



## SUMMARY OF MINUTES OF THE MEETING OF THE ARVADA CITY COUNCIL HELD MARCH 19, 2018

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 Marc 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; Bill Ray, Deputy 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 March 5, 2018, City Council Meeting

The minutes stand approved.

5. Petitions, Recognitions and Communications

- A. Recognition of 6<sup>th</sup> Grade Essay Contest Winners – presented by Councilmember Fifer

Councilmember Fifer said that Approximately 172 sixth graders from Allendale, Campbell, Fairmount, Fremont, and Vanderhoof elementary schools participated by submitting an essay with the topic “Making a Difference...” This year’s sponsor is David Holland. Students from Arvada West High School’s National Honor Society judged the entries. This year’s finalists are:

Allendale

Julian Iverson

Campbell

Lydia Willis

Fairmount

Brooke Pavlich

Fremont

Dawn McCormack

Vanderhoof

Rhiannon Danborn

Madison Morgan

B. Presentation of After Prom Checks – presented by Councilmember Ford

Councilmember Ford said that each year at this time City Council acknowledges the partnerships of school staff, parents, local businesses, Arvada School Resource Officers and others who join together to create a free, safe place for high school students to meet after prom. With elaborate decorations and creative themes the high schools are transformed into imaginative places for the students to gather. All night and into the early morning they can eat, play games, win prizes and safely party with friends at no cost. These After Prom parties provide a safe alternative to high-risk behaviors.

Each school has a committee of parent volunteers who spend countless hours collecting donations, planning, preparing for and staffing these events. It is estimated that each school hosts nearly 500 students (impacting nearly 2,500 teens) at After Prom parties.

Tonight we recognize the committee representatives from our local high schools who are committed to making these events a success on behalf of young people in Arvada and present each of the committees a cash donation.

Arvada High School

Arvada West High School

Pomona High School

Ralston Valley High School

Standley Lake High School

Representatives from Arvada High School, Arvada West High School, Ralston Valley High School and Standley Lake High School were present to accept the After Prom Checks.

6. Public Comment –

- A. Nancy Young, Arvada Resident, addressed council regarding the reapplication of Olde Town Residences
- B. Harriett Hall, Arvada Resident, addressed council regarding the motion for Olde Town Residences resubmittal
- C. Pat Osness, Arvada Resident, addressed council regarding Timberline
- D. Elizabeth Winski, addressed council regarding sustainability issues
- E. Rachel Smallwood, Arvada Resident, addressed council regarding Olde Town Residences motion
- F. Ascenzo DiGiacomo, Arvada Resident, addressed council regarding the Ralston Central Park Restrooms and the marketing of Olde Town Residences
- G. Julia Morrison, Arvada Resident, addressed council regarding change

7. New Business

- A. Consent Agenda
  - 1. R18-034

A Resolution Authorizing a Construction Contract By and Between the City of Arvada and Diamond Contracting Corp., for Purple Zone 18" PVC Water Main Loop, in an Amount Not to Exceed \$463,553.00, Project No. 17-WA-07

Councilmember Ford moved that R18-034, A Resolution Authorizing a Construction Contract By and Between the City of Arvada and Diamond Contracting Corp., for Purple Zone 18" PVC Water Main Loop, in an Amount Not to Exceed \$463,553.00, Project No. 17-WA-07, be approved.

The following votes were cast on the Motion:

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

B. Ordinances (First Reading)

1. CB18-013 An Ordinance Rezoning Certain Land Within the City of Arvada, Olde Town Commons Townhomes, from City of Arvada R-M (Residential Multi-Family) to PUD-R (Planned Unit Development-Residential), 18.6 du/ac., and Amending the Official Zoning Maps of the City of Arvada, Colorado, 5417 and 5421 Allison Street (Public Hearing to be set for April 16, 2018 at 6:30 p.m.)

Mayor Pro Tem Marriott moved that CB18-013, An Ordinance Rezoning Certain Land Within the City of Arvada, Olde Town Commons Townhomes, from City of Arvada R-M (Residential Multi-Family) to PUD-R (Planned Unit Development-Residential), 18.6 du/ac., and Amending the Official Zoning Maps of the City of Arvada, Colorado, 5417 and 5421 Allison Street, , be approved on first reading, ordered published in full, and a public hearing date be set April 16, 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

2. CB18-014 An Ordinance Vacating a Portion of Public Right-of-Way Within the Koldeway Subdivision Located at Approximately 6250 Independence Street, Fitzmorris Elementary School (Public Hearing to be set for April 2, 2018 at 6:30 p.m.)

