



Lafayette Urban Renewal Authority

Information Book



Lafayette Urban Renewal Authority Information Book

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ORDINANCE NO. 08, Series 2012
INTRODUCED BY: COUNCILOR ALEXANDRA LYNCH

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LAFAYETTE, COLORADO, AMENDING THE “URBAN RENEWAL
PLAN – LAFAYETTE OLD TOWN & SOUTH BOULDER ROAD
REVITALIZATION AREA”**

WHEREAS, in April of 1999 the Lafayette City Council approved a resolution establishing the Lafayette Urban Renewal Authority (“LURA”), pursuant to the provisions of “The Colorado Urban Renewal Law” (Part 1 of Article 25, Title 31 of the Colorado Revised Statutes). Since the inception of the Lafayette Urban Renewal Authority in 1999, Lafayette City Council has served as the Authority, pursuant to the provisions of Section 31-25-115, C.R.S.; and

WHEREAS, in October of 1999, the Lafayette City Council adopted Ordinance No. 38 Series 1999 designating the “Lafayette Old Town Urban Renewal Area,” and, pursuant to the Colorado Urban Renewal Law approved the “Urban Renewal Plan for Old Town Lafayette”; and

WHEREAS, in June of 2002, the Lafayette City Council adopted Ordinance No. 13 Series 2002 designating a second urban renewal area, known as the “South Boulder Road Revitalization Area,” which area was adjacent to the Old Town Urban Renewal Area. The Lafayette City Council amended the 1999 Urban Renewal Plan to include both the Lafayette Old Town Urban Renewal Area and the South Boulder Road Revitalization Urban Renewal Area, within the parameters of the Urban Renewal Plan. Said Urban Renewal Plan, as amended, is known as the “Urban Renewal Plan – Lafayette Old Town & South Boulder Road Revitalization Area” (the “Plan”); and

WHEREAS, at the time of the adoption of this ordinance, the “Urban Renewal Plan – Lafayette Old Town & South Boulder Road Revitalization Area” is the only adopted urban renewal plan governing the activities of the Lafayette Urban Renewal Authority. There has been no major substantive modification to the Plan since the 2002 amendment; and

WHEREAS, the Plan provides for tax increment financing (“TIF”) as one of the means to finance the activities of LURA; and

WHEREAS, as a result of a national and regional economic downturn occurring largely since the inception of LURA, a general downturn in the value of real estate in the nation and the

region, and the conversion of much of the commercial land in the South Boulder Road Revitalization Area to tax exempt status, the tax increment financing mechanism has resulted in only modest revenues for LURA. Neither the City, nor LURA, anticipate that there will be substantial increases in TIF revenues during the life of the TIF associated with the Plan; and

WHEREAS, given the modest level of TIF revenues, and associated financing, that has been and will be available to LURA with respect to the Plan, both City Council and LURA believe that it is important for LURA to minimize administrative costs, such that LURA's limited revenues will be more widely available for urban renewal projects initiated pursuant to the Plan; and

WHEREAS, as a means of efficiently allocating the cost to administer the Plan, and urban renewal projects initiated under the Plan, the City has, and is willing to continue to make available to LURA, reasonable administrative support through its existing employees and facilities; and

WHEREAS, City Council anticipates designating a citizen board to sit as the Lafayette Urban Renewal Authority, with the conversion anticipated occur in calendar year 2012. In order to facilitate the conversion and to memorialize the relationship between the City Council and LURA with respect to administration of the Plan, both LURA and City Council wish to modify the Plan to address details of administration of the Plan as provided below; and

WHEREAS, various land uses and land use categories have evolved since the initial adoption of the Plan, which requires further clarification and modification of the allowed, general land use classifications as they pertain to the affected urban renewal areas; and

WHEREAS, LURA has considered the modifications to the Plan as proposed herein, and has recommended the Plan be modified to incorporate such changes; and

WHEREAS, pursuant to the provisions of Section 31-25-107 (7), C.R.S., City Council has considered the proposed modifications set forth in this ordinance, and finds and determines that such modifications do not constitute modifications that will substantially change the urban renewal plan in land area, land use, design, building requirements, timing or procedure, as previously approved. Accordingly, such modifications to the Plan may be approved and incorporated into the Plan by adoption of this ordinance by City Council..

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. The “Urban Renewal Plan – Lafayette Old Town & South Boulder Road Revitalization Area” (the “Plan”), is hereby amended to add the following subparagraphs to paragraph H (“Cooperation Agreements”) of section IV. (“Plan Activities”):

1. Recognizing the limited resources that are available to the Authority and that those resources should, to the extent reasonable possible, be expended directly on projects and improvements in the Urban Renewal Areas, it is intended that the Authority utilize existing City administrative services (such as staff, offices and facilities, and insurance policies), so as to avoid duplication of those general administrative expenses.

2. As a means to effectively and efficiently finance the administration of the Authority in the implementation of this Plan, the City of Lafayette will, subject to annual appropriations by City Council, provide reasonable “General Administrative Support” to the Authority by (1) the assignment of one or more City employees, as determined by the City Administrator, to act and carry out the functions of the executive director of the Authority and provide other general administrative services. (Neither the City nor the Authority anticipate that the assigned employee(s) will be exclusively devoted to the Authority’s activities); (2) providing reasonable administrative support through the various offices and departments of the City; (3) providing general legal services through the offices of the City Attorney; (4) providing reasonable use of City facilities as are necessary to carry out the general business of the Authority; and (5) including the Authority as an “insured” on various of the City’s insurance policies when such inclusion is cost effective. Such General Administrative Support shall not extend to securing employment of outside consultants and experts, or payment of significant expenses that are directly related to any urban renewal projects that are undertaken by the Authority. As compensation for the General Administrative Support provided by the City to the Authority, the Authority shall pay to the City, on an annual basis, 10% of the gross revenues of the Authority.

3. Prior to undertaking any urban renewal project pursuant to this Plan for which the cost is reasonably anticipated to exceed 40% of the budgeted amount of tax increment revenues of the Authority for that year, the Authority will present such proposed project to the Lafayette City Council and obtain City Council’s consent to proceed with the project.

4. As a part of the annual budgeting process of the Authority, the Authority will present its annual budget to City Council for the purpose of securing any comments or suggestions from the City Council, prior to the adoption of the budget by the authority.

Section 2. Subsection VI.A of the Plan is hereby amended to read as follows:

A. Uses

1. For the portion of the District currently zoned B1, notwithstanding the provisions of the underlying B-1 zoning, the following use restrictions apply in the Urban Renewal Area.

- (a) Permitted:
 - Accessory uses;
 - Accessory Building/Structure;
 - Arts gallery or studio;
 - Household pets;
 - Medical/dental offices;
 - Motels/hotels/resorts
 - Offices, except for bail bond brokers;
 - Parks and playgrounds;
 - Personal service outlets, (except tattoo parlors), such as barber and beauty shops, self-self laundries, shoe repair, tailors, dry cleaners and travel agencies;
 - Recreational club or facility (indoor or outdoor);
 - Restaurants;
 - Retail sales including but not limited to the sale of food, beverages, dry goods, furniture, appliances, hardware, and clothing with floor areas of less than 20,000 sq. ft., except pawn shops;
 - Telecommunications Facility*.

* May be permitted or require a telecommunications review in accordance with Development & Zoning Code Section 26-22.5-8.

- (b) Permitted with Special Use Review:
 - Assisted living;
 - Bed and Breakfast;
 - Churches (30' setback to all residentially zoned lots);
 - Commercial parking/parking lots and structures;
 - Commercial Recreational Establishment (such as bowling alley, skating rink);
 - Daycare centers;
 - Drive-up facilities;
 - Drive-up restaurants;
 - Extractions of oil and gaseous materials;
 - Home Occupations;
 - Hospitals;
 - Indoor amusement, entertainment, arcades;
 - Library;
 - Lumber, plumbing, electrical and building supplies;
 - Mini-banks detached from principal building;
 - Mortuary;

Municipal or public utility facilities and buildings excluding offices, repair and storage yards;
Nurseries and greenhouses (commercial);
Printing/publishing;
Private/public membership clubs;
Residential:
 Single family dwelling in a mixed use building complex;
 Duplex two-family dwellings in a mixed use building complex;
 Multi-family dwellings in a mixed use building complex;
 Multi-family dwellings;
Retail with 20,000 square feet or greater, except pawn shops;
School, public
School, private
Tailoring, millinery, electronic part assembly, woodwork, and other similar limited manufacturing activity that does not generate high noise levels and that meets the provisions of the International Building Code Factory Group F requirements
Theaters, auditorium;
Veterinary hospital/clinic;
Telecommunications Facilities*.

* May be permitted or require a telecommunications review in accordance with Development & Zoning Code Section 26-22.5-8.

- (c) Prohibited:
- Agricultural use (crop production only);
 - Animals;
 - Asphalt plant;
 - Automotive paint and body shop;
 - Automotive and recreational vehicle service and sales greater than two ton;
 - Automotive and recreational vehicle service and sales less than two ton;
 - Bailbond broker office;
 - Board and care facility;
 - Camper park or campground;
 - Carwash;
 - Enclosed (i.e., screened and fenced) storage yard;
 - Extraction of minerals;
 - Feedmill;
 - Gas station (fuel facility);
 - Golf course (public or private);
 - Halfway houses;
 - Kennel and similar uses such as dog daycare;
 - Machine shops;
 - Mineral extraction;
 - Mobile home park or subdivision;

Mobile home sales and service;
Mobile homes on individual lots;
Nursing home/convalescent home;
Parking lots/structures, except as accessory use to permitted or special use;
Pawn shop;
Refineries;
Research facility, testing, laboratory, and facilities for manufacturing, fabricating, processing, and storage of products;
Residential:
 Accessory dwelling;
 Single family dwelling;
 Duplex two-family dwelling;
Sexually oriented business;
Slaughter and processing of animals;
Storage yard;
Tattoo parlor;
Transportation Center;
Vehicle storage, sales, service or repair (Motorized);
Wholesale establishments;
Warehouse (mini-storage or other).

2. For the portion of the District zoned C1, notwithstanding the provisions of the underlying C-1 zoning, the following use restrictions apply in the Urban Renewal Area.

(a) Permitted:
 Accessory building/structure;
 Accessory uses;
 Art gallery or studio;
 Home occupations;
 Household pets;
 Lumber, plumbing, electrical, and building supplies;
 Medical/dental offices;
 Motels, hotels, or resorts;
 Offices, as part of a mixed-use (office/retail) building, except for bail bond brokers;
 Personal service outlets such as barber shop, beauty shop, self-service laundries, shoe repair, tailors, dry cleaners, travel agencies;
 Parking lot or structure as accessory to a permitted or special use;
 Restaurants;
 Retail sales, except pawn shops, including but not limited to the sale of food, beverages, dry goods, furniture, appliances, hardware, and clothing with floor areas of less than 20,000 square feet;
 Retail sales, except pawn shops, with floor areas in excess of 20,000 square feet;
 Telecommunications Facility*;

*May be permitted or require a telecommunications review in accordance with Development & Zoning Code Section 26-22.5-8.

- (b) Permitted with Special Use Review
- Automotive and recreational vehicle service and sales, less than two ton;
 - Churches (30 foot setback to all residentially/zoned lots);
 - Commercial recreational establishment (such as a bowling alley, skating rink);
 - Daycare center;
 - Drive-up facility;
 - Drive-up restaurant;
 - Extractions of oil and gaseous materials;
 - Gas station (fuel facility)
 - Hospitals;
 - Indoor amusement, entertainment, arcades;
 - Library;
 - Mini-banks detached from principal building;
 - Mortuary;
 - Municipal or public utility facility and building, excluding offices, repair and storage yards;
 - Nurseries or greenhouses (commercial);
 - Printing, publishing;
 - Private or public membership clubs;
 - Recreational club or facility (indoor or outdoor);
 - Residential:
 - Single family dwelling in a mixed use building complex;
 - Duplex two-family dwellings in a mixed use building complex;
 - Multi-family dwellings in a mixed use building complex;
 - Telecommunications Facilities*;
 - Theaters, auditoriums, or places of assembly;
 - Transportation Center, except trucking terminal;
 - Wholesale establishments.

*May be permitted or require a telecommunications review in accordance with Development & Zoning Code Section 26-22.5-8.

- (c) Prohibited:
- Agriculture use (crop production only);
 - Animals;
 - Asphalt plant;
 - Assisted living;
 - Automobile storage yard;
 - Automotive and recreational vehicle service and sales greater than two ton;
 - Automotive paint, body, or repair shop;

Bed and breakfast;
Board and care facility;
Camper park or campground;
Commercial parking lot;
Enclosed (screened and fenced) storage yard, except as an accessory use to a permitted or special use;
Extraction of minerals;
Feedmill;
Golf course (public or private);
Halfway house;
Kennel and similar uses such as dog daycare;
Machine shops;
Mobile homes on individual lots;
Mobile home park or subdivision;
Mobile home sales and service;
Nursing home/convalescent home;
Park or playground;
Refinement of hydro-carbons, mineral or gaseous materials;
Research facility: testing, laboratory, and facility for manufacturing, fabricating, processing, or storing products;
Residential:
 Single-family dwelling;
 Two-family dwelling;
 Multi-family dwelling;
School, public or private;
Sexually oriented business;
Slaughter and processing of animals;
Tailoring, millinery, electronic part assembly, woodwork, and other similar limited manufacturing activity that does not generate high noise levels and that meets the provisions of the International Building Code Factory Group F requirements;
Veterinarian hospital or clinic;
Warehouse (mini-storage or other).

Section 3. All other provisions of the Plan, as previously adopted, that are not inconsistent with the provisions of this Amendment shall remain in full force and effect.

Section 4. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 6. The repeal or modification of any provision of the Code of Ordinances of Lafayette, Colorado by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 7. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 8. This ordinance shall become effective upon the latter of the 10th day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 21ST DAY OF FEBRUARY, 2012.

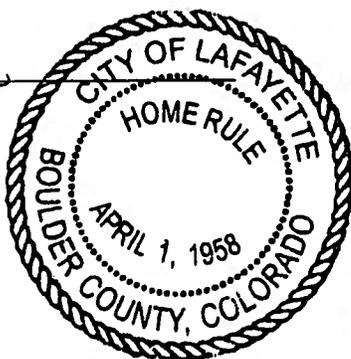
PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 5TH DAY OF MARCH 2012.

CITY OF LAFAYETTE, COLORADO

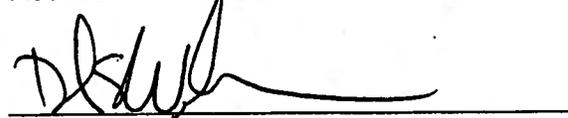

Carolyn D. Cutler, Mayor

ATTEST:


Susan Koster, CMC
City Clerk



APPROVED AS TO FORM:


David S. Williamson
City Attorney

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that this is crucial for ensuring the integrity of the financial statements and for providing a clear audit trail. The text also mentions the need for regular reconciliations and the use of appropriate accounting methods.

2. The second part of the document focuses on the classification of assets and liabilities. It provides detailed guidance on how to identify and categorize these items, ensuring that they are recorded in the correct accounts. This section also touches upon the valuation of assets and the recognition of liabilities.

3. The third part of the document addresses the treatment of income and expenses. It explains how to recognize revenue and record costs, highlighting the importance of matching expenses with the revenues they generate. This section also discusses the timing of these entries and the impact on the profit and loss statement.

4. The fourth part of the document covers the calculation and presentation of financial ratios. It provides formulas for key ratios such as the current ratio, debt-to-equity ratio, and return on assets. The text also discusses how these ratios can be used to analyze the company's financial performance and compare it to industry benchmarks.

5. The fifth part of the document discusses the preparation of the financial statements. It outlines the steps involved in compiling the data from the accounting records into the balance sheet, income statement, and cash flow statement. This section also mentions the importance of reviewing the statements for accuracy and consistency.

6. The sixth part of the document addresses the disclosure requirements for financial statements. It explains what information must be provided in the notes to the financial statements, including details about accounting policies, contingencies, and related party transactions. This section also discusses the importance of transparency and full disclosure to stakeholders.

7. The seventh part of the document discusses the role of the auditor in the financial reporting process. It explains how the auditor's independent opinion adds credibility to the financial statements and how the company should cooperate with the audit process. This section also mentions the consequences of non-compliance with auditing standards.

8. The eighth part of the document covers the final steps in the financial reporting process, including the approval of the financial statements by the board of directors and the filing of the statements with the relevant regulatory authorities. This section also discusses the importance of maintaining accurate records for future reference.

9. The ninth part of the document discusses the ongoing nature of financial reporting and the need for continuous improvement. It emphasizes the importance of staying up-to-date with changes in accounting standards and regulations, and the role of professional judgment in applying these standards to specific circumstances.

10. The tenth part of the document provides a summary of the key points discussed in the document. It reiterates the importance of accuracy, transparency, and compliance in financial reporting, and encourages the reader to apply these principles in their own work.

West's Colorado Revised Statutes Annotated
Title 31. Government--Municipal (Refs & Annos)
Powers and Functions of Cities and Towns
Article 25. Public Improvements (Refs & Annos)
Part 1. Urban Renewal (Refs & Annos)

C.R.S.A. § 31-25-101

§ 31-25-101. Short title

Currentness

This part 1 shall be known and may be cited as the “Urban Renewal Law”.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975.

C. R. S. A. § 31-25-101, CO ST § 31-25-101

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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West's Colorado Revised Statutes Annotated
Title 31. Government--Municipal (Refs & Annos)
Powers and Functions of Cities and Towns
Article 25. Public Improvements (Refs & Annos)
Part 1. Urban Renewal (Refs & Annos)

C.R.S.A. § 31-25-102

§ 31-25-102. Legislative declaration

Effective: June 1, 2010

Currentness

(1) The general assembly finds and declares that there exist in municipalities of this state slum and blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state in general and of the municipalities thereof; that the existence of such areas contributes substantially to the spread of disease and crime, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities, retards the provision of housing accommodations, aggravates traffic problems and impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of slums and blight is a matter of public policy and statewide concern in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities.

(2) The general assembly further finds and declares that certain slum or blighted areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this part 1, since the prevailing conditions therein may make impracticable the reclamation of the area by conservation or rehabilitation; that other slum or blighted areas, or portions thereof, through the means provided in this part 1, may be susceptible of conservation or rehabilitation in such a manner that the conditions and evils enumerated in this section may be eliminated, remedied, or prevented; and that salvable slum and blighted areas can be conserved and rehabilitated through appropriate public action, as authorized or contemplated in this part 1, and the cooperation and voluntary action of the owners and tenants of property in such areas.

(3) The general assembly further finds and declares that the powers conferred by this part 1 are for public uses and purposes for which public money may be expended and the police power exercised and that the necessity in the public interest for the provisions enacted in this part 1 is declared as a matter of legislative determination.

(4) The general assembly further finds and declares that:

(a) Urban renewal areas created for the purposes described in subsections (1) and (2) of this section shall not include agricultural land except in connection with the limited circumstances described in this part 1; and

(b) The inclusion of agricultural land within urban renewal areas is a matter of statewide concern.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975. Amended by Laws 2010, Ch. 89, § 1, eff. June 1, 2010.

C. R. S. A. § 31-25-102, CO ST § 31-25-102

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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Title 31. Government--Municipal (Refs & Annos)
Powers and Functions of Cities and Towns
Article 25. Public Improvements (Refs & Annos)
Part 1. Urban Renewal (Refs & Annos)

C.R.S.A. § 31-25-103

§ 31-25-103. Definitions

Effective: June 1, 2010

Currentness

As used in this part 1, unless the context otherwise requires:

(1) "Agricultural land" means any one parcel of land or any two or more contiguous parcels of land that, regardless of the uses for which the land has been zoned, has been classified by the county assessor as agricultural land for purposes of the levying and collection of property tax pursuant to sections 39-1-102(1.6)(a) and 39-1-103(5)(a), C.R.S., at any time during the five-year period prior to the date of adoption of an urban renewal plan or any modification of such a plan.

(2) "Blighted area" means an area that, in its present condition and use and, by reason of the presence of at least four of the following factors, substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare:

- (a) Slum, deteriorated, or deteriorating structures;
- (b) Predominance of defective or inadequate street layout;
- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;
- (f) Unusual topography or inadequate public improvements or utilities;
- (g) Defective or unusual conditions of title rendering the title nonmarketable;
- (h) The existence of conditions that endanger life or property by fire or other causes;

(i) Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities;

(j) Environmental contamination of buildings or property;

(k) Deleted by Laws 2004, Ch. 367, § 3, eff. June 4, 2004.

(k.5) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements; or

(l) If there is no objection by the property owner or owners and the tenant or tenants of such owner or owners, if any, to the inclusion of such property in an urban renewal area, “blighted area” also means an area that, in its present condition and use and, by reason of the presence of any one of the factors specified in paragraphs (a) to (k.5) of this subsection (2), substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare. For purposes of this paragraph (l), the fact that an owner of an interest in such property does not object to the inclusion of such property in the urban renewal area does not mean that the owner has waived any rights of such owner in connection with laws governing condemnation.

(3) “Bonds” means any bonds (including refunding bonds), notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, or other obligations.

(3.1) “Brownfield site” means real property, the development, expansion, redevelopment, or reuse of which will be complicated by the presence of a substantial amount of one or more hazardous substances, pollutants, or contaminants, as designated by the United States environmental protection agency.

(3.3) “Business concern” has the same meaning as “business” as set forth in section 24-56-102(1), C.R.S.

(3.5) “Displaced person” has the same meaning as set forth in section 24-56-102(2), C.R.S., and for purposes of this part 1 shall also include any individual, family, or business concern displaced by the acquisition by eminent domain of real property by an authority.

(3.7) “Governing body” means the governing body of the municipality within which an authority has been established in accordance with the requirements of this part 1.

(4) “Obligee” means any bondholder, agent, or trustee for any bondholder, or any lessor demising to an authority property used in connection with an urban renewal project of the authority, or any assignee of such lessor's interest or any part thereof, and the federal government when it is a party to any contract or agreement with the authority.

(5) “Public body” means the state of Colorado or any municipality, quasi-municipal corporation, board, commission, authority, or other political subdivision or public corporate body of the state.

(6) “Real property” means lands, lands under water, structures, and any and all easements, franchises, incorporeal hereditaments, and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise.

(7) “Slum area” means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and is detrimental to the public health, safety, morals, or welfare.

(7.5) “Urban-level development” means an area in which there is a predominance of either permanent structures or above-ground or at-grade infrastructure.

(8) “Urban renewal area” means a slum area, or a blighted area, or a combination thereof which the local governing body designates as appropriate for an urban renewal project.

(8.5) “Urban renewal authority” or “authority” means a corporate body organized pursuant to the provisions of this part 1 for the purposes, with the powers, and subject to the restrictions set forth in this part 1.

(9) “Urban renewal plan” means a plan, as it exists from time to time, for an urban renewal project, which plan conforms to a general or master plan for the physical development of the municipality as a whole and which is sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(10) “Urban renewal project” means undertakings and activities for the elimination and for the prevention of the development or spread of slums and blight and may involve slum clearance and redevelopment, or rehabilitation, or conservation, or any combination or part thereof, in accordance with an urban renewal plan. Such undertakings and activities may include:

(a) Acquisition of a slum area or a blighted area or portion thereof;

(b) Demolition and removal of buildings and improvements;

(c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of this part 1 in accordance with the urban renewal plan;

(d) Disposition of any property acquired or held by the authority as a part of its undertaking of the urban renewal project for the urban renewal areas (including sale, initial leasing, or temporary retention by the authority itself) at the fair value of such property for uses in accordance with the urban renewal plan;

(e) Carrying out plans for a program through voluntary action and the regulatory process for the repair, alteration, and rehabilitation of buildings or other improvements in accordance with the urban renewal plan; and

(f) Acquisition of any other property where necessary to eliminate unhealthful, unsanitary, or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975. Amended by Laws 1999, Ch. 161, § 1, eff. May 3, 1999; Laws 2004, Ch. 367, §§ 2, 3, eff. June 4, 2004; Laws 2005, Ch. 286, § 3, eff. June 3, 2005; Laws 2010, Ch. 89, § 2, eff. June 1, 2010.

C. R. S. A. § 31-25-103, CO ST § 31-25-103

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West's Colorado Revised Statutes Annotated
Title 31. Government--Municipal (Refs & Annos)
Powers and Functions of Cities and Towns
Article 25. Public Improvements (Refs & Annos)
Part 1. Urban Renewal (Refs & Annos)

C.R.S.A. § 31-25-104

§ 31-25-104. Urban renewal authority

Effective: August 5, 2015

Currentness

(1)(a) Any twenty-five registered electors of the municipality may file a petition with the clerk, setting forth that there is a need for an authority to function in the municipality. Upon the filing of such a petition, the clerk shall give notice of the time, place, and purpose of a public hearing, at which the local governing body will determine the need for such an authority in the municipality. Such notice shall be given at the expense of the municipality by publishing a notice, at least ten days preceding the day on which the hearing is to be held, in a newspaper having a general circulation in the municipality or, if there is no such newspaper, by posting such a notice in at least three public places within the municipality at least ten days preceding the day on which the hearing is to be held.

(b) Upon the date fixed for said hearing held upon notice as provided in this section, a full opportunity to be heard shall be granted to all residents and taxpayers of the municipality and to all other interested persons. After such a hearing, if the governing body finds that one or more slum or blighted areas exist in the municipality, and finds that the acquisition, clearance, rehabilitation, conservation, development, or redevelopment, or a combination thereof of such area is necessary in the interest of the public health, safety, morals, or welfare of the residents of the municipality, and declares it to be in the public interest that the urban renewal authority for such municipality created by this part 1 exercise the powers provided in this part 1 to be exercised by such authority, the governing body shall adopt a resolution so finding and declaring and shall cause notice of such resolution to be given to the mayor, who shall thereupon appoint, as provided in paragraph (a) of subsection (2) of this section, commissioners to act as an authority. A certificate signed by such commissioners shall then be filed with the division of local government in the department of local affairs and there remain of record, setting forth that the governing body made the findings and declaration provided in this paragraph (b) after such hearing and that the mayor has appointed them as commissioners. Upon the filing of such certificate, the commissioners and their successors are constituted an urban renewal authority, which shall be a body corporate and politic. The boundaries of such authority shall be coterminous with those of the municipality.

(c) If the governing body, after a hearing, determines that the findings and declaration enumerated in paragraph (b) of this subsection (1) cannot be made, it shall adopt a resolution denying the petition. After six months have expired from the date of the denial of such petition, subsequent petitions may be filed and new hearings and determinations made thereon; except that there shall be at least six months between the time of filing of any subsequent petition and the denial of the last preceding petition.

(d) In any suit, action, or proceeding involving the validity or enforcement of any bond, contract, mortgage, trust indenture, or other agreement of the authority, the authority shall be conclusively deemed to have been established in accordance with the provisions of this part 1 upon proof of the filing of said certificate. A copy of such certificate, duly

certified by the director of the division of local government, shall be admissible in evidence in any such suit, action, or proceeding.

(2)(a)(I) Except as provided in subsection (2.5) of this section, an authority consists of thirteen commissioners, not fewer than ten of whom must be appointed by the mayor, who shall designate the chairperson for the first year. In order to represent the collective interests of the county and all taxing bodies levying a mill levy in one or more urban renewal areas managed by the authority, referred to in this part 1 as an “urban renewal authority area”, other than the municipality, one such commissioner on the authority must be appointed by the board of county commissioners of the county in which the territorial boundaries of the urban renewal authority area are located, one such commissioner must also be a board member of a special district selected by agreement of the special districts levying a mill levy within the boundaries of the urban renewal authority area, and one commissioner must also be an elected member of a board of education of a school district levying a mill levy within the boundaries of the urban renewal authority area. If the urban renewal authority area is located within the boundaries of more than one county, the appointment is made by agreement of all of the counties in which the boundaries of the urban renewal authority area are located.

(II) If no county, special district, or school district appoints a commissioner to the authority, then the county, special district, or school district appointment remains vacant until such time as the applicable appointing authority makes the appointment pursuant to this paragraph (a).

(III) If the appointing county is a city and county, the requirements of this paragraph (a) pertaining to county representation on the authority board need not be satisfied.

(IV) All mayoral appointments and chair designations are subject to approval by the governing body of the municipality within which the authority has been established. Not more than one of the commissioners appointed by the mayor may be an official of the municipality.

(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 term of office of a commissioner of an authority who is a municipal official is not affected or curtailed by the expiration of the term of his or her municipal office.

(b) The commissioners who are first appointed must be designated by the mayor to serve for staggered terms so that the term of at least one commissioner will expire each year. Thereafter, the term of office is five years. A commissioner holds office until his or her successor has been appointed and has qualified. Vacancies other than by reason of expiration of terms must be filled by the mayor for the unexpired term; except that, in the case of a commissioner on the authority who has been appointed by the board of commissioners of a county pursuant to paragraph (a) of this subsection (2), a vacancy on the authority board for the balance of the unexpired term must be filled by the board of commissioners of the county that made the original appointment, a vacancy of the special-district appointed seat must be filled by agreement of the affected special districts, and a vacancy of the school-district appointed seat must be filled by agreement of the affected school districts. A majority of the commissioners constitutes a quorum. The mayor shall file with the clerk a certificate of the appointment or reappointment of any commissioner, and such certificate is conclusive evidence of the due and proper appointment of such commissioner. A commissioner receives no compensation for his or her services, but is entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties.

(c) When the office of the first chairman of the authority becomes vacant and annually thereafter, the authority shall select a chairman from among its members. An authority shall select from among its members a vice-chairman, and it may employ a secretary, who shall be executive director, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and it shall determine their qualifications, duties, and compensation. An authority may call upon the municipal counsel or chief legal officer of the municipality for such legal services as it may require, or it may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such duties as it deems proper.

(2.5) When the governing body of a municipality designates itself as the authority or transfers an existing authority to the governing body pursuant to section 31-25-115(1), an authority consists of the same number of commissioners as the number of members of the governing body. In addition, in order to represent the collective interests of the county and all taxing bodies levying a mill levy within the boundaries of the urban renewal authority area other than the municipality, one additional commissioner on the authority must be appointed by the board of county commissioners of the county in which the territorial boundaries of the urban renewal authority area are located, one additional commissioner must also be a board member of a special district selected by agreement of the special districts levying a mill levy within the boundaries of the urban renewal authority area, and one additional commissioner must also be an elected member of a board of education of a school district levying a mill levy within the boundaries of the urban renewal authority area. If the number of members of the governing body causes the authority to have an even number of commissioners, the mayor shall appoint an additional commissioner to restore an odd number of commissioners to the authority. As applicable, the appointment of the county, special district, and school district representatives on the authority pursuant to this subsection (2.5) must be made in accordance with the procedures specified in subsection (2) of this section.

(3) No commissioner, other officer, or employee of an authority nor any immediate member of the family of any such commissioner, officer, or employee shall acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, nor shall he have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any project. If any commissioner, other officer, or employee of an authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any project, he shall immediately disclose the same in writing to the authority, and such disclosure shall be entered upon the minutes of the authority. Upon such disclosure, such commissioner, officer, or other employee shall not participate in any action by the authority affecting the carrying out of the project planning or the undertaking of the project unless the authority determines that, in the light of such personal interest, the participation of such member in any such act would not be contrary to the public interest. Acquisition or retention of any such interest without such determination by the authority that it is not contrary to the public interest or willful failure to disclose any such interest constitutes misconduct in office.

(4) The mayor, with the consent of the governing body, may remove a commissioner for inefficiency or neglect of duty or misconduct in office but only after the commissioner has been given a copy of the charges made by the mayor against him and has had an opportunity to be heard in person or by counsel before the governing body. In the event of the removal of any commissioner, the mayor shall file in the office of the clerk a record of the proceedings, together with the charges made against the commissioner and findings thereon.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975. Amended by Laws 1976, S.B.111, § 11, eff. July 1, 1976; Laws 2015, Ch. 261, § 1, eff. Aug. 5, 2015.

