



**SUMMARY OF MINUTES OF THE MEETING OF THE ARVADA CITY COUNCIL HELD  
JANUARY 22, 2018**

1. Executive Session – Third Floor Conference Room
  - A. Legal Advice, Pursuant to C.R.S. 24-6-402(4)(b) Pertaining to Olde Town Residences Preliminary Development Plan and Height Exception

Mayor Pro Tem Marriott moved to go into Executive Session for Legal Advice, Pursuant to C.R.S. 24-6-402(4)(b) Pertaining to Olde Town Residences Preliminary Development Plan and Height Exception

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, Jones, McGoff, Miller

The Motion was Approved

1. Call to Order – 6:00 p.m. – Council Chambers
2. Moment of Reflection and Pledge of Allegiance
3. Roll Call of Councilmembers

Those Present: Mayor Williams, Mayor Pro Tem John Marriott, Councilmember Bob Fifer, Councilmember Nancy Ford, Councilmember David Jones, Councilmember Mark McGoff, Councilmember Dot Miller

Also present were: Mark Deven, City Manager; Lorie Gillis, Deputy City Manager, Chris Daly, City Attorney; Bob Manwaring, Director of Public Works; Rita McConnell, Director of Community Development; Bryan Archer, Director of Finance and Kristen Rush, City Clerk.

4. Approval of Minutes of the December 18, 2017, City Council Meeting

The minutes stand approved.

5. Petitions, Recognitions and Communications -

- A. Government Finance Officers Association (GFOA) Excellence in Financial Reporting Recognition – presented by Councilmember Jones

Councilmember Jones said the Comprehensive Annual Financial Report (CAFR) is a publication that provides in-depth information about the operations and financial position of the City of Arvada and complies with the City Charter. The CAFR is prepared in accordance with accounting principles generally accepted in the United States of America and is audited by BKD, LLP a firm of licensed certified public accountants. The Government Finance Officers Association of the United States and Canada (GFOA) awarded a Certificate of Achievement for Excellence in Financial Reporting to the City for its CAFR for the year ended December 31, 2016. The Certificate of Achievement is a national award recognizing conformance with the highest standards for preparation of state and local government financial reports. This is

the 33rd consecutive year that the City has received the Certificate of Achievement award. Congratulations to Director of Finance Bryan Archer and the entire Finance team for another year of excellence in financial reporting.

Bryan Archer, Finance Director, Lisa Yagi, Assistant Finance Director and Debra Neilson, Controller, were present for the recognition.

B. Recognition of Pomona High School Football Team 5A Champions – presented by Councilmember McGoff

Councilmember McGoff Congratulated the Pomona Panthers, winners of the highest-scoring 5A championship game on record. When the game ended, a total of 105 points had been scored with Pomona accounting for 56 of them. Opponent Eaglecrest, who came into the final game undefeated, posted 49.

The Panthers were no strangers to the title game having earned a spot in 2009, 2015 and 2016, but had come away just short in each of those trips. This time they left the field with the outcome they'd been looking for since their last championship in 1988.

The players have garnered many honors for their play including All-Colorado, All-State, and All-Conference. Coach Madden was a finalist for All-Colorado coach of the year.

In a season of superlatives, along with winning the highest scoring championship game, Pomona broke the state record for most offensive yards in one season. One of the big reasons for that accomplishment is Max Borghi. The running back is the winner of the 2017 Denver Post Gold Helmet Award, given annually to Colorado's outstanding senior football player, scholar and citizen. He is the first player from Pomona High School to earn the award.

Coach Madden and members of the Pomona High School Football Team were present to accept the recognition.

C. Recognition of Royce Collier – presented by Councilmember Miller

Councilmember Miller said that Long-time Arvada resident, Royce Collier, celebrated his 80<sup>th</sup> birthday in 2017. Although diagnosed with cerebral palsy at a very early age, Mr. Collier made his own mark in life and in the life of our community. He spent many years walking through Olde Town and the surrounding area selling light bulbs door to door. He became a familiar and honored presence, remembered by many for his cheerful personality.