Mayor Pro Tem Marriott moved that CB18-014, An Ordinance Vacating a Portion of Public Right-of-Way Within the Koldeway Subdivision Located at Approximately 6250 Independence Street, Fitzmorris Elementary School, be approved on first reading, ordered published in full, and a public hearing date be set April 2, 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

C. Motions

1. Motion Pursuant to Section 3.1.17 of Land Development Code to Consider Olde Town Residences Preliminary Development Plan and Height Exception Reapplication

Chris Daly, City Attorney said that in order to provide background to this item, it's important for me to make certain statements that council is already aware but I want to make sure that it's clear on the record. The City of Arvada is a home rule municipality, it has it's own charter and amongst the various provisions within the city charter is a provision that talks about when council takes formal action during a meeting, which can be three ways, resolution, ordinance and motion. The charter also provides that the city council has three employees, the city manager, the city attorney and the presiding municipal judge. In a year's time, having been the city attorney for so many years, almost 23 now, and watching a number of city council's interact between myself and my fellow council appointees, I would guestimate that on an annual basis, there's many more time that council gives direction to the city manager than council actually takes a motion. The city charter in fact, contains a provision, section 6.3 which makes the city manager responsible for the proper administration of all of the affairs of the city placed in the city managers charge. In other words, the city manager basically oversees the day to day operations of the city. In this particular instance, the Trammel Crow original application was heard on January 22. Then Trammel Crow resubmitted an application and prior to the resubmission of the application, the city manager reached out to the city council to seek direction or permission to allow that application to be filed and for a hearing to be set. The reapplication included certain changes including reducing the total number of units from 256 to 252. There was a realignment of the mix of different units including studio, one and two bedroom units that ultimately reduces the total number of bedrooms from 350 to 320. The top floor is removed from the center portion of the north side of the building and 15 parking spaces are added to the garage under the reapplication. Section 3.1.17 of the Land Development Code provides in the first sentence, and I'm going to read it to council. If the city council denies an application that same request or one substantially the same, as I've indicated what the changes are, it's substantially the same may not be heard by the city council for a period of one year from the date of denial unless, the city council explicitly states that an earlier reapplication will be considered. As previously stated, the city manager undertakes many administrative duties on behalf of the city council. One of those duties is the establishment and the assembling of various and sundry agendas for the council. Council will recall, at the end of many meetings, the city manager reviews next week's agenda with the council. For instance, this evening, when the city manager makes his report, he'll be indicating the number of workshops that are scheduled for next week's meeting. That would be the time and place for the council, if the council disagreed with those agenda items, to say something to its employee, the city manager. I've yet to hear such a statement come from the city council. A different way to say it, is, things don't make it to the city council agenda without the approval of the city council. The city manager and the city attorney and the municipal judge would not be employed very long if we were putting things on the agenda that council didn't direct us to do so. In this instance, Mr. Deven sent an email message dated February 8, 2018 to members of the city council that sought direction about the placement of the reapplication by Trammel Crow. It is my understanding that most of the members of city council responded by either email or phone call with Mr. Deven. At this point I'm going to defer to Mr. Deven to state for the record what the direction of the city council was and who made that direction.

Mark Deven, City Manager, said thank you Mr. Daly, in response to the email that Mr. Daly described of February the 8<sup>th</sup>, members of the city council that expressed a desire to reconsider the reapplication included Mayor Williams, Mayor Pro Tem Marriott, Councilmember Miller, Councilmember McGoff.

Mayor Williams: For the record it wasn't a reconsidering, right?

Mr. Daly: It's a reapplication.

Mr. Deven: Reapplication

Mr. Daly: Thank you, so based upon the statement made by Mr. Deven, as the city manager, the placement of the Trammel Crow reapplication on tonight's agenda was at the expressed direction of the majority of the council. In an effort to confirm the previous direction from the council in this regard, the city authorized this particular agenda item on tonight's agenda in the spirit of transparency. At this point, staff seeks direction from the council on this agenda item relating to section 3.1.17 of the Land Development Code. That's the report.

