promote mixed use. Through the last DP we realized that having a ground floor real estate office for the onsite units helps promote the success of mixed use.

APPLICANT PRESENTATION**COMMISSIONER QUESTIONS**

Commissioner Hanlen –

What language did you come up with in response to the discussion that we had at work session?

Seth Lorson –

I didn't.

Commissioner Lacy –

I wasn't at work session so could you go over that again?

Seth Lorson –

I didn't feel that there was a consensus that there shouldn't be a use criteria. You felt that the language was hard to enforce or require a certain amount of legwork to enforce.

Commissioner Hanlen –

What I was driving at was that right now we have use criteria and we've got a time limit. My point was that the use criteria was so soft that it seemed like that it was so soft that we should remove the time limit if we're going to keep it that soft. If people felt that the criteria needed to be stricter then the time limit starts to make more sense. Now I feel like we created an unnecessary bureaucracy that anyone can qualify for and it would be tough for staff to prove otherwise that they weren't complying with the use criteria. What's the point of putting in the date trigger if we didn't have stricter criteria? My point was that we needed to come up with additional language that made it more strenuous or get rid of it all together. I was looking to you to come up with some additional language for that criteria if it made sense to make it stricter.

Seth Lorson –

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I don't understand the association between the time limit and the strictness of the criteria.

Commissioner Levy –

Its automatic renewal is what he's saying. There's no hoop to jump through. They come before us and you don't have any grounds for denial. It's useless.

Commissioner Hanlen –

What I'm saying is either put some teeth in it or get rid of it all together.

Seth Lorson –

Initially we had said that it's going to expire when it's first sales are sold. It won't long justify having that sales office as a sales office.

Commissioner Hanlen –

I agree with staff on that point. A couple of Commissioners said to put in the time trigger. I'm just saying that if we put in the time trigger then the criteria needs to have some more teeth put into it.

Seth Lorson –

I'm not sure that's what we're looking for.

Commissioner Hanlen –

The way that this is written right now I would say just remove the time criteria unless people felt strongly enough that it made sense. If it did make sense then put some teeth into the criteria.

Seth Lorson –

I think that's a reasonable request.

Commissioner Levy –

I agree with Commissioner Hanlen and I'm not real keen on the time period. I would like to go back to what we talked about at work session and maybe a criteria of limiting the number of units that have this. I remember reading about why we don't allow residential or office on the 1st floor, but maybe it means creating a different use label that operates as a different kind of use. I think that it generates a fair amount of foot traffic. It doesn't generate sales tax, but it could be bringing people to the commercial areas and they may shop there where they may have not come to that area in the first place. It generates a different kind of foot traffic. Maybe just keeping this from proliferating and making sure that we don't have real estate offices every other door, which I specifically called out in the language in prohibiting it and that would be more appropriate. We can't have 2 per block. I don't really have a number in mind, but I think 1 per block. I think that something like that will be much more effective.

Tyler Gibbs –

Real estate offices could perhaps pay a higher rent than a retail business. Therefore they might be able to dominate to your point a lot of percentage of the street frontage forcing out the kind of retail that our visitors are looking for. This is self limiting to first time sales once

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a certain percentage of the sales are sold it doesn't make since to keep a sales office to sell 1 or 2.

Commissioner Meyer –

This should be renamed the Jim Cook ordinance. There are no offices on the 1st floor on Lincoln Ave. We obviously have some offices that were grandfathered in especially some of the title offices across from the courthouse. When Jim Cook wanted to expand his real estate office into an adjacent space it was originally denied, because we didn't want to expand off his use. I remember voting against the denial, because my feeling was exactly what Commissioner Levy said and that is that real estate offices today increase a certain amount of foot traffic. People are curious to what things cost. They'll go up to the window and actually look, shop, and maybe not buy. It's certainly better than a title office or a pure office. We came down to splitting hairs one night to whether a real estate office was an office. That's why they originally said yes. It's a commercial use and an office use, not retail so we don't want them. That was where the concern went. We've seen them become discovery information centers selling the town as well as their real estate. I've never had a problem. If I'm the one that wanted at least a time frame then the planning staff isn't charged with someone who doesn't have that economic impetus to move and I wanted a time frame. I'll go with the group if I'm out voted.

Commissioner Lacy –

I was in your same camp, but I can see Commissioner Levy's point too that it might make more sense to put some teeth in it like what Commissioner Hanlen said. I think that it would have to be something like what Commissioner Levy said where we limit a certain number of these in a certain area. Whether it is per block or a certain number on Lincoln Ave, etc.

Tyler Gibbs –

It would have to be part of a new development. It would only be selling units in that development and so we thought that it would be self limiting. We've probably seen as many new developments in one time as we'll ever see. I don't anticipate that we'll see a lot of these. Once their out of units to sell then they don't have anything to do.

Seth Lorson –

The first time real estate offices are different than a regular real estate office.

Commissioner Slavik –

It seems like the lack of teeth that Commissioner Hanlen is talking about that says that it shall remain in effect for 2 years at which time they would reapply for an administrative review for compliance. Can't we have it where it goes for 2 years at which time they can apply for an administrative review of an extension to that 2 years? That makes it not whether they're in compliance or not.

Tyler Gibbs –

There doesn't need to be a time frame, because of the criteria that says that it can only be for first time sales. Any time they don't comply to that they're in violation.

Commissioner Hanlen –

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Do you feel that you have a position where if an office was in violation do you feel that you have enough power to remove them?

Tyler Gibbs –

It would be a sequential type of enforcement where they would first be warned.

Commissioner Hanlen –

Would that be through the code enforcement office?

Tyler Gibbs –

Yes.

Commissioner Hanlen –

Typically these only come up when there's a problem. I don't see a proliferation of offices downtown where we would have 5 on one block. If the town is booming that hard again then we can revisit this code issue, but I think it's going to be a long time.

Commissioner Lacy –

Are most people in favor of removing this sub part d on this use criteria and leaving the rest?

(Commissioners all say yes).

Commissioner Slavik –

Who is going to be following up on it? Are we just going to wait until someone complains or that they're selling other units out it?

Commissioner Levy –

It's just like all of our other conditions.

Commissioner Robbins –

Do we need something in here that says that it's for new development only? If someone already is developed now and they came before us or an onsite first time sales office since they're already developed. Would we be applying it retroactively to someone that's already developed units that haven't sold them that doesn't have an onsite office right now?

Seth Lorson –

There are some multifamily buildings that haven't sold all of their units and we would probably allow them to have an onsite office to be able to sell their units.

Commissioner Levy –

Is it necessary to have the first time language in the actual use criteria, or because it's in the definition that it's enforceable?

Seth Lorson –

If this is the use that they have then they have to meet the definition.

Commissioner Hanlen –

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With our discussion regarding this and looking at our recent vote on the buyer's resource being allowed into the CO zone district and then when we were voting on Thunderhead whether it gets built or not we were allowing residential uses on the ground floor in certain areas and we weren't pushing for a blanket coverage of retail on the ground floor. There is a blanket statement that says there shall not be retail on the ground floor in G-1, G-2, and CO and I wonder if that's not too strict? If we need to revisit how that's incorporated, because when you look at downtown I think that it makes sense along Lincoln. All of a sudden you start to go down the side streets and in buyer's resource case it starts to get to the periphery and is that as crucial? Should it be a conditional use where they have to come through the full public process? As you start to get to the extreme ends of town and its one thing if it's at 7th, but when you get to 11th would we rather have a board at that building or would we rather have an office there rather than nothing? Based off of the economic times that we're in I thought that it was an appropriate time to mention is this the time to look at this in a broader picture.

Commissioner Lacy –

In the context of this agenda item it's probably better that we hold off on that for a policy discussion.

Commissioner Hanlen –

The reason why I brought that up is that I don't want to get the code updated and then have the potential to have to rework it again. I didn't know if we can approve this or if the group wanted to table it until we revisit the rest or push this on so it's done.

Commissioner Meyer –

I feel that after Tyler Gibb's discussion on how limiting this would be as far as the number of projects that it could affect. We're pretty safe in moving this ahead. It's not like tomorrow we'll wake up and see a lot of new unit sales offices. I think that we'll have time to make changes to this if the outcome isn't what we expect.

(Commissioners agree).

Tyler Gibbs –

There's a process in considering those uses. It's just a more extended process. We felt that this one given the limitations didn't need to go through such an extensive review. There is an option if we want to look at the policy again.

Commissioner Hanlen –

I just mention that because I had a call on Buyer's Resource and I called staff to see if they would be open to changing the allowed use. I was told that under no circumstances would we allow retail and so that buyer packed their bags and didn't purchase the structure. 4 months later staff changed their mind. I'm just saying that screwed up a potential transaction. 4 months later who was to know that staff was going to change their mind. I'm just saying that it probably should be addressed.

Tyler Gibbs –

That's a much larger policy discussion. The code addresses the current policy.

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Commissioner Slavik –

I wanted to verify that staff is comfortable with removing item d and letting natural nutrition take care of the length of time that this might exist.

Seth Lorson –

We're ok with that. If any potential issues come then we'll address those issues.

PUBLIC COMMENTS

FINAL STAFF COMMENTS

FINAL COMMISSIONER COMMENTS

RECOMMENDED MOTION

Finding

Staff finds that the proposed Community Development Code Text Amendment, #TXT-11-03, to amend Section 26-402 Definitions and use criteria by adding a definition and use criteria for *Office, temporary on-site real estate sales* and a definition for *On-site unit*, and amend Section 26-92 Use classification by adding *Office, temporary on-site real estate sale* to the use chart as a use with criteria in all zone districts.

MOTION

Commissioner Hanlen moved to approve TXT-11-03 eliminating section d and Commissioner Meyer seconded the motion.

DISCUSSION ON MOTION

VOTE

Vote: 6-0

Voting for approval of motion to approve: Lacy, Hanlen, Levy, Meyer, and Slavik (Robbins)

Absent: Beauregard and Brookshire

Discussion on this agenda item ended at approximately 6:08 p.m.

CITY OF STEAMBOAT SPRINGS, COLORADO

ORDINANCE NO. _____

AN ORDINANCE ADDING DEFINITIONS AND USE CRITERIA FOR TEMPORARY ON-SITE REAL ESTATE SALES OFFICE TO THE STEAMBOAT SPRINGS COMMUNITY DEVELOPMENT CODE (CDC).

WHEREAS, the City Council adopted the revised Community Development Code as Ordinance #1802 on July 23, 2001; and

WHEREAS, the City of Steamboat Springs committed to a regular, ongoing review of the Community Development Code so that the provisions contained therein are relevant and applicable to the community at any given point in time; and

WHEREAS, the City of Steamboat Springs encourage mixed-use developments in the commercial centers of downtown and the ski mountain base area; and

WHEREAS, the City of Steamboat Springs has determined that facilitating temporary on-site real estate sales offices encourages success in mixed-use development projects.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STEAMBOAT SPRINGS, COLORADO:

Section 1. CDC Sec 26-402. Definitions and use criteria.