His was one of the stories featured in *Arvada Profiles: Stories of the People Who Most Influenced Our First 100 Years*. Mr. Collier has been an inspiration for generations of Arvadans

Royce Collier along with friends and family, were present to accept the recognition.

6. Public Comment –

- A. Tom Carney, Arvada Resident, Addressed council regarding Pickleball
- B. Joe Burns, Arvada Parks Advisory Committee, updated council on activities of the committee
- C. Susan Shirley, Arvada Resident, addressed council regarding water issues and Transit Oriented Development

- D. Nancy Young, Arvada Resident, addressed council regarding quasi-judicial proceeding
  - E. Linda Shires, Arvada Resident, addressed council regarding a storage container on the church property on Carr St.
  - F. Bruce Morrison, Arvada Resident, addressed council regarding a police incident in his neighborhood.
  - G. Clifford Anderson, Arvada Resident, addressed council regarding recall election
  - H. Elise Gordon, Arvada Resident, addressed council regarding new development
7. New Business
- A. Consent Agenda
    - 1. R18-001 A Resolution Authorizing an Agreement By and Between the City of Arvada and Dewberry Engineers, Inc., for Professional Engineering Services Relating to Construction/Improvements of Municipal Water Treatment Plants in an Amount Not to Exceed \$100,000.00 in the First Year
    - 2. R18-002 A Resolution Authorizing an Agreement By and Between the City of Arvada and Corona Environmental Consulting, LLC for Professional Engineering Services Relating to Development of a Water Treatment Facility Master Plan in an Amount Not to Exceed \$200,000.00 in the First Year
    - 3. R18-003 A Resolution Supporting the Reauthorization by the General Assembly of Colorado of the Colorado Lottery Division
    - 4. R18-004 A Resolution Authorizing Change Order No. 2 to a Construction Contract By and Between the City of Arvada and Asphalt Specialties in the Amount of \$41,768.13 for the 2017 Mill and Overlay, Project No. 17-ST-01
    - 5. R18-005 A Resolution Authorizing the City of Arvada to Purchase Chemicals for Water Treatment Plant Operations in an Amount Not to Exceed \$979,576.00 Annually
    - 6. R18-006 A Resolution Authorizing an Agreement By and Between the City of Arvada and AQ Property Solutions, LLC for Professional Services Relating to Cross Connection Control in an Amount Not to Exceed \$160,000.00 in the First Year
    - 7. R18-007 A Resolution Authorizing an Agreement By and Between the City of Arvada and H+L Development, LLC for the Lake Arbor Golf Club House Renovation in an Amount Not to Exceed \$223,617.00
    - 8. R18-008 A Resolution Authorizing an Agreement By and Between the City of Arvada and Wember, Inc., for Owner's Representative/ Construction Project Management Services for the Delta Sector Community Substation Project in an Amount Not to Exceed \$119,302.00
    - 9. R18-009 A Resolution Authorizing an Agreement By and Between the City of Arvada and Colorado Golf and Turf, Inc., for Lease of Golf Cars at the West Woods Golf Club and the Lake Arbor Golf Club, Financed Through Exchange Bank, in an Amount of \$180,591.12 per Year for a Projected Four Year Lease

Mayor Pro Tem Marriott requested that R18-003, A Resolution Supporting the Reauthorization by the General Assembly of Colorado of the Colorado Lottery Division, be removed from the consent agenda.