Mayor Williams: Thank you. Council action, Mr. McGoff.

Councilmember McGoff: Thank you Mr. Mayor and thank you City Attorney Daly, for the background information. I would like to make a motion but I'm wondering if there is any discussion or statements from council prior to the motion.

Councilmember McGoff moved that, pursuant to the first sentence of Section 3.1.17 of the Land Development Code, the one-year hearing prohibition be waived and that a reapplication of the Olde Town Residences Preliminary Development Plan and Height exception be considered this evening as previously scheduled and property noticed.

Mayor Williams: I'll speak to the motion with a question back to the city attorney, first of all, is it your legal opinion that that type of motion was required under our prior practices and procedures?

Mr. Daly: No

Mayor Williams: And is there anything in our code, rules, procedures that indicates that the public hearing cannot occur on the same night of that type of motion.

Mr. Daly: No

Mayor Williams: And has appropriate, and we'll get to this later on, but for the purposes of this vote, have proper notices gone out for the conducting of the public hearing on this matter?

Mr. Daly: I checked with the city clerk this afternoon and I was advised that the proper notices had in fact gone out.

Mayor Williams: Thank you. Anyone else wish to ask any questions or speak to the motion? If not, if people will cast their votes.

The following votes were cast on the Motion:

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

The Motion was Approved

9. Public Hearings – **6:30 p.m.**

- A. Candelas Medical Flg. 1 Preliminary Plat, Southwest Corner Candelas Parkway & W. 91st Place

Mayor Williams opened the public hearing on Candelas Medical Flg. 1 Preliminary Plat.

Rita McConnell, Director of Community Development, stated that the posting logs and mailing affidavit have been received and are 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: David Kuntz, Representing Applicant  
Peter McCosky, Representing Applicant

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

Councilmember Jones moved that Candelas Medical Flg. 1 Preliminary Plat, Southwest Corner Candelas Parkway & W. 91st Place, be approved subject to the attached updated condition of approval. This motion is based on the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:

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

B. Arvada Police Department Delta Sector Preliminary Development Plan, 14360 W. 89<sup>th</sup> Drive

Mayor Williams opened the public hearing on Candelas Medical Flg. 1 Preliminary Plat.

Rita McConnell, Director of Community Development, stated that the posting logs and mailing affidavit have been received and are 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: Christine Harwood, Representing Applicant

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

Councilmember Fifer moved that Arvada Police Department Delta Sector Preliminary Development Plan, 14360 W. 89<sup>th</sup> Drive, be approved subject to attached updated condition of approval. This motion is based on the findings of fact adopted by Planning Commission.

The following votes were cast on the Motion:

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

C. Olde Town Residences Preliminary Development Plan, 5565 Wadsworth Boulevard

D. Olde Town Residences Height Exception to Allow up to 54 Feet to the Top of the Roof, and up to 68 Feet for the Stair Towers and a Rooftop Trellis, 5565 Wadsworth Boulevard

Mayor Williams opened the public hearing on Olde Town Residences Preliminary Development Plan, and Olde Town Residences Height Exception to Allow up to 54 Feet to the Top of the Roof, and up to 68 Feet for the Stair Towers and a Rooftop Trellis.

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

The application for preliminary development plan and height exception that will be heard tonight is a reapplication with revisions, an earlier proposal having been previously considered by City Council at a hearing on January 22, 2018.

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 Land Development Code contains provisions requiring notice, an opportunity to be heard and the criteria upon which City Council must base its decision.

*Relevance of Evidence and Testimony Presented*

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 under the guise of an "inconsistency" with the Comprehensive Plan. Citizens are always welcome to contact their elected representatives to advocate on policy issues such as affordable housing, either one-on-one or in the Public Comment portion of our City Council agendas, but Council members must remain cognizant of the distinction between their legislative role and the quasi-judicial role in which they are now engaged with respect to this application.

Earlier tonight, City Council voted to hear the reapplication. Prior to that, four members of City Council explicitly stated their willingness to hear the reapplication. Based upon these explicit statements of City Council members and the vote of City Council, the question of whether this reapplication is properly before Council has already been decided. As such, Council should disallow any commentary during the public hearing regarding the procedural issues preceding this hearing.