Office, temporary on-site real estate sales. An office used to advertise and execute the first-time sale of on-site units. This use may be located along a pedestrian level street or other public access in all zone districts in which it is allowed.

(1) ***Use criteria.***

- a.*** Review shall be prior to or concurrent with development or building permit, as applicable.
- b.*** Shall not facilitate rental of units.
- c.*** Shall not advertise for off-site properties.

On-site unit. An individual unit located within a portion of a development as defined by planning approval.

Section 2. CDC Sec. 26-92. Use classifications. (*add only Office, temporary real-estate sales office to chart*)

Table of Permitted Principal Uses

R = Use by Right	CR = Use with Criteria	C = Conditional Use	Blank Cell = Prohibited
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COMMERCIAL USES																					
Use Classification and Specific Principal Uses*	OR	RE	RN	RO	RR	MH	MF	G-1	G-2	CO	CY	CN	CC	CS	I	T2-NE	T3- NG1	T3-NG2	T4-NC	T5-TC	SD
Amenity space/structure		C	C		R	R	R	R	R	C	C	C	C				R	R	R	R	R
Animal clinic											C	CR	CR	R					CR	R	R
Animal hospital													C	C	R				C	C	R
Animal kennel														CR	CR					CR	CR
Automatic Teller Machine (ATM)								R	R	R	R	R	R	R	R				R	R	
Automobile car wash													C	C	C				C	C	C
Automobile filling station										C			C	R	C				C	C	
Automobile major repair													C	CR	CR						CR
Automobile minor repair													C	CR	CR				CR	CR	CR
Automobile service station										C			C	R	C					C	
Automobile rental								C	C				C	C	C					C	
Automobile sales														C	C					C	
Bank								C	C	CR			CR	CR					CR	R	
Bed and breakfast		C	C	C				C			CR	CR				CR	CR	CR			
Building supplies/lumber yard														CR	CR					CR	CR
Business support services								R	R	R	R	R	R	R					R	R	
Campground	C																				
Commercial large									C				C	C	C				C	R	
Commercial, medium								C	R	R	C	C	R	R					CR	CR	
Commercial, outdoor														C	C						
Grocery store								C	R	R	C	C	R	R					R	R	

Commercial, over 12,000 square feet and under 40,000 square feet														PUD	PUD					R	R	
Commercial, over 40,000 square feet																				PUD	PUD	
Commercial, small								C	R	R	R	R	R	R	R					R	R	
Construction trailer	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Cottage industry										CR	CR	CR	CR	CR	R					CR	CR	CR
Farmers market								R	R	R	R	R								R	R	
Funeral home														C	C					C	C	
Garage sale	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R		
Health club								C	C	C			C	C						CR	R	
Home occupation		CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	
Hostel				C	C			C	C	C	C	C								C	R	
Hotel					C			C	R	C			C	C						C	R	
Inn				C	C			C		R	R	R								R	R	
Lodge				C				C	C	R	R	C	C	C						R	R	
Medical marijuana dispensary										CR	CR	C	CR	CR	CR							
Movie theater									CR	CR										R	R	
Neighborhood store			CR	CR	C			C				CR	CR							CR	CR	
Nightclub								C	CR	CR	CR	CR	CR	CR	CR	C				CR	CR	
Nursery											CR	CR	CR	CR	CR					CR	CR	
Office								C	CR	CR	R	R	R	R						R	R	
Office - medical and dental								C	C	C	C	C	R	R						R	R	
Office – temporary on-site real estate sales	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Outdoor equipment sales and rental															C	C						

Outdoor recreational equipment rental	C							C	CR	CR	CR	CR	CR	CR						C		
Outdoor display								CR	CR	CR	CR	CR	CR	CR	CR					CR	CR	
Outdoor seating								CR	CR	CR	CR	CR	CR	CR	CR					CR	CR	
Outdoor sales	C							C	C	C	C	C	C	C						C	C	
Outdoor storage										C	C		C	C	C							CR
Parking lot/structure					C			C	C	C	C	C	C	C						C	C	
Real estate sales trailer		CR	CR		CR	CR	CR	CR	CR		C	C	CR	CR	CR	CR	CR	CR	CR	CR	CR	CR
Performing arts facility	C							R	R	R	R	R	R	R						R	R	
Recreation center	C	C	C				C	C												R	R	R
Recreation, indoor	C			C			C	C	CR	CR	CR	CR	CR	C						CR	CR	R
Recreation, outdoor	C							C	C		C	C	C	C	C							R
Recreation outdoor - low impact	R	R	R	R	R	R	R	R	R		R	R	C	C	C	R	R	R	R	R	R	R
Restaurant								C	CR	CR	CR	CR	CR	CR	C					R	R	
Restaurant, drive-in													C	C							C	
Self-service storage facility														C	C							C
Studio								R	R	R	R	R	R	R	R					R	R	
Tavern								C	CR	R	R	C	CR	C						CR	CR	
Taxidermy														CR	CR							
Telecommunication facility	C							C	C	C	C	C	C	C	C					C	C	
Vacation home rental		CR	CR	CR	R		CR	R	R	CR	CR	CR	CR			CR	CR	CR				
Timeshare					R			R	R	C			C	C		R	R	R	R	R	R	

Section 3. All ordinances heretofore passed and adopted by the City Council of the City of Steamboat Springs, Colorado, are hereby repealed to the extent that said ordinances, or parts, thereof, are in conflict herewith.

Section 4. If any section, subsection, clause, phrase or provision of this Ordinance is, or the application thereof to any person or circumstance, shall to any extent, be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and shall in no way be affected, impaired or invalidated.

Section 5. The City Council hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation of the public peace, health and safety.

Section 6. This Ordinance shall take effect immediately upon the expiration of five (5) days from and after its publication following final passage, as provided in Section 7.6 (h) of the Steamboat Springs Home Rule Charter.

INTRODUCED, READ, AND ORDERED PUBLISHED, as provided by law, by the City Council of the City of Steamboat Springs, at its regular meeting held on the _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

FINALLY READ, PASSED AND APPROVED this _____ day of _____, 2011.

**Cari Hermacinski, President
Steamboat Springs City Council**

ATTEST:

**Julie Franklin, CMC
City Clerk**

AGENDA ITEM # 19

CITY COUNCIL COMMUNICATION FORM

FROM: Wendy DuBord, Interim City Manager (Ext. 219)

DATE: April 5, 2011

ITEM: Economic Development Activities/Update

NEXT STEP: Council Questions/Direction

DIRECTION
 INFORMATION

I. REQUEST OR ISSUE:

As part of City Council's current 2011 Goals and Objectives, the number 1 priority is Jobs/Economy/Budget this report provides an update on activities over the last 30 days.

II. RECOMMENDED ACTION/NEXT STEP:

No Action required; however, we welcome questions and seek Council feedback on the current economic activities. Finance Director Deb Hinsvark provides the attached memo regarding the progress on the City Council Economic Development Plan following the March 15 Council meeting.

III. FISCAL IMPACTS:

None associated with this communication; however, when the Council's Economic Development Plan is finalized and adopted, there may be some budget impacts that will require a future allocation (i.e. direct incentives, etc.)

VI. BACKGROUND INFORMATION:

Based on City Council current Goals and Objectives of improving the local economy and job creation as well as direction from the special Council Meeting, staff provides this list of current activities that hopefully provide positive support and reflect a "Business Friendly" environment in the community.

Attached is information from a meeting organized by Council Member Reisman on March 10. Also attached is a copy of an email sent to the two property owners at Sunray Meadows regarding their deed restrictions.

V. LEGAL ISSUES:

None associated with this Communication.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None associated with the communication

VII. SUMMARY AND ALTERNATIVES:

Over the last 30 days, Council Members, City Council, and Staff have participated in the following Economic Development activities and meetings (**March was a busy month**):

1. Feb. 28- I met with CMC President Dr. Peter Perhac to discuss the process and new facility that will begin construction in April. Public Open House on Mar. 31.
2. Feb. 28- I attended with other City staff, regular Quiznos Challenge event planning meeting.
3. Mar. 2- I met with School District Superintendent Dr. Shalee Cunningham to discuss issues of common concern/interest.
4. Mar. 3- Met with Carl Gills, YVMC Director to discuss process and plan for the Casey's Pond development and how the City can best help with this project.
5. Mar. 4- Met with Senator Bennet's staff at the community center to discuss economic development issues in this region- 30 local business owners attended along with government and EDC agencies.
6. Mar. 7- Met with Chris Diamond to discuss various City/Ski Corp issues and the airline program situation. Council will hear more about this in the next few months.
7. Mar. 8 & 9 - Worked with many staff members (particularly Winnie) to help DOLA coordinate and host the Governor's meeting with local service clubs. Attended the Governor's meetings/workshop in Craig and the evening economic development conference.
8. Mar. 9- Attended the Ag Alliance Breakfast to discuss the economic impact of Ag in Routt County and meet with various Ag businesses and producers.
9. Mar. 10- Met with Council Member Riesman and five (5) local "innovative" businesses to listen to their issues, concerns, suggestions. (see attached notes from that meeting).
10. Mar. 10- Met with Bill Reid to discuss economic development issues and later met with the Golf Committee in a retreat for Haymaker Golf Course.
11. Mar. 10- Deb and I met with Smartwool
12. Mar. 15-City Council Meeting session to continue the discussion, facilitated by Roger Good on a City Economic Development Plan-The Management Team will finalize this after Finance Director Deb Hinsvark has a chance to meet individually with each Council Member.
13. Mar. 21- Met with Yampa Valley Housing Authority, Ty, Philo, Deb, Dan to discuss the current situation with three (3) deed restrictions and develop a solution.
14. Mar. 23- Attended Steamboat Springs Economic Development Council Meeting
15. Mar. 28- Deb, Ty and I met to review the preliminary results of the State Economic Development survey. Sent the link out to people to promote more participation.
16. Mar. 28- Met with Kate Nowak, Yampa Valley Partners and Steve Hoots on the proposed NW Colo. Energy Plan. Portions of this plan may benefit local contractors involved in

energy audits, building energy efficiency upgrades, grants and tax credits for energy efficiency upgrades, etc.

17. Mar. 29- Deb and I met with Chris Diamond to discuss the airline program, LMD, RTA, etc.

18. Mar. 30- Jon, Deb and I met with Smartwool

If Council Members have any questions, please do not hesitate to contact me at ext. 219 or cell 970-846-5234.

Notes by Noreen Moore from March 10, 2011 meeting with local “innovation” businesses and Council Member Reisman.

Hi all,

As I said I try to be brief with my notes. So please add your inputs in addition to what is here.

Each Company discussed information about their company. Some of the issues that were discussed as challenges to doing business here were;

Affordable housing- as younger employees enter into the life stage of marriage and children, the absence of homes in the 300-400k range that provides 2-3 bedrooms, yard and garage, has been a disincentive for retention.

Air service- the lack of dependability for commuter flights in addition to the length of travel even with dependable commuter flights to Denver is a disincentive for company retention and growth. The direct flight to Salt Lake was a beneficial flight and the return of that one would help.