Councilmember McGoff moved that R18-001, A Resolution Authorizing an Agreement By and Between the City of Arvada and Dewberry Engineers, Inc., for Professional Engineering Services Relating to Construction/Improvements of Municipal Water Treatment Plants in an Amount Not to Exceed \$100,000.00 in the First Year; R18-002, A Resolution Authorizing an Agreement By and Between the City of Arvada and Corona Environmental Consulting, LLC for Professional Engineering Services Relating to Development of a Water Treatment Facility Master Plan in an Amount Not to Exceed \$200,000.00 in the First Year; R18-004, A Resolution Authorizing Change Order No. 2 to a Construction Contract By and Between the City of Arvada and Asphalt Specialties in the Amount of \$41,768.13 for the 2017 Mill and Overlay, Project No. 17-ST-01; R18-005, A Resolution Authorizing the City of Arvada to Purchase Chemicals for Water Treatment Plant Operations in an Amount Not to Exceed \$979,576.00 Annually; R18-006, A Resolution Authorizing an Agreement By and Between the City of Arvada and AQ Property Solutions, LLC for Professional Services Relating to Cross Connection Control in an Amount Not to Exceed \$160,000.00 in the First Year; R18-007, A Resolution Authorizing an Agreement By and Between the City of Arvada and H+L Development, LLC for the Lake Arbor Golf Club House Renovation in an Amount Not to Exceed \$223,617.00; R18-008, A Resolution Authorizing an Agreement By and Between the City of Arvada and Wember, Inc., for Owner's Representative/ Construction Project Management Services for the Delta Sector Community Substation Project in an Amount Not to Exceed \$119,302.00; R18-009, A Resolution Authorizing an Agreement By and Between the City of Arvada and Colorado Golf and Turf, Inc., for Lease of Golf Cars at the West Woods Golf Club and the Lake Arbor Golf Club, Financed Through Exchange Bank, in an Amount of \$180,591.12 per Year for a Projected Four Year Lease, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, Jones, McGoff, Miller

The Motion was Approved

3. R18-003 A Resolution Supporting the Reauthorization by the General Assembly of Colorado of the Colorado Lottery Division

Mark Deven, City Manager, reviewed this resolution with council.

Mayor Pro Tem Marriott moved that R18-003, A Resolution Supporting the Reauthorization by the General Assembly of Colorado of the Colorado Lottery Division

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, Jones, McGoff, Miller

The Motion was Approved

B. Resolutions (Staff Presentation May Precede Resolution)

1. R18-010 A Resolution Authorizing an Intergovernmental Agreement Titled a "Recruit Training Agreement" By and Between the City of Lakewood and the City of Arvada in an Amount Not to Exceed \$36,000

Mark Deven, City Manager, reviewed this resolution with council.

Councilmember Fifer moved that R18-010, A Resolution Authorizing an Intergovernmental Agreement Titled a “Recruit Training Agreement” By and Between the City of Lakewood and the City of Arvada in an Amount Not to Exceed \$36,000, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, Jones, McGoff, Miller  
The Motion was Approved

2. R18-011 A Resolution Authorizing a Lease Agreement By and Between the City of Arvada and Verizon Wireless (VAW), LLC, d/b/a Verizon Wireless

Mark Deven, City Manager, reviewed this resolution with council.

Councilmember Jones moved that R18-011, A Resolution Authorizing a Lease Agreement By and Between the City of Arvada and Verizon Wireless (VAW), LLC, d/b/a Verizon Wireless, be approved subject to the attached condition of approval.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, Jones, McGoff, Miller  
The Motion was Approved

3. R18-012 A Resolution Approving an Agreement By and Between the City of Arvada and Surveillance One, Inc. for Professional Services Relating to Municipal Security Systems Equipment in an Amount Not to Exceed \$1,094,418.70 in the First Year

Mark Deven, City Manager, reviewed this resolution with council.

Councilmember Fifer moved that R18-012, A Resolution Approving an Agreement By and Between the City of Arvada and Surveillance One, Inc. for Professional Services Relating to Municipal Security Systems Equipment in an Amount Not to Exceed \$1,094,418.70 in the First Year, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, Jones, McGoff, Miller  
The Motion was Approved

4. R18-013 A Resolution Authorizing an Agreement By and Between the City of Arvada and Resource Central for Professional Services Relating to Innovative and Measurable Water Conservation Opportunities Programs in an Amount Not to Exceed \$55,200.00

Mark Deven, City Manager, reviewed this resolution with council.