#### *Role of City Council as Decision-Maker and Conflicts of Interest*

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 will 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 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 the 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.

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(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.

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(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. Thank you for your attention.

Mayor Williams: Thank you Mr. Daly for the legal advice and for reciting that. As happened at the previous hearing, for the record I will indicate that I have not prejudged the land use issue involved in this application. Obviously, each of us voted on the previous application, but in terms of this application and the changes coming forward, I have not prejudged, nor do I believe any other council member has prejudged the new application. I have not been approached by the applicant outside this hearing urging a yes vote. I have on the other hand received numerous emails from a number of people, pro and con on this project. With that, that's the nature of what we do up here. We get to hear from folks as Mr. Daly has indicated, because this is quasi-judicial versus a court room proceeding in which there can be absolutely no contact. With that in mind, I have an open mind and will make my vote on the evidence presented here tonight, based upon the testimony and the evidence. I have not, nor will I receive any financial benefit greater than that received by the community at large if this project is approved. I disclose as I did the last time that I received, well over two years ago now, a campaign contribution from Mr. Bill Mosher, but that will not influence how I vote tonight and does not, as Mr. Daly has indicated, constitute a basis for recusal. That contribution and every other contribution I have ever received in my 18 years of public service have been properly recorded on the necessary disclosure forms and have been properly noted. As to the issue of conflict of interest, Mr. Daly has provided the legal opinion that two roles and AURA Commissioner and Mayor are separate and not incompatible. Our procedure and the way we have set up our Urban Renewal Authority in the City of Arvada requires that a member of city council serve on the Urban Renewal Authority. I enjoy serving on the Urban Renewal Authority, trust me, when you look at these kinds of things, it's probably more headache than it's worth. I view it as my obligation and my responsibility. It is required that we have that individual and it's kind of interesting, I brought this up last time that it's ironic that those individuals who claim that there is a conflict of interest, those individuals are the same one's that want the entire city council to sit as the Urban Renewal Authority. Now if we had that, and if this logic was carried forward, none of the city council could rule on any land use decisions on any project brought forward by the Urban Renewal Authority because all of us would have a conflict of interest. That is not what is going on, I see this as a big distinction between, for years and years, the Arvada City Council had assigned a member of the city council had assigned a member of the

city council to serve on the Planning Commission and we ultimately reached the decision not to have a member of the City Council sit on the Planning Commission because they were voting twice. They were voting at the Planning Commission level and then they were voting at the City Council level and that seemed somewhat inconsistent and inappropriate. So we did away with that. The distinction here is that the Urban Renewal Authority has not voted in any way on the PDP or the height exception. Period, there's been no prior votes that I've been involved in as to this new submittal or as to the previous submittal as an Urban Renewal Commission. I have not, as an Urban Renewal Commissioner, already ruled on the land use decision before us tonight. I believe that all parties are entitled to a fair hearing by the full city council. Based upon the legal opinion I have received from Mr. Daly, I would be shirking my responsibilities and in fact would be guilty of malfeasance, if I did not participate because there is no legal basis to seek recusal and as such, I will conduct this hearing and I will conduct it fairly and appropriately and I will vote on whatever motions are presented. With that I will open it up to city council members if they have any comments. Mr. McGoff.

Councilmember McGoff: Thank you Mr. Mayor, yes, I would just like to state for the record, I have not been involved in any discussions concerning this reapplication. I've received numerous emails concerning this and each of those has been submitted to the city so that they can be made a part of the public record.

Mayor Williams: Ok, Mr. Marriott.

Councilmember Marriott: Thank you your honor, I'd like to disclose that in the time period between the hearing and this project and before the submittal of this rehearing for this project with changes, that I spoke to a number of citizens as well as the applicant before this was resubmitted. Once it was resubmitted, I have been contacted by numerous citizens in a number of different ways. By phone, in person, by email and other ways and have not done anything to prejudge this hearing and will base my vote on this hearing purely on the public hearing which we are about to have here tonight.

Mayor Williams: Very good, Ms. Miller.

Councilmember Miller: Thank you your honor, I also have received numerous emails, phone calls, I have received several mail and snail mail, which I thought was old school and I love snail mail, so I love that. I also have had some conversations in person and have not either prejudged this evening's issue.