Recruitment Challenges for Management positions- The local work force is limited for full time, career advancing candidates. Thus the need to seek outside of the valley for management positions. The challenges inherent in both housing and air add to the difficulty of recruitment and retention for the younger candidate and the long winters are a challenge for the senior candidate. The industry cycle for recruitment of senior management is about 30 days but here as was mentioned by an outdoor manufacturing company it can take 90 days

Workforce -Due to the limitation of being seen as place to play as opposed to landing here to look for long term career commitments, some of the businesses are hampered the cycle of training an employee only to find that they will leave.

Role of Enterprise Zone- While not a motivator for business to be here, it made these companies feel valued as part of the business community.

Recognition and representation- The Chamber Resort association is seen as representing the Resort Industry but not being a Chamber that represents businesses such as theirs. All saw Tourism as important but felt it would be helpful to be 'at the table' in the economic picture of the community

Branding / Marketing- While the branding as a ski town is developed it would be helpful to start a marketing effort to brand Steamboat as a good place to do business, i.e. ' we are a business friendly community" There is a stigma and perception that all we are is a place to play.

Other items-

One business felt that the overbuilding of commercial spaces and therefore vacancies has a dampening effect on business.

Suggestions-

Workforce- Work with local High Schools to introduce these kinds of business opportunities to our youth so that they might come back to the area to either start their own or work for the businesses that are here, perhaps utilizing a 'job fair' model.

Air- Can there be credits given to airlines to service smaller regional airports?

What is the potential for smaller jets to service the area - such as an air taxi service?

Thanks for being at the meeting, participating and helping.

Noreen

Email from Tyler Gibbs to the two property owners at Sunray Meadows. Ty is working with these people and the Yampa Valley Housing Authority to develop solutions. Council will see this on a May Agenda.

Lauren,

This letter is to follow up on your correspondence to City Council regarding the status of the deed restriction on your condominium at Sunray Meadows. The City Manager convened members of the city's management team with the Manager of the Yampa Valley Housing Authority to review your request as well as the status of the housing program throughout the community. You may be aware that there have been several different housing assistance programs within the City of Steamboat. Each program provided different forms of assistance with different obligations on the part of the home owners. Many of these programs clearly did not anticipate the current conditions in our local real estate market and have created circumstances that require the attention of the City and the Housing Authority. The City will be following up with you as soon as possible to discuss options to address your concerns. We anticipate taking this issue to City Council for discussion in May. In the meantime please do not hesitate to contact me directly.

Respectfully,

Tyler Gibbs

Tyler B. Gibbs, AIA
Director of Planning and Community Development
City of Steamboat Springs
970-871-8244

AGENDA ITEM # 20

City Council Updates

A report will be provided at the meeting.

AGENDA ITEM # 21a1

*****TENTATIVE AGENDA FOR TUESDAY, MAY 3, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

CITY OF STEAMBOAT SPRINGS

AGENDA REGULAR MEETING NO. 2011-08 TUESDAY, MAY 3, 2011

5:00 P.M.

MEETING LOCATION: Citizens' Meeting Room, Centennial Hall;
124 10th Street, Steamboat Springs, CO

MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard **following** the presentation by Staff or the Petitioner. Please wait until you are recognized by the Council President. With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 10:00 p.m.

A City Council meeting packet is available for public review in the lobby of City Hall, 137 10th Street, Steamboat Springs, CO.

PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first). CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

A. ROLL CALL

B. PROCLAMATIONS:

- 1. PROCLAMATION:** Historic Preservation Month. (Casale)
-

C. COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:

*******TENTATIVE AGENDA FOR TUESDAY, MAY 3, 2011*******

This agenda is tentative and the information is subject to change until the agenda is finalized.

2. **Yampa Valley Partners Regional Energy Education Plan.**
(Kate Nowak) (25 minutes)
3. **Young Professionals Network update.** (Marion Ayer/Chamber)
(15 minutes)

D. CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES FIRST READINGS

LEGISLATION

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. ANY MEMBER OF THE COUNCIL OR THE PUBLIC MAY WITHDRAW ANY ITEM FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION AT ANY TIME PRIOR TO APPROVAL.

4. **MOTION:** Approve application for Regional Tourism Act funds.
(DelliQuadri)
5. **RESOLUTION:** Adopt Community Water Conservation Plan.
(Frolich)
6. **RESOLUTION:** Ratification appointment new YVAC member.
(Shelton)
7. **FIRST READING OF ORDINANCE:** Authorize issuance of water and wastewater bonds. (Hinsvark)
8. **FIRST READING OF ORDINANCE:** Fourth Supplemental Appropriation 2010. (Hinsvark)
9. **FIRST READING OF ORDINANCE:** SSA Hangar Lease B3 - Lund.
(Baker)

E. PUBLIC HEARING: ORDINANCE SECOND READINGS

THE CITY COUNCIL PRESIDENT OR PRESIDENT PRO-TEM WILL READ EACH ORDINANCE TITLE INTO THE RECORD. PUBLIC COMMENT WILL BE PROVIDED FOR EVERY ORDINANCE.

10. **SECOND READING OF ORDINANCE:** An ordinance amending Article II, Chapter 25 of the Steamboat Springs Revised Municipal Code by the addition of regulations relating to Cross Connection Controls. (Foote)

*****TENTATIVE AGENDA FOR TUESDAY, MAY 3, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

11. **SECOND READING OF ORDINANCE:** Tenth 2010 Budget Supplemental Appropriation Ordinance. (Weber)
12. **SECOND READING OF ORDINANCE:** 2011 carryover ordinance for 2010 funds. (Weber)
13. **SECOND READING OF ORDINANCE:** An ordinance amending provisions relating to Medical Marijuana Businesses set forth in Chapter 12, Article VI and Section 26-92 of the Revised Municipal Code; providing for severability; providing an effective date; and repealing all conflicting ordinances. (Foote)

F. PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first). CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

G. CONSENT CALENDAR - PLANNING COMMISSION REFERRALS:
ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE OR NO COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. A CITY COUNCIL MEMBER MAY REQUEST AN ITEM(S) BE REMOVED FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION. **ALL ORDINANCES APPROVED BY CONSENT SHALL BE READ INTO THE RECORD BY TITLE.**

PLANNING
PROJECTS

14. **FIRST READING OF ORDINANCE:** Complete streets CDC text amendment. (Hruby)

H. PUBLIC HEARING – PLANNING COMMISSION REFERRALS

PUBLIC HEARING FORMAT:

- **Presentation by the Petitioner (estimated at 15 minutes). Petitioner to state name and residence address/location.**
- **Presentation by the Opposition.** Same guidelines as above.
- **Public Comment by individuals (not to exceed 3 minutes). Individuals to state name and residence address/location.**
- **City staff to provide a response.**

15. **PROJECT:**
PETITION:
LOCATION:
APPLICANT:
PLANNING COMMISSION VOTE:

*******TENTATIVE AGENDA FOR TUESDAY, MAY 3, 2011*******

This agenda is tentative and the information is subject to change until the agenda is finalized.

I. REPORTS

16. Economic Development Update.

17. City Council

18. Reports

a. Agenda Review (Franklin):

1.) City Council agenda for May 3, 2011.

2.) City Council agenda for May 17, 2011.

19. Staff Reports

a. City Attorney's Update/Report. (Lettunich)

b. Manager's Report: Ongoing Projects. (DuBord)

J. OLD BUSINESS

20. Minutes (Franklin)

a. Regular Meeting 2011-07, April 5, 2011.

K. ADJOURNMENT

**BY: JULIE FRANKLIN, CMC
CITY CLERK**

AGENDA ITEM # 21a2

*****TENTATIVE AGENDA FOR TUESDAY, May 17, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

CITY OF STEAMBOAT SPRINGS

AGENDA

REGULAR MEETING NO. 2011-09

TUESDAY, MAY 17, 2011

5:00 P.M.

MEETING LOCATION: Citizens' Meeting Room, Centennial Hall;
124 10th Street, Steamboat Springs, CO

MEETING PROCEDURE: Comments from the Public are welcome at two different times during the course of the meeting: 1) Comments no longer than three (3) minutes on items **not** scheduled on the Agenda will be heard under Public Comment; and 2) Comments no longer than three (3) minutes on all scheduled public hearing items will be heard **following** the presentation by Staff or the Petitioner. Please wait until you are recognized by the Council President. With the exception of subjects brought up during Public Comment, on which no action will be taken or a decision made, the City Council may take action on, and may make a decision regarding, ANY item referred to in this agenda, including, without limitation, any item referenced for "review", "update", "report", or "discussion". It is City Council's goal to adjourn all meetings by 10:00 p.m.

A City Council meeting packet is available for public review in the lobby of City Hall, 137 10th Street, Steamboat Springs, CO.

PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first). CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.

A. ROLL CALL

B. COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:

- 1. Joint Worksession with the Upper Yampa Water Conservancy District.**

*******TENTATIVE AGENDA FOR TUESDAY, May 17, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

C. CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES FIRST READINGS

LEGISLATION

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. ANY MEMBER OF THE COUNCIL OR THE PUBLIC MAY WITHDRAW ANY ITEM FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION AT ANY TIME PRIOR TO APPROVAL.

2. RESOLUTION:

3. FIRST READING OF ORDINANCE:

D. PUBLIC HEARING: ORDINANCE SECOND READINGS

THE CITY COUNCIL PRESIDENT OR PRESIDENT PRO-TEM WILL READ EACH ORDINANCE TITLE INTO THE RECORD. PUBLIC COMMENT WILL BE PROVIDED FOR EVERY ORDINANCE.

4. SECOND READING OF ORDINANCE: Authorize issuance of water wastewater bonds. (Hinsvark)

5. SECOND READING OF ORDINANCE: Fourth Supplemental Appropriation 2010. (Hinsvark)

6. SECOND READING OF ORDINANCE: SSA Hangar Lease B3 - Lund. (Baker)

E. PUBLIC COMMENT: Public Comment will be provided at 7 p.m., or at the end of the meeting, (whichever comes first). CITY COUNCIL WILL MAKE NO DECISION NOR TAKE ACTION, EXCEPT TO DIRECT THE CITY MANAGER. **THOSE ADDRESSING CITY COUNCIL ARE REQUESTED TO IDENTIFY THEMSELVES BY NAME AND ADDRESS. ALL COMMENTS SHALL NOT EXCEED THREE MINUTES.**

PLANNING
PROJECTS

F. CONSENT CALENDAR - PLANNING COMMISSION REFERRALS:

ITEMS ON THE CONSENT CALENDAR GENERALLY REQUIRE LITTLE OR NO COUNCIL DELIBERATION AND MAY BE APPROVED WITH A SINGLE MOTION. A CITY COUNCIL MEMBER MAY REQUEST AN ITEM(S) BE REMOVED FROM THE CONSENT CALENDAR FOR FURTHER DISCUSSION. **ALL ORDINANCES APPROVED BY CONSENT SHALL BE READ INTO THE RECORD BY TITLE.**

**7. PROJECT:
PETITION:
LOCATION:
APPLICANT:**

*******TENTATIVE AGENDA FOR TUESDAY, May 17, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

PLANNING COMMISSION VOTE:

- 8. FIRST READING OF ORDINANCE:** CDC text amendment secondary unit/accessory structure. (Keenan)
 - 9. FIRST READING OF ORDINANCE:** CDC text amendment 10% rule (subdivision standards). (Lorson)
-

G. PUBLIC HEARING – PLANNING COMMISSION REFERRALS

PUBLIC HEARING FORMAT:

- **Presentation by the Petitioner (estimated at 15 minutes). Petitioner to state name and residence address/location.**
- **Presentation by the Opposition.** Same guidelines as above.
- **Public Comment by individuals (not to exceed 3 minutes). Individuals to state name and residence address/location.**
- **City staff to provide a response.**

- 10. PROJECT:**
PETITION:
LOCATION:
APPLICANT:
PLANNING COMMISSION VOTE:

- 11. SECOND READING OF ORDINANCE:** Complete streets CDC text amendment. (Hruby)
-

H. REPORTS

- 12. Economic Development Update.**

- 13. City Council**

- 14. Reports**

- a. **Agenda Review (Franklin):**
 - 1.) City Council agenda for June 7, 2011.
 - 2.) City Council agenda for June 21, 2011.