Councilmember Ford moved that R18-013, A Resolution Authorizing an Agreement By and Between the City of Arvada and Resource Central for Professional Services Relating to Innovative

and Measurable Water Conservation Opportunities Programs in an Amount Not to Exceed \$55,200.00, be approved.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, Jones, McGoff, Miller  
The Motion was Approved

C. Ordinances (First Reading)

1. CB18-001 An Ordinance Adding Subsection 2.2.12 (Certificates of Compliance with Design Guidelines), and Amending Subsections 1.7.8 (Mandatory and Discretionary Terms), 2.4.20 (Certificates of Compliance with Design Guidelines), and Various Subsections of Section 3.30 (Certificates of Compliance with Design Guidelines), and Section 10.3 (Definition of Words, Terms, and Phrases), of the Land Development Code, Such Amendments Pertaining Generally to the Reno Park Addition Historic District Design Guidelines (Public Hearing to be set for February 5, 2018)
2. CB18-002 An Ordinance Authorizing a Memorandum of Understanding Concerning Withdrawal Management Services between the County of Jefferson State of Colorado, the Cities of Arvada, Edgewater, Golden, Lakewood, Wheat Ridge, and Westminster, and Jefferson Center for Mental Health, in the Amount of \$107,100.00 for Calendar Year 2018 (Public Hearing to be set for February 5, 2018)

Mayor Pro Tem Marriott moved that CB18-001, An Ordinance Adding Subsection 2.2.12 (Certificates of Compliance with Design Guidelines), and Amending Subsections 1.7.8 (Mandatory and Discretionary Terms), 2.4.20 (Certificates of Compliance with Design Guidelines), and Various Subsections of Section 3.30 (Certificates of Compliance with Design Guidelines), and Section 10.3 (Definition of Words, Terms, and Phrases), of the Land Development Code, Such Amendments Pertaining Generally to the Reno Park Addition Historic District Design Guidelines; CB18-002, An Ordinance Authorizing a Memorandum of Understanding Concerning Withdrawal Management Services between the County of Jefferson State of Colorado, the Cities of Arvada, Edgewater, Golden, Lakewood, Wheat Ridge, and Westminster, and Jefferson Center for Mental Health, in the Amount of \$107,100.00 for Calendar Year 2018, be approved on first reading, ordered published in full, and a public hearing date be set February 5, 2018 at 6:30 p.m.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Ford, Jones, McGoff, Miller  
The Motion was Approved

8. Public Hearings – **6:30 p.m.**

- A. Olde Town Residences Preliminary Development Plan, 5565 Wadsworth Bypass
- B. Olde Town Residences Height Exception to Allow Up to 54 Ft. to the Top of the Roof, and Up to 68 Ft. for the Stair Towers and a Rooftop Trellis, 5565 Wadsworth Bypass

Mayor Williams opened the public hearing on PDP2016-0014 Olde Town Residences Preliminary Development Plan, and HE2016-0002 Olde Town Residences Height Exception.

Chris Daly, City Attorney, read the following statement into the record:

*The Colorado Supreme Court has ruled in various decisions about how to determine if a matter handled by a City Council is quasi-judicial in nature. The following factors must exist for a matter to be deemed "Quasi-Judicial":*

- 1. A law requiring the Council to give adequate notice,*
- 2. A law requiring the Council to conduct a public hearing during which citizens must be given an opportunity to be heard and present evidence,*
- 3. A law requiring the Council to make a determination by applying the facts of a specific case to certain criteria established by the law.*

*In this instance, the Arvada Land Development Code contains specific provisions that treat a Preliminary Development Plan and Height Exception as quasi-judicial matters. The LDC contains provisions requiring notice, an opportunity to be heard and the criteria upon which City Council must base its decision.*