C. R. S. A. § 31-25-104, CO ST § 31-25-104

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Title 31. Government--Municipal (Refs & Annos)
Powers and Functions of Cities and Towns
Article 25. Public Improvements (Refs & Annos)
Part 1. Urban Renewal (Refs & Annos)

C.R.S.A. § 31-25-105

§ 31-25-105. Powers of an authority

Currentness

(1) Every authority has all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part 1, including, but not limited to, the following powers in addition to others granted in this part 1:

(a) To sue and to be sued; to adopt and have a seal and to alter the same at pleasure; to have perpetual succession; to make, and from time to time amend and repeal, bylaws, orders, rules, and regulations to effectuate the provisions of this part 1;

(b) To undertake urban renewal projects and to make and execute any and all contracts and other instruments which it may deem necessary or convenient to the exercise of its powers under this part 1, including, but not limited to, contracts for advances, loans, grants, and contributions from the federal government or any other source;

(c) To arrange for the furnishing or repair by any person or public body of services, privileges, works, streets, roads, public utilities, or educational or other facilities for or in connection with a project of the authority; to dedicate property acquired or held by it for public works, improvements, facilities, utilities, and purposes; and to agree, in connection with any of its contracts, to any conditions that it deems reasonable and appropriate under this part 1, including, but not limited to, conditions attached to federal financial assistance, and to include in any contract made or let in connection with any project of the authority provisions to fulfill such of said conditions as it may deem reasonable and appropriate;

(d) To arrange with the municipality or other public body to plan, replan, zone, or rezone any part of the area of the municipality or of such other public body, as the case may be, in connection with any project proposed or being undertaken by the authority under this part 1;

(e) To enter, with the consent of the owner, upon any building or property in order to make surveys or appraisals and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire any property by purchase, lease, option, gift, grant, bequest, devise, or otherwise to acquire any interest in property by condemnation, including a fee simple absolute title thereto, in the manner provided by the laws of this state for the exercise of the power of eminent domain by any other public body (and property already devoted to a public use may be acquired in a like manner except that no property belonging to the federal government or to a public body may be acquired without its consent); except that any acquisition of any interest in property by condemnation by an authority must be approved as part of an urban renewal plan or substantial modification thereof, as provided in section 31-25-107, by a majority vote of the governing body of the municipality in which such property is located, and the acquisition of property by condemnation by an authority shall also satisfy the requirements of section 31-25-105.5; to hold, improve, clear, or prepare for redevelopment any such property; to mortgage, pledge, hypothecate, or otherwise encumber or

dispose of its property; and to insure or provide for the insurance of any property or operations of the authority against any risks or hazards; except that no provision of any other law with respect to the planning or undertaking of projects or the acquisition, clearance, or disposition of property by public bodies shall restrict an authority exercising powers under this part 1 in the exercise of such functions with respect to a project of such authority unless the general assembly specifically so states;

(f)(I) To invest any of its funds not required for immediate disbursement in property or in securities in which public bodies may legally invest funds subject to their control pursuant to part 6 of article 75 of title 24, C.R.S., and to redeem such bonds as it has issued at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be cancelled;

(II) To deposit any funds not required for immediate disbursement in any depository authorized in section 24-75-603, C.R.S. For the purpose of making such deposits, the authority may appoint, by written resolution, one or more persons to act as custodians of the funds of the authority. Such persons shall give surety bonds in such amounts and form and for such purposes as the authority requires.

(g) To borrow money and to apply for and accept advances, loans, grants, and contributions from the federal government or other source for any of the purposes of this part 1 and to give such security as may be required;

(h) To make such appropriations and expenditures of its funds and to set up, establish, and maintain such general, separate, or special funds and bank accounts or other accounts as it deems necessary to carry out the purposes of this part 1;

(i) To make or have made and to submit or resubmit to the governing body for appropriate action the authority's proposed plans and modifications thereof necessary to the carrying out of the purposes of this part 1, such plan shall include, but not be limited to:

(I) Plans to assist the municipality in the latter's preparation of a workable program for utilizing appropriate private and public resources to eliminate and prevent the development or spread of slum and blighted areas, to encourage needed urban rehabilitation, to provide for the redevelopment of slum and blighted areas, or to undertake such activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program, which program may include, without limitation, provision for: The prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas or portions thereof by replanning, removing congestion, providing public improvements, and encouraging rehabilitation and repair of deteriorated or deteriorating structures; and the clearance and redevelopment of slum and blighted areas or portions thereof;

(II) Urban renewal plans;

(III) Preliminary plans outlining proposed urban renewal activities for neighborhoods of the municipality to embrace two or more urban renewal areas;

(IV) Plans for the relocation of those individuals, families, and business concerns situated in the urban renewal area which will be displaced by the urban renewal project, which relocation plans, without limitation, may include appropriate data setting forth a feasible method for the temporary relocation of such individuals and families and showing that there will be provided, in the urban renewal area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the individuals and families so displaced, decent, safe, and sanitary dwellings equal in number to the number of and available to such individuals and families and reasonably accessible to their places of employment;

(V) Plans for undertaking a program of voluntary repair and rehabilitation of buildings and improvements and for the enforcement of state and local laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the repair, rehabilitation, demolition, or removal of buildings and improvements;

(VI) Financing plans, maps, plats, appraisals, title searches, surveys, studies, and other preliminary plans and work necessary or pertinent to any proposed plans or modifications;

(j) To make reasonable relocation payments to or with respect to individuals, families, and business concerns situated in an urban renewal area that will be displaced as provided in subparagraph (IV) of paragraph (i) of this subsection (1) for moving expenses and actual direct losses of property including, for business concerns, goodwill and lost profits that are reasonably related to relocation of the business, resulting from their displacement for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government;

(k) To develop, test, and report methods and techniques and to carry out demonstrations and other activities for the prevention and the elimination of slum and blighted areas within the municipality;

(l) To rent or to provide by any other means suitable quarters for the use of the authority or to accept the use of such quarters as may be furnished by the municipality or any other public body, and to equip such quarters with such furniture, furnishings, equipment, records, and supplies as the authority may deem necessary to enable it to exercise its powers under this part 1.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975. Amended by Laws 1979, H.B.1363, § 21, eff. June 8, 1979; Laws 1989, H.B.1056, § 27, eff. July 1, 1989; Laws 1990, H.B.90-1007, § 1, eff. April 5, 1990; Laws 1999, Ch. 161, § 2, eff. May 3, 1999; Laws 2004, Ch. 367, § 4, eff. June 4, 2004.

C. R. S. A. § 31-25-105, CO ST § 31-25-105

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C.R.S.A. § 31-25-105.5

§ 31-25-105.5. Acquisition of private property by eminent domain by authority for subsequent transfer to private party--restrictions--exceptions--right of civil action--damages--definitions

Currentness

(1) Except as provided in this subsection (1) or subsection (2) of this section, no private property acquired by eminent domain by an authority pursuant to section 31-25-105(1)(e) after June 4, 2004, shall be subsequently transferred to a private party unless:

(a) The owner of the property consents in writing to acquisition of the property by eminent domain by the authority;

(b) The governing body of the authority determines that the property is no longer necessary for the purpose for which it was originally acquired, and the authority first offers to sell the property to the owner from whom it was acquired, if the owner can be located, at a price not more than that paid by the authority and the owner of the property declines to exercise such right of first refusal;

(c) The property acquired by the authority has been abandoned; or

(d) The owner of the property requests or pleads in an eminent domain action that the authority acquiring the property also acquire property that is not essential to the purpose of the acquisition on the basis that acquiring less property would leave the owner of the property holding an uneconomic remnant.

(2)(a) Where a proposed transfer of private property acquired by an authority by eminent domain does not satisfy one of the requirements specified in subsection (1) of this section, such property acquired by eminent domain by an authority after June 4, 2004, may be subsequently transferred to a private party only upon satisfaction of each of the following conditions:

(I) The governing body has made a determination that the property is located in a blighted area or the property itself is blighted, and the urban renewal project for which the property is being acquired shall be commenced no later than seven years from the date the blight determination is made. For purposes of this section, the determination of whether a particular area or property is blighted shall be based upon reasonably current information obtained at the time the blight determination is made.

(II) Not later than the commencement of the negotiation of an agreement for redevelopment or rehabilitation of property acquired or to be acquired by eminent domain, the authority provides notice and invites proposals for redevelopment or

rehabilitation from all property owners, residents, and owners of business concerns located on the property acquired or to be acquired by eminent domain in the urban renewal area by mailing notice to their last known address of record. The authority may also at the same time invite proposals for redevelopment or rehabilitation from other interested persons who may not be property owners, owners of business concerns, or residents within the urban renewal area, and may provide public notice thereof by publication in a newspaper having a general circulation within the municipality in which the authority has been established.

(III) In the case of a set of parcels to be acquired by the authority in connection with an urban renewal project, at least one of which is owned by an owner refusing or rejecting an agreement for the acquisition of the entire set of parcels, the authority makes a determination that the redevelopment or rehabilitation of the remaining parcels is not viable under the urban renewal plan without the parcel at issue.

(b) Any owner of property located within the urban renewal area may challenge the determination of blight made by the governing body pursuant to subparagraph (I) of paragraph (a) of this subsection (2) by filing, not later than thirty days after the date the determination of blight is made, a civil action in district court for the county in which the property is located pursuant to C.R.C.P. 106(a)(4) for judicial review of the exercise of discretion on the part of the governing body in making the determination of blight. Any such action shall be governed in accordance with the procedures and other requirements specified in the rule; except that the governing body shall have the burden of proving that, in making its determination of blight, it has neither exceeded its jurisdiction nor abused its discretion.

(c) Notwithstanding any other provision of law, any determination made by the governing body pursuant to paragraph (a) of this subsection (2) shall be deemed a legislative determination and shall not be deemed a quasi-judicial determination.

(d) Notwithstanding any other provision of this section, no transfer that satisfies the requirements of subsection (1) of this section shall be subject to the provisions of this subsection (2), subsection (3) or (4), or paragraph (a) of subsection (5) of this section.

(3) Any authority seeking to acquire property by eminent domain in accordance with the requirements of subsection (2) of this section shall reimburse the owner of the property for reasonable attorney fees incurred by the owner in connection with the acquisition where the owner is the prevailing party on a challenge brought under paragraph (b) of subsection (2) of this section.

(4)(a) Any authority that exercises the power of eminent domain to transfer acquired property to another private party as authorized in accordance with the requirements of this section shall adopt relocation assistance and land acquisition policies to benefit displaced persons that are consistent with those set forth in article 56 of title 24, C.R.S., to the extent applicable to the facts of each specific property, and, at the time of the relocation of the owner or the occupant, shall provide compensation or other forms of assistance to any displaced person in accordance with such policies. In addition, in the case of a business concern displaced by the acquisition of property by eminent domain, the authority shall make a business interruption payment to the business concern not to exceed the lesser of ten thousand dollars or one-fourth of the average annual taxable income shown on the three most recent federal income tax returns of the business concern.

(b) In any case where the acquisition of property by eminent domain by an authority displaces individuals, families, or business concerns, the authority shall make reasonable efforts to relocate such individuals, families, or business concerns

within the urban renewal area, where such relocation is consistent with the uses provided in the urban renewal plan, or in areas within reasonable proximity of, or comparable to, the original location of such individuals, families, or business concerns.

(5) For purposes of this section, unless the context otherwise requires:

(a) “Blighted area” shall have the same meaning as set forth in section 31-25-103(2); except that, for purposes of this section only, “blighted area” means an area that, in its present condition and use and, by reason of the presence of at least five of the factors specified in section 31-25-103(2)(a) to (2)(l), substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals, or welfare.

(b) “Private property” or “property” means, as applied to real property, only a fee ownership interest.

Credits

Added by Laws 2004, Ch. 367, § 1, eff. June 4, 2004.

C. R. S. A. § 31-25-105.5, CO ST § 31-25-105.5

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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C.R.S.A. § 31-25-105.7

§ 31-25-105.7. Condemnation actions by authorities--effect of other provisions

Currentness

Notwithstanding any other provision of law, any condemnation action commenced by an authority on or after June 6, 2006, shall satisfy the requirements specified in section 38-1-101, C.R.S. To the extent there is any conflict between the provisions of this part 1 and the provisions of section 38-1-101, C.R.S., the provisions of section 38-1-101, C.R.S., shall control.

Credits

Added by Laws 2006, Ch. 349, § 2, eff. June 6, 2006.

C. R. S. A. § 31-25-105.7, CO ST § 31-25-105.7

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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C.R.S.A. § 31-25-106

§ 31-25-106. Disposal of property in urban renewal area

Currentness

(1) An authority may sell, lease, or otherwise transfer real property or any interest therein acquired by it as a part of an urban renewal project for residential, recreational, commercial, industrial, or other uses or for public use in accordance with the urban renewal plan, subject to such covenants, conditions, and restrictions, including covenants running with the land (and including the incorporation by reference therein of the provisions of an urban renewal plan or any part thereof), as it deems to be in the public interest or necessary to carry out the purposes of this part 1. The purchasers, lessees, transferees, and their successors and assigns are obligated to devote such real property only to the land uses, designs, building requirements, timing, or procedure specified in the urban renewal plan and may be obligated to comply with such other requirements as the authority may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, or otherwise transferred at not less than its fair value (as determined by the authority) for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, an authority shall take into account and give consideration to the uses provided in such plan; the restrictions upon and the covenants, conditions, and obligations assumed by the purchaser or lessee; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. Real property acquired by an authority which, in accordance with the provisions of the urban renewal plan, is to be transferred shall be transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the urban renewal plan. Any contract for such transfer and the urban renewal plan (or such part of such contract or plan as the authority may determine) may be recorded in the land records of the county in such manner as to afford actual or constructive notice thereof.

(2) An authority may dispose of real property in an urban renewal area to private persons only under such reasonable competitive bidding procedures as it shall prescribe or as provided in this subsection (2). An authority, by public notice by publication once each week for two consecutive weeks in a newspaper having a general circulation in the municipality, prior to the execution of any contract to sell, lease, or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section, may invite proposals from and make available all pertinent information to any person interested in undertaking to redevelop or rehabilitate an urban renewal area or any part thereof. Such notice shall identify the area, or portion thereof, and shall state that such further information as is available may be obtained at the office designated in the notice. The authority shall consider all such redevelopment or rehabilitation proposals and the financial and legal ability of the persons making such proposals to carry them out and may negotiate with any persons for proposals for the purchase, lease, or other transfer of any real property acquired by the authority in the urban renewal area. The authority may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this part 1; except that a notification of intention to accept such proposal shall be filed with the governing body not less than fifteen days prior to any such acceptance. Thereafter, the authority may execute such contract in accordance with the provisions of subsection (1) of this section and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such contract.

(3) An authority may temporarily operate and maintain real property acquired in an urban renewal area pending the disposition of the property for redevelopment without regard to the provisions of subsection (1) of this section for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan.

(4) Anything in subsection (1) of this section to the contrary notwithstanding, project real property may be set aside, dedicated, and devoted by the authority to public uses which are in accordance with the urban renewal plan or set aside, dedicated, and transferred by the authority to the municipality or to any other appropriate public body for public uses which are in accordance with such urban renewal plan, with or without compensation for such property and with or without regard to the fair value thereof as determined in subsection (1) of this section, upon or subject to such terms, conditions, covenants, restrictions, or limitations as the authority deems to be in the public interest and as are not inconsistent with the purposes and objectives and the other applicable provisions of this part 1.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975.

C. R. S. A. § 31-25-106, CO ST § 31-25-106

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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C.R.S.A. § 31-25-107

§ 31-25-107. Approval of urban renewal plans by local governing body--definition

Effective: May 25, 2017

Currentness

(1)(a) An authority shall not actually undertake an urban renewal project for an urban renewal area unless based on evidence presented at a public hearing the governing body, by resolution, has determined such area to be a slum, blighted area, or a combination thereof and designated such area as appropriate for an urban renewal project.

(b) Notwithstanding any other provision of this part 1, and in addition to any other notice required by law, within thirty days of the commissioning of a study to determine whether an area is a slum, blighted area, or a combination thereof in accordance with the requirements of paragraph (a) of this subsection (1), the authority shall provide notice to any owner of private property located in the area that is the subject of the study by mailing notice to the owner by regular mail at the last-known address of record. The notice shall state that the authority is commencing a study necessary for making a determination as to whether the area in which the owner owns property is a slum or a blighted area. Where the authority makes a determination that the area is not a slum, blighted area, or a combination thereof, within thirty days of making such determination, the authority shall also send notice of such determination to any owner of private property located in the area that is the subject of the study by mailing notice to the owner by regular mail at the last-known address of record. For purposes of this paragraph (b), "private property" means, as applied to real property, only a fee ownership interest.

(c)(I) Except for urban renewal plans subject to section 31-25-103(2)(l), the boundaries of an area that the governing body determines to be a blighted area shall be drawn as narrowly as the governing body determines feasible to accomplish the planning and development objectives of the proposed urban renewal area. The governing body shall not approve an urban renewal plan until a general plan for the municipality has been prepared. An authority shall not acquire real property for an urban renewal project unless the local governing body has approved the urban renewal plan in accordance with subsection (4) of this section. In making the determination as to whether a particular area is blighted pursuant to the provisions of this part 1, any particular condition found to be present may satisfy as many of the factors referenced in section 31-25-103(2) as are applicable to such condition.

(II) Notwithstanding any other provision of this part 1, no area that has been designated as an urban renewal area shall contain any agricultural land unless:

(A) The agricultural land is a brownfield site;

(B) Not less than one-half of the urban renewal area as a whole consists of parcels of land containing urban-level development that, at the time of the designation of such area, are determined to constitute a slum or blighted area, or a combination thereof, in accordance with the requirements of paragraph (a) of subsection (1) of this section and not less than two-thirds of the perimeter of the urban renewal area as a whole is contiguous with urban-level development as determined at the time of the designation of such area;

(C) The agricultural land is an enclave within the territorial boundaries of a municipality and the entire perimeter of the enclave has been contiguous with urban-level development for a period of not less than three years as determined at the time of the designation of the area;

(D) Each public body that levies an ad valorem property tax on the agricultural land agrees in writing to the inclusion of the agricultural land within the urban renewal area; or

(E) The agricultural land was included in an approved urban renewal plan prior to June 1, 2010.

(III) Notwithstanding any other provision of this part 1, for a period commencing on June 1, 2010, and concluding ten years from June 1, 2010, and in addition to the provisions of subparagraph (II) of this paragraph (c), no area that has been designated as an urban renewal area shall contain any agricultural land unless:

(A) The agricultural land is contiguous with an urban renewal area in existence as of June 1, 2010;

(B) The person who is the fee simple owner of the agricultural land as of June 1, 2010, is also the fee simple owner of land within the urban renewal area as of June 1, 2010, that is contiguous with the agricultural land; and

(C) Both the agricultural land and the land within the urban renewal area that is described in sub-subparagraph (B) of this subparagraph (III) will be developed solely for the purpose of creating primary manufacturing jobs, and any ancillary jobs necessary to support such manufacturing operations, for the duration of the period during which property tax revenues in excess of a base amount are paid into a special fund pursuant to subparagraph (II) of paragraph (a) of subsection (9) of this section for the purpose of financing an urban renewal project. For purposes of this subparagraph (III), "primary manufacturing jobs" means manufacturing jobs that produce products that are in excess of those that will be consumed within the boundaries of the state and that are exported to other states and foreign countries in exchange for value.

(d) In the case of an urban renewal plan approved or substantially modified on or after June 1, 2010, the plan shall include a legal description of the urban renewal area, including the legal description of any agricultural land proposed for inclusion within the urban renewal area pursuant to the conditions specified in subparagraph (II) or (III) of paragraph (c) of this subsection (1).

(2) Prior to its approval of an urban renewal plan, the governing body shall submit such plan to the planning commission of the municipality, if any, for review and recommendations as to its conformity with the general plan for the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the governing body within thirty days after receipt of the plan for review. Upon receipt

of the recommendations of the planning commission or, if no recommendations are received within said thirty days, without such recommendations, the governing body may proceed with the hearing on the proposed urban renewal plan prescribed by subsection (3) of this section.

(3)(a) The governing body shall hold a public hearing on an urban renewal plan or substantial modification of an approved urban renewal plan no less than thirty days after public notice thereof by publication in a newspaper having a general circulation in the municipality. The notice shall describe the time, date, place, and purpose of the hearing, shall generally identify the urban renewal area covered by the plan, and shall outline the general scope of the urban renewal project under consideration.

(b) Where an authority intends to acquire private property by eminent domain within the urban renewal area to be subsequently transferred to a private party in accordance with the requirements of section 31-25-105.5(2), the governing body, prior to the commencement of the acquisition of such property, shall first hold a public hearing on the use of eminent domain as a means to acquire such property after written notice of the time, date, place, and purpose of the hearing has been provided to each owner of property within the meaning of section 31-25-105.5 that is within the urban renewal area at least thirty days prior to the date of the hearing. In order to authorize the use of eminent domain as a means to acquire property, a governing body shall base its decision on such authorization on a finding of blighted or slum conditions without regard to the economic performance of the property to be acquired.

(3.5)(a) At least thirty days prior to the hearing on an urban renewal plan or a substantial modification to such plan, regardless of when the urban renewal plan was first approved, the governing body or the authority shall submit such plan or modification to the board of county commissioners, and, if property taxes collected as a result of the county levy will be utilized, the governing body or the authority shall also submit an urban renewal impact report, which shall include, at a minimum, the following information concerning the impact of such plan:

(I) The estimated duration of time to complete the urban renewal project;

(II) The estimated annual property tax increment to be generated by the urban renewal project and the portion of such property tax increment to be allocated during this period to fund the urban renewal project;

(III) An estimate of the impact of the urban renewal project on county revenues and on the cost and extent of additional county infrastructure and services required to serve development within the proposed urban renewal area, and the benefit of improvements within the urban renewal area to existing county infrastructure;

(IV) A statement setting forth the method under which the authority or the municipality will finance, or that agreements are in place to finance, any additional county infrastructure and services required to serve development in the urban renewal area for the period in which all or any portion of the property taxes described in subparagraph (II) of paragraph (a) of subsection (9) of this section and levied by a county are paid to the authority; and

(V) Any other estimated impacts of the urban renewal project on county services or revenues.

(b) The inadvertent failure of a governing body or an authority to submit an urban renewal plan, substantial modification to the plan, or an urban renewal impact report, as applicable, to a board of county commissioners in accordance with

the requirements of paragraph (a) of this subsection (3.5) shall neither create a cause of action in favor of any party nor invalidate any urban renewal plan or modification to the plan.

(c) Notwithstanding any other provision of this section, a city and county shall not be required to submit an urban renewal impact report satisfying the requirements of paragraph (a) of this subsection (3.5).

(3.7) Upon request of the governing body or the authority, each county that is entitled to receive a copy of the plan shall provide available county data and projections to assist the governing body or the authority in preparing the urban renewal impact report required pursuant to subsection (3.5) of this section.

(4) Following such hearing, the governing body may approve an urban renewal plan if it finds that:

(a) A feasible method exists for the relocation of individuals and families who will be displaced by the urban renewal project in decent, safe, and sanitary dwelling accommodations within their means and without undue hardship to such individuals and families;

(b) A feasible method exists for the relocation of business concerns that will be displaced by the urban renewal project in the urban renewal area or in other areas that are not generally less desirable with respect to public utilities and public and commercial facilities;

(c) The governing body has taken reasonable efforts to provide written notice of the public hearing prescribed by subsection (3) of this section to all property owners, residents, and owners of business concerns in the proposed urban renewal area at their last known address of record at least thirty days prior to such hearing. Such notice shall contain the same information as is required for the notice described in subsection (3) of this section.

(d) No more than one hundred twenty days have passed since the commencement of the first public hearing of the urban renewal plan pursuant to subsection (3) of this section;

(e) Except for urban renewal plans subject to section 31-25-103(2)(l), if the urban renewal plan contains property that was included in a previously submitted urban renewal plan that the governing body failed to approve pursuant to this section, at least twenty-four months shall have passed since the commencement of the prior public hearing concerning such property pursuant to subsection (3) of this section unless substantial changes have occurred since the commencement of such hearing that result in such property constituting a blighted area pursuant to section 31-25-103;

(f) The urban renewal plan conforms to the general plan of the municipality as a whole;

(g) The urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; and

(h) The authority or the municipality will adequately finance, or that agreements are in place to finance, any additional county infrastructure and services required to serve development within the urban renewal area for the period in which

all or any portion of the property taxes described in subparagraph (II) of paragraph (a) of subsection (9) of this section and levied by a county are paid to the authority.

(4.5) In addition to the findings otherwise required to be made by the governing body pursuant to subsection (4) of this section, where an urban renewal plan seeks to acquire private property by eminent domain for subsequent transfer to a private party pursuant to section 31-25-105.5(2), the governing body may approve the urban renewal plan where it finds, in connection with a hearing satisfying the requirements of subsection (3) of this section, that the urban renewal plan has met the requirements of section 31-25-105.5(2) and that the principal public purpose for adoption of the urban renewal plan is to facilitate redevelopment in order to eliminate or prevent the spread of physically blighted or slum areas.

(5) In case the urban renewal area consists of an area of open land which, under the urban renewal plan, is to be developed for residential uses, the governing body shall comply with the applicable provisions of this section and shall also determine that a shortage of housing of sound standards and design which is decent, safe, and sanitary exists in the municipality; that the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas (including other portions of the urban renewal area); that the conditions of blight in the urban renewal area and the shortage of decent, safe, and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals, or welfare; and that the acquisition of the area for residential uses is an integral part of and essential to the program of the municipality.

(6) In case the urban renewal area consists of an area of open land which, under the urban renewal plan, is to be developed for nonresidential uses, the local governing body shall comply with the applicable provisions of this section and shall also determine that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives and that the contemplated acquisition of the area may require the exercise of governmental action, as provided in this part 1, because of being in a blighted area.

(7) An urban renewal plan may be modified at any time; but, if modified after the lease or sale by the authority of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser or his successor in interest may be entitled to assert. Any proposed modification shall be submitted to the governing body for approval. If the modification will substantially change provisions of the urban renewal plan regarding land area, land use, authorization to collect incremental tax revenue, the extent of the use of tax increment financing, the scope or nature of the urban renewal project, the scope or method of financing, design, building requirements, timing, or procedure, as previously approved, or where such modification will substantially clarify a plan that, when approved, was lacking in specificity as to the urban renewal project or financing, then the modification is substantial and subject to all of the requirements of this section. For urban renewal plans in which a pledge of the revenues deposited into the special fund created pursuant to subsection (9) of this section was made by an indenture or other legally binding document that is separate from the plan itself prior to January 1, 2016, a pledge to secure the payment of refunding bonds is not a substantial modification and is not subject to the requirements of this subsection (7). Not less than thirty days prior to approving any modification of an urban renewal plan, the governing body or urban renewal authority shall provide a detailed written description of the proposed modification to each taxing entity that levies taxes on property located within the urban renewal area and a notice of the date and time of the meeting at which the governing body will consider the modification. Any taxing entity that levies taxes on property located within the urban renewal area may file an action in the state district court exercising jurisdiction over the county in which the urban renewal area is located for an order determining, under a de novo standard of review, whether the modification is a substantial modification. Further, if requested by the taxing entity, the court shall enjoin any action by the authority pursuant to the modification until the

court has determined whether the modification is a substantial modification and, if so, shall further enjoin any action by the authority until there has been compliance with subsection (9.5) of this section.

(7.5) No action may be brought to enjoin any undertaking or activity of the authority pursuant to an urban renewal plan, including the issuance of bonds, the incurrence of other financial obligations, or the pledge of revenue, unless the action is commenced within forty-five days after the date on which the authority provided notice of its intention regarding such undertaking or activity. The notice must describe the undertaking or activity proposed to be engaged in by the authority and specify that any action to enjoin the undertaking or activity must be brought within forty-five days from the date of the notice. The notice must be published one time in a newspaper of general circulation within the county. On or before the date of publication of the notice, the authority shall also mail a copy of the notice to each taxing entity that levies taxes on property within the urban renewal area.

(8) Upon the approval by the governing body of an urban renewal plan or a substantial modification thereof, the provisions of said plan with respect to the land area, land use, design, building requirements, timing, or procedure applicable to the property covered by said plan shall be controlling with respect thereto.

(9)(a) Notwithstanding any law to the contrary, any urban renewal plan, as originally approved or as later modified pursuant to this part 1, may contain a provision that the property taxes of specifically designated public bodies, if any, levied after the effective date of the approval of such urban renewal plan upon taxable property in an urban renewal area each year or that municipal sales taxes collected within said area, or both such taxes, by or for the benefit of the designated public body must be divided for a period not to exceed twenty-five years after the effective date of adoption of such a provision, as follows:

(I) That portion of the taxes which are produced by the levy at the rate fixed each year by or for each such public body upon the valuation for assessment of taxable property in the urban renewal area last certified prior to the effective date of approval of the urban renewal plan or, as to an area later added to the urban renewal area, the effective date of the modification of the plan, or that portion of municipal sales taxes, not including any sales taxes for remote sales as specified in section 39-26-104(2), C.R.S., collected within the boundaries of said urban renewal area in the twelve-month period ending on the last day of the month prior to the effective date of approval of said plan, or both such portions, shall be paid into the funds of each such public body as are all other taxes collected by or for said public body.

(II) That portion of said property taxes or all or any portion of said sales taxes, or both, in excess of the amount of property taxes or sales taxes paid into the funds of each such public body in accordance with the requirements of subparagraph (I) of this paragraph (a) must be allocated to and, when collected, paid into a special fund of the authority to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, the authority for financing or refinancing, in whole or in part, an urban renewal project, or to make payments under an agreement executed pursuant to subsection (11) of this section. Any excess municipal sales tax or property tax collections not allocated pursuant to this subparagraph (II) must be paid into the funds of the municipality or other taxing entity, as applicable. Unless and until the total valuation for assessment of the taxable property in an urban renewal area exceeds the base valuation for assessment of the taxable property in such urban renewal area, as provided in subparagraph (I) of this paragraph (a), all of the taxes levied upon the taxable property in such urban renewal area must be paid into the funds of the respective public bodies. Unless and until the total municipal sales tax collections in an urban renewal area exceed the base year municipal sales tax collections in such urban renewal area, as provided in subparagraph (I) of this paragraph (a), all such sales tax collections must be paid into the funds of the municipality. When such bonds, loans, advances, and indebtedness, if any, including interest thereon and any premiums due in connection therewith, have been paid, all taxes upon the taxable

property or the total municipal sales tax collections, or both, in such urban renewal area must be paid into the funds of the respective public bodies, and all moneys remaining in the special fund established pursuant to this subparagraph (II) that have not previously been rebated and that originated as property tax increment generated based on the mill levy of a taxing body, other than the municipality, within the boundaries of the urban renewal area must be repaid to each taxing body based on the pro rata share of the prior year's property tax increment attributable to each taxing body's current mill levy in which property taxes were divided pursuant to this subsection (9). Any moneys remaining in the special fund not generated by property tax increment are excluded from any such repayment requirement. Notwithstanding any other provision of law, any additional revenues the municipality, county, special district, or school district receives either because the voters have authorized the municipality, county, special district, or school district to retain and spend said moneys pursuant to section 20(7)(d) of article X of the state constitution subsequent to the creation of the special fund pursuant to this subparagraph (II) or as a result of an increase in the property tax mill levy approved by the voters of the municipality, county, special district, or school district subsequent to the creation of the special fund, to the extent the total mill levy of the municipality, county, special district, or school district exceeds the respective mill levy in effect at the time of approval or substantial modification of the urban renewal plan, are not included in the amount of the increment that is allocated to and, when collected, paid into the special fund of the authority.

(III) In calculating and making payments as described in subparagraph (II) of this paragraph (a), the county treasurer may offset the authority's pro rata portion of any property taxes that are paid to the authority under the terms of subparagraph (II) of this paragraph (a) and that are subsequently refunded to the taxpayer against any subsequent payments due to the authority for the urban renewal project. The authority shall make adequate provision for the return of overpayments in the event that there are not sufficient property taxes due to the authority to offset the authority's pro rata portion of the refunds. The authority may establish a reserve fund for this purpose or enter into an intergovernmental agreement with the municipal governing body in which the municipality assumes responsibility for the return of the overpayments. The provisions of this subparagraph (III) shall not apply to a city and county.

(b) The portion of taxes described in subparagraph (II) of paragraph (a) of this subsection (9) may be irrevocably pledged by the authority for the payment of the principal of, the interest on, and any premiums due in connection with such bonds, loans, advances, and indebtedness. This irrevocable pledge shall not extend to any taxes that are placed in a reserve fund to be returned to the county for refunds of overpayments by taxpayers; except that this limitation on the extension of the irrevocable pledge shall not apply to a city and county.

(c) As used in this subsection (9), the word "taxes" shall include, without limitation, all levies authorized to be made on an ad valorem basis upon real and personal property or municipal sales taxes; but nothing in this subsection (9) shall be construed to require any public body to levy taxes.

(d) In the case of urban renewal areas, including single- and multiple-family residences, school districts which include all or any part of such urban renewal area shall be permitted to participate in an advisory capacity with respect to the inclusion in an urban renewal plan of the provision provided for by this subsection (9).

(e) In the event there is a general reassessment of taxable property valuations in any county including all or part of the urban renewal area subject to division of valuation for assessment under paragraph (a) of this subsection (9) or a change in the sales tax percentage levied in any municipality including all or part of the urban renewal area subject to division of sales taxes under paragraph (a) of this subsection (9), the portions of valuations for assessment or sales taxes under both subparagraphs (I) and (II) of said paragraph (a) shall be proportionately adjusted in accordance with such reassessment or change.

(f) Notwithstanding the twenty-five-year period of limitation set forth in paragraph (a) of this subsection (9), any urban renewal plan, as originally approved or as later modified pursuant to this part 1, may contain a provision that the municipal sales taxes collected in an urban renewal area each year or the municipal portion of taxes levied upon taxable property within such area, or both such taxes, may be allocated as described in this subsection (9) for a period in excess of twenty-five years after the effective date of the adoption of such provision if the existing bonds are in default or about to go into default; except that such taxes shall not be allocated after all bonds of the authority issued pursuant to such plan including loans, advances, and indebtedness, if any, and interest thereon, and any premiums due in connection therewith have been paid.

(g) Notwithstanding any other provision of this section, if one or more of the conditions specified in subparagraph (II), or all of the conditions specified in subparagraph (III), of paragraph (c) of subsection (1) of this section have been satisfied such that agricultural land is included within an urban renewal area, the county assessor shall value the agricultural land at its fair market value in making the calculation of the taxes to be paid to the public bodies pursuant to subparagraph (I) of paragraph (a) of this subsection (9) solely for the purpose of determining the tax increment available pursuant to subparagraph (II) of paragraph (a) of this subsection (9). Nothing in this section shall affect the actual classification, or require reclassification, of agricultural land for property tax purposes, and nothing in this section shall affect the taxes actually to be paid to the public bodies pursuant to subparagraph (I) of paragraph (a) of this subsection (9), which shall continue to be based on the agricultural classification of such land unless and until it has been reclassified in the normal course of the assessment process.