Mayor Williams: Mr. Jones

Councilmember Jones: I just would like to state for the record that I have not spoke with the applicant, either prior to or after the last hearing or prior to this one. I have received numerous emails, phone calls and as Ms. Miller stated, some snail mail, both for and against this proposal. I felt it was important to be here enough that I cancelled a trip to China. I was supposed to be in China this week so I think it's important enough to be here that I'm not there and I have not prejudged this matter before us tonight.

Mayor Williams: Mr. Fifer

Councilmember Fifer: I will also just go back, I have not spoken with the applicant nor after the last hearing or before this at all and I have just received communication via just face to face and different forms of email and snail mail, as we are labeling that, in regards to this hearing but I have not prejudged this hearing at all, thank you.

Mayor Williams: Ms. Ford

Councilmember Ford: I would say that I also have not spoken to the applicant except for at a meeting that in June, I believe or May after it was presented. I have heard from many residences here in Arvada and I too, have not prejudged this meeting or this application and I'm very open minded to hear what the developer has to bring back to us.

Mayor Williams: Thank you, 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. This type of testimony will simply not be allowed by the applicant or by anybody else in the audience, so what I want you to keep that in mind in your testimony if you will. City Council's task is limited to one thing: considering whether the applications satisfy the applicable approval criteria. The rest in terms of the proceeding from a legal standpoint is not relevant and I will not have that testimony. Now, the other thing I want to talk about a little bit is, and I did this at a previous public hearing that had a large turnout in the audience, I was saddened to hear at the previous hearing on this matter that, and we couldn't hear them up here, or I would have dealt with it at that time, that there were negative comments being made about speakers, about people in the audience and I think that's inappropriate, I think what we want to have in our chambers, in the City of Arvada, is a healthy dialogue, a health discussion, that where people feel safe to be able to say what's on their minds. To have people in the audience say about other individuals who are here, that person needs to die, that person needs to go back where they came from. I hate that person. That's not part of what we want to have here in Arvada. What we want to have is healthy, healthy dialogue, healthy discussion, we'll listen to you, we'll listen to the applicant but I want everyone to feel safe in being here. I actually had people come up to me after the last hearing saying that they felt threatened by coming before us. I don't want that to happen at any of our public hearings, I want this to be a safe place so I would ask for your cooperation in that and frankly, if any of you, because we can't hear what's going on back in the audience, but if any of you are feeling that it's not safe, would you please bring it to my attention and we'll address it. Thank you. So with that, Mr. Deven.

Mr. Deven: Mayor and members of city council Rita McConnell will introduce this item.

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  
                                  John Eisen, Representing Applicant  
                                  Cindi Kreutzer, Arvada Resident, against the issue  
                                  Bob Dyer, Arvada Resident, against the issue  
                                  David Kribbs, Arvada Resident, for the issue  
                                  Ray Sandoval, Arvada Resident, against the issue  
                                  Ken Fellman, Arvada Resident, for the issue

Steve Byers, Arvada Resident, against the issue  
Frank Barone, Arvada Resident, for the issue  
Elyse Gordon, Arvada Resident, against the issue  
Dan Cupit, Arvada Resident, Arvada Chamber of Commerce,  
for the issue  
Kelly Eargle, Arvada Resident, against the issue  
Cheri Wissel, Arvada Resident, against the issue  
Alan Parker, Arvada Resident, against the issue  
Shelley Cook, Arvada Resident, for the issue  
Ascenzo DiGiacomo, Arvada Resident, against the issue  
Tony Cline, Arvada Resident, for the issue  
Chris Groen, Arvada Resident, against the issue  
Renee Nelson, Arvada Resident, against this issue  
Harriett Hall, Arvada Resident, against the issue  
Ron Slinger, Arvada Resident, for the issue  
Caitlin Reusch, Arvada Resident, against the issue  
Phil Shell, Arvada Resident, for the issue  
Rachel Smallwood, Arvada Resident, against the issue  
Anita Marcussen, Arvada Resident, against the issue  
Ed Rothschild, Arvada Resident, for the issue  
Julia Morrison, Arvada Resident, against the issue  
Nancy Young, Arvada Resident, against the issue  
Geoff Bruce, Arvada Resident, against the issue  
Bill Soray, Representing RTD, for the issue  
Bruce Morrison, Arvada Resident, against the issue  
Jeremy Gregory, Arvada Resident, Representing Arvada Chamber of  
Commerce, for the issue  
Joyce Richardson, Arvada Resident, against the issue  
Jane Schnabel, Arvada Resident, against the issue  
Travis Hodge, Arvada Resident, for the issue  
Susan Shirley, Arvada Resident, against the issue  
Will Claxton, Arvada Resident, against the issue  
Matthew Hartley, Arvada Resident, against the issue  
Peter Stanley, Arvada Resident, for the issue