*This site-specific public hearing involving a single applicant is governed by an established set of approval criteria set forth in the Arvada Land Development Code. It is important for City Council to stay focused on this site-specific application, the evidence presented at the public hearing and the relevant criteria set forth in the Land Development Code. Testimony addressing the policy or politics of urban renewal is therefore, outside the scope of this hearing. Similarly, financial details, such as financial numbers, incentive packages and real property transactions should also be excluded from consideration by City Council because they lack relevance to the specific criteria set forth in the Land Development Code upon which City Council is required to base its decision on this application.*

*City Council is cautioned to disregard testimony urging that conditions be placed on this applicant concerning affordable or attainable housing. The Land Development Code, specifically Section 3.1.14 as well as various Court decisions, place constraints on City Council's authority to impose exactions on an applicant in a site-specific land-use context, requiring either legislatively adopted standards of broad application or an individualized determination that any contemplated exaction is roughly proportional in nature and extent to the anticipated impacts of the proposed development. To date, City Council has not adopted an affordable or attainable housing ordinance that provides such standards. The legally-sound context in which to address the issue of affordable or attainable housing is to adopt legislation on this topic, not to address this issue in this type of a site-specific public hearing involving a single applicant.*

*If one compares the role of a judge with the role that Council plays in a quasi-judicial matter, there are some similarities. One important similarity is that the decision maker must not prejudge a matter until fully considering the evidence presented. A second similarity is that the decision-maker must not have a conflict of interest that would preclude the decision-maker from making a fair decision.*

*It is not proper to have parties involved in a court proceeding reach out to a judge outside of a courtroom. Yet, it is commonplace for members of the public to reach out to members of City*

*Council in a variety of ways to attempt to influence the Council prior to a public hearing on a quasi-judicial matter.*

*Citizens wish to communicate with members of the City Council as elected representatives and there is no practical way to stop these communications. Many of the written communications from citizens about this site-specific application are going to be made part of the record at tonight's hearing.*

*The real property that is subject to tonight's public hearing is within an Arvada Urban Renewal Project Area that was created by action of the City Council. The Arvada Urban Renewal Authority is the board that has worked with the applicant to formulate plans for development of certain real property in New Town, just south of the Olde Town Commuter Rail Station. While AURA has the power to enter into contracts for the development of real property within the Project Area created by City Council, any project must comply with the LDC, as adopted by the City Council.*

*No single member of the City Council has any greater power than another as each Member has only one vote. Council acts as only as a body; it takes four votes for Council to act. The Arvada City Charter contains pertinent provisions on City Council voting in Section 5.6:*

***A Charter, 5.6. Voting. ...No member of the City Council shall vote on any question in which he/she has a financial interest, other than common public interest, or on any question concerning his/her conduct, but on all other questions each member who is present shall vote by voice roll call or electronic device unless excused by the unanimous consent of the remaining members present. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office.***

*The Colorado General Assembly has provided legislative guidance as to compatibility of holding positions both on the City Council as well as an Urban Renewal Authority:*

***CRS 31-25-104(2)(a) (V): In the event that an official of the municipality is appointed as commissioner of an authority, acceptance or retention of such appointment is not deemed a forfeiture of his or her office, or incompatible therewith, and does not affect his or her tenure or compensation in any way...***

*The fact that a member of the City Council serves on both the City Council as well as AURA is specifically permitted by State law. In point of fact, all members of the City Council serve on multiple intergovernmental boards as part of their public service to the community. There are various applicable laws that govern the Conduct of Members of the City Council.*

*Rules of Behavior and Standards of Conduct.*

*Provisions of the Arvada City Code include:*

***2-372 ACC: "Officer: means any person who is elected to office or appointed by City Council, including board members, the city manager, city attorney and municipal judges."***

***2-375. Restrictions on Conduct. (3) An officer shall not perform a government function, participate in the discussion of, or influence or attempt to influence any officer or employee, or otherwise participate in any final action, or vote (if such officer) accrues a pecuniary gain to himself or herself or his or her family in the form of any private or personal financial interest to any greater extent than could reasonably be expected to accrue to a member of the general public.***