(h) The manner and methods by which the requirements of this subsection (9) are to be implemented by county assessors shall be contained in such manuals, appraisal procedures, and instructions, as applicable, that the property tax administrator is authorized to prepare and publish pursuant to section 39-2-109(1)(e), C.R.S.

(i) Within the twelve-month period prior to the effective date of the approval or modification of the urban renewal plan requiring the allocation of moneys to the authority pursuant to paragraph (a) of this subsection (9), the municipality, county, special district, or school district is entitled to the reimbursement of any moneys that such municipality, county, special district, or school district pays to, contributes to, or invests in the authority for the project. The reimbursement is to be paid from the special fund of the authority established pursuant to paragraph (a) of this subsection (9).

(9.5)(a) Before any urban renewal plan containing any tax allocation provisions that allocates any taxes of any taxing entity other than the municipality may be approved by the municipal governing body pursuant to subsection (4) of this section, the authority shall notify the board of county commissioners of each county and the governing boards of each other taxing entity whose incremental property tax revenues would be allocated under such proposed plan. Representatives of the authority and the governing body of each taxing entity shall then meet and attempt to negotiate an agreement governing the sharing of incremental property tax revenue allocated to the special fund of the authority established in accordance with subparagraph (II) of paragraph (a) of subsection (9) of this section. The agreement must address, without limitation, estimated impacts of the urban renewal plan on county or district services associated solely with the urban renewal plan. The agreement may be entered into separately among the authority and each such taxing entity, or through a joint agreement among the authority and any taxing entity that has chosen to enter that agreement. Any such shared incremental tax revenues governed by any agreement are limited to all or any portion of the incremental revenue generated by the taxes levied upon taxable property by the taxing entity within the area covered by the urban renewal plan in addition to any incremental sales tax revenues generated within the area covered by the urban renewal plan by the imposition of the sales tax of the municipality and, at the option of any other taxing entity levying a sales tax in the area covered by the urban renewal plan, any incremental sales tax revenues of such other taxing entity that are included within the agreement.

(b) The agreement described in paragraph (a) of this subsection (9.5) may provide for a waiver of any provision of this part 1 that provides for notice to the taxing entity, requires any filing with or by the taxing entity, requires or permits consent from the taxing entity, or provides any enforcement right to the taxing entity.

(c) If, after a period of one hundred twenty days from the date of notice or such longer or shorter period as the authority and any taxing entity may agree, there is no agreement between the authority and any taxing entity as described in paragraph (a) of this subsection (9.5), the authority and any applicable taxing entity are subject to the provisions and limitations of paragraph (d) of this subsection (9.5).

(d)(I) In an absence of an agreement between the authority and any taxing entity as described in paragraph (a) of this subsection (9.5), the parties must submit to mediation on the issue of appropriate sharing of incremental property tax revenues and urban renewal project costs among the authority and any such taxing entities whose incremental property tax revenues will be allocated pursuant to an urban renewal plan and with whom an intergovernmental agreement with the authority has not been reached.

(II) The mediation required by subparagraph (I) of this paragraph (d) must be conducted by a mediator who has been jointly selected by the parties; except that, if the parties are unable to agree on the selection of a mediator, then the authority shall select one mediator, the other parties shall select a second mediator, and these two mediators shall then select a third mediator. In such circumstances, the mediation will be jointly conducted by the three mediators. Unless all parties otherwise agree, any mediator selected pursuant to this paragraph (d) must be an attorney licensed in the state for at least ten years and must be experienced in both land use and administrative law. Payment of the fees and costs for the mediation must be split equally between or among the parties.

(III) In making a determination of the appropriate sharing, the mediator must consider the nature of the project, the nature and relative size of the revenue and other benefits that are expected to accrue to the municipality and other taxing entities as a result of the project, any legal limitations on the use of revenues belonging to the authority or any taxing entity, and any capital or operating costs that are expected to result from the project. Within ninety days, the mediator must issue his or her findings of fact as to the appropriate sharing of costs and incremental property tax revenues, and shall promptly transmit such information to the parties. With respect to the use of incremental property tax revenues of each other taxing entity, following the issuance of findings by the mediator, the governing body of the municipality shall:

(A) Incorporate the mediator's findings on the use of incremental property tax revenues of any taxing body into the urban renewal plan and proceed to adopt the plan;

(B) Amend the urban renewal plan to delete authorization of the use of the incremental property tax revenues of any taxing body with whom an agreement has not been reached; or

(C) Direct the authority to either incorporate the mediator's findings into one or more intergovernmental agreements with other taxing entities or to enter into new negotiations with one or more taxing entities and to enter into one or more intergovernmental agreements with such taxing entities that incorporate such new or different provisions concerning the sharing of costs and incremental property tax revenues with which the parties are in agreement.

(e) Notwithstanding any other provision of law, no incremental property tax revenues may be allocated and paid into the special fund of the authority in accordance with subparagraph (II) of paragraph (a) of subsection (9) of this section unless the municipality or the authority has satisfied the requirements of this subsection (9.5).

(f) Notwithstanding any other provision of this section, a city and county is not required to reach an agreement with a county satisfying the requirements of this subsection (9.5).

(g) For purposes of this subsection (9.5), “taxing entity” means any county, special district, or other public body that levies an ad valorem property tax on property within the urban renewal area subject to a tax allocation provision.

(9.7) Notwithstanding any other provision of law:

(a) Nothing in subsection (9.5) of this section, as added by House Bill 15-1348, enacted in 2015, and as amended by Senate Bill 16-177, enacted in 2016, is intended to impair, jeopardize, or put at risk any existing bonds, investments, loans, contracts, or financial obligations of an urban renewal authority outstanding as of December 31, 2015, or the pledge of pledged revenues or assets to the payment thereof that occurred on or before December 31, 2015.

(b) The requirements of section 31-25-104(2)(a), (2)(b), and (2.5), section 31-25-115(1.5), the introductory portion of subsection (9)(a) of this section, subsections (9)(a)(II), (9)(i), and (9.5) of this section, as added by House Bill 15-1348, enacted in 2015, and as amended by Senate Bill 16-177, enacted in 2016, and the requirements of subsections (7) and (7.5) of this section as amended by Senate Bill 17-279, enacted in 2017, apply to municipalities, urban renewal authorities, and any urban renewal plans created on or after January 1, 2016, and to any substantial modification of any urban renewal plan where the modification is approved on or after January 1, 2016.

(10) The municipality in which an urban renewal authority has been established pursuant to the provisions of this part 1 shall timely notify the assessor of the county in which such authority has been established when:

(a) An urban renewal plan or a substantial modification of such plan has been approved that contains the provision referenced in paragraph (a) of subsection (9) of this section or a substantial modification of the plan adds land to the plan, which plan contains the provision referenced in paragraph (a) of subsection (9) of this section;

(b) Any outstanding obligation incurred by such authority pursuant to the provisions of subsection (9) of this section has been paid off; and

(c) The purposes of such authority have otherwise been achieved.

(11) The governing body or the authority may enter into an agreement with any taxing entity within the boundaries of which property taxes collected as a result of the taxing entity's levy, or any portion of the levy, will be subject to allocation pursuant to subsection (9) of this section. The agreement may provide for the allocation of responsibility among the parties to the agreement for payment of the costs of any additional county infrastructure or services necessary to offset the impacts of an urban renewal project and for the sharing of revenues. Except with the consent of the governing body

or the authority, any such shared revenues shall be limited to all or any portion of the taxes levied upon taxable property within the urban renewal area by the taxing entity. The agreement may provide for a waiver of any provision of this part 1 that provides for notice to the taxing entity, requires any filing with or by the taxing entity, requires or permits consent from the taxing entity, or provides any enforcement right to the taxing entity.

(12)(a) Except as provided in paragraph (e) of this subsection (12), the county may enforce the requirements of subparagraphs (III) and (IV) of paragraph (a) of subsection (3.5) and paragraph (h) of subsection (4) of this section by means of the arbitration process established by this subsection (12) where:

(I) Property located within such county is included within an urban renewal plan;

(II) The county has provided information requested pursuant to subsection (3.7) of this section; and

(III) The county has appeared at a public hearing held pursuant to paragraph (a) of subsection (3) of this section and presented evidence at such hearing that development within the urban renewal area will create a need for additional county infrastructure and services; except that the requirements of this subparagraph (III) shall not apply in the case of a county that did not receive an urban renewal plan, a substantial modification to the plan, or an urban renewal impact report, as applicable, pursuant to paragraph (a) of subsection (3.5) of this section.

(b)(I) A county objecting under the provisions of this section to an urban renewal plan approved under subsection (4) of this section that received on a timely basis an urban renewal plan, a substantial modification to the plan, or an urban renewal impact report, as applicable, pursuant to paragraph (a) of subsection (3.5) of this section shall file written notice of the objection with the authority as well as the governing body that has approved the plan within fifteen days of the date of the approval of the plan. A county objecting under the provisions of this section to an urban renewal plan approved under subsection (4) of this section that did not receive on a timely basis an urban renewal plan, a substantial modification to the plan, or an urban renewal impact report, as applicable, pursuant to paragraph (a) of subsection (3.5) of this section shall file written notice of the objection with the authority as well as the governing body that has approved the plan within thirty days of the date of the approval of the plan or within five days of the date of the county's receipt of the plan, whichever date is later. The notice of objection shall include a statement of the grounds upon which the county asserts that the authority or the governing body has failed to comply with the requirements of subparagraphs (III) and (IV) of paragraph (a) of subsection (3.5) and paragraph (h) of subsection (4) of this section. The notice of objection shall also include the name of one attorney who has been licensed for a minimum of ten years in the state of Colorado, who is experienced in administrative and land use law, and who the board of county commissioners of the county believes to be qualified to serve as a member of the panel of arbitrators charged with resolving the county's objections in accordance with the requirements of this subsection (12).

(II) Within twenty days of receipt of the notice of objection, the governing body shall submit to the county the name of one additional person to serve as a member of the panel of arbitrators, which person shall also satisfy the requirements specified in subparagraph (I) of this paragraph (b). Within twenty days of such submission, the two members of the arbitration panel selected by the county and the governing body shall jointly select an additional person to serve as the third and final member of the panel of arbitrators, which person shall also satisfy the requirements specified in subparagraph (I) of this paragraph (b). The panel of three arbitrators selected pursuant to this paragraph (b) shall be charged with resolving the county's objections in accordance with the requirements of this subsection (12). Notwithstanding the provisions of this paragraph (b), the county, governing body, and authority may agree upon a single arbitrator to resolve the county's objections.

(III) If the county, governing body, and authority have not reached a written agreement resolving the county's objections within thirty days after the receipt by the governing body of the notice specified in subparagraph (I) of this paragraph (b), the objections specified in the notice shall be submitted to arbitration in accordance with the requirements of this subsection (12).

(c) The arbitration hearing, if any, shall commence within sixty days after the receipt by the governing body of the notice of objection. The parties to the arbitration shall be the county, governing body, and authority. At the arbitration hearing, the governing body or the authority, as applicable, shall have the burden of proving by a preponderance of the evidence that it submitted the urban renewal plan, a substantial modification to the plan, and an urban renewal impact report, as applicable, to the county pursuant to paragraph (a) of subsection (3.5) of this section and that it did not abuse its discretion in preparing the estimate or statement provided to the county pursuant to subparagraphs (III) and (IV) of paragraph (a) of subsection (3.5) of this section and that the governing body did not abuse its discretion in connection with the findings it has made under paragraph (h) of subsection (4) of this section. The decision of the arbitrators shall be based upon the objections contained in the notice filed pursuant to subparagraph (I) of paragraph (b) of this subsection (12) and upon the record of the hearing held pursuant to subsection (3) of this section. In rendering a decision, the arbitrators shall take into consideration the goals and objectives of the urban renewal plan, information that has been submitted by the county as contained in the record of the hearing on the urban renewal plan and the impact report provided to the county pursuant to subsection (3.5) of this section, the reasonableness of the county's objections contained in the notice, the extent to which the urban renewal project will improve existing county infrastructure, the extent to which tax increment revenues, if any, to be generated by development within the urban renewal area and collected by the authority pursuant to paragraph (a) of subsection (9) of this section may reasonably be expected to defray the cost of the additional infrastructure and services requested by the county, and the debt service requirements of the authority. The arbitration hearing shall be concluded not later than seven days after its commencement, and the decision of the arbitrators shall be rendered not later than thirty days after the conclusion of the hearing. The order of the arbitrators shall be limited to either approving the urban renewal plan or, upon a finding of abuse of discretion, remanding the plan to the governing body for reconsideration of the county's objections. The order shall be final and binding on the parties and shall not be subject to judicial review except to enforce the order or to determine whether the order was procured by corruption, fraud, or other similar wrongdoing.

(d) Fifty percent of the necessary fees and necessary expenses of any arbitration conducted pursuant to this subsection (12), excluding all fees and expenses incurred by either party in the preparation or presentation of its case, shall be borne by the county, and fifty percent of such fees and expenses shall be borne by the governing body or the authority.

(e) Notwithstanding any other provision of this section, the provisions of this subsection (12) shall not apply to any urban renewal plan in which less than ten percent of the area identified in such plan:

(I) Has been classified as agricultural land for purposes of the levying and collection of property tax pursuant to section 39-1-103, C.R.S., at any time during the three-year period prior to the date of adoption of the plan; and

(II) Is currently identified for agricultural uses in a master plan adopted by the municipality pursuant to section 31-23-206 and has been so identified for more than one year prior to the date of adoption of the plan.

(f) Notwithstanding any other provision of law, the arbitration process established in this subsection (12) shall be the exclusive remedy available to a county for contesting the sufficiency of compliance by a governing body or an authority with the requirements of this section.

(13) Not later than thirty days after the municipality has provided the county assessor the notice required by paragraph (a) of subsection (10) of this section, the county assessor may provide written notice to the municipality if the assessor believes that agricultural land has been improperly included in the urban renewal area in violation of subparagraph (II) or (III) of paragraph (c) of subsection (1) of this section. If the notice is not delivered within the thirty-day period, the inclusion of the land in the urban renewal area as described in the urban renewal plan shall be incontestable in any suit or proceeding notwithstanding the presence of any cause. If the assessor provides notice to the municipality within the thirty-day period, the municipality may file an action in state district court exercising jurisdiction over the county in which the land is located for an order determining whether the inclusion of the land in the urban renewal area is consistent with one of the conditions specified in subparagraph (II) or (III) of paragraph (c) of subsection (1) of this section and shall have an additional thirty days from the date it receives the notice in which to file such action. If the municipality fails to file such an action within the additional thirty-day period, the agricultural land shall not become part of the urban renewal area.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975. Amended by Laws 1975, H.B.1099, § 1, eff. July 16, 1975; Laws 1981, S.B.142, § 1, eff. July 1, 1981; Laws 1993, H.B.93-1080, § 5, eff. July 1, 1993; Laws 1993, H.B.93-1138, § 1, eff. April 19, 1993; Laws 1999, Ch. 161, § 3, eff. May 3, 1999; Laws 2004, Ch. 367, § 5, eff. June 4, 2004; Laws 2005, Ch. 286, §§ 1, 2, eff. June 3, 2005; Laws 2007, Ch. 257, § 1, eff. Sept. 1, 2007; Laws 2008, Ch. 291, §§ 1, 2, eff. Aug. 5, 2008; Laws 2008, Ch. 392, § 121, eff. Aug. 5, 2008; Laws 2010, Ch. 89, §§ 3 to 6, eff. June 1, 2010; Laws 2010, Ch. 419, § 193, eff. Aug. 11, 2010; Laws 2013, Ch. 314, § 12, eff. July 1, 2014; Laws 2015, Ch. 261, § 2, eff. Aug. 5, 2015; Laws 2016, Ch. 178, § 1, eff. May 18, 2016; Laws 2017, Ch. 249, § 1, eff. May 25, 2017.

C. R. S. A. § 31-25-107, CO ST § 31-25-107

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

West's Colorado Revised Statutes Annotated
Title 31. Government--Municipal (Refs & Annos)
Powers and Functions of Cities and Towns
Article 25. Public Improvements (Refs & Annos)
Part 1. Urban Renewal (Refs & Annos)

C.R.S.A. § 31-25-108

§ 31-25-108. Disaster areas

Currentness

Notwithstanding any other provisions of this part 1, when the governing body certifies that an area within the municipality is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the governor has certified the need for disaster assistance under Public Law 875, Eighty-first Congress, or other federal law, such area shall be deemed a blighted area, and the authority situated in such municipality may prepare and submit to such governing body a proposed urban renewal plan and proposed urban renewal project for such area or for any portion thereof, and such governing body may, by resolution, approve such proposed urban renewal plan and urban renewal project with or without modifications without regard to the provisions of this part 1 requiring a general or master plan for the physical development of the municipality as a whole, review by the planning commission, or a public hearing.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975.

C. R. S. A. § 31-25-108, CO ST § 31-25-108

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

West's Colorado Revised Statutes Annotated
Title 31. Government--Municipal (Refs & Annos)
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Article 25. Public Improvements (Refs & Annos)
Part 1. Urban Renewal (Refs & Annos)

C.R.S.A. § 31-25-109

§ 31-25-109. Issuance of bonds by an authority

Currentness

(1) An authority has power to issue bonds of the authority from time to time in its discretion to finance its activities or operations under this part 1, including but not limited to the repayment with interest of any advances or loans of funds made to the authority by the federal government or other source for any surveys or plans made or to be made by the authority in exercising its powers under this part 1 and also has power to issue refunding or other bonds of the authority from time to time in its discretion for the payment, retirement, renewal, or extension of any bonds previously issued by it under this section and to provide for the replacement of lost, destroyed, or mutilated bonds previously issued under this section.

(2)(a) Bonds which are issued under this section may be general obligation bonds of the authority to the payment of which, as to principal and interest and premiums (if any), the full faith, credit, and assets (acquired and to be acquired) of the authority are irrevocably pledged.

(b) Such bonds may be special obligations of the authority which, as to principal and interest and premiums (if any), are payable solely from and secured only by a pledge of any income, proceeds, revenues, or funds of the authority derived or to be derived by it from or held or to be held by it in connection with its undertaking of any project of the authority, including, without limitation, funds to be paid to an authority pursuant to section 31-25-107(9) and including any grants or contributions of funds made or to be made by it with respect to any such project and any funds derived or to be derived by it from or held or to be held by it in connection with its sale, lease, rental, transfer, retention, management, rehabilitation, clearance, development, redevelopment, preparation for development or redevelopment, or its operation or other utilization or disposition of any real or personal property acquired or to be acquired by it or held or to be held by it for any of the purposes of this part 1 and including any loans, grants, or contributions of funds made or to be made to it by the federal government in aid of any project of the authority or in aid of any of its other activities or operations.

(c) Such bonds may be special obligations of the authority which, as to principal and interest and premiums (if any), are payable solely from and secured only by a pledge of any loans, grants, or contributions of funds made or to be made to it by the federal government or other source in aid of any project of the authority or in aid of any of its other activities or operations.

(d) Such bonds may be contingent special obligations of the authority which, as to principal and interest and premiums (if any), are payable solely from any funds available or becoming available to the authority for its undertaking of the project involved in the particular activities or operations with respect to which such contingent special obligations are issued but so payable only in the event such funds are or become available as provided in this subsection (2).

(3) Notwithstanding any other provisions of this section, any bonds which are issued under this section, other than the contingent special obligations covered by paragraph (d) of subsection (2) of this section, may be additionally secured as to the payment of the principal and interest and premiums (if any) by a mortgage of any urban renewal project, or any part thereof, title to which is then or thereafter in the authority or of any other real or personal property or interests therein then owned or thereafter acquired by the authority.

(4) Notwithstanding any other provisions of this section, general obligation bonds which are issued under this section may be additionally secured as to payment of the principal and interest and premiums (if any) as provided in either paragraph (b) or (c) of subsection (2) of this section, with or without being also additionally secured as to payment of the principal and interest and premiums (if any) by a mortgage as provided in subsection (3) of this section or a trust agreement as provided in subsection (5) of this section.

(5) Notwithstanding any other provision of this section, any bonds which are issued under this section may be additionally secured as to the payment of the principal and interest and premiums (if any) by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state of Colorado.

(6) Bonds which are issued under this section shall not constitute an indebtedness of the state of Colorado or of any county, municipality, or public body of said state other than the urban renewal authority issuing such bonds and shall not be subject to the provisions of any other law or of the charter of any municipality relating to the authorization, issuance, or sale of bonds.

(7) Bonds which are issued under this section are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

(8) Bonds which are issued under this section shall be authorized by a resolution of the authority and may be issued in one or more series and shall bear such date, be payable upon demand or mature at such time, bear interest at such rate, be in such denomination, be in such form, either coupon or registered or otherwise, carry such conversion or registration privileges, have such rank or priority, be executed (in the name of the authority) in such manner, be payable in such medium of payment, be payable at such place, be subject to such callability provisions or terms of redemption (with or without premiums), be secured in such manner, be of such description, contain or be subject to such covenants, provisions, terms, conditions, and agreements (including provisions concerning events of default), and have such other characteristics as may be provided by such resolution or by the trust agreement, indenture, or mortgage, if any, issued pursuant to such resolution. The seal (or a facsimile thereof) of the authority shall be affixed, imprinted, engraved, or otherwise reproduced upon each of its bonds issued under this section. Bonds which are issued under this section shall be executed in the name of the authority by the manual or facsimile signatures of such of its officials as may be designated in the said resolution or trust agreement, indenture, or mortgage; except that at least one signature on each such bond shall be a manual signature. Coupons, if any, attached to such bonds shall bear the facsimile signature of such official of the authority as may be designated as provided in this subsection (8). The said resolution or trust agreement, indenture, or mortgage may provide for the authentication of the pertinent bonds by the trustee.

(9) Bonds which are issued under this section may be sold by the authority in such manner and for such price as the authority, in its discretion, may determine, at par, below par, or above par, at private sale or at public sale after notice published prior to such sale in a newspaper having general circulation in the municipality, or in such other medium of

publication as the authority may deem appropriate, or may be exchanged by the authority for other bonds issued by it under this section. Bonds which are issued under this section may be sold by it to the federal government at private sale at par, below par, or above par, and, in the event that less than all of the authorized principal amount of such bonds is sold by the authority to the federal government, the balance or any portion of the balance may be sold by the authority at private sale at par, below par, or above par, at an interest cost to the authority of not to exceed the interest cost to it of the portion of the bonds sold by it to the federal government.

(10) In case any of the officials of the authority whose signatures or facsimile signatures appear on any of its bonds or coupons which are issued under this section cease to be such officials before the delivery of such bonds, such signatures or facsimile signatures, as the case may be, shall nevertheless be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery.

(11) Any provision of any law to the contrary notwithstanding, any bonds which are issued pursuant to this section are fully negotiable.

(12) In any suit, action, or proceeding involving the validity or enforceability of any bond which is issued under this section or the security therefor, any such bond reciting in substance that it has been issued by the authority in connection with an urban renewal project or any activity or operation of the authority under this part 1 shall be conclusively deemed to have been issued for such purposes; and such urban renewal project or such operation or activity, as the case may be, shall be conclusively deemed to have been initiated, planned, located, undertaken, accomplished, and carried out in accordance with the provisions of this part 1.

(13) Pending the preparation of any definitive bonds under this section, an authority may issue its interim certificates or receipts or its temporary bonds, with or without coupons, exchangeable for such definitive bonds when the latter have been executed and are available for delivery.

(14) Persons retained or employed by an authority as advisors or consultants for the purpose of rendering financial advice and assistance may purchase or participate in the purchase or in the distribution of its bonds when such bonds are offered at public or private sale.

(15) No commissioner or other officer of an authority issuing bonds under this section and no person executing such bonds is liable personally on such bonds or is subject to any personal liability or accountability by reason of the issuance thereof.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975. Amended by Laws 1975, H.B.1099, § 2, eff. July 16, 1975; Laws 1976, H.B.1210, § 1, eff. April 3, 1976.

C. R. S. A. § 31-25-109, CO ST § 31-25-109

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252,

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C.R.S.A. § 31-25-110

§ 31-25-110. Property of an authority exempt from taxes and from levy and sale by virtue of an execution

Currentness

(1) All property of an authority, including but not limited to all funds owned or held by it for any of the purposes of this part 1, shall be exempt from levy and sale by virtue of an execution, and no such execution or other judicial process shall issue against the same nor shall a judgment against the authority be a charge or lien upon such property; except that the foregoing provisions of this subsection (1) shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage, deed of trust, trust agreement, indenture, or other encumbrance of the authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the authority pursuant to this part 1 on its rents, income, proceeds, revenues, loans, grants, contributions, and other funds and assets derived or arising from any project of the authority or from any of its operations or activities under this part 1.

(2) All property of an authority acquired or held by it for any of the purposes of this part 1, including but not limited to all funds of an authority acquired or held by it for any of said purposes, are declared to be public property used for essential public and governmental purposes, and such property and the authority shall be exempt from all taxes of the state of Colorado or any other public body thereof; except that such tax exemption shall terminate when the authority sells, leases, or otherwise disposes of the particular property to a purchaser, lessee, or other alienee which is not a public body entitled to tax exemption with respect to such property.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975.

C. R. S. A. § 31-25-110, CO ST § 31-25-110

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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C.R.S.A. § 31-25-111

§ 31-25-111. Title of purchaser, lessee, or transferee

Currentness

Any instrument executed by an authority and purporting to convey any right, title, or interest of the authority in any property under this part 1 shall be conclusively presumed to have been made and executed in compliance with the provisions of this part 1 insofar as title or other interest of any bona fide purchasers, lessees, or transferees of such property is concerned.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975.

C. R. S. A. § 31-25-111, CO ST § 31-25-111

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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C.R.S.A. § 31-25-112

§ 31-25-112. Cooperation by public bodies with urban renewal authorities

Currentness

(1) Any public body, within its powers, purposes, and functions and for the purpose of aiding an authority in or in connection with the planning or undertaking pursuant to this part 1 of any plans, projects, programs, works, operations, or activities of such authority whose area of operation is situated in whole or in part within the area in which such public body is authorized to act, upon such terms as such public body shall determine, may:

(a) Sell, convey, or lease any of such public body's property or grant easements, licenses, or other rights or privileges therein to such authority;

(b) Incur the entire expense of any public improvements made by such public body in exercising the powers mentioned in this section;

(c) Do all things necessary to aid or cooperate with such authority in or in connection with the planning or undertaking of any such plans, projects, programs, works, operations, or activities;

(d) Enter into agreements with such authority respecting action to be taken pursuant to any of the powers set forth in this part 1, including agreements respecting the planning or undertaking of any such plans, projects, programs, works, operations, or activities which such public body is otherwise empowered to undertake;

(e) Cause public buildings and public facilities, including parks, playgrounds, recreational, community, educational, water, garbage disposal, sewer, sewage, sewerage, or drainage facilities, or any other public works, improvements, facilities, or utilities which such public body is otherwise empowered to undertake, to be furnished within the area in which such public body is authorized to act;

(f) Furnish, dedicate, accept dedication of, open, close, vacate, install, construct, reconstruct, pave, repave, repair, rehabilitate, improve, grade, regrade, plan, or replan public streets, roads, roadways, parkways, alleys, sidewalks, and other public ways or places within the area in which such public body is authorized to act to the extent that such items or matters are, under any other law, otherwise within the jurisdiction of such public body;

(g) Plan or replan and zone or rezone any part of the area under the jurisdiction of such public body or make exceptions from its building regulations; and

(h) Cause administrative or other services to be furnished to such authority.

(2) If at any time title to or possession of the whole or any portion of any project of the authority under this part 1 is held by any governmental agency or public body (other than such authority) which is authorized by any law to engage in the undertaking, carrying out, or administration of any such project (including any agency or instrumentality of the United States), the provisions of the agreements referred to in paragraph (d) of subsection (1) of this section shall inure to the benefit of and may be enforced by such governmental agency or public body.

(3) Any public body referred to as such in subsection (1) of this section may (in addition to its authority pursuant to any other law to issue its bonds for any purposes) issue and sell its bonds for any of the purposes of such public body which are stated in this section; except that any such bonds of such a public body which are issuable as provided in this subsection (3) may be issued only in the manner and otherwise in conformity with the applicable provisions and limitations prescribed by the state constitution and the laws of this state and, in the case of a home rule municipality, the applicable provisions of its home rule charter for the authorization and issuance by such public body of its general obligation bonds, revenue bonds, special assessment bonds, or special obligation bonds, accordingly as the bonds are general obligation bonds, revenue bonds, special assessment bonds, or special obligation bonds.

(4) Without limiting the generality of any of the provisions of this part 1, but within any limitations provided by the applicable provisions of the state constitution and, in the case of any home rule municipality, the applicable provisions of its home rule charter:

(a) Any public body may appropriate such of its funds and make such expenditures of its funds as it deems necessary for it to undertake any of its powers, functions, or activities mentioned in this part 1 including, particularly, its powers, functions, and activities mentioned in subsections (1) to (3) of this section; and

(b) Any municipality may levy taxes and assessments in order for it to undertake, carry out, or accomplish any of its powers, functions, or activities mentioned in this part 1, including, particularly, its powers, functions, and activities mentioned in the provisions of subsections (1) to (3) of this section.

(5) For the advancement of the public interest and for the purpose of aiding and cooperating in the planning, acquisition, demolition, rehabilitation, construction, or relocation, or otherwise assisting the operation or activities of an urban renewal project located wholly or partly within the area in which it is authorized to act, a public body may enter into agreements which may extend over any period, notwithstanding any provision of law to the contrary, with an authority respecting action taken or to be taken pursuant to any of the powers granted by this part 1.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975. Amended by Laws 1975, H.B.1099, § 3, eff. July 16, 1975.

C. R. S. A. § 31-25-112, CO ST § 31-25-112

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150,

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C.R.S.A. § 31-25-112.5

§ 31-25-112.5. Inclusion of unincorporated territory in urban renewal area

Effective: April 1, 2008

Currentness

(1) Notwithstanding any other provision of this part 1, an urban renewal plan, urban renewal project, or urban renewal area may include unincorporated territory that is outside the boundaries of a municipality but contiguous to a portion of the urban renewal area located within the municipality. No such territory shall be included in the plan, project, or area without the consent of the board of county commissioners exercising jurisdiction over the unincorporated territory proposed for inclusion and the consent of each owner of, and each holder of a recorded mortgage or deed of trust encumbering, real property within the unincorporated area proposed for inclusion.

(2) In addition to the procedures for approval of a proposed urban renewal plan by the governing body as required by section 31-25-107, the unincorporated territory may be included in the urban renewal plan, project, or area upon satisfaction of each of the following additional requirements:

(a) The board of county commissioners makes a determination that the urban renewal area proposed for inclusion in the plan is a slum or blighted area in accordance with the procedures set forth in section 31-25-107(1).

(b) The board of county commissioners refers the urban renewal plan to the planning commission of the county for a determination as to the conformity of the urban renewal plan with the general plan for development for the county in accordance with the procedures specified in section 31-25-107(2).

(c) The board of county commissioners conducts a public hearing and makes findings and a determination to approve inclusion of the unincorporated territory in the urban renewal plan, project, or area in accordance with the procedures set forth in section 31-25-107(3), (4), (5), and (6).

(d) The board of county commissioners makes an additional finding, prior to approving the inclusion, that each owner of, and each holder of a recorded mortgage or deed of trust encumbering, real property in the unincorporated territory proposed for inclusion in the urban renewal plan, project, or area consents to the inclusion.

(e) The board of county commissioners determines whether the unincorporated territory shall be included in any provision for the division of taxes in the urban renewal area as authorized by section 31-25-107(9), and, if so determined, the board notifies the county assessor of such inclusion as required by section 31-25-107(10).

(3) Notwithstanding any other provision of this part 1, the requirements of section 31-25-107(3.5) shall not apply to any urban renewal plan proposed and approved pursuant to this section.

(4) Any urban renewal plan approved in accordance with this section may be modified as provided in section 31-25-107(3) (a); except that a modification shall be approved by the board of county commissioners, the governing body, and the authority.

(5) An authority, a municipality, and a county may, consistent with the requirements of this section, enter into an intergovernmental agreement to further effectuate the purposes of this section and to provide for the inclusion of unincorporated territory in an urban renewal area.

Credits

Added by Laws 2008, Ch. 87, § 1, eff. April 1, 2008.

C. R. S. A. § 31-25-112.5, CO ST § 31-25-112.5

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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C.R.S.A. § 31-25-113

§ 31-25-113. Authorities to have no power of taxation

Currentness

No authority created by this part 1 has any power to levy or assess any ad valorem taxes, personal property taxes, or any other forms of taxes, including special assessments against any property.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975.

C. R. S. A. § 31-25-113, CO ST § 31-25-113

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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C.R.S.A. § 31-25-114

§ 31-25-114. Cumulative clause

Currentness

The powers conferred by this part 1 shall be in addition and supplemental to the powers conferred by any other law.

Credits

Repealed and reenacted by Laws 1975, H.B.1089, § 1, eff. July 1, 1975.

C. R. S. A. § 31-25-114, CO ST § 31-25-114

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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C.R.S.A. § 31-25-115

§ 31-25-115. Transfer--abolishment

Effective: August 5, 2015

Currentness

(1) Notwithstanding any other provision of this part 1, the governing body of a municipality may designate itself as the authority when originally establishing said authority. A transfer of an existing authority to the governing body may be accomplished only by majority vote at a regular election.

(1.5) When the governing body of a municipality designates itself as the authority or transfers an existing authority to the governing body pursuant to subsection (1) of this section, one such commissioner on the authority must be appointed by the board of county commissioners of the county in which the territorial boundaries of the urban renewal authority area are located, one such commissioner must also be a board member of a special district selected by agreement of the special districts levying a mill levy within the boundaries of the urban renewal authority area, and one commissioner must also be an elected member of a board of education of a school district levying a mill levy within the boundaries of the urban renewal authority area. Appointments made pursuant to this subsection (1.5) must be made in accordance with the procedures specified in section 31-25-104(2).