- 15. Staff Reports**

- a. **City Attorney's Update/Report.** (Lettunich)
 - b. **Manager's Report: Ongoing Projects.** (DuBord)
-

*******TENTATIVE AGENDA FOR TUESDAY, May 17, 2011*****

This agenda is tentative and the information is subject to change until the agenda is finalized.

I. ADJOURNMENT

**BY: JULIE FRANKLIN, CMC
CITY CLERK**

AGENDA ITEM # 22a

City Attorney's Report

A report will be provided at the meeting.

AGENDA ITEM # 22b

City Manager Report

To: City Council President and Members
From: Wendy DuBord, Interim City Manager
Date: April 5, 2011
Subject: Interim City Manager Update

Items discussed, direction given or follow-up from previous Council Meetings:

- **Deed Restrictions:** Staff (Ty, Wendy, Deb, Tony) met with YVHA to develop solution for Penny Lane and Sunray homeowner's deed restrictions. (See Ty's email in Economic Development Update.
- **Water Rates- Senior Rebates:** Deb is working with Legal on the appropriate policies to comply with current ordinance. Ordinance revision may be required.
- **Economic Development:** See separate CC Form

Council/Communications:

- Regular Agenda Meetings (Tuesdays) and Management Staff Meetings (Thursdays)
- Media updates- Every Thursday at 11:00- Meeting with Mike Lawrence (most Mondays 11:00)
- City Lights Radio Show- rotates to every Department Head- Monday's at 11:00
- Monthly meetings with County Manager Tom Sullivan

Economic Development:

- Quiznos Challenge Bike Race- Coordination meetings ongoing
- Bike Town USA- Project and possible Tax Increment Financing (TIF) meetings ongoing- Application due in May
- Governor's Regional Economic Development initiative- several meetings including Council, staff, other agencies, etc.
- IGS and IT staff to attend Regional Broadband meetings in Craig-
- Participate with Council Member Reisman with group of local company owners- March 10- see notes from this meeting attached to Economic Development Update
- Continuing to meet with local businesses- 8 in March

Finance/Budget:

- CIP and Accommodation Tax- begin update and public process
- Comprehensive review of 2011 budget scheduled for late May or early June
- New Finance Software implementation, training, internal controls, grant administration, etc.
- Finance Dept. employee Jen Norcross has resigned. I evaluated this position with Deb and approved recruitment of a replacement.

Fire:

- Fire District Consolidation: Transition Committee Meeting: April 6 - Total Committee on May 9-
- FEMA grant for \$438,000- hardware, software, mobile data laptops.

- Hired a ½ time staff assistant- Renee Gaerlan in the Fire Prevention Office

General Services:

- GIS Coordinator Sara Kane was hired by the FBI- Her last day is April 6 as she must report for training on April 10. We will be contracting for GIS assistance in the short term and recruiting a replacement.

IGS:

- Normal Grant seeking, contracting and administration
- Received FEMA Grant for hardware, software and mobile data units for the Fire Dept.- \$438,486 (\$22,000 match).
- Sponsored a grant on behalf of Advocates and reviewed and executed a MOU for the grant from the Office on Violence Against Women, Safe Havens program.
- Many meetings regarding the Bike Town USA initiative and possible application to State of Colorado to develop a Sales Tax Increments Financing (TIF) for various bike improvements in and around Steamboat Springs.

Parks, Open Space, and Recreational Services:

- Working on Capital Plan for Haymaker Golf Course for discussion with Accommodation Tax meetings.
- New internal controls and software for the Parks & Rec. – Ice Arena
- Four (4) current FTE vacancies in the Dept. – Wendy, Deb, John and Chris area evaluating these positions to see if any can be eliminated, downgraded to part-time or seasonals

Planning/Public Works:

- Philo and Ty working with staff and public re: enforcement of Secondary Unit rentals.
- Planning Dept. is beginning the public outreach stage of the Steamboat Springs Community Area Plan Update. Presentation to Planning Commission on Mar. 24, Council on April 5.

Police:

- CAD/RMS (Joint project with Routt County and grant funded) project proceeding: Vendor selection in next 30 days.
- Replacement Patrol Officer hired: Officer Kristin Bantle started work April 1.
- Replacement Patrol Officer recruitment: New hire should start work by May 1.

AGENDA ITEM # 22b1

CITY COUNCIL COMMUNICATION FORM

FROM: Deb Hinsvark, Finance Director (Ext. 240)
Anne Small, Interim Director of General Services (Ext. 249)

THROUGH: Wendy DuBord, Interim City Manager (Ext. 219)

DATE: April 5, 2011

ITEM: Iron Horse Inn operations and management

NEXT STEP: Council direction

MOTION
 INFORMATION

I. REQUEST OR ISSUE:

Staff requests Council approval of the evaluation committee's recommendation for the City to continue operating the Iron Horse Inn. Staff requests policy direction from Council on whether to continue operations with nightly and monthly rentals or to operate the property as workforce housing only by converting the hotel building into suitable 1 bedroom and efficiency units.

II. RECOMMENDED ACTION / NEXT STEP:

Recommendation, direction and motion from Council.

III. FISCAL IMPACTS:

See attached spreadsheets for the various scenarios

IV. BACKGROUND INFORMATION:

As Council is aware, the City terminated the lease with New West Inns effective January 17, 2011 and assumed responsibility for operating and managing the Iron Horse Inn. A Request For Proposals for operations and management of the inn was issued in January and in response, the City received three proposals. The submittals proposed three different approaches to operate the facility including: a partnership leasing the property and providing nightly rentals and hostel type room alternatives; an individual providing property management services either as a

contractor or employee; a consortium occupying the nightly building only for entrepreneurial housing and a business development center.

An evaluation committee comprised of City Council members Jon Quinn and Walter Magill, City staff Deb Hinsvark, Tyler Gibbs and Anne Small, Steamboat Building Corporation board members Dean Vogelaar and Dale Mellor and local banker Wade Gebhardt reviewed the proposals and participated in the interview process of the three proposers. Listed below is a brief summary of each of the three proposals with the committee's evaluation of their pros and cons:

1. Innovation 333
Occupy the nightly rental building only to operate entrepreneurial housing and development center – City to continue operating monthly rental building.
Projected Annual Revenue to City: Net revenue; \$0 for the first year
Pro: City collects all revenue for monthly rentals and reduces operating expenses
Con: High risk venture with no guarantee of success; little or no revenue to City; first year of operation projected to lose \$69,000; tenant finishes required – no funding source identified.
2. Chris Stillwell
Manage the facility as currently operated (nightly and monthly rentals) as property manager either contracted or employed by the City. Proposed annual salary for manager - \$67,000.
Projected Income to City: Same as current
Pro: Experience in the hotel industry
Con: City already has this type of management in place with a current City employee at a lower salary
3. Danny Weiss and Ben Weaver
Lease the entire property for \$4,000 per month plus 10% of net revenue at a to-be-determined threshold.
Projected Annual Revenue to City: \$48,000
Pro: Relieves City of operation responsibilities
Con: City responsible for repairs and maintenance of equipment and systems, snow removal and pest control. City must guarantee \$4,000 annually for capital improvements. Significantly reduced revenue to City

The evaluation committee unanimously agreed that the proposed approaches did not offer a compelling reason to change from the current operating model. One committee member summarized the group's view as follows: *"The City has tried to put in place outside management companies, which have failed. As a step, the City put in place a specific on-site employee who is managing it well and reducing costs. From the interviews and reviews from the recent proposals, we simply did not receive a proposal that made us comfortable we could improve on what is in place – and why take more risk and perhaps run into issues again. Everyone is sensitive to the competition issue and it will be monitored. However, the move to more longer*

term rentals as opposed to just nightly moves it further away from competition and offers stabilization. I also thought your points about not having to dip into reserves is important. We are at the point a good, sound business decision has to be made, and we think this is the best decision as we continue to look for an exit plan.”

Staff prepared pro forma analysis for continuing to operate the property with nightly and monthly rentals and an analysis for converting the hotel building to (4) one-bedroom and (17) efficiency units to be used exclusively for monthly rentals. The attached spreadsheets identify the revenue and expenses for both operating models and list the pros and cons for each method.

V. LEGAL ISSUES:

Because the property serves as collateral for the financing, the Iron Horse Inn must be operated as a viable property and the City does not have the option of simply closing the nightly rental building.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

Whether the City or another entity operates the property, the City will still be viewed as competing with the private sector.

VII. SUMMARY AND ALTERNATIVES:

1. Approve the evaluation committee recommendation for the City to continue operating the property.
2. Provide policy direction on method of operation: continue with nightly and monthly rentals or convert hotel building and the property provides workforce housing only.

ATTACHMENTS:

Attachment 1. Operating Options spreadsheet.