- (4) An officer shall not accept a gift of substantial value or economic benefit tantamount to a gift of substantial value:*
- a. Which would tend to influence a reasonable person in his or her position to depart from the faithful and impartial discharge of his or her public duties; or*
  - b. Which he or she knows or which a reasonable person in his or her position should know under the circumstances is primarily for the purpose of rewarding him or her for official action he or she has taken.*
- (6) The following shall not be considered gifts of substantial value or gifts of economic benefit for purposes of this section and it shall not be a violation of this Code for a person to accept the same:*
- a. Campaign Contributions required to be reported by CRS 1-45-108.*

***2-376. Conflict of Interest disclosure, stepping down procedures; councilmembers or board members.***

- (a) An officer who has a conflict of interest in any matter proposed or pending before the official body shall disclose the conflict of interest to the official body upon which they sit prior to action of the official body on such matter and shall not vote thereon and shall refrain from attempting to influence the other members of the official body voting on the matter.*

*The State laws also include provisions on Standards of Conduct for local government officials and employees including:*

***CRS 24-18-109 (3)(a) Rules of Conduct for local government officials and employees. A member of the governmental body of a local government who has a personal or private interest in any matter proposed or pending before the governmental body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.***

***CRS 24-18-110 Voluntary Disclosure. ...a local government official, prior to acting in a manner which may impinge on his fiduciary duty and the public trust, (must) disclose the nature of the private interest...If he then performs the official act involved, he shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act... Having recited the applicable law governing quasi-judicial matters, approval criteria, relevance of certain testimony, pre-judgment and conflicts of interest, I now conclude my preliminary comments.***

Mayor Williams said "let's address the issue of recusal, conflict of interest, prejudice, however we want to describe it for tonight's hearing. I can state accurately and truthfully that I have not been approached by the applicant outside this hearing urging a yes vote on the land use conditions here tonight. I have been very careful in my conversations with fellow councilmembers not to urge any particular vote in this matter, there has not been lobbying, there has not been an effort by me, or to my knowledge, any other council member to try to prejudge or sway this hearing here tonight. I have on the other hand, been contacted by a few individuals seeking a no vote on this matter. I have heard tonight threats of recall elections, for what that is worth and so in making a determination of whether or not I should recuse myself, I have to look at the law. I have not, and nor will I receive, any financial benefit greater than that received by the community at large if this project is approved or disapproved. I disclose that over two and a half years ago, I did receive a contribution from Mr. Bill Mosier but that will not influence how I vote tonight and does not constitute, as Mr. Daly has indicated, a basis for recusal. I have received numerous campaign contributions from numerous people over the years, they have been properly disclosed. I'm proud