(2) The governing body of a municipality may by ordinance provide for the abolishment of an urban renewal authority, provided adequate arrangements have been made for payment of any outstanding indebtedness and other obligations of the authority. Any such abolishment shall be effective upon a date set forth in the ordinance, which date shall not be less than six months from the effective date of the ordinance.

Credits

Added by Laws 1977, H.B.1310, § 1, eff. May 26, 1977. Amended by Laws 2007, Ch. 417, § 41, eff. Aug. 3, 2007; Laws 2015, Ch. 261, § 3, eff. Aug. 5, 2015.

C. R. S. A. § 31-25-115, CO ST § 31-25-115

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368, 369, 373, 374, 380, 382, 384, 386, 400, 404, and 405, effective August 9, 2017, and chapters 57, 66, 69, 70, 104, 293, 296, 335, effective September 1, 2017.

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C.R.S.A. § 31-25-116

§ 31-25-116. Regional tourism projects

Effective: June 4, 2009

Currentness

(1) An urban renewal authority that is designated as a financing entity pursuant to part 3 of article 46 of title 24, C.R.S., shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of part 3 of article 46 of title 24, C.R.S., including but not limited to the powers to receive state sales tax increment revenue generated within an approved regional tourism zone, as defined in section 24-46-303(11), C.R.S., and disburse and otherwise utilize such revenue for all lawful purposes, including but not limited to financing of eligible costs and the design, construction, maintenance, and operation of eligible improvements, as such terms are defined in section 24-46-303, C.R.S., or otherwise incorporated into the commission's conditions of approval.

(2) Notwithstanding the provision of section 31-25-107(7), authorization to receive state sales tax increment revenue pursuant to part 3 of article 46 of title 24, C.R.S., shall not be considered a material modification to the plan and corresponding changes to the plan may be made by the governing body of the authority to incorporate the use of state sales tax increment revenue without the requirement of submission to or approval by the governing body of a municipality that has established the authority pursuant to section 31-25-104(1).

(3) Any urban renewal authority that receives state sales tax increment revenue, whether pursuant to designation as a financing entity pursuant to part 3 of article 46 of title 24, C.R.S., or pursuant to a contract entered into with any such financing entity, shall not use the state sales tax increment revenue to acquire property through the exercise of eminent domain.

(4) Nothing in this section shall be interpreted to eliminate the requirements for the authorization of a new urban renewal authority under this part 1.

Credits

Added by Laws 2009, Ch. 434, § 3, eff. June 4, 2009.

C. R. S. A. § 31-25-116, CO ST § 31-25-116

Current through Laws effective August 8, 2017 of the First Regular Session of the 71st General Assembly (2017), chapters 8, 14, 15, 16, 19, 21, 22, 30, 32, 37, 38, 40, 42, 46, 47, 48, 49, 51, 52, 53, 60, 63, 65, 68, 74, 78, 81, 82, 84, 85, 86, 88, 89, 94, 95, 100, 102, 103, 106, 108, 114, 117, 119, 122, 124, 125, 127, 129, 130, 132, 133, 134, 136, 140, 145, 147, 148, 150, 151, 169, 170, 175, 181, 182, 184, 185, 186, 188, 195, 199, 209, 212, 213, 215, 216, 220, 223, 236, 239, 241, 247, 248, 252, 265, 281, 290, 291, 297, 309, 310, 314, 315, 316, 318, 322, 325, 334, 338, 343, 346, 350, 352, 355, 357, 359, 364, 366, 368,

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Urban Renewal Plan
Lafayette Old Town & South Boulder Revitalization Area
Amended March 5, 2012

I. Introduction

The Urban Renewal Plan (the "Plan") for the City of Lafayette's Old Town Area and South Boulder Road Revitalization Area has been prepared pursuant to the provisions of the Urban Renewal Law of the State of Colorado, Part 1 of Article 25 of Title 31, C.R.S., as amended (the "Urban Renewal Law"). The administration of the Plan, including the preparation and execution of any documents implementing it, shall be performed by the Lafayette Urban Renewal Authority (the "Authority").

The Plan, and any modifications thereto, shall control the land use, design, and building requirements within the Plan Area, as defined below. Any development within the Plan Area must be approved by the Authority as required herein and comply with all City of Lafayette ordinances and regulations. Any terms used in this Plan that are not defined herein are governed by definitions in the City of Lafayette Municipal Code.

It is the intent of this Plan that the objectives will be achieved primarily through cooperation between the public and the private sector, and utilizing the incentives and tools available from all sources, including the Urban Renewal Authority. It is also the intent that implementation will be fair, sensitive to the concerns of businesses and residents, and with preference to locally based businesses. Acquisition of property through the use of eminent domain will only be used as a last resort.

Historical Background

Lafayette had its origins in farming and coal mining in the 1870's, and the townsite was platted in 1888 in the area now known as "Old Town." It was a thriving community, and early requirements for building permits and minimum costs of construction led to a town of substantial buildings. Land was donated for a church, a cemetery and a park, and early twentieth century prohibitions on "noxious" uses preserved the pleasant atmosphere of the downtown. In 1914, the Town boasted two banks, four hotels, three restaurants, three general merchandise stores, one bakery and confectionery, and many other retail services. It had churches, a fire station, and town hall, and was served by two railroads.

AMENDMENTS:

Amended March 5, 2012, by Ordinance No. 8, Series 2012

South Boulder Road Revitalization Area established on June 4, 2002, by Ordinance No. 13 Series 2002

Lafayette Old Town Urban Renewal Area established on October 5, 1999, by Ordinance No. 38 Series 1999

Although coal mining has long since declined in the area, and farming is very limited in scale, Lafayette has seen significant residential and commercial growth in the last ten years. The transportation and cultural changes of the twentieth century have distributed most of the growth outside of the Old Town Area, and the downtown has declined significantly from its early years. In every recent study and report that addresses quality of life in Lafayette, residents have indicated an interest in revitalizing the downtown area. In the late 1980's significant commercial growth occurred at the intersection of Public Road (the U.S. Highway 287) and South Boulder Road. It included large (>40,000 sq. ft.) retail outlets including two grocery stores and a Wal*Mart. In a 1997 Citizen Survey, residents indicated that "small town atmosphere" is the single most admired quality of Lafayette. A Downtown Plan (1994) recognizes the importance of Lafayette's Old Town area, and makes several recommendations to enhance its attractiveness, including major public improvements, design guidelines, business promotions and an "image" program.

The 1997 Comprehensive Plan identifies several specific goals for its downtown:

- Goal 3. To preserve Old Town Lafayette's character, allow for a growing market population, and develop a strong image for downtown.

- Goal 18. To promote a pedestrian-friendly and inviting downtown environment that will encourage shoppers and others to visit downtown more often and remain downtown for extended periods of time.

- Goal 35. To encourage businesses that complement Old Town shopping and enhance the strengths of downtown.

- Goal 37. To provide resources in support of the revitalization of Old Town Lafayette.

In 1998, a *Strategic Business Development Plan* was drafted for the City of Lafayette by the University of Colorado Business Research Division. A key theme, reiterated by local business leaders, regional economic development professionals, residents, and the authors of the study, was the need to revitalize downtown.

During the late 1990's, downtown Lafayette had an active Old Town Merchants Association, and has participated for sixteen years in the Lafayette/Louisville Downtown Revitalization Program, a revolving loan fund for small business. Considerable redevelopment has occurred already, but much work remains to be done.

The City Council has identified downtown revitalization as a high priority, and in 1999, the City of Lafayette has undertaken a \$3 million public improvement project to provide fiber optic lines connecting Old Town with the South Boulder Road Revitalization Area,

improve storm sewer facilities, drainage, street lighting, and the streetscape on Public Road. This major investment is expected to serve as a catalyst to private investment in the Lafayette Old Town Area. In addition, on April 20, 1999, the City Council approved a resolution establishing the Lafayette Urban Renewal Authority. The Authority was created in response to a citizens' petition for the formation of an urban renewal authority, findings of blight in the Old Town Area, and following a public hearing on the matter. The purpose of the Authority is to serve as the public entity to effect revitalization and redevelopment in the downtown area. The Authority will work in partnership with property owners to improve existing structures, bring new commercial and mixed use development to raw land within the blighted area, and prevent deterioration of properties within the area.

A Conditions Survey for Old Town (Exhibit 3) was undertaken in March and April of 1999, with the following results:

“It is the conclusion of Conditions Survey that the Survey Area does meet the criteria established in Section 31-25-103(2)C.R.S., and in House Bill 99-1326 and is a *blighted area*. While there are some properties in the Survey Area that are in sound condition, and exhibit none of the statutory factors of blight, there is a substantial degree of deterioration and substandard conditions that contribute to a finding that this area is blighted. It should be noted that this conclusion is made for the Survey Area as a whole, and is not based on separate, individual properties.

Existence of the combination of factors in this blighted area *"substantially impairs or arrests the sound growth of the municipality, retards the provision of housing accommodations or constitutes an economic or social liability..."*

(31-25-103(2) C.R.S.)

The conclusion that this area is blighted is based on the following findings:

1. There is a substantial number of deteriorated or deteriorating structures in the Survey Area.
2. There is a presence of faulty lot layout within the Survey Area consisting of properties with inconvenient access, and lots of inadequate size for current development needs.
3. There is a presence of unsanitary and unsafe conditions in the Survey Area including lack of pedestrian facilities, inadequate lighting, hazardous play areas, junk and debris, and higher crime rates.
4. There is a strong presence of site problems in the Survey Area, consisting of parking problems, unpaved alleys, awkward building placement, and other site constraints.
5. There is a strong presence of substandard conditions in the Survey Area.
6. The conditions of blight that exist in Old Town Lafayette have inhibited business growth, and have led to the loss of several businesses and significant losses of sales tax revenue, which is the primary source of revenue for the City.
7. The conditions of blight that exist in Old Town Lafayette have hindered industrial recruitment efforts, thus constituting an economic and social liability, and arresting the sound growth of the municipality.

Because the large commercial centers built in the late 1980's had physically and economically deteriorated, a second Conditions Survey (Exhibit 4) on a second blighted area was undertaken in March and April of 2002, with the following results:

“..the survey area has significant examples of the conditions associated with the legal definition of blight as established in C.R.S. Section 31-25-103(2) as amended and is a “blighted area”.

The conclusion that the South Boulder Road Revitalization area is blighted is based on the following findings:

1. Deteriorated and deteriorating structures exist within the survey area.
2. There is a predominance of defective or inadequate street layout within the survey area.
3. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness exists within the survey area.
4. Unsanitary or unsafe conditions exist within the survey area.
5. Deterioration of site or other improvements exists throughout the survey area.
6. A defective or unusual condition of title exists that could render a title unmarketable exists.
7. The existence of conditions that endanger life or property by fire and other causes exist within the survey area.
8. The survey area has been experiencing a business decline during a strong economic period, supporting the finding that it is a “blighted” area.

II. Plan Objectives.

The purpose of the Urban Renewal Plan is to implement the goals of the Lafayette Comprehensive Plan relating to the downtown and the South Boulder Road Revitalization. This revitalization and redevelopment will be accomplished through the improvement of existing structures, attraction of new commercial and mixed use development, and the prevention of deterioration of properties within the area. The effort will involve the participation of the Authority and the City of Lafayette, with the cooperation of the private sector. In downtown, the Authority recognizes the importance of parking impacts on both businesses and residents, and intends to make the consideration of parking improvements a high priority.

The Urban Renewal effort is primarily an economic development catalyst for the areas. It is not intended to replace the efforts of [Lafayette Old Town, Inc. (LOTI), or the Chamber of Commerce] other business development, marketing or maintenance efforts. Other vehicles, such as Business Improvement Districts (BID's) can be utilized for long term interests.

Specific project goals include the following:

1. To implement the 1997 Lafayette Comprehensive Plan, particularly the goals relating to the revitalization of downtown (Goals 3, 18, 35 and 37) and economic development in general.

2. To eliminate and prevent conditions of blight which constitute economic and social liabilities to the community.
3. To prevent physical and economic deterioration in the Urban Renewal Area.
4. To attract capital investment, and to assist in the retention and expansion of existing business, strengthening the City's economic base.
5. To help preserve the unique "Old Town" character of downtown.
6. To create a stable tax base.
7. To facilitate the development of mixed use projects, and improve the standards for residential uses in the downtown area.

III. Plan Area

The Urban Renewal Area includes two areas: (1) Old Town, generally the south side of Baseline Rd., from Shady Acres Mobile Home Park east to Harrison St.; Public Road from Baseline Road to Spaulding St.; and E. Simpson St. from Public Road to Michigan Ave., and (2) The South Boulder Road Revitalization Area (SBRRA), generally west of Public Road, east of Hwy 287, both north and south of South Boulder Road. A map and detailed description are included in the Appendix as Exhibits 1 & 2.

IV. Plan Activities

Although Colorado's Urban Renewal Law and this Plan permit a wide range of activities, preemptive powers such as condemnation are unlikely to be exercised widely.

It is the intent of the Lafayette Urban Renewal Authority to use its legally permitted tools as incentives to stimulate the private sector, and in *cooperation* with property owners and other affected parties to accomplish the objectives of the plan. It is expected that there will be very limited use of property acquisition by the Authority itself.

A. Owner Participation

The Urban Renewal Authority may enter into ownership participation agreements with property owners or developers in the Urban Renewal Area for the development, redevelopment or rehabilitation of their property. These agreements would provide for participation and assistance that the Authority may choose to provide to such owners or developers.

Owner participation and other agreements of this nature shall contain, at a minimum, provisions requiring:

- Compliance with the Urban Renewal Plan and City ordinances and regulations.
- Covenants to begin and complete development, construction or rehabilitation of both public and private improvements within a period of time considered to be appropriate by the Authority.
- The financial commitments of each party.

B. Property Acquisition

In the event the Lafayette Urban Renewal Authority determines it is necessary to acquire any real property to implement this plan, the Authority may do so by any means available by law, including, without limitation, by exercise of the power of eminent domain. The Authority may acquire property for the following reasons: to eliminate or prevent conditions of blight; to carry out one or more objectives of the Plan; to assemble property for redevelopment by private enterprise; for needed public improvements; and for any other lawful purpose authorized by the Urban Renewal Plan, subject to the provisions of the Urban Renewal Law, or any other applicable law.

C. Property Management

During such time as acquired property is owned by the Authority, such property shall be under the management and control of the Authority and may be rented or leased pending its disposition for redevelopment.

D. Relocation Assistance and Payments

If acquisition of property displaces any person, family, or business, the Authority may assist such party in finding another location, and may, but is not obligated to, make relocation payments to eligible residents and businesses in such amounts and under such terms and conditions as outlined in the Relocation Handbook. The Authority may update its handbook from time to time.

E. Demolition, Clearance, and Site Preparation

The Authority may demolish and clear buildings, structures, and other improvements from any property it acquires in accordance with this plan. The Authority may provide rough and finished site grading and other site preparation services as part of a specific redevelopment program.

F. Public Improvements and Facilities

Public improvements and cooperation by the public sector (Lafayette Urban Renewal Authority and the City) with the private sector will be considered insofar as such improvements and actions enhance the success of redevelopment of the Urban Renewal Area and respond to community needs. It is expected that community parking needs in the Old Town portion of the Urban Renewal Area will be met through the formation of a parking district or some similar mechanism, and will be funded by property owners and businesses.

G. Property Disposition

The Authority may dispose of property it acquires by means of a reasonable competitive bidding process it establishes in accordance with the Act and pursuant to redevelopment agreements between the Authority and such purchasers.

H. Cooperation Agreements

For the purposes of planning and carrying out this Plan, the Authority may enter into one or more cooperation agreements with the City or other public entities. Without limitation, such agreements may include project financing and implementation; design, location and construction of public improvements and any other matters required to carry out this Plan.

1. Recognizing the limited resources that are available to the Authority and that those resources should, to the extent reasonable possible, be expended directly on projects and improvements in the Urban Renewal Areas, it is intended that the Authority utilize existing City administrative services (such as staff, offices and facilities, and insurance policies), so as to avoid duplication of those general administrative expenses.

2. As a means to effectively and efficiently finance the administration of the Authority in the implementation of this Plan, the City of Lafayette will, subject to annual appropriations by City Council, provide reasonable "General Administrative Support" to the Authority by (1) the assignment of one or more City employees, as determined by the City Administrator, to act and carry out the functions of the executive director of the Authority and provide other general administrative services. (Neither the City nor the Authority anticipate that the assigned employee(s) will be exclusively devoted to the Authority's activities); (2) providing reasonable administrative support through the various offices and departments of the City; (3) providing general legal services through the offices of the City Attorney; (4) providing reasonable use of City facilities as are necessary to carry out the general business of the Authority; and (5) including the Authority as an "insured" on various of the City's insurance policies when such inclusion is cost effective. Such General Administrative Support shall not extend to securing employment of outside consultants and experts, or payment of significant expenses that are directly related to any urban renewal projects that are undertaken by the Authority. As compensation for the General Administrative Support provided by the City to the Authority, the Authority shall pay to the City, on an annual basis, 10% of the gross revenues of the Authority.

3. Prior to undertaking any urban renewal project pursuant to this Plan for which the cost is reasonably anticipated to exceed 40% of the budgeted amount of tax

increment revenues of the Authority for that year, the Authority will present such proposed project to the Lafayette City Council and obtain City Council's consent to proceed with the project.

4. As a part of the annual budgeting process of the Authority, the Authority will present its annual budget to City Council for the purpose of securing any comments or suggestions from the City Council, prior to the adoption of the budget by the Authority.

I. Other Plan Undertakings and Activities

Other Plan undertakings and activities deemed necessary by the Authority to carry out the Plan may be undertaken and performed by the Authority or pursuant to agreements with other public or private entities in accordance with the provisions of the Urban Renewal Law and any other applicable laws.

V. Plan Financing

The Authority is authorized to finance implementation of the Plan by any method authorized by the Act or any other applicable law, including, without limitation, appropriations, loans or advances from the City; federal loans and grants; state loans and grants; interest income; agreements with public and private parties or entities; sale of securities and other assets; property and sales tax increments; loans, advances and grants from any other available source.

Such methods may be combined to finance all or any part of the Plan activities. Any financing method authorized by the Plan or by any applicable law, may be used to pay the principal of and interest on and to establish reserves for indebtedness (whether funded, refunded, assumed or otherwise) incurred by the Authority or the City to finance any project contemplated by this Plan or undertaken pursuant to the Plan in whole or in part.

The Authority is authorized to issue notes, bonds, or any other financing instruments or documents in amounts sufficient to finance all or part of the project. The Authority is authorized to borrow funds and to create indebtedness in carrying out this Plan. The principal, interest and any premiums due on, or in connection with, such indebtedness may be paid from tax increments or any other funds available to the Authority.

Projects may be financed by the Authority under the tax increment financing provisions of the Act. Such tax incremental revenues may be used for a period not to exceed the statutory requirement, which is presently twenty-five years after the effective date of the initial adoption of this Plan, or as the Authority and City may otherwise agree. The Authority shall notify the Boulder County Assessor of the approval of the plan, the commencement of such tax increment financing, when outstanding obligations have

been paid off, and when the purposes of the Authority have otherwise been achieved.

A. Establishment of Fund

The Authority shall establish a tax increment revenue fund for the deposit of all funds generated pursuant to the division of ad valorem property tax and municipal sales tax revenues described in this section. By approving this Urban Renewal Plan, the City Council hereby approves the inclusion of both property taxes and municipal sales taxes within the tax increment revenue fund.

B. Base Amount

That portion of the taxes which are produced by the levy at the rate fixed each year by or for such public body upon the valuation for assessment of taxable property in the Urban Renewal Area last certified prior to the effective date of approval of the Plan, and that portion of municipal sales taxes collected within the boundaries of the Urban Renewal Area in the twelve-month period ending on the last day of the month prior to the effective date of the approval of the Plan, or both such portions, shall be paid into the funds of each such public body as are all other taxes collected by or for said public body.

C. Increment Amount

That portion of said property taxes in excess of such base amount or, that portion of said municipal sales taxes in excess of such base amount, or both, shall be allocated to and, when collected paid into the tax increment revenue fund to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans or advances to or indebtedness incurred by the Authority.

Unless and until the total valuation for assessment of the taxable property in the Urban Renewal Area exceeds the base valuation for assessment of the taxable property in the Urban Renewal Area, all of the taxes levied upon taxable property in the Urban Renewal Area shall be paid into the funds of the respective public entities. Unless and until all or the relevant part of the municipal sales tax collections in the Urban Renewal Area exceed the base year municipal sales tax collections in the Urban Renewal Area, all such sales tax collections shall be paid into the funds of the City.

VI. Land Use and Building Requirements

The Lafayette Urban Renewal Area is the heart of the City of Lafayette. The Plan will provide a comprehensive and unified plan to promote and encourage high quality development. In addition to the land use and building requirements contained in City codes and regulations, and in the provisions of the Plan, the Authority will adopt Design Guidelines and Standards that will apply to the property included in the Urban Renewal Area. The Plan and Design Guidelines and Standards will implement the provisions of Sec. 31-25-107(8) of the Act, which provides that, upon approval of the Plan by the City Council, the provisions of the Plan shall be controlling with respect to land area, land use, design, building requirements, timing or procedure applicable to the property

covered by the Plan. The Plan will recognize any properly designated historic landmark in the Urban Renewal Area. This plan will not supersede any conditions of properly designated historic landmarks.

In the absence of Plan requirements governing site-specific projects, standard City codes and regulations will apply. In the event of a conflict involving the provisions of the City codes and regulations, the Plan, and Design Guidelines and Standards, the most restrictive provision shall govern.

A. Uses

1. For the portion of the District currently zoned B1, notwithstanding the provisions of the underlying B-1 zoning, the following use restrictions apply in the Urban Renewal Area.
 - (a) Permitted:
 - Accessory uses;
 - Accessory Building/Structure;
 - Arts gallery or studio;
 - Household pets;
 - Medical/dental offices;
 - Motels/hotels/resorts
 - Offices, except for bail bond brokers;
 - Parks and playgrounds;
 - Personal service outlets, (except tattoo parlors), such as barber and beauty shops, self-self laundries, shoe repair, tailors, dry cleaners and travel agencies;
 - Recreational club or facility (indoor or outdoor);
 - Restaurants;
 - Retail sales including but not limited to the sale of food, beverages, dry goods, furniture, appliances, hardware, and clothing with floor areas of less than 20,000 sq. ft., except pawn shops;
 - Telecommunications Facility*.

* May be permitted or require a telecommunications review in accordance with Development & Zoning Code Section 26-22.5-8.

- (b) Permitted with Special Use Review:
 - Assisted living;
 - Bed and Breakfast;
 - Churches (30' setback to all residentially zoned lots);
 - Commercial parking/parking lots and structures;
 - Commercial Recreational Establishment (such as bowling alley, skating rink);
 - Daycare centers;

Drive-up facilities;
Drive-up restaurants;
Extractions of oil and gaseous materials;
Home Occupations;
Hospitals;
Indoor amusement, entertainment, arcades;
Library;
Lumber, plumbing, electrical and building supplies;
Mini-banks detached from principal building;
Mortuary;
Municipal or public utility facilities and buildings excluding offices, repair and storage yards;
Nurseries and greenhouses (commercial);
Printing/publishing;
Private/public membership clubs;
Residential:
 Single family dwelling in a mixed use building complex;
 Duplex two-family dwellings in a mixed use building complex;
 Multi-family dwellings in a mixed use building complex;
 Multi-family dwellings;
Retail with 20,000 square feet or greater, except pawn shops;
School, public
School, private
Tailoring, millinery, electronic part assembly, woodwork, and other similar limited manufacturing activity that does not generate high noise levels and that meets the provisions of the International Building Code Factory Group F requirements
Theaters, auditorium;
Veterinary hospital/clinic;
Telecommunications Facilities* .

* May be permitted or require a telecommunications review in accordance with Development & Zoning Code Section 26-22.5-8.

- (c) Prohibited:
- Agricultural use (crop production only);
 - Animals;
 - Asphalt plant;
 - Automotive paint and body shop;
 - Automotive and recreational vehicle service and sales greater than two ton;
 - Automotive and recreational vehicle service and sales less than two ton;

Bailbond broker office;
Board and care facility;
Camper park or campground;
Carwash;
Enclosed (i.e., screened and fenced) storage yard;
Extraction of minerals;
Feedmill;
Gas station (fuel facility);
Golf course (public or private);
Halfway houses;
Kennel and similar uses such as dog daycare;
Machine shops;
Mineral extraction;
Mobile home park or subdivision;
Mobile home sales and service;
Mobile homes on individual lots;
Nursing home/convalescent home;
Parking lots/structures, except as accessory use to permitted or special use;
Pawn shop;
Refineries;
Research facility, testing, laboratory, and facilities for manufacturing, fabricating, processing, and storage of products;
Residential:
 Accessory dwelling;
 Single family dwelling;
 Duplex two-family dwelling;
Sexually oriented business;
Slaughter and processing of animals;
Storage yard;
Tattoo parlor;
Transportation Center;
Vehicle storage, sales, service or repair (Motorized);
Wholesale establishments;
Warehouse (mini-storage or other).

2. For the portion of the District zoned C1, notwithstanding the provisions of the underlying C-1 zoning, the following use restrictions apply in the Urban Renewal Area.
 - (a) Permitted:
 Accessory building/structure;
 Accessory uses;
 Art gallery or studio;

Home occupations;
Household pets;
Lumber, plumbing, electrical, and building supplies;
Medical/dental offices;
Motels, hotels, or resorts;
Offices, as part of a mixed-use (office/retail) building, except for bail bond brokers;
Personal service outlets such as barber shop, beauty shop, self-service laundries, shoe repair, tailors, dry cleaners, travel agencies;
Parking lot or structure as accessory to a permitted or special use;
Restaurants;
Retail sales, except pawn shops, including but not limited to the sale of food, beverages, dry goods, furniture, appliances, hardware, and clothing with floor areas of less than 20,000 square feet;
Retail sales, except pawn shops, with floor areas in excess of 20,000 square feet;
Telecommunications Facility*;

*May be permitted or require a telecommunications review in accordance with Development & Zoning Code Section 26-22.5-8.

- (b) Permitted with Special Use Review
- Automotive and recreational vehicle service and sales, less than two ton;
 - Churches (30 foot setback to all residentially/zoned lots);
 - Commercial recreational establishment (such as a bowling alley, skating rink);
 - Daycare center;
 - Drive-up facility;
 - Drive-up restaurant;
 - Extractions of oil and gaseous materials;
 - Gas station (fuel facility)
 - Hospitals;
 - Indoor amusement, entertainment, arcades;
 - Library;
 - Mini-banks detached from principal building;
 - Mortuary;
 - Municipal or public utility facility and building, excluding offices, repair and storage yards;
 - Nurseries or greenhouses (commercial);
 - Printing, publishing;
 - Private or public membership clubs;
 - Recreational club or facility (indoor or outdoor);

Residential:

Single family dwelling in a mixed use building complex;
Duplex two-family dwellings in a mixed use building complex;
Multi-family dwellings in a mixed use building complex;
Telecommunications Facilities*;
Theaters, auditoriums, or places of assembly;
Transportation Center, except trucking terminal;
Wholesale establishments.

*May be permitted or require a telecommunications review in accordance with Development & Zoning Code Section 26-22.5-8.

(c) Prohibited:

Agriculture use (crop production only);
Animals;
Asphalt plant;
Assisted living;
Automobile storage yard;
Automotive and recreational vehicle service and sales greater than two ton;
Automotive paint, body, or repair shop;
Bed and breakfast;
Board and care facility;
Camper park or campground;
Commercial parking lot;
Enclosed (screened and fenced) storage yard, except as an accessory use to a permitted or special use;
Extraction of minerals;
Feedmill;
Golf course (public or private);
Halfway house;
Kennel and similar uses such as dog daycare;
Machine shops;
Mobile homes on individual lots;
Mobile home park or subdivision;
Mobile home sales and service;
Nursing home/convalescent home;
Park or playground;
Refinement of hydro-carbons, mineral or gaseous materials;
Research facility: testing, laboratory, and facility for manufacturing, fabricating, processing, or storing products;
Residential:
Single-family dwelling;

Two-family dwelling;
Multi-family dwelling;
School, public or private;
Sexually oriented business;
Slaughter and processing of animals;
Tailoring, millinery, electronic part assembly, woodwork, and other similar limited manufacturing activity that does not generate high noise levels and that meets the provisions of the International Building Code Factory Group F requirements;
Veterinarian hospital or clinic;
Warehouse (mini-storage or other).

B. Plan Review Process

In order to eliminate and prevent blight in the Urban Renewal Area and to achieve high-quality development in the Urban Renewal Area, properties within the Urban Renewal Area will be required to meet the highest standards of site planning and architectural design. To assure that those purposes are accomplished, the Authority shall appoint an Architectural Review Committee (ARC) to review all development applications submitted for the Urban Renewal Area for conformance with the Plan. This includes any physical changes, including, but not limited to, new buildings, building additions or renovations, signs, exterior paint, paving, site plans, demolitions, changes in roof materials, or fencing.

The Architectural Review Committee shall be appointed by the Mayor, and shall consist of the Executive Director of the Urban Renewal Authority, the Community Development Director of the City of Lafayette, an architect, a member of the Historic Preservation Board, a business owner, and a resident in the Urban Renewal Area. Decisions of the ARC or staff may be appealed to the entire Authority Board.

The Architectural Review Committee will also oversee the future development of specific Design Standards for the Urban Renewal Area. The Authority will establish procedures for including public input into the process of development of the Design Standards. The Architectural Review Committee will dissolve when Design Standards for the Urban Renewal Area are adopted.

All development applications in the Urban Renewal Area shall also meet all other City requirements. All development applications in the Urban Renewal Area will first be considered by the Urban Renewal Authority for compliance with this Plan, the Design Guidelines and Standards, and all applicable City codes and regulations. Following approval by the Urban Renewal Authority, all development applications will then follow the normal City review procedures as set forth in Section 26-16 of the Lafayette Code. Any development application that undergoes any substantive change in the City's review procedures must be reconsidered by the Urban Renewal Authority. Notwithstanding the requirements of Lafayette Code Section 26-16-7, the Planning Commission shall have final approval authority for site plans and architectural reviews,

provided that such site plan or architectural review was initially approved by the Urban Renewal Authority and remained substantially unchanged throughout the City review process through Planning Commission consideration.

VII. Changes in Approved Plan

This plan may be modified pursuant to the provisions of the Act governing such modifications, including Sec 31-25-107, C.R.S., as amended. The Urban Renewal Authority may allow minor variations from the Urban Renewal Plan if it determines that a literal enforcement of the provisions of the Plan would constitute an unreasonable limitation beyond the intent and purpose of the Plan.

VIII. Severability

If any portion of the Urban Renewal Plan shall be held to be invalid or unenforceable, such invalidity shall not affect the remaining portions of this Urban Renewal Plan.

IX. Term

The Term of this plan is twenty-five years from its initial effective date, unless the Authority deems that all projects have been accomplished and all debts incurred to finance those projects and pay all expenses of the Authority have been repaid. In that event, the Authority may declare the plan implemented and the total tax collections derived from the Urban Renewal Area shall be paid into the funds of the appropriate taxing entity.

Appendix

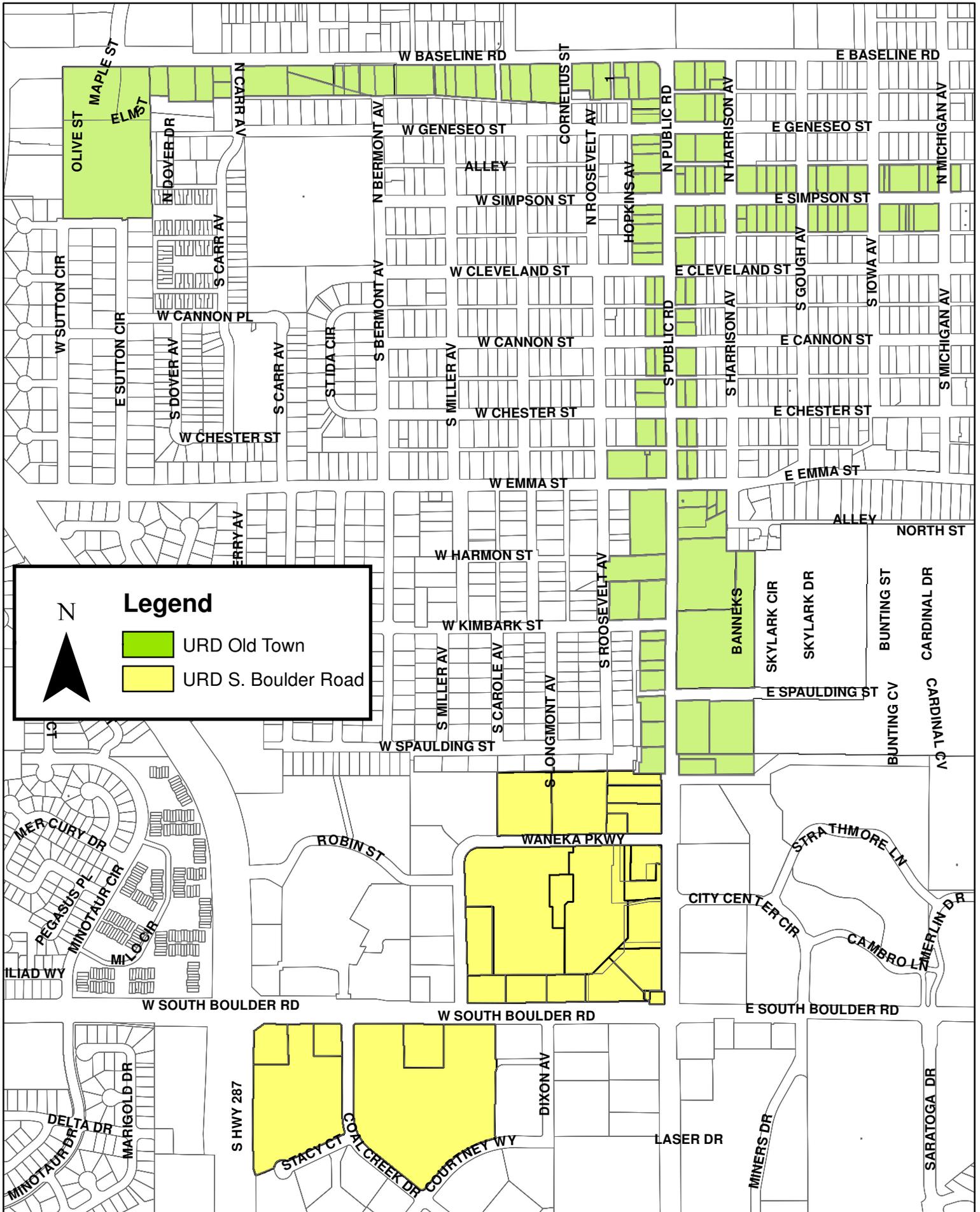
Exhibit 1: Map of Urban Renewal Area

Exhibit 2: Legal Description

Exhibit 3: 1999 Blight Study

Exhibit 4: 2002 Blight Study

Lafayette Urban Renewal Districts



Lafayette Urban Renewal Authority
By-Laws of the Lafayette Urban Renewal Authority

ARTICLE I:

THE AUTHORITY

SECTION 1: NAME.