**Iron Horse
Nightly and Monthly Operating Option**

Assumptions	Old Building - 95% Hotel Nightly - 75% ADR - \$75	Old Building - 95% Hotel Nightly - 60% ADR - \$75	Old Building - 95% Hotel Nightly - 40% ADR - \$75
Income - Old Building			
(22) Efficiency Rooms @ \$600 / mo.	\$150,480	\$150,480	\$150,480
(2) One-bedrooms @ \$700/mo.	\$15,960	\$15,960	\$15,960
Income - Motel Building			
24 hotel rooms	\$492,750	\$394,200	\$262,800
Total Income	\$659,190	\$560,640	\$429,240
Payroll - Manager (1)	\$ 62,263	\$ 62,263	\$ 62,263
Payroll - Assistant Manager (1)	\$ 47,753	\$ 47,753	\$ 47,753
Payroll - Maintenance Worker (.75)	\$ 30,488	\$ 30,488	\$ 30,488
Payroll - Housekeeper (.50)	\$ 22,298	\$ 22,298	\$ 22,298
Overtime	\$ 5,833	\$ 5,833	\$ 5,833
Leases and Rentals	\$ 1,800	\$ 1,800	\$ 1,800
Advertising	\$ 2,000	\$ 2,000	\$ 2,000
Booking system	\$ 2,400	\$ 2,400	\$ 2,400
Trash removal	\$ 2,600	\$ 2,600	\$ 2,600
Pest control	\$ 1,000	\$ 1,000	\$ 1,000
Alarm monitoring	\$ 900	\$ 900	\$ 900
Satellite TV	\$ 7,800	\$ 7,800	\$ 7,800
Internet services	\$ 1,200	\$ 1,200	\$ 1,200
Communications	\$ 4,200	\$ 4,200	\$ 4,200
Utilities	\$ 56,000	\$ 56,000	\$ 56,000
Miscellaneous Fees (credit cards)	\$ 6,000	\$ 6,000	\$ 6,000
Operating Supplies (breakfast, linens, etc)	\$ 20,000	\$ 15,000	\$ 15,000
R&M Buildings & Grounds	\$ 20,001	\$ 20,001	\$ 20,001
R&M Machinery & Equipment	\$ 5,000	\$ 5,000	\$ 5,000
Total Expense	\$ 299,536	\$ 294,536	\$ 294,536
Net Revenue	\$359,654	\$266,104	\$134,704

Capital Investment Required	\$ 100,000
------------------------------------	-------------------

Pros:

- Needs \$200,000 less in capital improvements
- As economy improves, greater potential for significant revenue increase
- More diverse source of revenue

Cons:

- Higher operating costs (payroll, housekeeping supplies)
- Perceived as competing with the private sector

Iron Horse Converted - Operating Options

Assumptions	Old Building - 95% Converted hotel - 90%	Old Building - 95% Converted hotel - 60%	Old Building - 95% Converted hotel - 40%
Income - Old Building			
(22) Efficiency Rooms @ \$600 / mo.	\$150,480	\$150,480	\$150,480
(2) One-bedrooms @ \$700/mo.	\$15,960	\$15,960	\$15,960
Income - Motel Building			
(1) Two-Bedroom @ \$1,000/mo.	\$10,800	\$7,200	\$4,800
(4) One-Bedrm. Efficiency Rms @ \$700 / mo.	\$30,240	\$20,160	\$13,440
(17) Efficiency Rooms @ \$500 / mo.	\$91,800	\$61,200	\$40,800
Total Income	\$299,280	\$255,000	\$225,480
Expenses			
Utilities	\$56,000	\$56,000	\$56,000
R&M Buildings & Grounds	\$20,000	\$20,000	\$20,000
Cleaning	\$5,000	\$5,000	\$5,000
Trash	\$2,500	\$2,500	\$2,500
Alarm Monitoring	\$900	\$900	\$900
Phone	\$4,200	\$4,200	\$4,200
Internet	\$1,200	\$1,200	\$1,200
Satellite	\$7,800	\$7,800	\$7,800
Pest Control	\$1,000	\$1,000	\$1,000
Total Expenses	\$98,600	\$98,600	\$98,600
Net Revenue	\$200,680	\$156,400	\$126,880

Capital Investment Required	\$300,000
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Pros:

- Reduced operating costs (no payroll, housekeeping supplies)
- Provides low income housing
- Anticipate 90% occupancy in current economy
- More stable revenue
- Eliminates perception of competition with private sector

Cons:

- Requires \$200,000 more in capital investment
- Finite revenue stream - limits the upside

Assumptions	Old Building - 95% Converted hotel - 90%	Old Building - 95% Converted hotel - 60%	Old Building - 95% Converted hotel - 40%
Income - Old Building			
(22) Efficiency Rooms @ \$600 / mo.	\$150,480	\$150,480	\$150,480
(2) One-bedrooms @ \$700/mo.	\$15,960	\$15,960	\$15,960
Income - Motel Building			
(1) Two-Bedroom @ \$1,050/mo.	\$11,340	\$7,560	\$5,040
(4) One-Bedrm. Efficiency Rms @ \$750 / mo.	\$32,400	\$21,600	\$14,400
(17) Efficiency Rooms @ \$550 / mo.	\$100,980	\$67,320	\$44,880
Total Income	\$311,160	\$262,920	\$230,760
Expenses			
Utilities	\$56,000	\$56,000	\$56,000
R&M Buildings & Grounds	\$20,000	\$20,000	\$20,000
Cleaning	\$5,000	\$5,000	\$5,000
Trash	\$2,500	\$2,500	\$2,500
Alarm Monitoring	\$900	\$900	\$900
Phone	\$4,200	\$4,200	\$4,200
Internet	\$1,200	\$1,200	\$1,200
Satellite	\$7,800	\$7,800	\$7,800
Pest Control	\$1,000	\$1,000	\$1,000
Total Expenses	\$98,600	\$98,600	\$98,600
Net Revenue	\$212,560	\$164,320	\$132,160
Capital Investment Required	\$300,000		

Assumptions	Old Building - 95% Converted hotel - 90%	Old Building - 95% Converted hotel - 60%	Old Building - 95% Converted hotel - 40%
Income - Old Building			
(22) Efficiency Rooms @ \$600 / mo.	\$150,480	\$150,480	\$150,480
(2) One-bedrooms @ \$700/mo.	\$15,960	\$15,960	\$15,960
Income - Motel Building			
(1) Two-Bedroom @ \$1,100/mo.	\$11,880	\$7,920	\$5,280
(4) One-Bedrm. Efficiency Rms @ \$800 / mo.	\$34,560	\$23,040	\$15,360
(17) Efficiency Rooms @ \$600 / mo.	\$110,160	\$73,440	\$48,960
Total Income	\$323,040	\$270,840	\$236,040
Expenses			
Utilities	\$56,000	\$56,000	\$56,000
R&M Buildings & Grounds	\$20,000	\$20,000	\$20,000
Cleaning	\$5,000	\$5,000	\$5,000
Trash	\$2,500	\$2,500	\$2,500
Alarm Monitoring	\$900	\$900	\$900
Phone	\$4,200	\$4,200	\$4,200
Internet	\$1,200	\$1,200	\$1,200
Satellite	\$7,800	\$7,800	\$7,800
Pest Control	\$1,000	\$1,000	\$1,000
Total Expenses	\$98,600	\$98,600	\$98,600
Net Revenue	\$224,440	\$172,240	\$137,440

Capital Investment Required	\$300,000
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AGENDA ITEM # 23a

CITY OF STEAMBOAT SPRINGS

REGULAR MEETING NO. 2011-05

TUESDAY, MARCH 1, 2011

MINUTES

Ms. Cari Hermacinski, City Council President, called Regular Meeting No. 2011-05 of the Steamboat Springs City Council to order at 5:15pm, Tuesday, March 1, 2011, in Centennial Hall, Steamboat Springs, Colorado.

City Council Members present: Cari Hermacinski, Jon Quinn, Meg Bentley; Bart Kounovsky, Walter Magill, and Kenny Reisman. Scott Myller was absent.

Staff Members present: Wendy DuBord, Deputy City Manager; Tony Lettunich, City Attorney; Julie Franklin, City Clerk; Janet Hruby, City Engineer; Tyler Gibbs, Director of Planning and Community Development; Kim Weber, Manager of Budget and Tax; Seth Lorson, City Planner; Chris Wilson, Director of Parks, Recreation and Open Space; Bob Litzau, Controller; Joe Zimmerman, Water Superintendent; Winnie DelliQuadri, Government Programs Manager; Brooke Lightner, Recreation Manager; Anne Small, Interim Director of Internal Services; Ron Lindroth, Fire Chief; and Joel Rae, Police Captain.

NOTE: All documents distributed at the City Council meeting are on file in the Office of the City Clerk.

COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:

1. Grand Futures report on results of the Healthy Kids Colorado Survey.

Ms. Kate Marshall, Grand Futures Prevention Coalition, was present and provided a PowerPoint presentation highlighting the following: their mission and vision; lifetime use; lifetime use of alcohol; 30 day use of alcohol; binge drinking; lifetime use of marijuana; 30 day use of marijuana; use of prescription drugs without prescription; ease of obtaining alcohol; ease of obtaining marijuana; impaired driving/alcohol; impaired driving/marijuana; impaired driving/alcohol; impaired driving/marijuana; Police Department informal survey; 8th grade; Leadership class; and conclusions.

Council Member Magill asked what the City can do to assist Grand Futures. Ms. Marshall stated that providing alternative activities is very important so that

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teens do not get involved in substance abuse. Additionally, support and help with any new initiatives.

City Council President Hermacinski spoke to the statistic for impaired driving between 7th and 11th grade, noting that four out of five of the grades have increased. Ms. Marshall stated that the Department of Transportation is one of their funders and they are working on an awareness campaign. This will definitely be something that they are focusing on.

PUBLIC COMMENT:

Mr. Owen McIntosh believes that the Grand Futures organization is great. He stated that he has seen that Council does care, however he thinks that Council needs to "back it" a little more. Letting it be known that Council is dedicated to teen causes will be very impactful.

Mr. Charlie Parnel, advisor of Grand Futures, wants Steamboat Springs to be a community that supports, honors and respects our kids. If the City made a statement that kids are important then kids can feel respected and cared about.

City Council President Hermacinski stated that she is disappointed that there is the impression that Council is not supportive of teen issues because the City funds these entities and also sends representatives to their meetings.

2. Teen Council Update.

Ms. Lightner was present.

Ms. Shelby Dyer, senior at Lowell Whiteman School, provided an update on the Teen Council's goals and accomplishments.

Ms. Maria Hillenbrand senior at Steamboat Springs High School, spoke to what they are working on this year.

Mr. Owen McIntosh, junior at Steamboat Springs High School, also spoke to what they are currently working on and their goals. He stated that they are happy to be making decisions that are pertinent to teens and welcomed Council Members to attend their meetings.

Ms. Lightner spoke to their survey, in which they hope to capture some outcomes by monitoring pre and post survey results to see if attitudes changed regarding how teens view their ability to make an impact.

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Council Member Reisman asked how the Teen Council's voice is heard among peers. Ms. Dyer stated that amongst peers it is "a friendship thing". Mr. MacIntosh feels that communication is very effective; his friends relay issues to him that he then passes on.

Ms. Lightner stated that one of their goals is to conduct a forum of peer groups to collect feedback and to use it as a recruiting event.

Council Member Magill stated that the bike trail extension, skate park access, tubing and a teen center are big issues for him. He asked the Teen Council in the future to reflect on the question "If we were in charge, where we would put the money?"

3. Update from Search and Rescue.

Mr. Russ Sanford stated that they are gracious for the City's financial contribution. He noted that in 2010 there were 79 calls for service, their second busiest year ever. Of those calls 32 were incident command only, five were outside agency assists and two were stand-by. They conducted 47 search or rescues, 26 rescues, 21 searches, and so far in 2011 have had 16 calls. A total of 118 people saved, 67 living in Routt County, 34 in Colorado and 17 out of State. As far as the type of rescue, there were 29 snowmobilers, 19 hunters, 15 skiers and 12 hikers.