*the people have supported my previous election and I feel honored by the campaign contributions I have gotten, large or small, from a wide variety of people in this community. As for the issue of conflict of interest, Mr. Daly has provided the legal opinion that the two roles that I serve in as both the AURA Commission member and the mayor are separate and not incompatible. I didn't ask to go on the Urban Renewal Board. I was asked by a councilmember to go on the Urban Renewal Board. I didn't seek this, it was asked of me and I agreed to do it. That was by action of the full council to ratify my role as a commissioner on the Urban Renewal Authority. It is required that a member of the city council serve on the Urban Renewal Board and frankly I find it ironic that the same individuals who are asking me to recuse myself tonight are the same individuals who think that the Arvada City Council should serve as the full Urban Renewal Board. What, in that case, the entire council should have to recuse themselves, we couldn't get anything done. Now as to the issues that are before us tonight, in terms of my role and my decision making, I have not been pressured by the Urban Renewal Board or a staff member to vote any particular way with regards to this decision tonight. In my role as a Urban Renewal Commissioner, I have not already ruled on the land use decision before us tonight. That is the PDP and that's the height exception. Those issues have not come before the Urban Renewal Authority for vote or action, I have not prejudged this matter. All parties are entitled to a fair hearing by the city council. I believe that I would be committing inaction and improper action by simply weighing to the pressure of a few individuals who think that I should recuse myself or who have threatened a recall election if I don't recuse myself. I think I would be shirking my responsibility by not participating in voting because there is no legal basis to seek recusal. I submit and for the record I will state that for the issues before us tonight, I have not prejudged the land use issues in this application. I have an open mind, I will listen to the testimony and I intend to conduct this hearing as I have conducted every hearing during my time as mayor, in a fair, impartial fashion so that we can have a fair hearing for all parties and as such, I will decline the opportunity, which would frankly be the easier way out, of recusing myself. Now before asking staff about posting and notification requirements let me make clear that these two matters both involve site-specific, quasi-judicial land-use determinations governed by specific criteria in the Land Development Code. Those criteria are also repeated in the staff report, for those who have a copy. This hearing is NOT a political or policy discussion about urban renewal agencies. It is likewise NOT a forum to question, or even discuss, incentives to attract development, the details of transactions involving the site that is the subject of these applications, financial numbers related to investment in the site or costs to develop, or even the wisdom or lack of wisdom of this particular proposed project. That applies to the applicant and to everyone else who is here tonight. I will not permit testimony on matters that are not before us be properly considered as outlined by the city attorney and I'm going to apply that across the board. This type of testimony will not be allowed, so I would ask that you each keep that in mind as you present your testimony. City Council's task is limited to one thing, considering whether the applications satisfy the applicable approval criteria. Members of City Council have been contacted by a number of citizens who have expressed their personal views on this application. City Council Members are required to keep an open mind and to reach a decision only after all of the evidence is presented during the public hearing. Should any City Council Member feel that they cannot keep an open mind until it is time to vote, this is your opportunity to make such a disclosure."*

*Councilmember McGoff said "I believe that I can approach this with a fully open mind, in accordance with the criteria for such hearing. I recognize that this is a land use and development code matter concerning a preliminary development plan and the height exception. To those issues, I received a couple phone calls, maybe a few, not many, that related specifically to the preliminary development plan or the height exception. I've had a dozen or so emails and those have been referred to the city offices for inclusion in the packet of all council members and I have*

*visited the site. Additionally, by reading beyond what's in front of us tonight, of course is the Transit Oriented Development Plan 2007 and related documents over the last 10 years. I believe very strongly that I can approach this with an open mind and I'm ready to hear whatever evidence is presented tonight for and in opposition to the matters at hand."*

*Councilmember Ford said "I would like to disclose that I have attended the most recent neighborhood meeting. I have also visited the site and I have received a number of phone calls and emails regarding this matter. I've also done a lot of research of the different plans that are related to this matter tonight and I can honestly sit here before everyone that I have an open mind and I will listen to the testimony that is provided tonight and will base my decision on that testimony."*

*Councilmember Fifer said "I too have been contacted through emails and phone calls over the last several months on this matter. I too have not made a predetermined opinion of this matter, I am waiting for tonight's testimony to come to that conclusion".*

*Mayor Pro Tem Marriott said "I also have been contacted by numerous people in numerous ways about issues regarding this hearing before us tonight. I've also visited the site and studied the relevant plans however have not come to any conclusions or judgments and will do so here at the public hearing where all the evidence is presented."*

*Councilmember Miller said "I have received a number of emails and a number of calls. Thank you for reaching out, I appreciate it. As your chamber president, my office looked out over this site for five-and-a-half years, so I am intimately familiar with this site. I have an open mind and have not made a decision which way I'm going to vote."*

*Councilmember Jones said "I too have done my very best to listen to the voice mails and emails and the phone calls of the people who have reached out to me. I have walked the site both with staff and with a number of people. I held a community meeting in district 4 back in October, where this conversation did come up and we did discuss this very site in that town hall meeting and I then I didn't prejudge it either, I also listened to the constituents that were there that night. I've spent many hours studying the site, trying to understand for myself, the best I can prior to hearing from the applicant and anyone else who might be here tonight to testify. I have never been in contact with the applicant, so I believe that I can sit here tonight and not prejudge this but to listen to the testimony presented and make a decision based on testimony presented."*

Rita McConnell, Director of Community Development, reviewed the proposal with council and stated that the posting logs and mailing affidavit have been received and is in order. Mayor Williams made them a part of the official record, along with the staff report.