The name of the organization shall be the Lafayette Urban Renewal Authority, Lafayette, Colorado.

SECTION 2: OFFICE OF THE AUTHORITY

The office of the Authority shall be at such place in the City of Lafayette, Colorado, as the Authority may designate from time to time.

SECTION 3: SEAL OF THE AUTHORITY

The seal of the Authority shall be the City of Lafayette seal and shall bear the name of the Authority.

ARTICLE II:

ADMINISTRATION

SECTION 1: GENERAL ADMINISTRATIVE SUPPORT

The Authority shall pay to the City of Lafayette, on an annual basis, 10% of the gross revenues of the Authority as compensation for the General Administrative Support provided by the City as defined in Ordinance No. 8, Series 2012: “As a means to effectively and efficiently finance the administration of the Authority in the implementation of this Plan, the City of Lafayette will, subject to annual appropriations by City Council, provide reasonable ‘General Administrative Support’ to the Authority by (1) the assignment of one or more City employees, as determined by the City Administrator, to act and carry out the function of the executive director of the Authority and provide other general administrative services. (Neither the City nor the Authority anticipate that the assigned employee(s) will be exclusively devoted to the Authority’s activities); (2) providing reasonable administrative support through the various offices and departments of the City; (3) providing general legal services through the offices of the City Attorney; (4) providing reasonable use of City facilities as are necessary to carry out the general business of the Authority; (5) including the Authority as an ‘insured’ on various of the City’s insurance policies when such inclusion is cost effective. Such General Administrative Support shall not extend to securing employment of outside consultants and experts, or payment of significant expenses that are directly related to any urban renewal projects that are undertaken by the Authority.”

SECTION 2: POLICIES AND PROCEDURES

AMENDMENTS:

Amended July 14, 2015 to allow for broadcasting of regular meetings

Amended September 11, 2012 to allow for remote meeting attendance

Originally approved August 14, 2012

The Authority will adhere to City of Lafayette policies and procedures.

ARTICLE III:

POWERS AND DUTIES OF AUTHORITY

The Authority shall have all the powers granted by the Lafayette City Council pursuant to and in accordance with the Colorado Revised Statutes and shall perform all duties required by law.

ARTICLE IV:

OFFICERS AND PERSONNEL

SECTION 1: CHAIR. The Chair shall preside at all meetings of the Authority. The Chair-person shall co-sign all orders and checks for the payment of money under the direction of the Authority.

SECTION 2: VICE CHAIR. The Vice Chair shall perform the duties of the Chair-person in the absence or incapacity of the Chair. When both the Chair and Vice-Chair are absent, the members present shall select a member to preside over the meeting by consensus or by a majority vote. In the absence or incapacity of the Chair, the Vice Chair shall co-sign all orders and checks for the payment of money under the direction of the Authority.

SECTION 3: EXECUTIVE DIRECTOR. The City of Lafayette City Administrator or his or her designee shall serve as Executive Director for the Authority. The Executive Director shall have the general supervision over the administration of the affairs and business of the Authority, and shall be charged with the management of the projects of the Authority. In conformance with the Urban Renewal section of the Colorado Revised Statutes, the duties of the Secretary shall be the responsibility of the Executive Director. The duties of Secretary shall be to ensure the maintenance of records of the Authority, including the minutes of meetings and records of votes. The Secretary shall keep the seal of the Authority and shall affix such seal to all contracts, documents, and instruments authorized to be executed by the Authority. The Executive Director may delegate the duties of the Secretary to the Executive Assistant or Downtown Coordinator as he or she deems necessary. The originals of all Authority resolutions, staff reports, invoices, general ledgers, and other documents of public record shall be maintained by the City Clerk of the City of Lafayette pursuant to the requirements of applicable state statutes. The Executive Director, as the secretary of the Authority, shall attend all meetings of the Authority in person. He or she shall designate in writing some person to perform his or her duties hereunder in his or her absence.

SECTION 4: TREASURER: The Authority shall appoint a Treasurer who shall have the care and custody of all funds of the Authority. The Treasurer shall co-sign all orders and checks for the payment of money and shall pay out and disburse such monies under the direction of the Authority.

AMENDMENTS:

Amended July 14, 2015 to allow for broadcasting of regular meetings

Amended September 11, 2012 to allow for remote meeting attendance

Originally approved August 14, 2012

The Treasurer shall keep regular books of account of the transactions and financial condition of the Authority.

SECTION 5: SPECIAL COMMITTEES. Special committees may be authorized and appointed by the Chair for special, limited purposes, and shall serve only until completion of the assignment.

ARTICLE V:

PARLIMENTARY AUTHORITY

SECTION 1: MEETINGS. The Authority shall meet at City Hall, 1290 S. Public Road, or such place as the Authority may designate from time to time. No meeting is held in December. All Authority meetings are open to the public. Meeting agendas shall be posted in compliance with the Lafayette Code of Ordinances and Colorado law. The regular meetings of the Authority shall be broadcast by television or Internet when the necessary facilities are available.

The first June meeting shall include the selection of officers. The new officers shall assume their duties and responsibilities commencing with the following meeting.

Special meetings may be held at any time when called by the Chair or at the request of four members. All members must be notified at least twenty-four (24) hours in advance of a special meeting. Only items on the announced agenda may be considered at a special meeting.

SECTION 2: AGENDA. Agendas should be made available in advance, together with documents, explanatory material, and a copy of the minutes of prior meetings. Agendas may include the following: roll call, routine matters, previous minutes, statistical reports, financial reports, etc., correspondence to the Authority, reports of standing committees, new business, Executive Director's report and adjournment.

SECTION 3: QUORUM. If any Authority members are disqualified from voting pursuant to the Lafayette Code of Ethics, and such disqualification causes the Authority to lose its quorum on the matter before the Authority, the matter shall be tabled until the next meeting at which a sufficient number of qualified Authority members are present to constitute a quorum. In the event that the number of disqualifications are such that tabling the matter will not result in a quorum of qualified Authority members, the quorum necessary to conduct that item of business shall be adjusted to consist of at least fifty percent of those members not disqualified.

SECTION 4: REMOTE ATTENDANCE. Authority members shall be allowed to attend meetings of the Authority via telephone, video or Internet connection from a remote location that may or may not be open to the public in order to accommodate special circumstances, subject to the following conditions:

AMENDMENTS:

Amended July 14, 2015 to allow for broadcasting of regular meetings

Amended September 11, 2012 to allow for remote meeting attendance

Originally approved August 14, 2012

a. Authority members who wish to remotely attend a meeting are required to notify the Chair of their physical absence in writing at least 24 hours before the meeting.

b. If the required advance notice is given, remote attendance may be permitted to the extent it can be reasonably accommodated by the technology and equipment available at the noticed meeting location. Subject to technological limitations or difficulties at the meeting site or the member's location, a limited number of attempts will be made to connect a member remotely. Such connection must be made before the meeting is officially opened by the Chair.

c. Remotely connected members shall be heard and considered as in the case of any member who is physically present, may vote on matters before the Authority, and may leave a meeting upon announcement and return as in the case of any member who is physically present. If a quasi-judicial matter is before the Authority, remotely connected members may vote on the matter only if they are able to see and hear all evidence and testimony presented to the Authority on the matter.

d. Remote attendance constitutes a member's presence at a meeting of the Authority for purposes of establishing a quorum. The foregoing notwithstanding, a remotely attending member shall not be counted towards a quorum when a quasi-judicial matter is before the Authority if the remotely attending member is not able to see and hear all evidence and testimony presented to the Authority on the matter.

e. Remote attendance is not permitted during an executive session. Remotely attending members shall be disconnected from the meeting and the Chair shall announce on the record that such member has disconnected from the meeting before an executive session is convened. If and when the Authority reconvenes immediately after an executive session to take action on the matter discussed in the executive session, the remotely attending member(s) shall not be eligible to vote on that matter, but may be reconnected to the open meeting to address or vote on any other subsequent matters before the Authority in its open meeting. Nothing in this subparagraph e. shall affect or otherwise limit members of the Authority who were absent during an executive session from voting on any matters arising out of the executive session at a *subsequent* meeting of the Authority, if those members have listened to the tapes from the executive session before action is taken on the matter at the subsequent meeting.

AMENDMENTS:

Amended July 14, 2015 to allow for broadcasting of regular meetings

Amended September 11, 2012 to allow for remote meeting attendance

Originally approved August 14, 2012

Urban Renewal Vision Statement

Downtown is the Heart of Lafayette, our community center. Downtown projects the image of Lafayette we present to our community and to visitors. It is the economic engine that will take us into the future.

This area possesses a unique sense of place. It provides respite from the look-alike commercial areas around us. It has three distinct areas: Public Road, East Simpson Street, and Baseline Road. These areas, though distinct, are interconnected by our pedestrian and vehicular transportation systems. The provision of amenities, including lighting, signage, trash receptacles, bike racks, and news kiosks, also links these areas together.

- **Public Road** remains open to vehicular traffic, while encouraging pedestrian activity through the addition of amenities, such as public art and seating. A mix of retail, office, and residential uses creates a healthy business and living environment. A variety of architectural styles, heights, materials, and setbacks is appropriate to create a varied but harmonious streetscape. Parking is convenient, but not dominant, accomplished with innovative, sensitive solutions. Lighting design is sensitive to adjacent neighborhoods.
- **Simpson Street** is slower paced. Here the strolling pedestrian rules. Professional offices and services are dominant, with an occasional café or market. It is important that the buildings convey a traditional, historic character, reflecting the established 50' lot widths and a maximum height of 2 stories. The storefronts will be continuous, with zero setbacks at the lot lines. Commercial activity enhances the nearby residential community. The streetscape reflects the history of this area, including flagstone walks, lighting, and landscaping.
- **Baseline Road** reflects its status as a State Highway, while also accommodating pedestrians and bicycles. Since it contains a wide variety of uses, the building and site design criteria are more diverse. The streetscape is modified to include a uniform sidewalk and street tree pattern.

The result of the three combined areas is a vital, comfortable, and inviting community core.

Lafayette – The place you want to be.

Downtown Architecture Standards for Old Town Urban Renewal Area

In addition to any other architectural and design standards used throughout the City, the following standards shall be used to review all site plans required in accordance with Section 26-16-7.1 for properties in the Old Town Urban Renewal District. The document “Vision Statement Design Standards and Guidelines” dated August 24, 2000, is adopted by reference for use to help illustrate the intent of the subsections below.

- (a) Commercial developments must be linked with surrounding areas by extending city streets, sidewalks, and/or paths directly into and through the development, thereby providing convenient, direct pedestrian, bicycle and vehicle access to and from the development.
- (b) Developments must be accessible to pedestrians, pedestrians with impaired mobility, and bicyclists as well as motorists. Site plans shall emphasize the following: pedestrian access to the site and buildings; gathering areas for people; and auto access and parking lots.
- (c) Walkways must be located and aligned to directly and continuously connect areas or points of pedestrian origin and destination, and not be located and aligned solely based on the outline of a parking lot configuration that does not provide such direct pedestrian access.
- (d) Driveway crossings must place priority on the pedestrian access and the material and layout of the pedestrian access must be continuous as it crosses the driveways, with a break in the continuity of the driveway paving and not in the pedestrian access way. Continuous driveway aisles located directly in front of a building are discouraged. Where possible, shared driveways will be encouraged to reduce disruption of pedestrian passage.
- (e) The design emphasis must not be placed solely on parking and drive-through functions.
- (f) The establishment of buildings on isolated “pad sites” surrounded by parking lots and driveways, and that offer mainly auto-oriented signage to define entrances, is discouraged. Even relatively massive development can be configured into “blocks” or other spaces, proportioned on a human scale and city block scale; and need not be proportioned on a monolithic, auto-oriented scale.
- (g) Required parking shall be provided to the greatest extent possible by spaces at the rear or sides of the building.
- (h) Where possible, buildings shall be located to front on and relate primarily to streets. Building setbacks from local and collector streets should be minimized in order to establish a visually continuous, pedestrian-oriented streetfront. If a minimized setback is not maintained, the larger setback area shall have landscaping, low walls or fencing, a tree canopy and/or other site improvements along the sidewalk designed for pedestrian interest, scale and comfort.
- (i) Building facades may be recessed if an arcade, awnings, or similar structure(s) abuts the front setback.
- (j) Awnings or canopies, which provide a generally consistent cover along the pedestrian walk are strongly encouraged. Canvas is the preferred material, although other water proofed fabrics may be

used; metal or aluminum awnings shall not be used unless otherwise approved by the City. Structural overhangs are desired to maintain a more continuous weather protected walk.

(k) All materials, colors, and architectural details used on the exterior of a building shall be compatible with the building's style, with other properties in the general business area, and with each other. This standard shall not be interpreted to preclude any unique architectural styles deemed appropriate to the use.

(l) Standardized "corporate" or strongly thematic architectural styles associated with chain-type restaurants and service stores are strongly discouraged unless they accommodate the desired image for the City and are compatible with adjacent structures and uses.

(m) Blank, windowless walls are discouraged. Where the construction of a blank wall is necessary, the wall shall be articulated with recesses and projections in order to break-up the image of the wall's mass.

(n) Buildings having single walls exceeding fifty (50) feet in length shall incorporate one or more of the following for every fifty (50) feet: changes in color, graphical patterning, changes in texture, or changes in material; projections, recesses and reveals; windows and fenestration; arcades and pergolas; towers; gable projections; horizontal/vertical breaks; or other similar techniques.

(o) The architectural treatment of the front facade shall be continued, in its major features, around all visibly exposed sides of a building. Blank wall or service area treatment of side and/or rear elevations visible from the public viewshed is discouraged.

(p) Windows shall be vertically proportioned wherever possible. Street-level storefront windows are strongly encouraged. Office and residential windows organized in a generally regular pattern are encouraged.

(q) Transparent entries and large store front windows are strongly encouraged. Recessed and other styles of window openings are desired.

(r) As far as practicable, all air conditioning units, HVAC systems, major exhaust pipes or stacks, elevator housing and satellite dishes and other telecommunications receiving devices shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, and landscaping. In addition, all trash facilities and loading areas shall be properly screened.

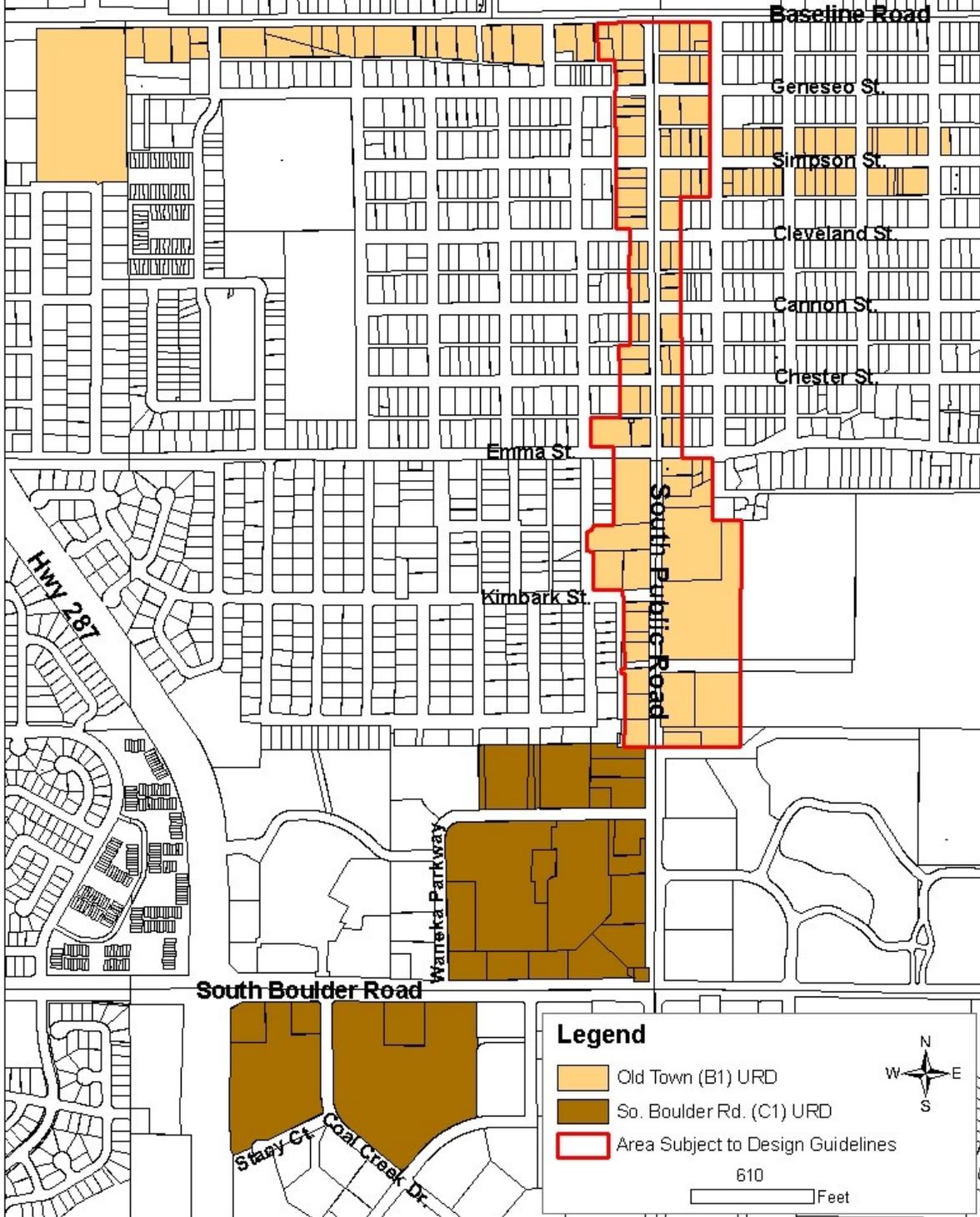
(s) Intense, bright or fluorescent colors shall not be used as the predominant color on any wall or roof of any primary or accessory structure. These colors may be used as building accent colors.

(t) All sloping roof areas with a pitch of three in twelve (3 in12) or greater, and visible from any public or private right-of-way, shall be surfaced with attractive and durable materials. All roofs with a slope of less than 3/12 shall have attractive parapets to provide screening of roof and systems described in (r).

(u) Avoid large expanses of continuous concrete paving.

(v) Encourage outdoor dining and other people-oriented places.

City of Lafayette Urban Renewal Districts



Lafayette Urban Renewal Authority 2018 Schedule
2nd Tuesdays of every month - 6:30 PM
City Hall Council Chambers

Month	Meeting Date
Jan. '17	1/9/2018
Feb. '18	2/13/2018
Mar. '18	3/13/2018
Apr. '18	4/10/2018
May '18	5/8/2018
Jun. '18	6/12/2018
Jul. '18	7/10/2018
Aug. '18	8/14/2018
Sep. '18	9/11/2018
Oct. '18	10/9/2018
Nov. '18	11/13/2018
Dec. '18	no meeting

Lafayette Urban Renewal Authority Director

Current Commissioners	Email	Phone	Term
Staff Contacts	Email	Phone	
Former Commissioners	Email	Phone	Term

REFERENCE DOCUMENTS

Comprehensive Plan

The Lafayette Comprehensive Plan is a series of documents setting forth goals and policies for the future of Lafayette. The plan is a statement of how the community views itself, what the city envisions for the community's future, and the actions the city will undertake to implement the vision and goals of the community.

<http://www.cityoflafayette.com/index.aspx?NID=443>

Chapter 26 of the Lafayette Municipal Code

Chapter 26 should be cited as the "Development and Zoning Code" and is enacted to encourage the most appropriate use of land throughout the city, and to ensure a logical growth of the various physical elements of the city; to lessen congestion in the streets; to secure safety from fire, flood and other dangers; to provide adequate light and air; to improve housing standards; to conserve property values; to prevent overcrowding; to facilitate adequate provisions of transportation, water, sewage facilities, schools, parks and other public requirements; to promote commercial and industrial development; and to preserve and promote the public health, safety and welfare of the inhabitants of the city and the general public.

<http://www.municode.com/Library/CO/Lafayette>

2011 Downtown Vision

In 2011, a Downtown Vision Plan was adopted by the Lafayette Urban Renewal Authority to set forth policies for the future of downtown and to outline a strategy to continue the area's revitalization. The plan is advisory and serves as a guide for public decisions related to development within the downtown area. It is intended to provide the city and stakeholders with a guiding document based on market reality, community sentiment, and economic feasibility.

www.cityoflafayette.com/downtownvision



LAFAYETTE URBAN RENEWAL AUTHORITY

STAFF REPORT

To: Lafayette Urban Renewal Authority
From: Phillip Patterson, Executive Director
Date: May 31, 2012
Subject: Resolution No. 2012-01 / Accepting the Historic Preservation Board's acceptable alteration options for 12 eligible properties on Public Road as a supplemental advisory document to LURA's Downtown Architectural Standards.

Recommendation: Approval of Resolution No. 2012-01.

Background: On October 18, 2011, the Lafayette City Council held a workshop with the Historic Preservation Board to review the results of the recently completed Public Road Cultural Resource Survey. This survey reviewed various properties on Public Road to determine their eligibility as a national, state or local historic landmark. Twelve (12) properties were identified by the survey: three (3) are eligible as a national landmark; five (5) are eligible as a state landmark; and, four (4) are eligible as a local landmark.

The Council and the Board discussed how to form an alliance between the goals of economic development and historic preservation with respect to the Public Road commercial corridor. Council asked the Board to more clearly define alteration/redevelopment recommendation that would be acceptable to the Board for each of the identified properties.

The document attached to the accompanying resolution is the Board's alteration options. Staff proposes that these options be accepted by the Lafayette Urban Renewal Authority as a supplemental advisory document to LURA's Downtown Architectural Standards, whereby the document can be used by staff to potentially guide remodeling and/or redevelopment of these properties.

On May 15, 2011, LURA postponed consideration of the resolution until the property owners were notified. Staff sent letters to each of the 12 owners with a copy of the Board's specific recommendations for each of the properties. To date, staff has heard from one (1) owner who indicated their opposition to the acceptance of these recommendations. Specifically the owner felt that these recommendations would ultimately be accepted and enforced as code, and since LURA already has architectural control there was no need to have the Board's recommendation for properties that are not landmarked. A copy of this owner's comments is attached.

Fiscal Impact: Staff is not aware of any budgetary impacts associated with the approval of this resolution.

Attachments:

Resolution No. 2012-01

Comments from Sally Smith, owner of 101 E Chester Street

**LAFAYETTE URBAN RENEWAL AUTHORITY
RESOLUTION NO. 2012-01**

**A RESOLUTION OF THE LAFAYETTE URBAN RENEWAL AUTHORITY
ACCEPTING THE HISTORIC PRESERVATION BOARD'S RECOMMENDATIONS
REGARDING ALTERATIONS AND/OR REDEVELOPMENT OF TWELVE
HISTORICALLY ELIGIBLE PROPERTIES ON PUBLIC ROAD.**

WHEREAS, the Lafayette Urban Renewal Authority (the "Authority") was created by Ordinance No. 99-38, Series 1999 (the "Ordinance"), and the Ordinance recognized the Council of the City of Lafayette (the "Council") as the Commissioners of the Authority; and

WHEREAS, the Authority operates to eliminate blight and prevent the spread of blight within the urban renewal areas of the City of Lafayette in accordance with the Urban Renewal Law of Colorado; and

WHEREAS, the Authority promotes the reuse and redevelopment of properties within the urban renewal areas; and

WHEREAS, in 2007, the Authority adopted Downtown Architectural Standards for the Old Town Urban Renewal District (the "Architectural Standards"); and

WHEREAS, the Lafayette Historic Preservation Board (the "Board") operates to protect and preserve the City's historical and cultural heritage in accordance with the City of Lafayette Code of Ordinances; and

WHEREAS, in May, 2011 the Board completed a Cultural Resource Survey (the "Survey") to assess the historic eligibility of commercial properties on Public Road within the Old Town Urban Renewal District (the "District"); and

WHEREAS, twelve (12) properties within the District were identified by the Board as potentially being eligible for nomination as a national, state or local historical landmark; and

WHEREAS, on October 18, 2011 the Council and the Board held a joint workshop to review the conclusions of the Survey and to discuss alliances that could be formed between the goals of economic development and historic preservation; and

WHEREAS, Council requested the Board to develop a list of potential "Development Opportunities" for the twelve (12) eligible properties that could be considered by the Authority as a guide when promoting the reuse and/or redevelopment of one of the properties.

NOW THEREFORE BE IT RESOLVED BY THE LAFAYETTE URBAN RENEWAL AUTHORITY:

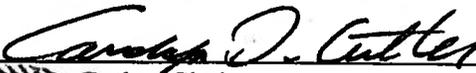
Section 1. The Authority acknowledges receipt of The Historic Preservation Board's "Development Opportunities" for the twelve (12) properties within the Old Town Urban Renewal District on Public Road identified by the Cultural Resource Survey, dated May, 2011. A copy of the Historic Preservation Board's "Development Opportunities" is attached as Exhibit A.

Section 2: The substance of the "Development Opportunities" may be taken into consideration by the Authority as supplemental advisory material with respect to future applications for Authority determinations under its Architectural Standards.

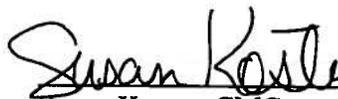
Section 3: The Historic Preservation Board's "Development Opportunities" for the twelve (12) properties, and the Authority's adoption thereof by this resolution, is not intended as being indicative or exhaustive as to the potential development, alterations or modifications that may be acceptable to the Authority with respect to any particular property. The Authority intends to evaluate and proposed application that may be presented on a case-by-case basis.

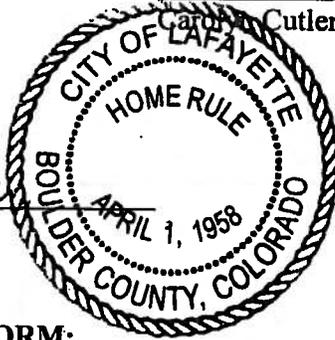
RESOLVED AND PASSED THIS 5th DAY OF JUNE, 2012.

LAFAYETTE URBAN RENEWAL AUTHORITY

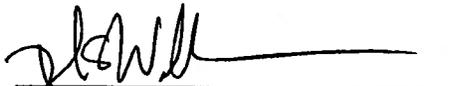

Carolyn J. Cutler, Chair

ATTEST:


Susan Koster, CMC
Secretary

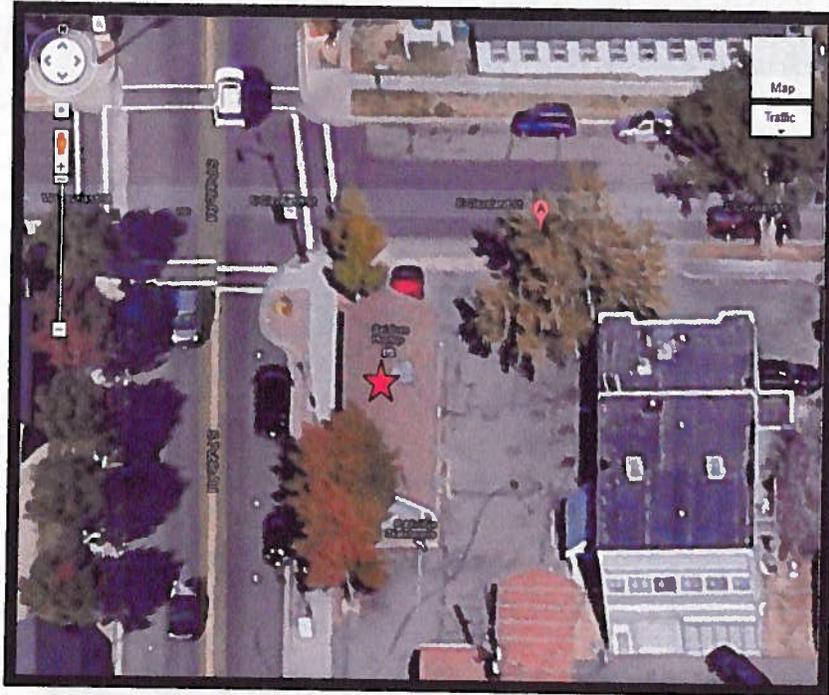


APPROVED AS TO FORM:


David S. Williamson, City Attorney



Historic Property at 100 E. Cleveland St.



Property Description

Year Built: 1932
Historical Name(s): Blankenship Lunch, Jimmie's Lunch
Eligible For: Lafayette Register of Historic Places for its story related to the automobile-based commerce of the 1930s-1960s

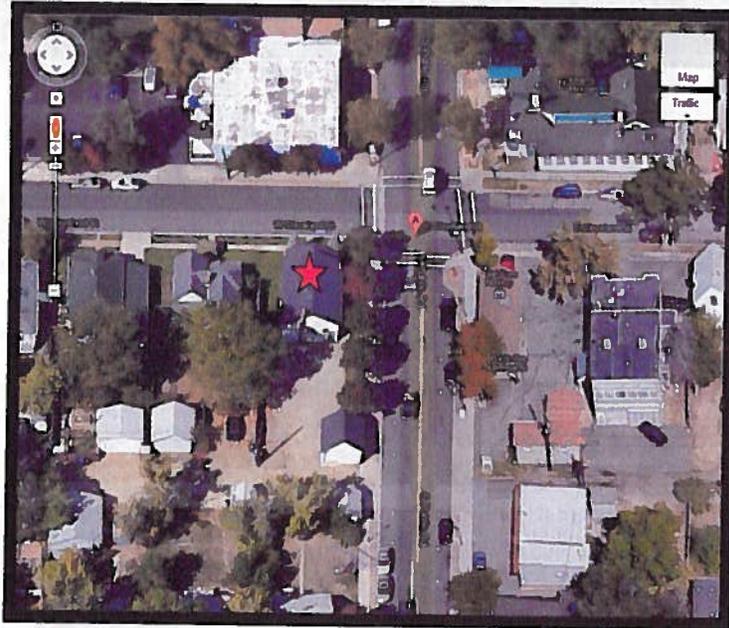
Development Opportunities

- Renovate interior
- Change exterior paint color
- Perform necessary maintenance
- Add second story if necessary
- Consider removing vinyl siding and recreating or approximating original restaurant window configuration
- Capitalize on original use as early drive-in restaurant and on relationship to automobile touring industry

Development Benefits

- If listed on the Lafayette Register of Historic Places, becomes eligible for State and Federal tax credits

Historic Property at 100 W. Cleveland St.



Property Description

Year Built: 1908, ca. 1950
Historical Name(s): Unknown
Eligible For: Lafayette and State Registers of Historic Places for its Craftsman style architecture

Development Opportunities

- Renovate interior
- Change exterior paint color
- Perform necessary maintenance while maintaining window and door locations, moderately pitched roof, wide overhangs, exposed rafters, and porch with tapered square columns
- Consider removing modern siding and restoring wood clapboards likely preserved underneath, on both house and outbuilding
- Enhance existing entrance and/or alter window into door on east side of building if necessary
- Paint mural on outbuilding, on side facing alley or Public Road

Development Benefits

- If listed on the Lafayette and/or State Register of Historic Places, becomes eligible for State and Federal tax credits
- Residential nature of lot provides for large open gathering or parking space in backyard
- Extant outbuilding could be used as a gallery or display space, artist studio, etc.

Historic Property at 101 E. Chester St.