He stated that they have spent a lot of money lately, contributing \$50,000 to the Routt County Communications vehicle and spending \$35,000 on radios.

Their operating budget includes paying for rescues; if it can't be reimbursed Search and Rescue will pay for it. However, if a subject has fishing, hunting license or registers an ATV or boat part of the money goes into a fund and Search and Rescue can apply to the State to get reimbursed. In 2010 they were reimbursed \$5,500.

4. Update on State water Bills/issues.

Mr. Fritz Holleman stated that the Yampa River is the last water source in the State with significant un-appropriated water, and is surrounded by large/thirsty water users.

He spoke to the State Water Supply Initiative, the water planning process and the "water gap" difference between supply and what the population will need by the year 2050. The water gap has become the driver for State water policy. The

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Interbasin Compact Committee is working on being a facilitator and driver of the projects necessary to fill the water gap.

He spoke to the legal structure piece, the "law of the river", and what happens when there is a compact call; how would Colorado honor the compact call? There is the possibility of shutting down junior users until Colorado is meeting its obligation. The City needs to be ready and make sure it is protecting its water supplies. He noted that "pre-1922" water rights are very valuable because they are not affected by a compact call.

He spoke to the following House Bills that were "killed": 11-1068, 11-1150, and 11-1034.

Specific issues of note: complete Municipal Well A plan for augmentation; complete water rights inventory, map, and accounting protocol; secure protection in water court from claims by other water users; repair and expand the boating park; Elk River development; and increased participation in water forums to track big picture issues.

Council Member Bentley asked if there is any talk of cleaning up contradictory parts of the compacts. Mr. Holleman stated that there is talk, and it is recommended to be proactive to work with down basin States in an effort to avoid litigation. Council Member Bentley asked if Douglas County can be required to only develop projects that bring water. Mr. Holleman stated that he needs to research past legislation but that House Bill 1151 does require that developments provide water rights to cover the anticipated use their development will bring.

City Council President Pro-Tem Quinn how many "pre-1922": water rights the City has. Mr. Holleman stated that it is not much; most of the City's water is junior to the compact. The .5 acre foot right on the Hoyle and Knight Ditch that the City got from the Barn Village development is a pre-Compact right.

Council Member Kounovsky asked about the Elk River Basin and storage reservoirs? Mr. Holleman stated that Steamboat Lake has a significant amount of storage and the City should explore purchasing some of that existing capacity. This issue was put on the "back burner" due to Steamboat 700.

Council Member Kounovsky asked if there are capital budget dollars set aside for projects. Mr. Zimmerman stated yes, in the Enterprise Fund money is set aside for water firming. Anything with respect to the Elk River is several years down the road.

PUBLIC COMMENT: No one appeared for public comment.

5. Regional Tourism Act.

Ms. DelliQuadri spoke to the Regional Tourism Act (RTA) statute passed last year that allows the State to award two projects a portion of sales tax revenues for the next 30 years. We have requested to build tourism infrastructure in Steamboat Springs and have identified Bike Town USA as the project. She noted that the City was encouraged to apply for this and may have a chance to get these dollars because we can sell how biking can be like skiing in the State.

Ms. DelliQuadri handed out and explained a revised zone map and noted that the County Commissioners are supportive of partnering on this project.

One challenge is that in order for this proposal to be successful Ski Corp. has to be on board and must commit to fully building out a master plan, which is dependent upon financing (\$100,000 a year for 10 years). The City can't use the RTA dollars on federal lands; so she is suggesting having \$300,000 to \$500,000 of the accommodations tax go towards building downhill trails at the ski area.

PUBLIC COMMENT:

Mr. Michael Loomis, President of Routt County Riders, stated that they are fully supportive of Bike Town USA and this resolution. The group's goals are aligned and he believes that this is a great step forward.

Mr. Rich Lowe, Bike Town USA, believes that this is a great opportunity. The Whistler mountain destination is a resort whose population is roughly the same size as Steamboat Springs and their bike revenues now exceed their ski revenues. There is the opportunity to do that here as well.

Ms. Diane Mitsch Bush, Bike Town USA, believes this is an immense opportunity, not only in terms of facilities, but in terms of marketing Steamboat Springs as an international cycling destination.

Council Member Magill asked about adding core trail extension to the project. Ms. DelliQuadri stated that they are trying to focus on how to connect a tourist who is staying in a lodging property, to trails. Extending the core trail west does not connect a tourist with a trail.

Part of RTA process is to submit data of how much tourism we think we will generate and it is required to have a third party review the data and confirm the numbers. The City would have to pay for that, but only if the project is in contention for award. The funds for this would come from the grant match fund.

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Discussion commenced on the timeline and if the City is approving something that has unknown operating costs? Ms. DelliQuadri noted that the City has an additional two months to gather information, which will include more on operating costs.

Ms. DelliQuadri noted that she spoke with Mr. Jim Schneider from Ski Corp. and they are in support and willing to sign a letter of intent to build out, dependent on revenues. She suggested that the City may want to figure out how to assist the ski area in building out.

Ms. DuBord noted that the April 5 agenda includes a discussion on the accommodation tax, and stated that the City will probably have to commit to use money to help Ski Corp. in order to make our application competitive.

**CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES
FIRST READINGS**

- 6. RESOLUTION: A resolution supporting the application to the Colorado Economic Development Commission for the funding of Bike Town USA Initiative through the Regional Tourism Act and the establishment of a Regional Tourism Zone and Regional Tourism Authority.**

City Council President Hermacinski read the resolution title into the record.

MOTION: City Council President Pro-Tem Quinn moved and Council Member Magill seconded to approve a resolution supporting the application to the Colorado Economic Development Commission for the funding of Bike Town USA Initiative through the Regional Tourism Act and the establishment of a Regional Tourism Zone and Regional Tourism Authority; amended map. The motion carried 6/0. Council Member Myller was absent.

GENERAL PUBLIC COMMENT:

No one appeared for General Public Comment.

PUBLIC HEARING: ORDINANCE SECOND READINGS

- 7. SECOND READING OF ORDINANCE: Second 2011 Supplemental Appropriation Ordinance/Orton Property purchase.**

City Council President Hermacinski read the ordinance title into the record.

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PUBLIC COMMENT: No one appeared for public hearing.

MOTION: Council Member Magill moved and Council Member Bentley seconded to approve the second reading of the Second 2011 Supplemental Appropriation Ordinance/Orton Property purchase. The motion carried 5/1. City Council President Hermacinski opposed. Council Member Myller was absent.

8. SECOND READING OF ORDINANCE: Third 2011 Supplemental Appropriation Ordinance and establishment of Quiznos Pro Challenge Race special revenue fund.

City Council President Hermacinski read the ordinance title into the record.

PUBLIC COMMENT: No one appeared for public hearing.

MOTION: Council Member Kounovsky moved and Council Member Bentley seconded to approve the second reading of the Third 2011 Supplemental Appropriation Ordinance and establishment of Quiznos Pro Challenge Race special revenue fund. The motion carried 6/0. Council Member Myller was absent.

9. SECOND READING OF ORDINANCE: An ordinance approving a hangar lease to Jean P. Sagouspe, Old West Management at the Steamboat Springs Airport and authorizing City Council President to sign lease documents; repealing all conflicting ordinances; providing for severability; and providing an effective date.

City Council President Hermacinski read the ordinance title into the record.

PUBLIC COMMENT: No one appeared for public comment.

MOTION: Council Member Bentley moved and City Council President Pro-Tem Quinn seconded to approve the second reading of an ordinance approving a hangar lease to Jean P. Sagouspe, Old West Management at the Steamboat Springs Airport and authorizing City Council President to sign lease documents; repealing all conflicting ordinances; providing for severability; and providing an effective date. The motion carried 6/0. Council Member Myller was absent.

10. SECOND READING OF ORDINANCE: An ordinance vacating a utility easement located within a portion of Lot 6, Mid Valley Business Center (City South Subdivision).

City Council President Hermacinski read the ordinance title into the record.

PUBLIC COMMENT: No one appeared for public comment.

MOTION: City Council President Pro-Tem Quinn moved and Council Member Magill seconded to approve the second reading of an ordinance vacating a utility easement located within a portion of Lot 6, Mid Valley Business Center (City South Subdivision). The motion carried 6/0. Council Member Myller was absent.

CONSENT CALENDAR - PLANNING COMMISSION REFERRALS

PLANNING
PROJECTS

11. Planning Commission Report.

Mr. Brian Hanlen asked for direction regarding the policy list provided in the written report. With respect to TAC review, with a large project/policy discussion, allows the applicant to get questions answered before they spend a significant amount of money. How can an applicant get input earlier in the process where a vote is taken and they can take input to work on the details?

Mr. Gibbs believes that staff can create an option for an earlier conceptual review and phased approvals. They are working with a number of stakeholders and believe they can move forward with a more appropriate review process without a Code amendment at this time. This would allow applicants to get approval on the fundamental, conceptual parameters of the project. This would not excuse an applicant from having to "prove it out".

City Council President Hermacinski asked about removal of the 10 percent rule? Mr. Gibbs stated that staff will put this on the priority list. City Council President Hermacinski urged that now is the time to make improvements to the Code.

Council Member Kounovsky asked about Urban Growth Boundary (UGB) line adjustment. Mr. Hanlen stated that it was determined that the criteria were impossible to meet. The UGB was placed too large, too quickly. He suggested contracting the UGB line and changing the criteria. Mr. Gibbs stated that the first phase of the Community Plan update is to find out which sections will be a priority, get feedback and then move forward. If the UGB is one of those priorities then they will move forward.

Mr. Hanlen asked what Council wants from the infill analysis chart? Mr. Gibbs stated that the infill chart will be part of presentation on April 5, 2011.

City Council President Hermacinski stressed the importance of the Planning Commission, noting that Council highly values the work that they do.

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PUBLIC COMMENT:

Mr. Ryan Spaustat believes that the TAC process is cumbersome, detailed and expensive. For an applicant to get feedback on broad general, questions initially is helpful.

Mr. Mark Scully stated that he is a huge believer of downtown walkability and he asked to be included in the conversation.

12. PROJECT: Howelsen Place, Unit B-104

PETITION: Development Plan to process a Conditional Use, office on the pedestrian level in Commercial Old Town zone district.

City Council President Hermacinski read the project into the record.

Council Member Bentley supports this but stated that it has been "a fight with herself". When she was at the CML conference in Breckenridge she noticed a lot of the storefronts on their main street are real estate offices and she did not like it. She does not like the idea of eroding the Lincoln Avenue experience by having real estate offices.

Mr. Lorson stated that staff has discussed this and noted that on site sales offices will be a temporary use for mixed use projects and the use will extinguish itself.

PUBLIC COMMENT: No one appeared for public comment.

CONDITIONS:

1. The use is allowed to promote and execute only the first-time sale of units.
2. This real estate sales office will be used to promote two developments only, specifically Howelsen Place and Alpenglow.