Did not speak/did not designate for or against: Joshua Rodriquez

Did not speak/against the issue: Sherry Glennon, Arvada Resident

Council Rules do not permit council to continue past 11 p.m. Council paused the public hearing to address the following items:

- E. CB18-010 An Ordinance Increasing the Size of the Board of Directors of the Olde Town Arvada Business Improvement District; Adding Provisions Relating to the Length of Terms and Term Limits (Ordinance No. 4626)
- F. CB18-011 An Ordinance Repealing and Reenacting Chapter 18, Buildings and Building Regulations, of the Arvada City Code Through Adoption of General and Administrative Provisions and the Adoption, By Reference, of the 2015 International Building Code, the 2015 International

Residential Code, the 2015 International Energy Conservation Code, the 2015 International Existing Building Code, the 2015 International Fuel Gas Code, the 2015 International Mechanical Code, the 2015 International Plumbing Code, the 2009 International Property Maintenance Code, the 2014 National Electrical Code, and the Adoption of Penalties for Violations Thereof (Ordinance No. 4627)

- G. CB18-012 An Ordinance Imposing a Temporary Moratorium on the Establishment of Self-Storage Businesses (Ordinance No. 4628)

Mayor Williams opened the public hearing on CB-010, CB18-011 and CB18-012.

Councilmember Fifer moved to continue CB18-010, An Ordinance Increasing the Size of the Board of Directors of the Olde Town Arvada Business Improvement District; Adding Provisions Relating to the Length of Terms and Term Limits, CB18-011, An Ordinance Repealing and Reenacting Chapter 18, Buildings and Building Regulations, of the Arvada City Code Through Adoption of General and Administrative Provisions and the Adoption, By Reference, of the 2015 International Building Code, the 2015 International Residential Code, the 2015 International Energy Conservation Code, the 2015 International Existing Building Code, the 2015 International Fuel Gas Code, the 2015 International Mechanical Code, the 2015 International Plumbing Code, the 2009 International Property Maintenance Code, the 2014 National Electrical Code, and the Adoption of Penalties for Violations Thereof and CB18-012, An Ordinance Imposing a Temporary Moratorium on the Establishment of Self-Storage Businesses to April 2, 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

Councilmember Fifer moved to suspend Council Rule 2.B pursuant to Council Rule 9.B. to continue Olde Town Residences Preliminary Development Plan, 5565 Wadsworth Boulevard and Olde Town Residences Height Exception to Allow up to 54 Feet to the Top of the Roof, and up to 68 Feet for the Stair Towers and a Rooftop Trellis, 5565 Wadsworth Boulevard past 11:30 p.m.

The following votes were cast on the Motion:

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

The public hearing continued:

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

Councilmember McGoff moved that Olde Town Residences Preliminary Development Plan, 5565 Wadsworth Boulevard, be approved subject to the attached updated conditions of approval. This motion is based on the findings of fact on Pages 17 & 18 of the staff report.

The following votes were cast on the Motion:

Those voting Yes: Williams, Marriott, Fifer, Jones, McGoff, Miller  
Those voting No: Ford  
The Motion was Approved

Councilmember McGoff moved that Olde Town Residences height Exception to Allow up to 54 Feet to the Top of the Roof, and up to 68 Feet for the Stair Towers and a Rooftop Trellis, 5565 Wadsworth Boulevard, be approved. This motion is based on the findings of fact on Page 19 of the staff report.

The following votes were cast on the Motion:

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

Those voting No: Ford

The Motion was Approved

9. Public Comment – Five Minute Limit - none
10. Reports from City Council –
11. City Manager Reports - None
12. City Attorney Reports - None
13. Adjournment at 11:50 p m.



Marc Williams, Mayor

SEAL:

  
Kristen R. Rush, City Clerk