Property Description

Year Built: 1908
Historical Name(s): Cordelia Van Valkenberg Residence and Garage, Graham House and Cottage
Eligible For: Lafayette, State, and National Registers of Historic Places for its I-house style architecture and original design elements

Development Opportunities

- Renovate interior
- Change exterior paint color
- Perform necessary maintenance while maintaining porch, architectural details, building footprint, and horizontal orientation of siding
- Consider removing non-original shutters
- Construct adjacent but detached porch or patio on west side along Public Road, no higher than one step above grade
- Extant historic cottage on lot could be used as a gallery or display space, artist studio, venue for small private parties, etc.
- Paint mural on outbuilding, on north end facing alley

Development Benefits

- If listed on the Lafayette, State, and/or National Register of Historic Places, becomes eligible for State and Federal tax credits
- Located across Public Road from large public spaces (Festival Plaza, Starkey Building) where people gather for summer fun with children and for daytime and evening musical performances and festivals
- Residential nature of lot provides for rare, visible on-site parking

Historic Property at 101 S. Public Rd.



Property Description

- Year Built:** ca. 1900, ca. 1930, post-1961
- Historical Name(s):** Elkhorn Saloon, Blue Bird Café, Lafayette Jewelry, Anspach Jewelry
- Eligible For:** Lafayette Register of Historic Places for its representation of the early liquor trade and saloons in West Lafayette and for its long-standing use as two different family run businesses (saloon and jeweler)

Development Opportunities

- Renovate interior
- Change exterior paint color
- Perform necessary maintenance
- Modify exterior as needed, inspired either by nearby mid-20th century storefronts with large commercial windows or by form of original 1900s building
- Capitalize on long-standing use as a saloon characteristic of the “wet” west side of Public Road, or on long-standing use for family run businesses
- Consider telling stories of history as a saloon and/or jeweler as part of interior décor
- Play up story that “back” entrance on north side was historically used by patrons not wishing to be seen going into the saloon

Development Benefits

- If listed on the Lafayette Register of Historic Places, becomes eligible for State and Federal tax credits

Historic Property at 101-103 N. Public Rd.



Property Description

- Year Built:** ca. 1900, ca. 1930, ca. 1960
- Historical Name(s):** Highway Drugstore, Sportsman's Inn, Rosie's Pool Hall
- Eligible For:** Lafayette Register of Historic Places for its mid-20th century "Open Front" modern style and its long-standing use as a bar and restaurant

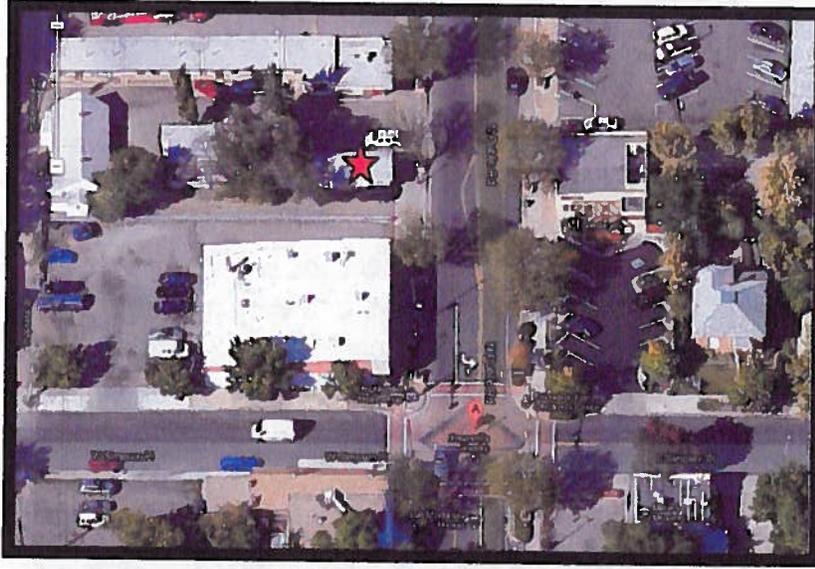
Development Opportunities

- Renovate interior
- Change exterior paint color
- Perform necessary maintenance while maintaining 1960's large street-front windows, stone wall front, and metal façade
- OR remove post-1960 façade treatments and restore or reconstruct 1940s style elements (historical photo available as guide)
- Capitalize on mid-20th century modern style and long-standing use as a neighborhood bar characteristic of the "wet" west side of Public Road

Development Benefits

- If listed on the Lafayette Register of Historic Places, becomes eligible for State and Federal tax credits

Historic Property at 105 N. Public Rd.



Property Description

Year Built:	ca. 1947
Historical Name(s):	Deluxe Liquor
Eligible For:	Lafayette and State Registers of Historic Places for its simple post-WWI architectural style and its long-term use for the liquor trade

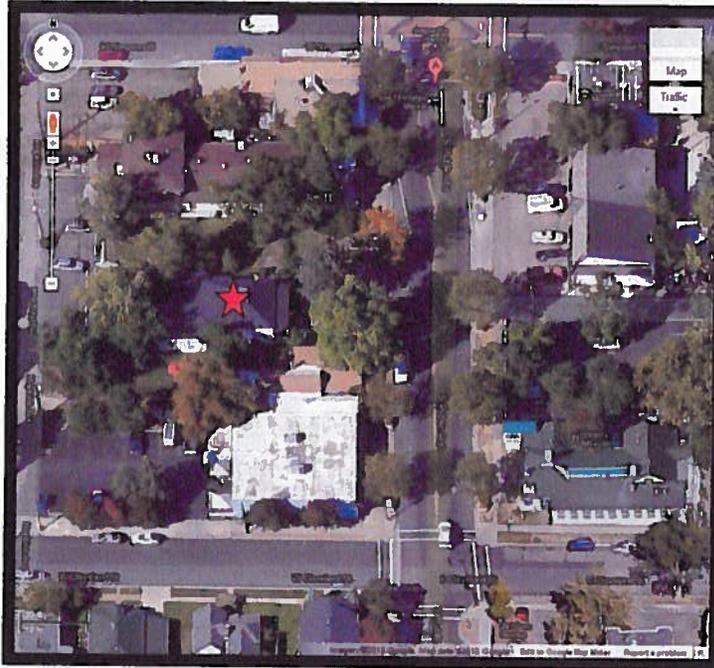
Development Opportunities

- Renovate interior
- Change exterior paint color
- Perform necessary maintenance while maintaining vertical siding, peaked roof, building footprint, and simple architectural form
- Replace existing windows with operable ones of same size, shape, and material if necessary for service
- Add a small number of windows or a door on north and/or south side(s) for service (e.g., take out window)
- Capitalize on long-standing use as a liquor store characteristic of the "wet" west side of Public Road

Development Benefits

- If listed on the Lafayette and/or State Register of Historic Places, becomes eligible for State and Federal tax credits

Historic Property at 107 S. Public Rd.



Property Description

Year Built: ca. 1896–1899
Historical Name(s): Peter M. Peltier House
Eligible For: Local, State, and National Registers of Historic Places for its quintessential hipped roof architectural style and its relation to the early expansion of Lafayette

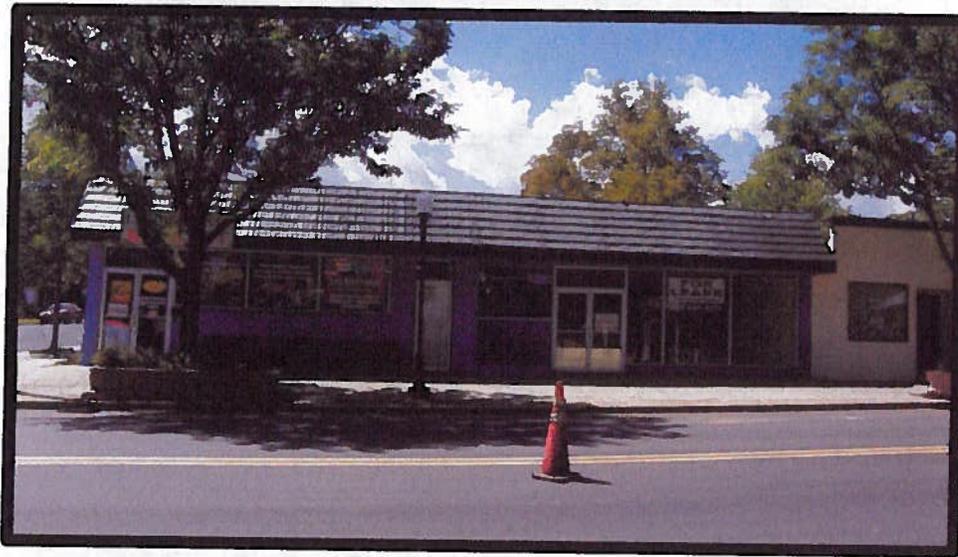
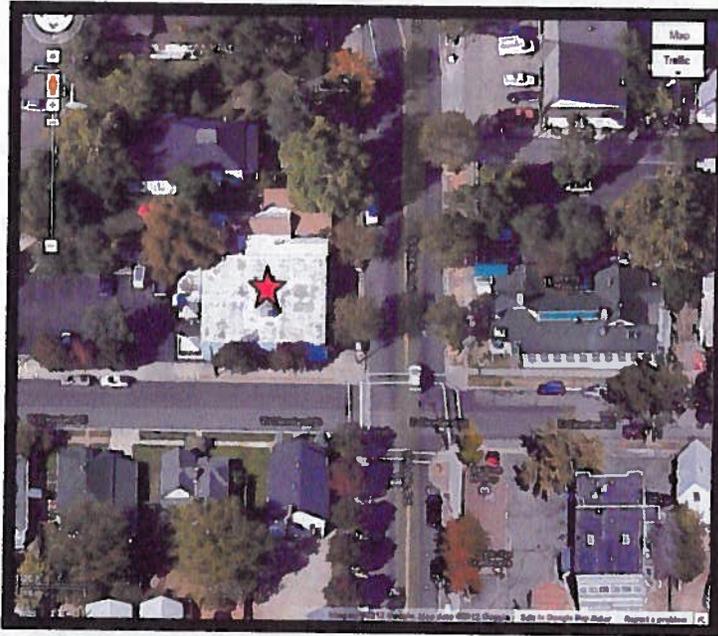
Development Opportunities

- Renovate interior
- Change exterior paint color
- Perform necessary maintenance while maintaining building footprint, double-hung wood windows, horizontal siding, hipped roof, and other architectural details

Development Benefits

- If listed on the Lafayette, State, and/or National Register of Historic Places, becomes eligible for State and Federal tax credits
- Residential nature of lot provides peaceful, park-like setting unusual in a commercial district

Historic Property at 111 S. Public Rd.



Property Description

Year Built: 1951
Historical Name(s): Highway Drugstore
Eligible For: Lafayette Register of Historic Places for its mid-20th century commercial architectural style and its relation to that time period's economic history

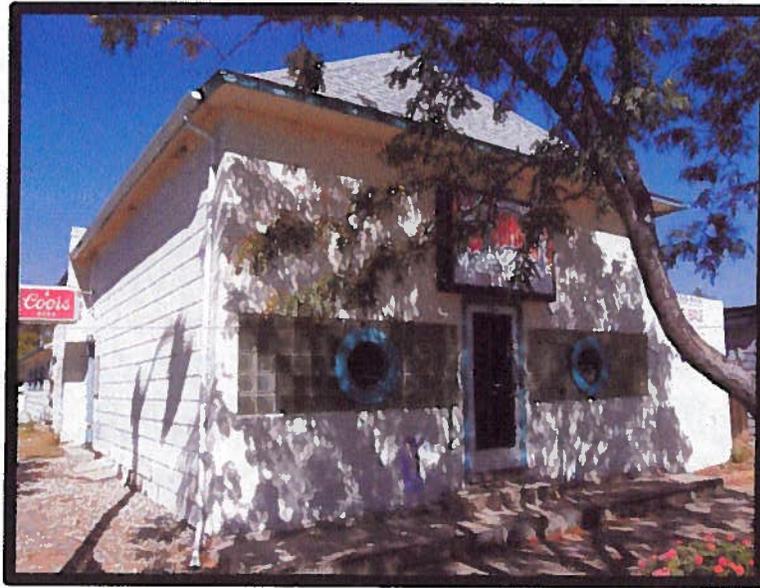
Development Opportunities

- Renovate interior
- Change exterior paint color
- Perform necessary maintenance while maintaining large store-front windows
- Capitalize on mid-20th century commercial architectural style

Development Benefits

- If listed on the Lafayette Register of Historic Places, becomes eligible for State and Federal tax credits
- Large rear parking lot provides space for patio seating, food cart, etc.

Historic Property at 201 N. Public Rd.



Property Description

Year Built: ca. 1908
Historical Name(s): Parr Pharmacy, DeTavern, High Way Restaurant, Hi-Way Bar & Café
Eligible For: Lafayette Register of Historic Places for economic and social significance as a long-standing saloon

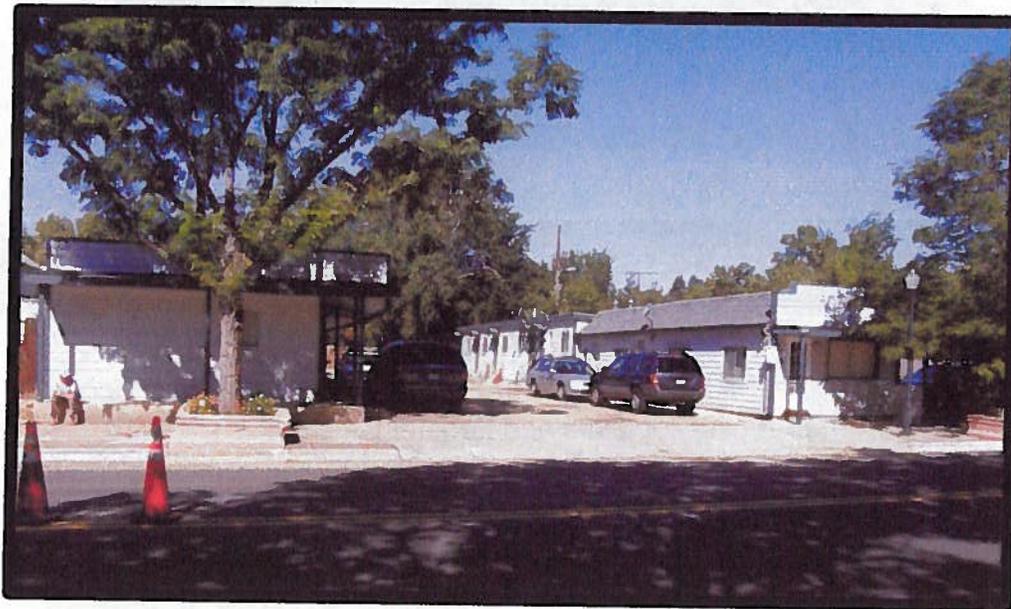
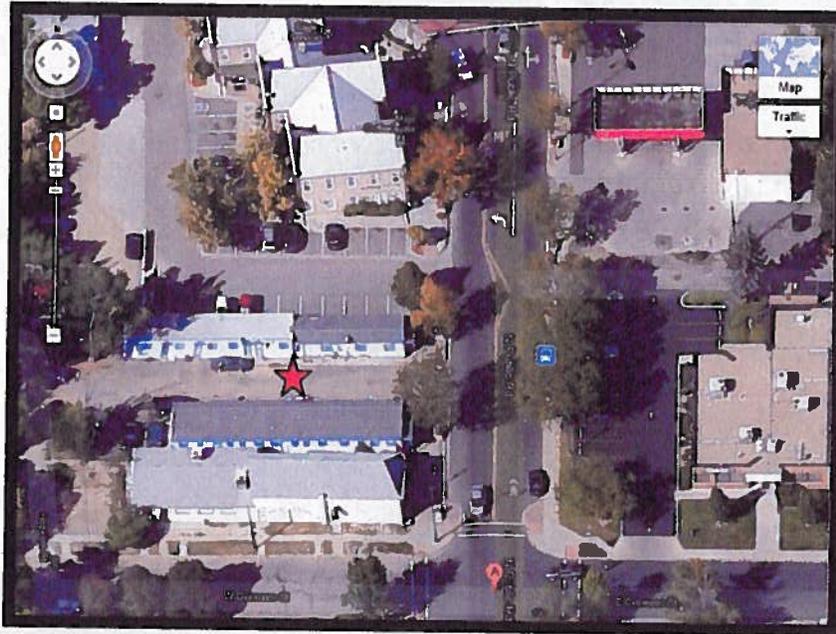
Development Opportunities

- Renovate interior but strongly consider restoration or rehabilitation of remaining historic features and materials (e.g., bar)
- Change color of exterior paint
- Perform necessary maintenance on building
- Remove small, concrete addition on north side
- Restore exterior to 1908 saloon form with horizontal wood siding (likely preserved under existing siding), large vertical street-front windows with transoms, gable roof with false front, and centered double door (historical photo available as guide)
- Investigate underneath existing siding on south exterior wall for historical murals and/or signs (e.g., Pabst Blue Ribbon)
- If no existing historical murals and/or signs remain, paint new mural on south side of building
- Replicate historic Coors sign on south side of building (historical photo available as guide)
- Capitalize on historical significance as a long-standing saloon characteristic of the “wet” west side of Public Road

Development Benefits

- If listed on the Lafayette Register of Historic Places, becomes eligible for State and Federal tax credits

Historic Property at 205 N. Public Rd.



Property Description

Year Built: 1947
Historical Name(s): Modern Motel
Eligible For: Lafayette and State Registers of Historic Places for its mid-20th century architecture and exemplification of Lafayette's economic history related to automobile travel

Development Opportunities

- Renovate interior
- Change exterior paint color
- Perform necessary maintenance while maintaining street front facades and horizontal orientation of siding
- Capitalize on historical significance related to mid-20th century automobile travel

Development Benefits

- If listed on the Lafayette and/or State Register of Historic Places, becomes eligible for State and Federal tax credits
- Arrangement of multiple units around a common courtyard creates usable public indoor/outdoor space, such as for art galleries, small shops, open-air art, public gatherings, food carts, etc.

Historic Property at 307 S. Public Rd.



Property Description

Year Built: 1951
Historical Name(s): Starkey Plumbing & Heating, Foothills Appliance & TV
Eligible For: Lafayette and State Registers of Historic Places for its exemplification of Lafayette's mid-20th century architecture and economic history

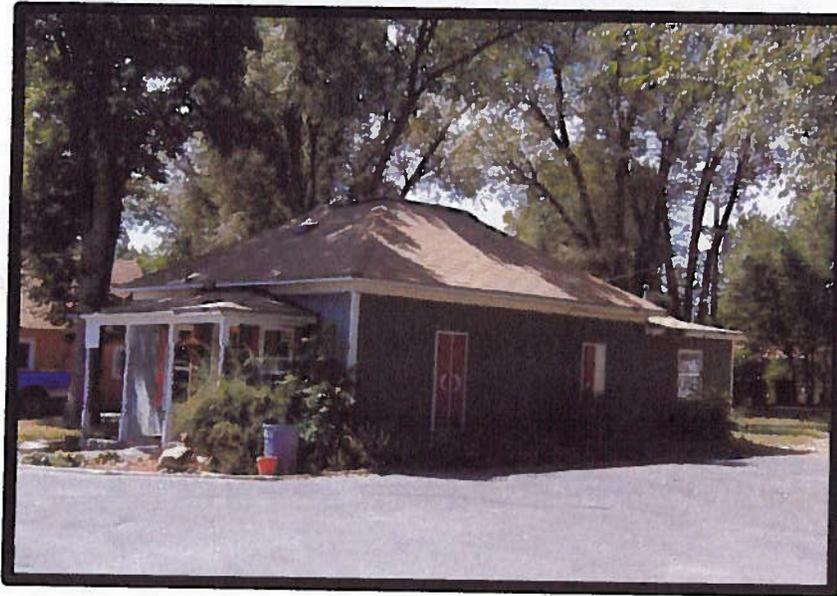
Development Opportunities

- Renovate interior
- Perform necessary maintenance to vertical wood siding on front of building
- Keep low-maintenance, stylistically simple façade and structure
- Change color of exterior paint
- Paint mural(s) on south and/or north side exterior wall(s)
- Repair or replace false front parapet with similarly sized one (historical photo available as guide)
- Repair or replace cantilevered canopy with identical or slightly higher one (historical photo available as guide)
- Replace existing fixed street-front windows with operable windows (e.g., roll ups) that maintain the size, shape, character, and vertical orientation of full-height, plate-glass commercial windows
- Create rooftop use area, set back from front so not visible from street immediately in front of building
- Maintain existing concrete block portions of building but add doors and/or windows on south side, as necessary
- Build addition or porch on south side, off concrete block portion of building
- Capitalize on historical relationship to automobile tourism and mid-20th century commerce
- Located immediately adjacent to large public spaces (Festival Plaza, Starkey Building) where people gather for summer fun with children and for daytime and evening musical performances and festivals

Development Benefits

- If listed on the Lafayette and/or State Register of Historic Places, becomes eligible for State and Federal tax credits

Historic Property at 705 S. Public Rd.



Property Description

Year Built: 1908
Historical Name(s): Unknown
Eligible For: Lafayette, State, and National Registers of Historic Places for its quintessential hipped roof architectural style

Development Opportunities

- Renovate interior
- Change exterior paint color
- Perform necessary maintenance while maintaining building size, shape, materials, windows, doors, and roofline
- Move building within lot to accommodate additional free-standing construction or parking if necessary

Development Benefits

- If listed on the Lafayette, State, and/or National Register of Historic Places, becomes eligible for State and Federal tax credits
- Residential, park-like nature of lot provides for rare on-site parking in front of lot and/or outdoor activities in rear of lot

I own a property at the corner of Chester St and Public Road that is occupied at present by the Scarlett Rose. I received a letter last week from the Lafayette Urban Renewal Authority and wanted to respond with my concerns for these recommendations.

First, let me state that I dearly love old buildings - that is what had drawn me to purchase that property in Lafayette in the first place. I think it's fantastic when old properties are salvaged and repurposed for modern use, much like what has occurred in Boulder or LoDo. However, I had not applied, for historic landmark for this property because I had concerns about too many restrictions that would make it difficult for prospective tenants or buyers in the future to develop and "brand" their business. I do believe that if the purpose of the letter was to "form and alliance" for economic development and historic preservation", I don't believe that this is the way to go about it. You should be more concerned about the design elements of new buildings going in instead of dictating changes that need to be made in properties that have long been an important part of old town. I think my property fits in very well with old town Lafayette and I don't want a handful of individuals whose design esthetic might be drastically different from mine coming in and dictating changes with my property, when I have not sought a historic landmark. I also thought that historical landmarks usually concerned only the OUTSIDE of buildings, but this letter also made reference to interior renovation. I thought that was very odd. There were also several mistakes made in the assessment of the property as to age and what is historic and what is not on my property, but that is not my main concern.

Some of the "opportunities" suggested were to change the paint color, renovate the interior, remove the "non-original" shutters, add a patio, and paint a mural on the building on the north end. Really?? Seriously?? A mural painted on my building?? I am supporter of the arts, - I am an artist myself, but a mural on my building? I beg you - no, please, no.

I also love the shutters on my building and while they may be "non-original" I think they provide some charming detail to what otherwise could be a small, bland building. The front porch and architectural details are also "non-original" but they apparently want that to remain. The shutters on my building are old and fragile and I would want to

[The text in this block is extremely faint and illegible. It appears to be a multi-paragraph document, possibly a letter or a report, but the specific words and sentences cannot be discerned.]

Old Town Urban Renewal District - Sales Tax Increment

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Increment Collected	\$ 363,985	\$ 363,692	\$ 359,392	\$ 365,210	\$ 366,003	\$ 364,508	\$ 361,262	\$ 359,053	\$ 384,801	\$ 333,696	\$ 354,906	\$ 387,489	\$ 395,404	\$ 419,370	\$ 588,121	\$ 600,019	\$ 622,187
Base	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274	\$ 300,274
Increment	\$ 63,711	\$ 63,418	\$ 59,118	\$ 64,936	\$ 65,729	\$ 64,234	\$ 60,988	\$ 58,779	\$ 84,527	\$ 33,422	\$ 54,632	\$ 87,215	\$ 95,130	\$ 119,096	\$ 287,847	\$ 299,745	\$ 321,913
Annual Percentage of Change of Total		-0.08%	-1.18%	1.62%	0.22%	-0.41%	-0.89%	-0.61%	7.17%	-13.28%	6.36%	9.18%	2.04%	6.06%	40.24%	2.02%	3.69%
Actual Change		\$ (293)	\$ (4,300)	\$ 5,818	\$ 793	\$ (1,495)	\$ (3,246)	\$ (2,209)	\$ 25,748	\$ (51,105)	\$ 21,210	\$ 32,583	\$ 7,915	\$ 23,966	\$ 168,751	\$ 11,898	\$ 22,168

South Boulder Road Urban Renewal District - Sales Tax Increment

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Sales Tax for So Boulder Rd UR District (minus uncommitted)				\$ 1,849,823	\$ 1,452,684	\$ 1,323,082	\$ 1,287,625	\$ 1,241,253	\$ 470,307	\$ 265,242	\$ 242,363	\$ 218,278	\$ 237,569				
2002 Base Amount				\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980	\$ 1,860,980
Increment				\$ (11,157)	\$ (408,296)	\$ (537,898)	\$ (573,355)	\$ (619,727)	\$ (1,390,673)	\$ (1,595,738)	\$ (1,618,617)	\$ (1,642,702)	\$ (1,623,411)				
Annual Percentage of Change of Total					-21.47%	-8.92%	-2.68%	-3.60%	-62.11%	-43.60%	-8.63%	-9.94%					
Actual Change					\$ (397,139)	\$ (129,602)	\$ (35,457)	\$ (46,372)	\$ (770,946)	\$ (205,065)	\$ (22,879)	\$ (24,085)					

LURA 5 YEAR REVENUE AND EXPENSES FORECAST

July 22, 2017

			Revenue				Expenses							Fund Balance ¹
Year	Based on:	Beginning Fund Balance	Property Tax ²	Sales Tax ³	Other ⁴	Total Revenue	Est. Annual Budget without projects (Services) ⁵	Revenue - (Services)	Streetscape ⁶	Parking Agreements ⁷	LED and marquee signs ⁸	Eco Devo ⁹	Total Annual Project Costs	Total
	Actual													1,528,331
2017	Projection	1,528,331	441,968	325,132	1,000	768,100	156,818	611,282	444,005	108,000	2,000	100,000	654,005	1,485,608
2018	Projection	1,485,608	450,807	328,383	1,000	780,191	161,523	618,668	-	37,000	2,000	100,000	139,000	1,965,276
2019	Projection	1,965,276	459,823	331,667	1,000	792,491	166,368	626,122	-	37,000	2,000	100,000	139,000	2,452,399
2020	Projection	2,452,399	469,020	334,984	1,000	805,004	171,359	633,645	-	37,000	2,000	100,000	139,000	2,947,043
2021	Projection	2,947,043	478,400	338,334	1,000	817,734	176,500	641,234	-	37,000	2,000	100,000	139,000	3,449,277
2022	Projection	3,449,277	487,968	341,717	1,000	830,685	181,795	648,890	-	37,000	2,000	100,000	139,000	3,959,167
2023	Projection	3,959,167	497,728	345,134	1,000	843,862	187,249	656,613	-	37,000	2,000	100,000	139,000	4,476,780
2024	Projection	4,476,780	507,682	348,586	1,000	857,268	192,866	664,401	-	37,000	2,000	100,000	139,000	5,002,182
5-year projection project totals									444,005	367,000	16,000	800,000	1,627,005	

Notes/Assumptions:

1. The 2017 Fund Balance is based on the year-end fund balance as of December 2016.
2. The 2017 property tax is 2016 actual collections + 2%. In 2018 and thereafter, staff projects a 2% annual increase.
3. The 2017 sales tax is 2016 actual collections + 1%. In 2018 and thereafter, staff projects a 1% annual increase.
4. Other revenue is based on the 2016 budget line for interest income without a climber.
5. The 2017 budget number without projects (Services) is based on the 2017 budget, and includes accounting for the 10% administrative fee. This assumes an annual increase of 3% for services, which includes all budgeted expenses except projects. For this projection, streetscapes, signage and parking lots are considered projects.
6. Assumes \$400,000 for the front porch and the \$44,005 design services fee.
7. The 2017 number includes the maintenance for parking lot agreements (\$12,000 for each year), \$20,000/year for the lease at Lafayette Florist, and \$5,000/year for the lease at Chase Bank. It also assumes that another parking lot will be repaved in 2017 through a public parking lot agreement and includes the \$48,000 advanced for Lafayette Florist.
8. The budget assumes that maintenance for the monument sign at 287/Baseline would cost \$2,000 annually.
9. The budget assumes \$100,000 in economic development projects per year (\$60,000 for patios at 802 S. Public Rd., \$30,000 for a patio at 418-424 E. Simpson, with \$10,000 available).

Lafayette Urban Renewal Authority
2015 Budget Worksheet

Description	2013	2014			Actual YTD	Projection	2015 Budget	% Change**
	Actual	Original Budget	2013 Carry Over and 2014 Adj	Proposed Adjusted Budget				
Revenues -								
Property Taxes	\$ 156,561	\$ 131,464	\$ 154,244	\$ 285,708	208,770	\$ 285,708	\$ 285,708	117.33%
Sales Tax	119,096	92,276	107,724	200,000	-	200,000	200,000	116.74%
Misc Revenues	178	-	-	-	-	-	-	0.00%
Interest Income	1,304	1,200	(700)	500	202	500	500	-58.33%
	<u>277,139</u>	<u>224,940</u>	<u>261,268</u>	<u>486,208</u>	<u>208,972</u>	<u>486,208</u>	<u>486,208</u>	<u>116.15%</u>
Expenditures -								
Books & Periodicals	413	250	-	250	(169)	250	250	0.00%
Operating Supplies	1,489	250	-	250	37	250	250	0.00%
Maintenance	15,254	19,480	-	19,480	7,037	19,480	22,551	15.76%
Legal Fees	-	10,000	-	10,000	-	10,000	10,000	0.00%
County Treasurer's Fees	2,325	1,977	2,309	4,286	3,132	4,286	4,286	116.79%
Professional Services	6,201	20,000	-	20,000	901	20,000	20,000	0.00%
Utilities Expense	3,132	1,500	-	1,500	816	1,500	7,000	366.67%
Administrative Fee	27,714	22,494	26,127	48,621	15,469	48,621	48,621	116.15%
Printing & Publishing	326	250	-	250	206	250	350	40.00%
Memberships & Meetings	1,048	750	-	750	503	750	750	0.00%
Misc Services	528	6,150	-	6,150	1,545	6,150	6,150	0.00%
Downtown Development	2,779	10,000	275,000	285,000	75,000	285,000	10,000	0.00%
Public Road Streetscapes	57,074	110,000	50,000	160,000	53,833	160,000	100,000	-9.09%
Art Night Out	11,000	11,000	-	11,000	11,000	11,000	11,000	0.00%
	<u>129,283</u>	<u>214,101</u>	<u>353,436</u>	<u>567,537</u>	<u>169,310</u>	<u>567,537</u>	<u>241,208</u>	<u>12.66%</u>
Excess Revenues/(Expenditures)	\$ 147,856	\$ 10,839	\$ (92,168)	\$ (81,329)	\$ 39,662	\$ (81,329)	\$ 245,000	
Beginning Fund Balance	<u>\$ 1,162,027</u>	<u>\$ 1,309,883</u>			<u>\$ 1,309,883</u>	<u>\$ 1,309,883</u>	<u>\$ 1,228,554</u>	
Projected Ending Fund Balance	<u>\$ 1,309,883</u>	<u>\$ 1,320,722</u>			<u>\$ 1,349,545</u>	<u>\$ 1,228,554</u>	<u>\$ 1,473,554</u>	

* Actual year-to-date through 6/30/2014

** % Change is from 2014 Original Budget

Exhibit A

Lafayette Urban Renewal Authority
2016-17 Financial Worksheet

<u>Description</u>	2015		Modified Mar 14 2017 2016		Budget Res 16-02 2017
	<u>Actual</u>	<u>Original Budget</u>	<u>Actual</u>	<u>Year End Projection / 2016 Supplement al Budget</u>	<u>Projection</u>
Revenues -					
Property Taxes	\$357,566	\$317,135	\$436,917	\$440,000	\$453,200
Sales Tax	299,745	250,000	321,913	306,000	315,180
Misc Revenues	1,399	0	0	0	0
Interest Income	306	500	799	800	800
	<u>659,016</u>	<u>567,635</u>	<u>759,629</u>	<u>746,800</u>	<u>769,180</u>
Expenditures -					
Books & Periodicals	0	250	0	0	0
Operating Supplies	781	500	63	100	103
Maintenance	23,614	24,451	15,963	14,800	40,000
Legal Fees	0	10,000	0	0	0
County Treasurer's Fees	5,363	4,286	6,554	6,600	6,798
Professional Services	8,505	20,000	9,368	9,400	9,682
Utilities Expense	4,030	7,000	3,823	3,500	3,605
Administrative Fee	65,612	56,763	75,963	74,200	76,426
Printing & Publishing	456	350	1,188	1,200	1,236
Memberships & Meetings	1,728	1,500	999	1,000	1,030
Misc Services	1,208	6,150	1,418	1,400	1,442
Downtown Development	50,197	10,000	283,139	283,000	100,000
Public Road Streetscapes	42,789	100,000	407,418	401,000	100,000
Art Night Out	11,000	11,000	11,000	11,000	11,000
Contingency				10,000	
	<u>215,283</u>	<u>252,250</u>	<u>816,896</u>	<u>817,200</u>	<u>351,322</u>
Excess Revenues/(Expenditures)	443,733	315,385	(57,267)	(70,400)	417,858
Beginning Fund Balance	1,406,862	1,850,595	1,850,596	1,850,595	1,793,329
Projected Ending Fund Balance	\$1,850,595	\$2,165,980	\$1,793,329	\$1,780,195	\$2,211,187

Property Tax 2017 is based off 2016 w 3% climber

Sales Tax 2017 is based off 2015 actual w 3% climber

Sales Tax 2016 actual is not booked until after Jan 1, 2017

Sales Tax 2016 YEP is based off 2015 actual w a 3% climber

All 2017 budgeted expenses (except Downtown Development and Public Rd. Streetscape) based off 2016 original budget w 3% climber

SURVIVAL TIPS ON Robert's Rules of Order

Robert's Rules of Order

We must learn to run a meeting without victimizing the audience; but more importantly, without being victimized by individuals who are armed with parliamentary procedure and a personal agenda. The following are Survival Tips on Parliamentary Procedure based on Robert's Rules of Order (RONR).