MOTION: Council Member Kounovsky moved and Council Member Reisman seconded to approve the Howelsen Place Development Plan to process a Conditional Use, office on the pedestrian level in Commercial Old Town zone district with conditions 1-2. The motion carried 6/0. Council Member Myller was absent.

PUBLIC HEARING – PLANNING COMMISSION REFERRALS

There were no items on this portion of the agenda.

REPORTS

13. Economic Development Update.

Council Member Bentley provided a copy of a "letter to the editor" from Mr. Scott Ford. She thinks that the differences between "economic benefit", "economic impact" and "economic development" are crucial to all further discussions.

Ms. DuBord noted that there will be three opportunities to discuss economic development before the March 15 meeting: a meeting with Ms. Bennett, a meeting with Governor Hickenlooper and a meeting in Craig. She provided a written update on the recent CML Legislative Worksession that she, Ms. DelliQuadri and Council Member Bentley attended. They had a meeting with Senator White and the Governor's cabinet members and Mr. Dwayne Romero regarding the RTA.

Council to review these items and get input to staff by Friday.

14. City Council

Council Member Kounovsky:

1. Attended an IRAC meeting. The Committee liked having a Council representative present, but noted that it may not be necessary for every meeting. Discussion took place regarding a second sheet of ice.
2. Attended a Building Department meeting where they discussed their budget problems and records retention.
3. Asked about the Notice the City received regarding audit of the Employee Housing Fund. Ms. DuBord stated that staff is taking care of it.

Council Member Reisman:

1. Likes the format of the written City Manager update that Ms. DuBord has been providing.
2. Asked about the consistency of Council meeting representation. City Council President Hermacinski noted that some rotate and some require one representative by IGA. It was noted that consistency might be beneficial for IRAC, Council Member Kounovsky suggested 6 months.
3. Met with Ms. Noreen Moore and outdoor recreation industry representatives to get feedback on what businesses want from Council.

**STEAMBOAT SPRINGS CITY COUNCIL MINUTES
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City Council President Hermacinski:

1. Attended a Lodging Committee meeting and let them know the City's ideas regarding the accommodations tax and it was a good conversation.

Council Member Bentley:

1. Spoke to the recent CML Legislative Update, specifically initiative reform; Hickenlooper's statement on effective, efficient and elegant government; Dwayne Romero's discussion on making the line between state and local leadership shorter; and the House Bills that CML supports and does not support.

15. Reports

a. Agenda Review:

- 1.) **City Council agenda for March 15, 2011.**
- 2.) **City Council agenda for April 5, 2011.**

Council reviewed the above agendas.

16. Staff Reports

a. City Attorney's Update/Report.

Mr. Lettunich had no report.

b. Manager's Report: Ongoing Projects.

Ms. DuBord provided a written update.

1.) False Alarm Ordinance Update.

Ms. DuBord stated that the City has received some complaints about the false alarm ordinance; however staff does believe that it is working and many have fixed their systems. She reported 30 percent of calls to the Fire Department are false alarms and this ordinance is an attempt to reduce the number of false alarm calls.

Captain Joel Rae noted that the Police Department did not begin enforcing the ordinance until September 1, but since then has seen a small decrease. Staff believes it will work; staff has only had six months to evaluate and would like to evaluate for another six months.

Mr. Lindroth stated that in order for built in fire protection and early warning to occur it needs to operate properly and false alarms frequency should be more like ten percent. They have seen a statistical drop in the last six months

(dropped nine percent, four percent drop in total call volume). He would like to continue to monitor and believes that a fair process is in place.

PUBLIC COMMENT:

Ms. Amy Garris, manager of several commercial buildings, stated that she has received three warnings and believes that there is a "gray area". In one situation a motion sensor went off at 3:00am when no one was in the building so she dispatched the Police Department. It turns out that it was a chair that had fallen off a table, which was not the result of a malfunctioning system but a sensitive system.

2.) Skate Park Access Update/Cost Estimate.

City Council President Hermacinski stated that the skate park user group has not identified access as a priority and if they want to construct an access the funds will come out of the City's paving program. She voiced concern with the "huge deferred maintenance bubble".

Ms. Hruby noted that there is an approved conceptual plan for Bear River Park and with the skate park the initial plan was for access from the core trail and emergency access only.

City Council President Hermacinski stated that if the user group has money to put in an access, great, but she is not in favor of taking money from the budget.

Mr. Jon Casson, Skate Park Alliance, stated that the most common question they get is how to get there because it is a little confusing. However, they spent all their money on building the park; they can raise more but their priority is to expand the park. He stated that they can try to raise money for the road in order to put in the bare minimum access to allow people to drive to the park.

Council Member Kounovsky does not think this is a priority over other budget items, but he suggested "putting it in the mix" for next year.

Council Member Magill stated that the City was chastised for opening the facility without adequate access. He would like to see the City match fundraising for a road, if not put it in next year's budget.

Mr. Casson stated that his belief was that the access road would come later with the build out of Bear River Park.

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City Council President Hermacinski stated that yes, ultimately a road is the City's responsibility, however there is no money to do it right now.

Council Member Reisman suggested putting it back in the CIP and see where it comes out.

OLD BUSINESS

17. Minutes

- a. **Special Meeting SP-2011-02, January 31, 2011.**
- b. **Regular Meeting 2011-03, February 1, 2011.**
- c. **Regular Meeting 2011-04, February 15, 2011.**

MOTION: City Council President Pro-Tem Quinn moved and Council Member Kounovsky seconded to approve the January 31, February 1 and 15, 2011 City Council minutes. The motion carried 6/0. Council Member Myller was absent.

ADJOURNMENT

MOTION: City Council President Pro-Tem Quinn moved and Council Member Reisman seconded to adjourn Regular Meeting 2011-05 at approximately 8:40. The motion carried 6/0. Council Member Myller was absent.

MINUTES PREPARED, REVIEWED AND RESPECTFULLY SUBMITTED BY:

Julie Franklin, CMC
City Clerk

APPROVED THIS _____ DAY OF _____, 2011.

AGENDA ITEM # 23b

CITY OF STEAMBOAT SPRINGS

REGULAR MEETING NO. 2011-06

TUESDAY, MARCH 15, 2011

MINUTES

Ms. Cari Hermacinski, City Council President, called Regular Meeting No. 2011-06 of the Steamboat Springs City Council to order at 4:15pm, Tuesday, March 15, 2011, in Centennial Hall, Steamboat Springs, Colorado.

City Council Members present: Cari Hermacinski, Jon Quinn, Meg Bentley; and Bart Kounovsky. Walter Magill arrived at 4:16pm; Scott Myller arrived at 4:25pm and Kenny Reisman arrived at 4:35pm.

Staff Members present: Philo Shelton, Acting City Manager; Tony Lettunich, City Attorney; Julie Franklin, City Clerk; Tyler Gibbs, Director of Planning and Community Development; Chris Wilson, Director of Parks, Recreation and Open Space; Deb Hinsvark; Director of Financial Services; Bob Keenan, City Planner; Anne Small, Interim Director of Internal Services; Ron Lindroth, Fire Chief; and JD Hays, Police Chief.

NOTE: All documents distributed at the City Council meeting are on file in the Office of the City Clerk.

EXECUTIVE SESSION (4:15 P.M.)

EXECUTIVE SESSION: To discuss the topics set forth below. The specific citation to the provision or provisions of C.R.S. §24-6-402, subsection (4) that authorize(s) the City Council to meet in an executive session is set out below. The description of the topic is intended to identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the executive session is authorized:

- a. A discussion of personnel matters. This discussion is authorized under the following provisions:

§24-6-402(4)(f)(I), which permits an executive session to discuss "[p]ersonnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting."

**STEAMBOAT SPRINGS CITY COUNCIL MINUTES
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MOTION: Council Member Bentley moved and Council Member Magill seconded to adjourn Regular Meeting 2011-06 at approximately 4:15pm to go into Executive Session for the reason set forth above. The motion carried 5/0. Council Member Reisman and Council Member Myller had not yet arrived.

Council Member Myller arrived at 4:25pm and Council Member Reisman arrived at 4:35pm.

MOTION: Council Member Bentley moved and Council Member Magill seconded to come out of Executive Session and reconvene the Regular Meeting 2011-06 at approximately 4:45pm. The motion carried 7/0.

Persons attending the Executive Session: Cari Hermacinski, Jon Quinn, Meg Bentley, Walter Magill, Scott Myller, Bart Kounovsky, Kenny Reisman, Tony Lettunich, and Philo Shelton.

City Council President Hermacinski noted for the record, that if any person who participated in the executive session believes that any substantial discussion of 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, that person should state his/her concerns for the record.

No concerns were indicated.

PROCLAMATIONS:

- 1. PROCLAMATION: A proclamation recognizing four musicians from the Steamboat Springs High School who auditioned and made All-State bands.**

Council Member Kounovsky read the proclamation into the record.

Connor Hagerty, Lev Tsy-pin, Jake Barker, and Garrison Osteen were present to accept the proclamation.

Mr. James Knapp, High School Band Director, was also present. He stated that in four years, the band program has gone from 10 to 62 students. It is a pleasure to work with these students and he is proud of their commitment, dedication and hard work. The High School has a strong music program, thanks to the leadership and talents of these students.

COMMUNITY REPORTS/CITY COUNCIL DISCUSSION TOPIC:

2. Economic Development discussion with Roger Good.

Mr. Good reminded Council of the need to try to set a policy that staff can “flesh out” and then develop procedures.

Discussion commenced on the following PowerPoint slides: definitions; local economy three key policies; and existing City activities.

Three key policies:

1. Existing activity: preserve and protect City assets and amenities.
2. Existing activity: promote leverage increase utilization of existing private assets.

Discussion commenced on combining Economic Development Committee’s (EDC’s) (Chamber, Mountain Village Partnership, Mainstreet) and having a separate economic coalition to evaluate funding. There may be some redundant organizations that may be better served by one group.

3. New policy: increase diversity and average wage source compensation.

Discussion commenced on a website that is business and visitor friendly. A business must increase diversity and pay a good wage in order for the City to financially assist it.

PUBLIC COMMENT: No one appeared for public comment.

A revised vision statement prepared by Council Member Bentley was circulated.
UNANIMOUS CONSENT: All supported this vision statement.

The following changes were made on page 2-3/Policy #1:

Maintain City infrastructure through increased attention to deferred maintenance **or needed improvements.**

Move “promote business retention” to *Leverage existing private infrastructure.*

Make “support Howelsen Hill” an action item.

Add “private/public partnerships” to this page.

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Make the following changes on page 2-4/Policy #2:

Move "streamline City processes" to Policy #1.

Staff to work on the "who" for partnerships.

Bike Town USA is an action item.

Page 2-5/Policy #3:

Remove "encourage green initiatives".

Items 3, 4, and 5 are top priorities: enhance messaging, create and enhance a business support system and accountability for partners.

Should Council create an enterprise zone for whole City?

Under "attributes to incent" Council spoke to the message that the City is open for all businesses but there are certain types that the City would incent.

Mr. Good suggested an economic development organization that the City funds, increase existing assets, and partnering with coalitions. It may make sense to assign this action back to staff.