Mayor Williams swore those in wishing to speak.

Sworn Testimony:       Maureen Phair, Executive Director of Arvada Urban Renewal Authority  
                                  Bill Mosier, Representing Applicant  
                                  Steve Fotiu, Representing Applicant  
                                  Cindi Kreutzer, Arvada Resident, against the issue  
                                  Lorraine Anderson, Arvada Resident, for the issue  
                                  Nancy Young, Arvada Resident, against the issue  
                                  Katie Nobel, Arvada Resident, for the issue  
                                  Susan Shirley, Arvada Resident, against the issue

Dave Thorpe, Arvada Resident, for the issue  
Jane Schnabel, Arvada Resident, against the issue  
John Boettiger, Arvada Resident, for the issue  
Cheri Wissel, Arvada Resident, against the issue  
Brandon Kramer, Arvada resident, for the issue  
Anita Marcussen, Arvada resident, against the issue  
Michael Rost, Arvada resident, for the issue  
Bruce Morrison, Arvada resident, against the issue  
David Kribs, Arvada resident, for the issue  
Joyce Richardson, Arvada resident, against the issue  
Steve Urban, Arvada resident, for the issue  
Edwin Bentzen, Arvada resident, against the issue  
Mindy Mohr, Arvada resident, against the issue  
Julia Morrison, Arvada resident, against the issue  
Steve Urban, Arvada resident, for the issue  
Pat Malone – did not speak – against the issue  
Renee Nelson, Arvada resident, against the issue  
Michele Dilaria, Arvada resident, in support of the issue  
Tony Cline, Arvada resident, in support of the issue  
Ascenzo DiGiacomo, Arvada resident, in opposition of the issue  
Ron Sandstrum, Arvada resident, against the issue  
Chris Kimmerle, Arvada resident, against the issue  
Tom Ellenwood, Arvada Resident, for the issue  
Patricia Hershwitzky, Arvada Resident, against the issue  
Rachel Smallwood, Arvada Resident, against the issue  
Julia Morrison, Arvada Resident, against the issue

Did not speak/against the issue: Susan Kroth, Arvada resident, against the issue  
Beth Wedlake, Arvada resident, against the issue  
Sharon England, Arvada resident, against the issue  
John England, Arvada resident, against the issue  
Connor Smallwood, Arvada resident, against the issue

Mayor Williams closed the public comment portion of the public hearing.

Councilmember McGoff moved that Olde Town Residences Preliminary Development Plan, 5565 Wadsworth Bypass, be approved subject to the updated conditions of approval. This motion is based on the findings of fact adopted by Planning Commission.

Mayor Pro Tem Marriott moved to amend the motion to add a condition to include 25 more parking spaces or 15 less bedrooms from the project.

The following votes were cast on the Motion:

Those voting Yes: Marriott


Those voting No: Williams, Fifer, Ford, Jones, McGoff, Miller

The Motion Failed


The following votes were cast on the main Motion:  
Those voting Yes: Williams, McGoff, Miller  
Those voting No: Marriott, Fifer, Ford, Jones  
The Motion Failed

9. Public Comment – Five Minute Limit - none
10. Reports from City Council -
11. City Manager Reports -
12. City Attorney Reports - None
13. Adjournment at 11:58 p m.



  
\_\_\_\_\_  
Marc Williams, Mayor

SEAL:

  
\_\_\_\_\_  
Kristen R. Rush, City Clerk