Before the Motion

1. ByLaws - Best Advice
2. The Agenda
3. Unfinished Business vs Old Business
4. Entitled to be Heard
5. Totally Wrong Phrases
6. Unanimous Consent
7. Meeting vs Session
8. Using the 6 Steps to Get Your Way

During the Motion

9. 6 Steps to Each Motion
10. Some General Exceptions
11. When the 6 Steps Do Not Apply
12. 4 Motions Always Out of Order
13. 5 Ways to Modify a Motion
14. 3 Ways to Amend a Motion
15. Unamendable Motions
16. Undebatable Motions

After the Motion

17. Counting Votes; Voting Results
18. 2/3 Vote vs Majority
19. Motions Adopted, Yet Still Not Final
20. Rescind, Repeal, Annul

SURVIVAL TIPS ON Robert's Rules of Order

1. Bylaws - The Best Advice

Parliamentary Procedure is useless to you, unless you are familiar with your organization's Bylaws. The best advice anyone can give you is to become familiar with the Bylaws of your organization. You will never win if you do not even know which parliamentary authority (= rule book) was adopted as part of your Bylaws.

Your Bylaws state which one Parliamentary Authority will rule your organization. I have seen many club officers blend several parliamentary rule books to rationalize their decisions. Later, the same club officers cite a different parliamentary source to justify other actions. The powerless membership allows itself to be manipulated and deprived.

If you become familiar with your Bylaws, you will win half of your battles merely because you will probably be the only person who has ever read the Bylaws in your organization. Knowing a little Parliamentary Procedure and the Bylaws will make you the most successful member of your organization!

Typical Basic Bylaw Articles

- I. **Name.**
There must be no ambiguity as to the identity of the group.
- II. **Object and Reason for the group's existence.**
This alone will help you combat abuse of power, and will help you keep the organization focused.
- III. **Members.**
This explains the members' rights, limitations, and qualifications. It clarifies issues such as fees, attendance, resignations, and honorary membership.
- IV. **Officers.**
Explains methods for nominations, voting, elections, and filling vacancies, as well as term of office and duties.
- V. **Meetings.**
Details quorum, regular meetings, special meetings, and conventions.

Often, the remaining Articles are referred to as the Constitution. In many cases, organizations refer to all the 9 Articles as the Constitution and the Bylaws as if they were one document.

- VI. **Executive Board or Board of Directors.**
The board's composition, power, and quorum are clearly stated in this article.

SURVIVAL TIPS ON Robert's Rules of Order

- VII. **Committees.**
Standing committees must be described as to name, composition, manner of selection, attendance, and duties.
- VIII. **Parliamentary Authority.**
The rules of order must be clearly established. It could be Robert, Sturgis, Cannon, Demeter, Riddick, etc. The important thing is to have a document which assures order under fire. Regardless of the rule book, an organization is ruled first by local, state, and federal laws; and then by its parent organization; followed by any adopted special rules of order; and finally by its adopted parliamentary authority.
- IX. **Amendment of Bylaws.**
Typically, a Bylaw can be amended with 2/3 of the collected votes, if a prior notice has been given during the prior meeting. Otherwise, it takes a majority of the entire registered membership to amend any Bylaw.

Some organizations have additional Articles for matters of Finances, Policies, or Discipline. Nevertheless, once you read the Bylaws, you will be more powerful than any club officer. Try it. After all, you do know what is best for your organization. Right?

2. The Agenda - Choreography of Rights and Abuses

The more serious an issue is, the more the reason to insist that the issue be included on the agenda, and that the agenda includes explicit starting time for each major section.

The easiest way to defeat an issue is to take so much meeting time so that the issue never comes up. If the agenda specifies times for the major sections, you can always assure that your issue will be addressed before the meeting is adjourned.

An agenda according to Robert's with a few comments.

- I. **Reading and approval of the minutes.**
(Motion to approve is not necessary. The minutes are either approved as read or as corrected, but without a vote.)
- II. **Reports of Officers, Boards, Standing Committees.**
(This includes correspondence, treasurer's report, etc. Treasure's report is never adopted or voted upon unless it has been audited.)
- III. **Reports of Special Committees.**
(Each report could conclude with a motion which the assembly must address.)
- IV. **Special Orders.**
(Any motion which was adopted as a Special Order which guarantees that the motion will be dealt with before the meeting is adjourned.)

SURVIVAL TIPS ON Robert's Rules of Order

- V. **Unfinished Business and General Orders.**
(Any issue which was not concluded, was postponed, or was tabled during the prior meeting. The secretary's minutes should inform the chair which items to add to this section. Only a clueless chair would ask the assembly, 'Is there any unfinished business?')
- VI. **New Business.**
(This is when the chair and the parliamentarian can be surprised by the sequence of events. It is best to always anticipate issues the membership may present, or else be embarrassed by the complications. It is at this time that announcements, educational programs, and speakers are introduced.)
- VII. **Adjournment.**
(A motion to adjourn may be made at any time of the meeting. The assembly should never be forced to meet longer than it is willing to meet.)

3. Unfinished Business, Yes; Old Business, Never!

"Old Business" means that you are reconsidering matters already disposed of. "Unfinished Business" means that you are continuing with matters which are currently not completed.

Before the current agenda is put together, the secretary advises the chair of the matters which were not disposed of from the previous meeting. Also, the parliamentarian advises the chair which issues can be carried forward as "Unfinished Business". Therefore, the chair should never ask the members, "Is there any Unfinished Business." That question can be answered only by the secretary and the parliamentarian.

There are really only a few reasons why a matter may be considered in the "Unfinished Business and General Orders" portion of the **current** meeting's agenda.

Questions left pending at the previous meeting:

- I. A question was being discussed and being dealt with when the **previous** meeting adjourned.
- II. A question was listed on the **previous** meeting's agenda as part of the unfinished business, but was not reached, when the meeting adjourned.
- III. A question had been postponed (made prior General Order) to the **previous** meeting, but was not reached, when the meeting adjourned.

Questions NOT left pending at the previous meeting:

SURVIVAL TIPS ON Robert's Rules of Order

- IV. A question was postponed (made current General Order) to the **current** meeting.
- V. Though not technically "Unfinished Business", any tabled matter may be taken from the table at this time as well.

Notice:

1. Let us suppose that a group meets monthly.
2. In March, an issue is listed as "**Unfinished Business**" for the first time.
3. In March, the group adjourns without dealing with the issue.
4. In April, the issue can be **taken up again as "Unfinished Business"**.
5. But, if in April the issue is not dealt with, **the issue dies!**
6. Of course, in May the issue may be introduced again, but only as "New Business".

So, if you understand what can be considered under "Unfinished Business", you can protect your favorite issue from being ignored. On the other hand, you could manipulate the time of adjournment to defeat the opponent's favorite issue.

4. Entitled to be Heard

Who is entitled to be heard? When?

Any form of discussion on the merits of a motion is referred to as debate. You may not make a motion or speak in debate unless you obtain the floor, by being recognized by the chair. (See the situations where you may speak without recognition being required). You may not be recognized until after the current speaker has yielded the floor.

When a motion is pending (during a debate), the sequence of events is as follows:

1. The current speaker ceases his debate and yields the floor.
2. Other speakers promptly state "Mr. Chair".
3. The chair recognizes the speaker who is entitled to speak next, based on the following general rules.
 - a. The first person who requested to be recognized **AFTER** the speaker yielded the floor.
 - b. The maker of the motion, if he has not spoken yet.
 - c. Whoever has not spoken on this motion, this day.
 - d. The person presenting an opposing opinion to the last speaker. The chair must allow the floor to alternate between opposing views.

SURVIVAL TIPS ON Robert's Rules of Order

If the chair fails to follow these rules, any member may raise a 'Point of Order' or 'Appeal from the Decision of the Chair.'

When a motion is NOT pending, any of the following sequences apply:

1. Member A has been assigned to make a motion for which the Special Meeting has been called. Member A is entitled to speak next.
2. Member B lays a motion on the table. Member B is entitled to speak next in order to Take the motion from the Table.
3. Member C moved to Suspend the Orders of the Day in order to enable a certain motion be made. Member C is entitled to speak next and make that certain motion.
4. Member D urges the defeat of a motion so as to offer an alternate motion. Member D is entitled to speak next and make that alternate motion.
5. Member E states he wishes to Reconsider the vote on a motion. Member E is entitled to speak next.

5. Totally Wrong Phrases!

I am sure you have frequently heard these phrases applied with loud and blind confidence.

- I. **SO MOVED!**
This is a common statement which means nothing. One must state the actual motion so as to avoid confusion in the audience. Everyone has the right to know exactly what is being moved and discussed. "So moved!" is vague and pointless. Do not allow your club members to be vague and pointless.
- II. **I MOVE TO TABLE!**
First of all, the motion is "*Move to Lay on the Table*". According to Robert's Rules of Order, this motion is in order only as a **temporary interruption of the agenda**, so as to allow something special and urgent out of turn. It is not intended to kill a motion. If your members wish to kill a motion, let them use the correct motion - "*Move to Postpone Indefinitely*".
- III. **CALL FOR THE QUESTION!**
This is not a motion. The person calling "Question! Question!" is being disorderly, if another person has the floor. At best, it is a nagging hint to the chair to stop the discussion and get on with the voting. The chair should make sure that everyone has had an opportunity to speak and still please the nagging "call for the question" hint. The chair should state that after one or two more speakers' comments, the vote shall be taken.

SURVIVAL TIPS ON Robert's Rules of Order

It is critical that the chair not automatically stop the discussion when someone says "Call for the question". The disorderly member who wishes to stop the discussion does not have more rights than the members who wish to discuss the issue. Actually, a motion to stop the discussion ("*I Call for*" or "*I Move the Main Question*") would require a 2/3 vote to be adopted.

6. Unanimous Consent

"If there is no objection ...". These are the 5 most helpful words a chairperson will ever find.

In cases where there seems to be no opposition in routine business; or on questions of little importance; and in the presences of a quorum; you can save time by obtaining Unanimous Consent (General Consent) from the assembly. And then in one meeting, you as a chair can accomplish ten times the amount of work.

After all, parliamentary procedure is designed to protect the minority, and generally need not be strictly enforced when there is no minority (opposition) to protect. In these cases, a motion can be adopted without the Six Steps or even the formality of making a motion.

Any meeting can be ten times more productive if the chair will merely state, "If there is no objection, (we will adopt a motion to do such and such)." When no objection is heard, the chair states, "Since there is no objection, ... (such and such a motion is adopted)." If someone objects, the chair cheerfully proceeds with the traditional Six Steps.

Examples of situations which clearly beg for the Unanimous Consent approach are:

1. To correct or approve the minutes. You do not need a time wasteful motion for this.
2. To withdraw an own motion before the vote is taken. The maker may wish to withdraw his own motion; but the motion belongs to the assembly. Only the assembly may allow the withdrawal of a motion.
3. To suspend a rule on a matter clearly not controversial (and as long as no ByLaw is violated).
4. To allow a speaker a few more minutes than the prescribed time.
5. To allow a guest speaker to speak in an order contrary to the approved agenda (or Rules of Order).
6. To divide a complex motion into logical parts for discussion, amendments, and voting purposes.
7. To close polls on a voting process after inquiring if there are any more votes. No motion to close the polls is necessary.
8. To elect a lone nominee by acclamation.

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In reality, as long as you have a quorum and do not violate a ByLaw, these 5 powerful words can allow a chair to quickly accomplish just about anything. These 5 words can shorten any meeting which is typically run by an egocentric, self-indulging, power meister.

7. A Meeting vs. a Session

The words 'Meeting' and 'Session' are typically misused. Robert's Rules of Order clearly indicates that a regular weekly, monthly, or quarterly meeting for an established order of business in a single afternoon or evening, constitutes a separate session. A meeting is actually a subset of a session, (for instance, the separate gatherings during an annual or biennial convention). The convention is a session, but its gatherings are meetings.

The significance of a session lies in the freedom of each session.

1. One session can not tie the hands of the majority at any later session, or place a question beyond the reach of a later session. The rights of the majority of one session can not adversely affect the rights of a majority of a later session. Powerful stuff!
2. One of Robert's fundamental rules is that the same or substantially the same question can not be brought up a second time **during the same session**. So, if a session lasts longer than one gathering, a question may not be revisited for several gatherings. Manipulative stuff!
3. Another fundamental rule is that a question that is being *Postponed to a Certain Time* must be postponed no further than the next session. But, if a session lasts longer than one gathering, the question would be postponed for a very long time. Impactful stuff!

The term 'Meeting' does have its own special meanings:

1. **Regular (or Stated) Meeting** - Refers to the periodic business meeting held weekly, monthly, or quarterly, as prescribed by the Bylaws. Each regular meeting normally completes a separate session.

If an issue was never reached on the agenda of one session, the issue could be carried forward as described in Unfinished Business.

If an issue was reached in the agenda but not finally disposed of, it could be reached by the next session if the issue had been postponed (or made a special order), laid on the table, moved for Reconsideration at the correct time, or referred to a committee.

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2. **Special (or Called) Meeting** - Is held at a time different from a regular meeting, and convened only to consider one or more items of business specified in the call of the meeting. Each special meeting normally completes a separate session.
3. **Adjourned Meeting** - Is a continuation of the immediately preceding regular or special meeting. An adjourned meeting takes up its work at the point where the preceding meeting was interrupted in the order of business. Each adjourned meeting normally completes the preceding session.
4. **Annual Meeting** - The only difference between a regular meeting and an annual meeting is that at an annual meeting, Annual Reports from Officers and Standing Committees, and Election of Officers are in order. Each annual meeting with its numerous separate meetings normally completes a separate session.
5. **Executive Session** - any meeting in which the proceedings are secret constitutes an executive session. Boards, committees, and disciplinary sessions are normally held in executive session. Some organizations operate under the lodge system where every meeting is a secret meeting and held in executive session. Each executive session normally completes a separate session.

8. Using the 6 Steps to get Your Way

If you wish to defeat, delay, or weaken a motion that you are against, you need to know when you can interrupt the speaker with the precise modification or motion ...

1. To prevent the assembly from adopting the motion;
2. To assist the maker of the motion with the phrasing of the motion, so that it is even more confusing, less defensible, or less appealing;
3. To amend the motion to an extent that not even the maker of the motion will vote for its approval;
4. To prolong the debate and to confuse the issue until someone moves to *Postpone Indefinitely* or *Calls for the Orders of the Day*;
5. To disrupt the proceedings by introducing motions which can interrupt a speaker, without requiring a second, and without allowing debate, nor requiring a vote.

The result is that you can **defeat a motion**, even when the majority is in favor of the motion.

You can also do just the opposite - work towards the **adoption of the motion**. You can readily assure that a motion is adopted merely by anticipating and preventing your adversary's misuse of the 6 steps!

9. Six Steps to Every Motion!

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Every motion requires 6 steps (with some exceptions). The shoulds and shouldn'ts are as follows:

STEP 1. A member is recognized, and makes a motion;

Common Mistake: Members do not wait to be recognized, and typically start to discuss their motion before completing STEP 2, STEP 3, and STEP 4 below!

STEP 2. Another member seconds the motion;

Common Mistake: The person seconding the motion dives into the merits of the motion.

STEP 3. The presiding officer restates the motion to the assembly;

Common Mistake: Motion is restated differently from the wording of the maker! Beware because the motion that is adopted is the one stated by the presiding officer, not the one stated by the maker of the original motion.

STEP 4. The members debate the motion;

Common Mistake: Debate gets out of control in temper, in duration, in relevance! Members talk at each other across the room rather than through the presiding officer.

STEP 5. Presiding officer asks for the affirmative votes & then the negative votes;

Common Mistake: The presiding officer states 'All in favor' and fails to tell the members what to do as a matter of voting (for example, 'say aye', 'stand up', 'raise your hand', etc.); or the negative vote is never requested or counted!

STEP 6. The presiding officer announces the result of the voting; instructs the corresponding officer to take action; and introduces the next item of business.

Common Mistake: Presiding officer fails to pronounce the result of the voting! No one is instructed to take action. Commonly, dead silence follows because the presiding officer is lost and stares at the assembly

10. Some General Exceptions

For the sake of expediency, the chair can always say "***If there is no objection ...***", and then declares what action the chair is going to take in the name of the assembly! If no one objects, the 6 steps are skipped and the motion has been adopted in 5 words. If someone objects, the chair follows the 6 steps, cheerfully.

On the other hand, not all motions require the 6 steps. Your power comes in knowing which motions do and which motions do not require the 6

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steps, especially when the chair cannot get away with "If there is no objection ...".

STEP 1. State the Motion:

Some motions are so important that the maker can interrupt the speaker and not even wait to be recognized by the chair! - *Question of Privilege, Orders of the Day, Point of Order, Appeal, Parliamentary Inquiry, Point of Information, Division.*

STEP 2. Second the Motion:

Some motions do not require a second - Generally, if Robert's Rules of Order allow you to interrupt a speaker, you do not need a second (except *Appeal*).

STEP 3. Chair Restates the Motion:

The presiding officer may help a verbose person rephrase the motion.

STEP 4. Discuss the Motion:

Some motions may not be debated because the debate would defeat the purpose of the motion - *Recess, Orders of the Day, Lay on the Table, Limit or Close Debate, Division of the Assembly, Division of the Question.*

STEP 5. Vote on the Motion:

Some motions are made and passed without voting - *Question of Privilege, Orders of the Day, Point of Order, Division.*

STEP 6. Announce Result of Vote:

No exceptions here. The result of the voting must always be announced.

11. When Six Steps Do Not Apply

We accept that the typical motion follows 6 steps.

- a. *Speaker is recognized and makes a motion.*
- b. *Motion is seconded.*
- c. *Presiding Officer restates the motion to the audience.*
- d. *The assembly debates the motion.*
- e. *The vote is taken.*
- f. *The chair announces whether the motion was adopted or not; instructs the correct officer to take action.*

Now let us review 2 Privileged Motions and 4 Incidental Motions which lack the 6 steps.

- I. **Privileged Motions** do not relate to the pending motion, but are of such immediate importance that they take precedence over any Main Motion.

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1. **Question of Privilege:** As a member you believe that you can not hear or see the proceedings, but you have a feasible solution. You have the right to stop the meeting, and have the problem corrected.
2. **Call for the Orders of the Day:** You notice that the agenda specifies the time for each portion of the agenda. You notice that the part you are interested in is scheduled for 9:15 am, and the time is now 9:16 am. The meeting is stuck with the 9:05 am item. You 'Call for the Orders of the Day'. This automatically forces everyone to abandon the 9:05 item and deal with 9:15 item.

In both cases, you do not need to be recognized, or seconded. No one can amend or debate your motion! No vote is necessary. You can get your way without going through the 6 steps.

- II. **Incidental Motions** do not relate directly to the substance of the pending motion, but rather to the method of transacting the business of the motion. Incidental motions must be dealt with immediately.
 1. **Point of Order:** During a meeting you notice that someone (even the presiding officer) is disobeying Robert's Rules of Order. You state 'Point of Order' and explain your point. The Presiding Officer rules on your point and you help to keep everyone in line.
 2. **Point of Information:** One right no one can take from you is the right to understand the process and the potential consequences of the next voting. You have the right to stop business and have someone explain the process and consequences of the debate or the voting. Your request for information can not be ignored by the Presiding Officer.
 3. **Division of Assembly:** Whenever you doubt the Presiding Officer's hearing capabilities during a vote by loud ayes/nays, you can have the vote taken by having voters stand instead of yelling. You call for a 'Division of the Assembly' and the vote has to be retaken in a more accurate manner (Roll Call Vote).

In the last 3 cases, you do not need to be recognized, or seconded. No one can amend or debate your motion! No vote is necessary. You can get your way without going through the 6 steps.

4. **Object to Consideration:** Sometimes a sensitive or embarrassing motion is made. You can kill it before it is

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discussed by getting 2/3 of the assembly to agree with you to kill the motion **before it is discussed**.

In this case, you do not need to be recognized, or seconded. No one can amend or debate your motion! A 2/3 vote is necessary. You can get your way without going through the 6 steps.

If you know when the 6 steps do not applied, you can protect your rights as a member of an organization. Otherwise, somebody will undoubtedly and easily rob you of your rights

12. Four Motions that are always Out of Order

A Main Motion reflects the will of the members of the organization! However, the following 4 motions are never in order, even if adopted by a unanimous vote:

1. Motions which **conflict with laws** (federal, state, or local), or with bylaws, constitution, or rules of the organization;
2. Motions which present something **already rejected** during the same session, or conflict with a motion already adopted. (See Robert's sections on *Rescind*, *Reconsider*, and *Amend Something Already Adopted*);
3. Motions which conflict with or present substantially the **same question** as one which has been temporarily disposed of (meaning, *Postponed*, *Laid on Table*, *Referred to Committee*, or *Being Reconsidered*);
4. Motions which propose actions **beyond the scope** of the organization's bylaws. (However, a 2/3 vote may allow this kind of motion).

But, what if the motion is in order, and you still do not agree with all or parts of it? You can always protect your interests by amending the motion!

13. Five Ways to Modify a Motion

Motions are rarely perfect for everyone. Modifications are inevitable.

1. **Between the time that a motion is made and *before the chair states the motion***, any member may informally offer modifying suggestions to the maker of the motion. The maker may accept or reject that member's recommendations.
2. **After the chair has stated the motion**, the maker of the motion may *request unanimous consent* from the members to modify the motion. Remember that at this time, the motion belongs to the assembly and not the original maker.

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3. **By means of the subsidiary motion to Amend**, any member may propose changes to the motion, before the motion is voted upon. These proposed changes must be seconded and may be amended and/or debated.
4. **If a motion requires further study**, the members may vote to *Refer the Main Motion to a Committee*. When the committee returns the motion to the assembly, the committee normally **proposes** amendments for the assembly to vote upon.
5. **Sometimes the motion is so complex** that the only way to do it justice is for a member to urge its rejection and offer to propose a simpler version as a *Substitute Motion*. Upon defeat of the complex motion, anyone may propose the *Substitute Motion*.

Once a member learns which motions are out of order, how to make a motion, and how to amend a motion, the member becomes a productive member of the organization. Until then, the member is just another victim of the organization!

14. Three Ways to Amend a Motion

As a matter of survival, the most common motion a club member needs to know completely is the *Motion to Amend a Pending Motion*.

The difficult part is remembering that the more urgent motions can not be amended - *Adjourn, Question of Privilege, Orders of the Day, Lay on/Take from the Table, Previous Question, Point of Order, Appeal, Parliamentary Inquiry, Suspend the Rules, and Reconsider*.

During the Debate step of a Pending Motion, one may move to Amend the Pending Motion. All one needs to remember is that there are really **only 3 basic processes of amendments**:

Let's Amend this Sample Motion: "I move that we buy a new sign."

1. **You can Move to Amend by *Inserting* words or paragraphs.**
I move to Amend by Inserting the phrase "not to exceed \$50 dollars" at the end of the motion.
2. **You can Move to Amend by *Striking out* (not deleting) words or paragraphs.**
I move to Amend by striking out the word "new".
3. **You can Move to Amend by *Striking out and Inserting* words or paragraphs.** One can even Amend by *Substituting* (Striking out and Inserting) entire paragraphs or the complete motion.
I move to Amend by Striking out the word "sign" and Inserting the word "billboard".

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You can also Amend the Amendment, before it is voted upon:

But you can only Amend the Inserted or Struck out words. You can not Amend a separate part of the Main Motion not covered by the Amendment that is currently being discussed!

After the current Amendment is voted upon, you can Amend the Motion again and Amend this new Amendment.

If you carefully review these 3 basic processes of amendments (*insert, strike out, and strike out/insert*), you will agree that any other form is not an amendment. Proper usage of these 3 processes will reduce the chances of chaos and confusion that is common during discussion of motions and amendments.

When one understands the means to amend a motion, one will be able to calmly defend oneself from all tyrannical group leaders.

15. Unamendable Motions

The power to amend any motion leads to a quick compromise which pleases most of the members. Notice that amending the following motion makes no sense.

In all of the motions listed in this section, the members either allow something to occur or they do not allow it. A member is either granted a request or is not. Normally, there is no half way position; there is no modification. (Notice that among the common motions, if you can not debate them, then you probably can not amend them either!).

1. Adjourn.
2. Call for the Orders of the Day.
3. Call for the Division of the Assembly.
4. Lay on the Table/Take from the Table.
5. Dispense with Reading of the Minutes.
6. Objection to the Consideration of the Question.
7. Postpone Indefinitely.
8. Previous Question (Close Debate).
9. Parliamentary Inquiry.
10. Point of Information.
11. Point of Order.
12. Raise a Question of Privilege.
13. Suspend the Rules.
14. Appeal from the Decision of the Chair.
15. Reconsider a Motion.

Once you realize which motions you can make without the obstacle of an opposing debate or modification, you can then assure the victory of your plans.

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16. Undeatable Motions

You can make some motions which no one can speak against, mostly because sometimes the right to debate does not make sense! (Notice that among the common motions, if you can not debate them, you probably can not amend them either!).

Some motions perform a time sensitive task where a discussion would be counter productive.

1. Call for the Orders of the Day.
2. Call for the Division of the Assembly.
3. Lay on the Table/Take from the Table.
4. Division of a Question.
5. Suspend the Rules.
6. Reconsider a Motion (most).
7. Dispense with Reading of the Minutes.

Some motions intend to prevent further debate. Discussing the motion defeats the purpose of the motion.

8. Adjourn.
9. Objection to the Consideration of the Question.
10. Previous Question (Close Debate).
11. Limit or Extend Limits of Debate.
12. Recess.

Some motions intend to perform simple tasks which require immediate attention.

13. Parliamentary Inquiry.
14. Point of Information.
15. Point of Order.
16. Raise a Question of Privilege.
17. Appeal from the Decision of the Chair (most).

If you know when others can debate your issues and when they can not, you will be better prepared to wisely make your point unopposed.

17. Counting Votes; Voting Results

Majority:

Does Robert mean

... the Majority of the entire membership?

... the Majority of the members present?

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... the Majority of the Votes Cast?

How should you count the blank votes, the illegal votes, the abstentions?

The basic requirement for adoption of a motion by any assembly with a quorum is a **Majority Vote**, *except for certain motions as listed below*. A Majority is 'more than half' of the votes cast by persons legally entitled to vote, excluding blank votes and abstentions. **Majority does not mean 51%**. In a situation with 1000 votes, Majority = 501 votes; but 51% = 510 votes.

Let's see an example:

- The chair instructed the members, at a meeting with a quorum, to vote by writing 'Yes' or 'No' on a piece of paper.
- Of the members present, 100 were entitled to vote, but 15 did not cast a ballot. Of the 85 votes cast: 75 were legal; 10 were illegal (the members wrote 'Maybe'); and 4 were turned in blank (abstained).
- The Majority is any number larger than one half of the total of ...
(legal votes cast) - (blank votes cast) + (illegal votes cast).
- Of the 85 Votes Cast by members entitled to vote ...
(75 were valid) - (4 were blank) + (10 were illegal) = 81 Votes Cast.
- One half of 81 Votes Cast is 40 1/2. Majority was 41 votes.

2/3 Vote:

Robert specifies which motion will require at least a 2/3 vote for adoption. Notice that it is not called a 2/3 majority. A 2/3 vote is generally not taken as a voice vote, but rather as a standing count, or some other easily countable fashion. Generally speaking, a 2/3 vote is required for adoption of any motion which ...

1. Suspends or modifies a rule of order already adopted;
2. Prevents the introduction of a question to consideration;
3. Closes, limits, or extends the limits of debate;
4. Closes nominations or the polls;
5. Takes away membership or office.

Previous Notice:

There is a further requirement. As you can see from the following table, a **Previous Notice** is needed by some motions which require a 2/3 votes to adopt. A Previous Notice is an announcement of the intent to introduce the motion. A Previous Notice is typically given at least one meeting before the meeting when the proposal is to be introduced.

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Votes Required to Adopt a Motion by a 2/3 Vote	
<i>A Motion Not Involving a By Law, the Constitution, or an issue listed as Special Order on the Agenda:</i>	
With Previous Notice	Majority of votes cast
With NO Previous Notice	2/3 of votes cast; OR Majority of entire membership of the organization
<i>A Motion Involving a By Law, the Constitution, or an issue listed as Special Order on the Agenda:</i>	
With Previous Notice	2/3 of votes cast
With NO Previous Notice	Majority of entire membership of the organization

Study this chart carefully and you will agree that it makes a great deal of sense. It protects your interests.

18. 2/3 Vote vs Majority Vote

The basic requirement for approval of an action is a majority vote. However, the following situations require a 2/3 STAND UP vote for approval. Notice that all of these motions rob the individual of his rights. As a compromise between the rights of the individual and the rights of the assembly, a 2/3 vote is necessary:

1. **Modify an Adopted Rule of Order or Agenda:**
 - a. *Amend or Rescind the Constitutions, Bylaws, or Agenda;*
 - b. *Amend or Rescind Something Already Adopted;*
 - c. *Suspend the Orders of the Day;*
 - d. *Refuse to Proceed to the Orders of the Day;*
 - e. *Take up a Question Out of its Order.*
2. **Prevent the Introduction of a Question for Consideration:**
3. **Modify the Extend of Debate:**
 - a. *Limit or Extend Limits of Debate;*
 - b. *Call for the Previous Question.*
4. **Close Nominations:**
5. **Repeal an Assignment:**
 - a. *Take Away Membership or Office;*
 - b. *Discharge a Committee.*
6. **Make a Motion a Special Order:**

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The presiding officer should take a rising vote in those motions where a 2/3 vote is required.

You can assure the victory of your ideas, once you are aware of the required amount of vote necessary for adoption of your motion.

19. A Motion Can Be Adopted; Yet Still Not Be Final

For every means of disposing of a motion, there is a means of returning the motion to the assembly, (with certain slight limitations)! You would think that once a motion is adopted (or is voted down), the question of the motion would be settled. To someone armed with Parliamentary Procedure knowledge, it does not mean any such thing!

For example ...

1. **Move To Lay on the Table:** Anyone can Take from the Table, once the immediate urgency has been dealt with.
2. **Move To Refer to a Committee:** Anyone can move to discharge the committee with previous notice. The motion could again return to the assembly.
3. **Move to Rescind (annul or repeal):** Anyone regardless of how he voted and without time limitations (but with previous notice) may move to annul a motion already adopted.
4. **Move to Amend Something Previously Adopted:** Even after the assembly long debated and heatedly amended a controversial motion, anyone with previous notice can later move to amend it some more. This is the strange case of amending a motion that is not pending.
5. **Move to Postpone Indefinitely:** Any motion which is killed may be reintroduced (as a new motion) in a subsequent session of the assembly.
6. **Move to Reconsider the Vote on... :** If a member votes on the prevailing side, he may Move to Reconsider the Vote at that same meeting. The result is that he will paralyze the majority's will by suspending all action which could have resulted from the adopted motion.

Robert's Rules of Order base Parliamentary Procedure on the potential of the majority to change its mind; to need to correct a hasty, and ill-advised action; or to need to take into account a changed situation since a voting. How thorough!

20. Rescind

(often called Repeal or Annul)

You always have the right to annul or amend something already adopted.

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Quite often it is obvious that a great deal of preparation and support has been quietly organized before a motion is presented to the members. The motion is adopted before you even understand the true purpose and potential consequences of the motion. Fortunately there are no time limitations to annul or amend any motion.

There are no arbitrary restrictions, just a couple of logical ones:

1. If on the day a motion was passed, someone moved to **reconsider the vote** on that motion, you can neither Rescind nor Amend that motion, until after the Motion to Reconsider has been resolved.
2. If the motion you wish to Rescind has been **executed in an irreversible manner**, you can not Rescind it. However, any reversible portion can be amended. A simple way to look at this is, if no one outside the meeting knows about the motion, the motion can probably be undone. If a part of the motion has not been executed, you can probably amend the unexecuted portion of the motion.
3. If a motion results in a contract and the other **party has been informed** of the vote, you can not Rescind the motion.
4. If the motion acts upon a resignation, or results in an election/expulsion, and the **person involved is officially notified** of the voting, you can not Rescind the motion. Fortunately, Robert's textbook allows for a reinstatement procedure and disciplinary removal of a person from office.
5. In order to Rescind a motion, it takes at least a 2/3 vote unless the membership has received a **Previous Notice**. (*See the Votes Required to Adopt a Motion by a 2/3 Vote Table.*)

When a motion is adopted before you can prepare a means of defeating it, all you need is a 2/3 vote, and you can nullify or amend the offensive motion.

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Full Text of Roberts Rules of Order, 10th Addition may be found using the following link:

<http://www.constitution.org/rror/rror--00.htm>

Additional Information Taken Directly from Roberts Rules of Order

Art. VII. Debate.