DIRECTION: Schedule this as agenda item before the budget hearing in October.

**CONSENT CALENDAR: MOTIONS, RESOLUTIONS AND ORDINANCES
FIRST READINGS**

- 2a. **MOTION: Motion to approve temporary revisions to City Manager's contract.**

City Council President Hermacinski read the motion into the record.

PUBLIC COMMENT: No one appeared for public comment.

It was noted that Mr. Roberts expects to return to work on some level in April.

MOTION: City Council President Pro-Tem Quinn moved and Council Member Bentley seconded to approve a new contract with Jon Roberts beginning March 24, 2011 at a $\frac{3}{4}$ pay rate for 2 months. The motion carried 7/0.

CONSENT CALENDAR - PLANNING COMMISSION REFERRALS

3. **FIRST READING OF ORDINANCE:** An ordinance adding definitions and use criteria for temporary on-site Real Estate sales office to the Steamboat Springs Community Development Code (CDC).

City Council President Hermacinski read the ordinance title into the record.

MOTION: City Council President Pro-Tem Quinn moved and Council Member Magill seconded to approve the first reading of an ordinance adding definitions and use criteria for temporary on-site Real Estate sales office to the Steamboat Springs Community Development Code (CDC). The motion carried 7/0.

PUBLIC HEARING – PLANNING COMMISSION REFERRALS

4. **PROJECT: CMC Campus Administrative Building and Access Road**
PETITION: Development permit for a 52,000 square foot administrative and classroom building and improvement of Crawford Spur as access.

City Council President Hermacinski read the project title into the record.

Mr. Sam Skramstad, CMC, stated that they are working with staff to satisfy the conditions of the MOU, as well as working with the neighbors.

Ms. Ariel Madlambayan, H&L Architecture, clarified that this is closer to a 60,000 square foot project, a three story structure, classroom, administrative and dining facility that will replace the three buildings that are there now. They will mobilize on April 15 and begin road work May 1. The first building will be demolished on May 15 and June 1 is the building construction date, expected to last 12-13 months.

Mr. Randy Sackett, Civil Design Consultants, stated that there are many conditions that affect the road design. They have been working with staff on the design. The retaining walls have a natural appearance; they are developing a lighting plan, right of way (ROW) boundaries for the roadway and signage directing traffic on Crawford spur.

PUBLIC COMMENT: No one appeared for public comment.

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City Council President Pro-Tem Quinn asked if building demolition could be an opportunity to test City fire crews. Mr. Skramstad stated that they do have an exercise planned with the local SWAT team, but have not discussed it with the Fire Department.

Council Member Magill asked about the demolition traffic flow. Mr. Skramstad stated that this is controlled by the State and the debris has to be contained. Mr. Shelton clarified that crews will be using Bob Adams Drive for demolition traffic.

GENERAL PUBLIC COMMENT

No one appeared for General Public Comment.

5. APPEAL: Appeal of Director's Decision, Clocktower Commercial Condo Units, C1, C2, C3 (Powder Room Lounge)

PETITION: Appeal the Director's decision to approve the Change of Use from vacant office to nightclub.

City Council President Hermacinski read the appeal into the record.

Council Member Kounovsky stepped down.

Mr. Keenan stated that the Director's approval of a change of use is being appealed.

Mr. Bob Atkinson, owner of Daybreak at the Clocktower, voiced concern with this "steamroller" process feeling that this is the wrong location for a nightclub because it is residences with families. He is concerned with the noise that will be produced when people congregate outside the establishment as well as the music from inside. He voiced concern that he did not know about the Powder Room until the liquor license was approved; part of the problem may be that there was a change of ownership in the commercial property. He asked that Council please have consideration for families because this is a "bad fit". Also, he believes that the Planning Department should be able to speak to anticipated noise issues.

Ms. Jill Brabec, representing the residential owners, does not believe that this is about the vitality of Ski Time Square, but about a specific use in a specific building. This is an inappropriate use for a 30 year old building. She stated that they believe that staffs parking calculations are in error and that there is not enough parking to accommodate this use. Also, the off street loading is not adequate. She asked if a vestibule will be required to mitigate the noise. She

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does not believe that this application meets all these requirements and requested that Council deny it and to be proactive and avoid calls to the police and lawsuits that are almost certain to follow this development.

Mr. Scott Agnew, Powder Room, stated that he was concerned with the condos but believes that they can operate with minimal effects on the residential units. Their space is at garden level and the front door is away from the residential. There is minimal glass exposure and they plan to use a special glass. There is ample parking in lot to the west; however most customers will probably use public transit or walk. He has worked with a sound technician to design a system with a "blanketing effect" and the space is laid out so as to not attach to any metal duct work. He spoke to letters submitted by unit owners and noted that these spaces had once been used for this type of establishment before they were converted to residential. He noted that owners of other establishment support the Powder Room because variety increases traffic. He will contribute to the construction industry and the real estate market. He concluded by noting that he followed all the steps and procedures, circulated his liquor license petition, and sent surrounding property owner notification.

Council Member Reisman disclosed that he owns a condo in Ski Time Square but is outside the 300 square foot radius. **UNANIMOUS CONSENT:** Okay for Council Member Reisman to remain seated.

PUBLIC COMMENT:

Mr. Jim Cook, Mile High Banks, believes that this application fits the Code and was approved as such. He stated that after 3:00pm the parking structure is a "ghost town" and he appreciates the comments about family, but these units sit empty and are dark 75 percent of the time.

With regard to parking, Mr. Keenan stated that the Code is clear that .5 spaces per lodging unit is required for G1, and staff has consistently applied that to other developments. For loading, there are 4 spaces that remain that can be used. The underground parking is not supported by the CDC because there is not a rational nexus.

Council Member Bentley asked if the condos subdivided at a later time. Mr. Keenan stated yes, it was built as commercial residential and the unit used to be a restaurant and bar. In the early 90's the top floors were converted to residential.

Mr. Matt Wagar, Moon Hill Design, stated that the construction design for the Powder Room is post and beam with a two inch layer of concrete. None of the

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columns are continuous and there is no common duct work, which should mitigate sound.

City Council President Pro-Tem Quinn is pleased to see that the applicant is paying attention to the sound issues. He believes that this is a great step for the Ski Time Square area because we need more vitality at the base.

Council Member Reisman agrees with City Council President Pro-Tem Quinn, and believes that there is a lot of compromise still to come.

Council Member Magill also supports this application because it meets the Code and goes above and beyond.

Council Member Bentley also supports the project, but with concern for the residential units.

Council Member Myller supports the project and appreciates the efforts to mitigate the sound. His only concern is the entry door being so close to the units above, but he does not see in the code where this needs to be changed. He agrees with staff's findings on the parking and thinks that the loading will happen in lower lot.

City Council President Hermacinski also supports the project.

CONDITIONS:

1. The applicant is to provide one bicycle rack per Sec. 26-140(c)(2)(b) of the Community Development Code prior to Certificate of Occupancy or Certificate of Approval.
2. The applicant is to provide an accessible parking space in accordance with the Americans with Disabilities Act Accessibility Standards prior to Certificate of Occupancy or Certificate of Approval.

MOTION: City Council President Pro-Tem Quinn moved and Council Member Reisman seconded to deny the appeal; adding the 2 conditions outlined by staff. The motion carried 6/0. Council Member Kounovsky stepped down.

Council Member Kounovsky returned to the meeting.

GENERAL PUBLIC COMMENT

Ms. Sharon Ward requested direction on how to help a client get a deed restricted released on her home on Penny Lane. The home has been listed for 153 days with no offers and the owner became eligible for a government relocation program where government employees accept positions in other states and a relocation company purchases their home. Unfortunately the relocation company denied this home due to the deed restriction and they would like to remove the deed restriction before the person goes into foreclosure.

Mr. Gibbs stated that he has been talking to Mary Alice Page Allen getting the information and background on this case. **DIRECTION:** Ms. Ward to continue to work with Mr. Gibbs.

It was noted that the City has received three other requests like this. Mr. Gibbs stated that he is looking into them; they all have different circumstances.

REPORTS

6. City Council

Council Member Bentley:

1. Attended the luncheon for Ms. Sue Birch which was very interesting.
2. Was an observer at the Pentathlon. It was a fun and well run event.

Council Member Myller:

1. Went to Washington DC with Mr. Shelton to discuss transit funding. He stated that they "may have changed a few minds".

City Council President Hermacinski:

1. Spoke to the subscription passes that Council receives from Strings in the Mountains. For the last few years Council has donated them to Advocates Against Battering and Abuse. She asked if this year Council would want to donate to First Impressions. City Council President Pro-Tem Quinn spoke to First Impressions devastating funding cuts and supports this donation. **UNANIMOUS CONSENT:** Donate to First Impressions.

Council Member Reisman:

1. Attended a Grand Futures board meeting and noted that he is impressed with the "majority rules" ad campaign.
2. Noted that there is an "Earth Hour" event on the Courthouse Lawn, March 26 from 8:30-9:30pm.

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3. Spoke to the CMC/Crawford Street situation and noted that there are no stops signs in the area. He suggested looking into some strategic stop sign placement. **DIRECTION:** Staff to research.
4. Had lunch with the seniors at the Community Center and noted their concern for the water rates.

Council Member Kounovsky:

1. Talked with the Leadership Steamboat class; it was a good discussion.

Council Member Magill:

1. Noted that private road signs have been changed from red to brown. **DIRECTION:** Mr. Shelton to research.
2. Asked if the Little House had been vacated. Mr. Shelton stated yes, Public Works staff has moved above Planning and the lease will terminate at the end of the month.
3. Attended the Community Ag Alliance breakfast.
4. Attended the Energy Producer's dinner and noted that coal producers are feeling threatened. Also, there will be a coal conference tour in May.

7. Reports

a. Agenda Review:

- 1.) **City Council agenda for April 5, 2011.**
- 2.) **SSRA agenda for April 5, 2011.**
- 3.) **City Council agenda for May 3, 2011.**

Council reviewed the above agendas.

City Council President Hermacinski noted that at this point there will be no April 12 meeting; however if something needs attention it can be added back on the schedule.

8. Staff Reports

a. City Attorney's Update/Report.

Mr. Lettunich reported on the following:

1. Will close on the Orton property March 16, 2011 at 1:30.

b. Manager's Report: Ongoing Projects.

Mr. Shelton reported on the following:

1. Based on the rate study staff has been working on securing bonds in the water and wastewater fund.

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2. April 5, 2011 staff will present its formal recommendation for Iron Horse use.
3. Noted that there has been a 10% increase on transit night service to date, and overall ridership is up 3% collectively.

ADJOURNMENT

MOTION: Council Member Myller moved and City Council President Pro-Tem Quinn seconded to adjourn Regular Meeting 2011-06 at approximately 8:15pm. The motion carried 7/0.

MINUTES PREPARED, REVIEWED AND RESPECTFULLY SUBMITTED BY:

Julie Franklin, CMC
City Clerk

APPROVED THIS _____ DAY OF _____, 2011.