42. Debate

43. Decorum in Debate

44. Closing and Preventing Debate

45. Principles of Debate and Undebatable Motions

42. Debate. In 1-6 are explained the necessary steps preliminary to debate namely, that when no business is pending a member shall rise and address the chair by his title, and be recognized by the chair as having obtained the floor; and that the member shall then make a motion which, after being seconded, shall be stated by the chair, who shall then ask, "Are you ready for the question?" The question is then open to debate, as is partially explained in 7, which should be read in connection with this section. **No member shall speak more than twice during the same day to the same question (only once on an appeal), nor longer than ten minutes at one time, without leave of the assembly; and the question upon granting the leave shall be decided by a two-thirds vote without debate.**¹ No member can speak a second time to a question as long as any member desires to speak who has not spoken to the question. If greater freedom is desired, the proper course is to go into committee of the whole, or to consider it informally, either of which requires only a majority vote; or to extend the limits of debate [30], which requires a two-thirds vote. So the debate, by a two-thirds vote, may be limited to any extent desired, as shown in 30. The member upon whose motion the subject was brought before the assembly, is entitled to close the debate with a speech, if he has not previously exhausted his twenty minutes, but not until every one else wishing to speak has spoken. He cannot, however, avail himself of this privilege after debate has been closed.² An amendment, or any other motion, being offered, makes the real question before the assembly a different one, and, in regard to the right to debate, is treated as a new question. When an amendment is pending the debate must be confined to the merits of the amendment, unless it is of such a nature that its decision practically decides the main question. Merely asking a question, or making a suggestion, is not considered as speaking. The maker of a motion, though he can vote against it, cannot speak against his own motion. [To close the debate see 44.]

The right of members to debate and, make motions cannot be cut off by the chair's putting a question to vote with such rapidity as to prevent the members getting the floor

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after the chair has inquired if the assembly is ready for the question. Even after the chair has announced the vote, if it is found that a member arose and addressed the chair with reasonable promptness after the chair asked, "Are you ready for the question?" he is then entitled to the floor, and the question is in exactly the same condition it was before it was put to vote. But if the chair gives ample opportunity for members to claim the floor before putting the question and they do not avail themselves of it, they cannot claim the right of debate after the voting has commenced.

1. The limit of time should vary to suit circumstances, but the limit of two speeches of ten minutes each will usually answer in ordinary assemblies and, when desirable, by a two-thirds vote it can be increased or diminished as shown in 30. In the U. S. House of Representatives no member can speak more than once to the same question, nor longer than one hour. In the Senate there is no limit to the length of a speech and no senator can speak more than twice on the same day to the same question without leave of the Senate, which question is undebatable.

2. Formerly the member who reported a proposition from a committee was permitted to close the debate in the House after the previous question was ordered, provided he had not used all of his hour previously.

43. Decorum in Debate. In debate a member must confine himself to the question before the assembly, and avoid personalities. He cannot reflect upon any act of the assembly, unless he intends to conclude his remarks with a motion to rescind such action, or else while debating such a motion. In referring to another member, he should, as much as possible, avoid using his name, rather referring to him as "the member who spoke last," or in some other way describing him. The officers of the assembly should always be referred to by their official titles. It is not allowable to arraign the motives of a member, but the nature or consequences of a measure may be condemned in strong terms. It is not the man, but the measure, that is the subject of debate.

If one desires to ask a question of the member speaking, he should rise, and without waiting to be recognized, say, "Mr. Chairman, I should like to ask the gentleman a question." The chair then asks the speaker if he is willing to be interrupted, or the speaker may at once consent or decline, addressing, however, the chair, through whom the conversation must be carried on, as **members cannot directly address one another in a deliberative assembly**. If the speaker consents to the question, the time consumed by the interruption comes out of the time of the speaker.

If at any time the chairman rises to state a point of order, or give information, or otherwise speak, within his privilege, the member speaking must take his seat till the chairman has been heard first. When called to order by the chair the member must sit down until the question of order is decided. If his remarks are decided to be improper, he cannot proceed, if any one objects, without the leave of the assembly expressed by a vote, upon which question no debate is allowed.

Disorderly words should be taken down by the member who objects to them, or by the secretary, and then read to the member. If he denies them, the assembly shall decide by a vote whether they are his words or not. If a member cannot justify the

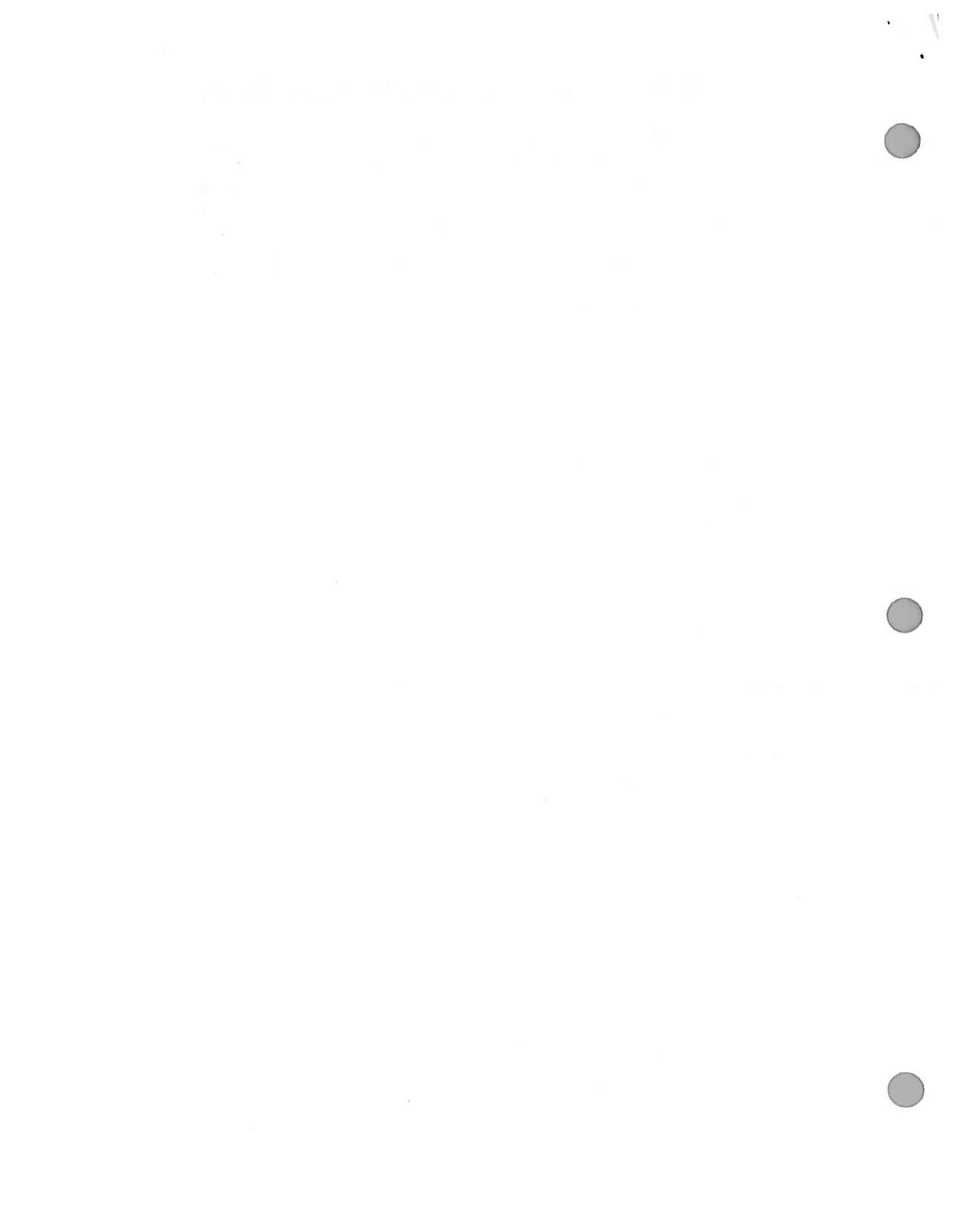
SURVIVAL TIPS ON Robert's Rules of Order

words he used, and will not suitably apologize for using them, it is the duty of the assembly to act in the case. If the disorderly words are of a personal nature, after each party has been heard, and before the assembly proceeds to deliberate upon the case, both parties to the personality should retire, it being a general rule that no member should be present in the assembly when any matter relating to himself is under debate. It is not, however, necessary for the member objecting to the words to retire unless he is personally involved in the case. Disorderly words to the presiding officer, or in respect to the official acts of an officer, do not involve the officer so as to require him to retire. If any business has taken place since the member spoke, it is too late to take notice of any disorderly words he used.

During debate, and while the chairman is speaking, or the assembly is engaged in voting, no member is permitted to disturb the assembly by whispering, or walking across the floor, or in any other way.

44. Closing Debate and Preventing Debate. When the debate appears to the chairman to be finished, he should inquire, "Are you ready for the question?" If, after a reasonable pause, no one rises to claim the floor, the chair assumes that no member wishes to speak and, standing, proceeds to put the question. Debate is not closed by the chairman's rising and putting the question, as until both the affirmative and the negative are put, a member can rise and claim the floor, and reopen the debate or make a motion, provided he rises with reasonable promptness after the chair asks, "Are you ready for the question?" If the debate is resumed the question must be put again, both the affirmative and the negative. Should this privilege be abused by members not responding to the inquiry, "Are you ready for the question?" and intentionally waiting until the affirmative vote has been taken and then rising and reopening the debate, the chair should act as in case of dilatory motions [40], or any other attempt to obstruct business, and protect the assembly from annoyance. When a vote is taken a second time, as when a division is called for, debate cannot be resumed except by general consent.

If two-thirds of the assembly wish to close the debate without allowing all the time desired by others, they can do so by ordering either the previous question or the closing of the debate at a certain time; or they can limit the length of the speeches and allow each member to speak only once on each question, as fully explained in 29 and 30. These motions require a two-thirds¹ vote, as they suspend the fundamental right of every member of a deliberative assembly to have every question fully discussed before it is finally disposed of. A majority vote may lay the question on the table and thus temporarily suspend the debate, but it can be resumed by taking the question from the table by a majority vote when no question is before the assembly [35], at a time when business of this class, or unfinished business, or new business, is in order. If it is desired to prevent any discussion of a subject, even by its introducer, the only way to do it is to object to the consideration of the question [23] before it is debated, or any subsidiary motion is stated. If the objection is sustained by a two-thirds vote, the question is thrown out for that session.



Urban Renewal Frequently Asked Questions

Question: If my property is in an Urban Renewal District, do I have to have approval from the urban renewal authority before I make aesthetic changes to my property?

Answer: Yes, any physical changes to a building or other exterior changes or improvements within the Urban Renewal Districts must be reviewed by LURA to ensure that they meet the highest standards of architectural design. Physical changes, include, but are not limited to, new buildings, building additions or renovations, signs, exterior paint, paving, site plans, demolitions, changes in roof materials, or fencing. Other improvements include, but are not limited to, patio and landscaping improvements.

Question: Where are Lafayette's Urban Renewal Districts located?

Answer: The first district is located along Public Road from Spaulding Street to Baseline and continues west along the south side of Baseline Road almost to U.S. Highway 287. This area also includes East Simpson Street from Public Road to Michigan Avenue. The second urban renewal district is located along South Boulder Road between U.S. Highway 287 and South Public Road.

Question: What has the urban renewal authority accomplished since its inception in 1999?

Answer: Urban renewal funds and efforts have supported a number of projects in Lafayette. Projects include:

- An old Conoco gas station at the corner of Spaulding Street and Public Road was demolished in 2006, and an attractive commercial property was built in its place.
- Urban renewal funds and a grant from the state Department of Local Affairs created our popular Festival Plaza area in the heart of Old Town. Festival Plaza in 2009 was awarded the Governor's Award for Excellence for Best Public Space Project.
- Urban renewal funds were used to support the start up of the Lafayette Farmers Market at Festival Plaza. The successful farmers market in 2012 outgrew the Festival Plaza space.
- LURA funds assisted in the redevelopment of a childcare center on Baseline Road
- Funds also helped construct a new building parapet on a downtown commercial building and outdoor patio spaces at a few other commercial buildings.
- LURA supported the redevelopment of the Countryside Village Shopping Center by spearheading changes to the shopping center covenants.

Question: How is the urban renewal authority funded?

Answer: When the Urban Renewal Districts were created, a base tax valuation for taxes generated within the districts was established. Taxes collected above and beyond the base are distributed to the Urban Renewal Authority rather than the government entities that would otherwise receive them. This means that property and business owners do not pay any additional taxes to support the Urban Renewal Authority, and that the taxes generated above the base go toward financing and supporting the elimination of blight through redevelopment and revitalization efforts in the districts.



Lafayette Urban Renewal Authority • 1290 S. Public Road • Lafayette, Colorado 80026

STAFF REPORT

To: Lafayette Urban Renewal Authority Staff
From: Jenn Ooton, Executive Director
Date: Sept. 15, 2014
RE: Urban Renewal Authority / Development Review Process

Background: Any physical changes to buildings or other exterior changes or improvements within one of the city's Urban Renewal Districts must be reviewed to ensure that they meet architectural design requirements. Physical changes, include, but are not limited to, new buildings, building additions or renovations, signs, exterior paint, paving, site plans, demolitions, changes in roof materials, fencing, patio and landscaping improvements.

Per the June 26, 2012, memo signed by Executive Director Gary Klaphake, City of Lafayette staff members provide administrative review and approve amendments and modifications to existing sites in both of the urban renewal areas (Old Town Urban Renewal and So. Boulder Road Urban Renewal). Proposed new developments (site, architecture and landscape plans) will be submitted to the Lafayette Urban Renewal Authority commissioners for review and approval along with a staff review and recommendation.

Additionally, redevelopment applications in which there is an economic development agreement being considered would also be submitted to the Authority commissioners.

When the Authority reviews a site/architecture plan application, it can approve the application, approve the application with conditions or deny the application. If it is approved or approved with conditions, the application would then be forwarded to the Lafayette Planning Commission.

The Planning Commission reviews the application and may choose to approve the application as submitted, approve the application with conditions that do not substantially modify LURA's approval, recommend approval of the application with conditions that substantially modify LURA's approval, or recommend denial. If the Planning Commission approves or approves with conditions that do not substantially modify LURA's approval, then the Planning Commission approval is the final approval necessary (the approval is not forwarded to City Council as a recommendation). If the Planning Commission recommends approval with conditions that substantially modify LURA's approval or it recommends denial, then the application would be forwarded to the Lafayette City Council.

The City Council would review the application with a Planning Commission recommendation that either includes conditions of approval that substantially modify LURA's approval or a denial. City Council can approve the application as it was originally approved by LURA, approve/deny the application as recommended by the Planning Commission, or deny the application out right (based on code criteria). If the application is approved subject to the Planning Commission's recommended conditions that substantially modify LURA's approval, then that approval would be contingent upon LURA's subsequent approval.

LURA would then review the application based on City Council's approval with conditions that substantially modify LURA's original approval. If LURA approves the application subject to the City Council's approval, then the application has received all the necessary approvals. If LURA denies the application based on City Council's approval, then the application is officially denied.

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Introduction

The Urban Renewal Law, 31-25-101, *et seq.*, was significantly amended by enactment of HB04-1203, which was signed by the Governor on June 4, 2004.

A. BLIGHT-BASIC FACTORS

The prerequisite to the establishment of an urban renewal authority is sufficient evidence to support the governing body's (city council, town council, board of trustees, hereafter "council") finding of the existence of blighted area(s) within the city/town.

Legally, "blighted area" means an area which in its present condition and use, and by reason of the presence of at least four or five (if eminent domain authorized) of the following factors of blight, has substantially and adversely affected or slowed the reasonable growth of the city, hindered the provisions of decent housing, or constitutes an economic or social liability to the city, and therefore presents a detriment to the well-being of the community. At least four (or five) of the following factors shall constitute blight:

1. Slum, deteriorated, or deteriorating structures. It is the process of deterioration or the existence of outmoded structures, which constitutes blight, not the total deterioration itself. The emphasis is upon the area as a whole and not individual structures; and
2. Predominance of defective or inadequate street layout. This factor includes such conditions as inadequate street widths; dead ends; poor conditions of existing streets; poor provisions or unsafe conditions for the flow of traffic, including pedestrians and bicycles; traffic congestion; inadequate emergency vehicle access; obsolete and impractical street layout; or inadequate facilities for traffic flow or movement through the area; and
3. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness. Such problems as long and narrow or irregularly sized properties; obsolete and impractical lot layout and configurations resulting in stagnant and unproductive conditions of the land by the misuse or nonuse of same are some of the elements of this factor; and
4. Unsanitary or unsafe conditions. The area does not have to contain slums to qualify as blighted and require redevelopment. Elements of this factor may include the existence of a floodplain or flood prone area; inadequate storm drainage systems; poor fire protection facilities; high or unusual crime statistics; above average incidences of

public safety responses; inadequate utility systems or lack of water or sanitary sewer systems; or existence of contaminants or hazardous materials or conditions; and

5. Deterioration of site or other improvements on the site. Elements of this factor may include matters such as inadequate open space; lack of public utilities and public or private services; the incompatible mixture of residential, industrial, and commercial activities resulting in improper and unproductive use of the land; failure to use land, leaving it unproductive or for no public/private purpose; numerous vacancies; unwise planning and zoning; and poor regulatory code provisions or enforcement; and

6. Unusual topography or inadequate public improvements or utilities. Severe and significant slopes making use of property difficult, very expensive or impractical may be included in this factor; and some of the blight factors in #4 would also apply here; and

7. Defective or unusual conditions of title rendering the title unmarketable. The considerations of this factor of blight include diversity and multiplicity of ownership making assemblage of land or accumulation of a single, large tract of land very difficult; and title problems such as the interruption of the chain of ownership or tracing of the ownership of the property; and

8. The existence of conditions that endanger life or property by fire or other causes. Factors such as buildings or property not in compliance with fire codes, building codes or environmental regulations (asbestos or soil contamination) may be applicable here; and

9. Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities; some of the blight factors in 1, 4, 5, and 8 would also apply here; and

10. Environmental contamination of buildings or property. Blight factors in 4 and 8 would also apply here; and

If there is no objection by the property owner(s) and tenants of such owner(s), if any, to the inclusion of such property in an urban renewal area, “blighted area” also means an area that, in its present condition and use, and by reason of the presence of any of the blight factors, substantially impairs or arrests the sound growth of the city, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals or welfare.

An area may be eligible as an urban renewal area if it meets the legal criteria as a slum or blighted area. It is not individual or separate conditions, facilities, structures, properties or improvements which are the determinant of such designation, but rather the area taken as whole. An entire designated urban renewal area does not have to be blighted; the existence of at least four (or five) blight factors within an area is all that is required to substantiate a designation as an urban renewal area.

B. BLIGHT-EMINENT DOMAIN AFFECT

If the council determines to utilize the power of eminent domain, which property(ies) so acquired may/will be ultimately transferred to a private entity for redevelopment, an eleventh (11th) factor of blight applies, and five (5) factors of blight (not 4) must be found to exist. The 11th factor of blight is “the existence of health, safety or welfare factors requiring high levels of municipal services, or substantial physical underutilization or vacancy of sites, buildings or other improvements”. This factor of blight was added by HB04-1203 and is inclusive of many of the other 10 factors of blight.

C. BOUNDARIES

The boundaries of an urban renewal area may be expanded at any time by city council pursuant to the presentation of evidence and findings of the existence of blight within the additional area. It is not required that urban renewal areas be contiguous. Rather, a number of separate urban renewal areas may exist within the community. However, all urban renewal areas must be within the city boundaries.

D. PROCESS OF ESTABLISHING AN URBAN RENEWAL AUTHORITY

The general process of establishing an urban renewal authority is as follows:

1. Twenty-five (25) registered electors of the city petition the council that there is a need for an urban renewal authority to function within the community.
2. A blight study/analysis should be authorized by council.
3. Notice must be provided of the time, date, place and purpose of a public hearing on the petition for the council to determine if there are slum or blighted areas within the city based upon the blight study, and, if so, if there is a need for an authority. Such notice is at the city’s expense and must be given at least 10 days before the hearing in a newspaper of general circulation within the city, or, if no newspaper, by posting in three public places in the city at least 10 days prior to the hearing.
4. All residents, taxpayers and interested persons are afforded an opportunity to be heard on the issues of whether slum or blighted areas, or both, exist within the city.
5. If council finds from the facts that: (a) one or more slum or blighted areas or both exist within the city; and (b) that acquisition clearance, rehabilitation, conservation, development, or redevelopment of the area(s) is necessary for the public health, safety and welfare of the residents of the city; and (c) declares it in the public interest that an authority be created, an urban renewal authority may be created by resolution. The resolution must contain detailed findings of blight and the afore described purposes of creating an authority. The resolution should also direct the mayor to appoint commissioners to an urban renewal authority; however, council may serve as the authority. If council is designated as the authority, the mayor shall serve as the chair. Certificates of appointment must be filed with the state division of local government. Such filing is required before an authority may function as a legally recognized public entity.

Of course, council may find that no slum or blighted areas exist, and dismiss the petition. Thereafter, the petitioners must wait at least six months to again petition the council for the formation of an urban renewal authority.

E. AUTHORITY COMPOSITION

The city council may appoint itself as the authority or appoint a separate board of commissioners. If a separate board is appointed, not less than five nor more than 11 members shall be appointed by the mayor, with the approval of council. There is no requirement in the Urban Renewal Law that the commissioners be residents of the city. Only one of the separately appointed commissioners may be an official of the city. The commissioners who are first appointed shall be designated by the mayor to serve for staggered terms so that the term of at least one commissioner shall expire each year. Thereafter, the term of office shall be for five years. The mayor also designates the chair of the authority for the first year. Members of the authority shall receive no compensation but are entitled to expenses. To be constituted as an urban renewal authority, a certificate signed by all of the commissioners of the authority must be filed with the division of local government in the department of local affairs.

An authority shall elect/select its own vice-chairman, secretary, staff, legal counsel, and after the first year, its chair. The mayor, with council consent, may remove a commissioner for inefficiency or neglect of duty or misconduct in office. The removal procedures require written charges and a formal hearing before council.

The transfer of a separate board of commissioners to the council to serve as the authority may only be accomplished by a vote of the electorate at a “regular general election”.

Council may abolish an authority by ordinance “provided adequate arrangements have been made for payment of any outstanding indebtedness and other obligations of the authority”. Such abolishment ordinance must contain an effective date which shall be not less than six months from adoption.

F. URBAN RENEWAL PLAN

An authority cannot acquire or transfer real property or undertake an urban renewal project until an urban renewal plan has been adopted by the council. The proposed plan may be prepared by the urban renewal authority, its staff, city staff or consultants for consideration by council.

The plan must include the following:

1. Plans to eliminate and prevent the development or spread of slum or blighted areas and redevelopment of such areas with appropriate public and private resources.
2. Outline of preliminary plans for urban renewal activities.

3. Plans for relocation of individuals, families and business that will be displaced by the urban renewal project. If any federal funds are used in the project, the relocation plans must follow federal requirements.

More specific relocation policies are required if an authority will be transferring property acquired by eminent domain to a private entity (i.e. a developer). Such policies must be consistent with the Relocation Assistance and Land Acquisition Policies of 24-56-101 *et seq.* C.R.S. Further, business owners are entitled to a business interruption payment of \$10,000.00 or 1/4th of the average annual taxable income for the three most recent years, whichever is less.

Reasonable efforts must be made to relocate families and persons within the urban renewal area (if such relocation is consistent with the urban renewal plan) or close to or comparable to the original location.

4. Plans for programs of voluntary repair and rehabilitation of buildings and improvements.

5. Plans for enforcement of state and local laws, codes and regulations governing land use and use of buildings and improvements.

6. Authorization to use the powers of eminent domain, if so determined by council.

7. Documents necessary to carry out any of the above including financing plans, maps, appraisals, surveys and studies.

The plan may address several other matters, such as phasing and types of development, limitations on types or amounts of financing, authorization of the use of tax increment financing, interim uses of the property, and zoning and land use matters. A plan should be as flexible as possible to allow for market, financial, economic and other conditions which exist at the time redevelopment actually occurs.

After an urban renewal plan is adopted, it controls the land area, land use, design, building requirements, timing and procedures applicable to property within the urban renewal area. Therefore, while existing city zoning, design and building requirements may control the property, the urban renewal plan may be utilized as an additional measure of control over the use of the property.

Council must determine by resolution whether a proposed amendment to a plan is “substantial” or not. To substantially amend an urban renewal plan, the same procedures as required for initial adoption must be followed. If amendment of the plan occurs after sale or lease of property within the urban renewal area, such amendment is subject to equitable or legal rights of lessees or purchasers and successors of properties within the area.

G. URBAN RENEWAL PLAN INCLUDING/AUTHORIZING EMINENT DOMAIN

If council authorizes the use of eminent domain (in the urban renewal plan) and the property(ies) so acquired is to be conveyed to a private entity (developer), elaborate

findings and procedures are required. There are four exceptions to such requirements, although practically the exceptions will rarely if ever, apply.¹

Practically, council must determine that all of the following conditions have been met before authorizing eminent domain:

1. The property (ies) to be so acquired is located in a blighted area or the property (ies) itself is blighted, based on “reasonably current information” (apparently that 5 of the 11 blight factors exist).

2. The redevelopment project must be “commenced” (not defined) within seven years of finding the existence of blight.

3. All property owners, residents and business owners within the property(ies) subject to eminent domain must be provided notice and invited to participate with proposals for the elimination of blight (redevelopment or rehabilitation) before negotiations begin for redevelopment of the urban renewal area (including the property(ies)).

4. If a property owner “holds out” and is within a “set of parcels” to be acquired by eminent domain, the authority (and council should too) must find that the redevelopment project under the urban renewal plan is not viable without the “hold out” property.

5. Council must hold a public hearing on the use of eminent domain with 30 days notice thereof to owners of fee title to property (ies). Council must base its decision to utilize eminent domain on a finding of blight or slum conditions without regard to the economic performance of the property to be acquired. Such finding may apply to the specific property (ies) or the entire urban renewal area.

6. Council must find that all of the above requirements have been met and that the basic public purpose for approval of the plan is to facilitate redevelopment in order to eliminate or prevent the spread of physically blighted or slum areas.

H. PROCEDURES FOR ADOPTION OR SUBSTANTIAL MODIFICATION OF URBAN RENEWAL PLAN

As described above, the draft plan may be prepared by the authority or any other person or entity designated by the city. Prior to approval of an urban renewal plan, council must submit the draft plan to the planning commission.

The planning commission must review the draft plan and give written recommendations to the council within 30 days after receipt of the proposed redevelopment plan, specifically and solely as to whether or not the urban renewal plan complies with the comprehensive (master) plan of the city. The council may proceed with the hearing on the plan upon receipt of the written recommendations of the planning commission or 30

¹ 1st-Property owner consents in writing to eminent domain, 2nd-Council decides property no longer necessary for purpose it was acquired and authority offers to sell it to original owner for acquisition price authority paid and owner declines buyback, 3rd-Property “abandoned” and 4th-Owner pleads in eminent domain that authority also acquired property not needed for urban renewal project because partial acquisition will leave owner with an “uneconomic remnant”.

days after submission of the draft plan to the planning commission, whichever is sooner. If the proposed plan includes residential areas or areas proposed for residential uses and also contains provisions for the use of property tax increment financing, the school district, which is included in the urban renewal area, must be allowed to participate in an advisory capacity with respect to the use of property tax increment financing.

Notice of a public hearing is to be published in a newspaper of general circulation within the city. Thirty (30) days written notice of the public hearing is also to be provided to all property owners, residents and business owners, at their last known addresses, in the urban renewal area. The notice must include the time, date (not less than 30 days from the notice), place and purpose of the hearing before council, and generally to identify the area covered by the plan and outline the general scope of the proposed urban renewal project. Council must hold a public hearing on the plan. At the hearing, evidence must be presented regarding blight and the details of the plan. As a courtesy and not a legal right, I recommend that county and school district representatives also be provided written notice.

Following the public hearing, and subject to notice to the county as described below, the council may approve the plan by resolution if it finds that:

1. Blight exists in the urban renewal area and designate the area as appropriate for an urban renewal project(s); and
2. A relocation plan exists or shall be provided before relocation takes place (if the plan anticipates the necessity of relocating businesses or residents in the urban renewal area). Note the special relocation provisions regarding the displacement of property owners, businesses and individuals related to the use of eminent domain in F.3 above; and
3. The redevelopment plan conforms with the city's comprehensive plan; and
4. Private enterprise has been afforded an opportunity to redevelop/develop the urban renewal area; and
5. If the area consists of open land, a finding must be made that nonresidential redevelopment is necessary to accommodate proper growth and development in accordance with sound planning standards and objectives of the City; and
6. Property and/or sales tax increment provisions for payment of debts and financial obligations incurred in relation to the redevelopment project(s) may be included; and
7. Prior to approval of the plan (early within the 30 day notice period described above), the council must provide an impact statement to the County Commissioners, including, at a minimum, the following:
 - a. The estimated time to complete the redevelopment project(s); and
 - b. the estimated annual property tax increment (if property tax increment will be utilized) to be generated by the project and the portion of such property tax income to be allocated during this time period to fund the redevelopment project; and
 - c. any other estimated impacts of the project on county services or revenues.

8. Other findings must be made upon adoption of the plan by the council, including, that not more than 120 days have passed from the initial public hearing to the approval of the plan, and, if this is a second attempt to amend the plan for this area, at least a two-year “waiting period” has taken place, unless “circumstances” have changed.

9. At least five of the 11 statutory blight conditions must exist to approve the plan. There are some legal opinions that one may find five factors of blight within one of the blight categories alone, such as five unsanitary conditions, or five unsafe conditions, or five deterioration factors of the site, or five factors of deterioration of improvements, etc. As noted, some blight factors are duplicative within blight categories.

Boundaries of a blighted/urban renewal area are to be drawn as narrowly as council determines feasible to accomplish the planning and development objectives/purposes of the redevelopment project(s).

I. HEARINGS

Council could conduct as many as three public hearings with all the requisite notice requirements, to: 1) find blight and establish an urban renewal authority and urban renewal area 2) adopt an urban renewal plan and 3) authorize the use of eminent domain to convey property (ies) to a developer.

There are several considerations for such procedures. If council is not going to authorize eminent domain, two hearings at most could be held: 1) to find blight and establish an urban renewal authority and area and 2) to adopt the urban renewal plan. Some communities prefer to combine these two procedures into one hearing where blight is found to exist, the urban renewal area (boundaries) is established and the plan is adopted with one resolution. Under this scenario and with HB04-1203, a second public hearing would be required to consider the use of eminent domain if conveyance of property to a private entity (developer) is contemplated by the plan.

Another scenario is to combine the blight finding/creation of authority/define urban renewal area/and adopt urban renewal plan with eminent domain powers for conveyance to developer into one elaborate hearing.

J. POWERS OF AN URBAN RENEWAL AUTHORITY

An urban renewal authority has the following powers:

1. The powers necessary to carry out the purpose of the urban renewal law.
2. Sue and be sued, adopt and have a seal, perpetual existence, and adopt bylaws, orders, rules and regulations.
3. To undertake urban renewal projects, execute contracts and other documents, including advances, loans, grants and contributions from the federal government or other sources.

4. Provide for public facilities and improvements; dedicate property for public facilities, improvements and purposes; and agree to contract conditions related to such powers, including those attached to federal financial assistance.
5. Arrange for planning and zoning of an urban renewal area with the city.
6. Enter private property with the consent of the owner to make surveys and appraisals and to obtain a court order to do so if the owner refuses permission.
7. Acquire property by purchase, lease, option, gift, grant, bequest, devise or otherwise or by eminent domain. Note, the authority must have the consent of the owner of public property to condemn property devoted to a public use (such as a post office).
8. Hold, improve, clear or prepare for redevelopment any property.
9. Mortgage, pledge or otherwise encumber or dispose of property in accordance with the urban renewal plan.
10. Insure property and operations of the authority.
11. Invest funds.
12. Borrow money and apply for loans, grants and contributions and give security therefore.
13. Appropriate and spend funds and establish separate accounts.
14. Prepare and submit proposed plans, including urban renewal plans to council.
15. Make relocation plans/arrangements/payments to residents, individuals and businesses displaced by urban renewal projects.
16. Rent or use equipment and office facilities for the authority.
17. Prepare plans for a program of voluntary repair and rehabilitation of buildings and improvements and enforcement of applicable codes and regulations.
18. Create and report methods and techniques for the prevention and elimination of blight within the city.
19. Issue bonds for debt.
20. An authority does not have the power to levy or assess taxes of any nature, including special assessments.

These power are not limited by any other law with respect to the planning or undertaking of projects or the acquisition, clearance or disposition of property unless the Urban Renewal Law specifically so provides. Other significant limitations on an authority's powers with regard to redevelopment activities, other than those which may be imposed by council in a plan, are the federal tax code and regulations related to the tax exempt status of financing of the authority's activities/projects.

K. SALE OF PROPERTY OWNED BY THE AUTHORITY

Subject to the described newly-enacted legislation related to the conveyance of property acquired by eminent domain to developers, an authority may sell, lease or otherwise transfer its real property in accordance with the urban renewal plan subject to such covenants and conditions as determined solely by the authority. The purchasers, lessees and transferees must use the property only as allowed by the urban renewal plan. Property may be transferred for its fair value (not fair market value), as determined by the authority. The authority must transfer property it acquires for purposes of conveyance as

soon as reasonably feasible, which may be determined by such factors as market and economic conditions. In the interim, the authority may operate and maintain its property even if such use is not in accordance with the urban renewal plan (i.e. lease it for office space).

Property of the authority sold to private persons (developers) may only be sold under reasonable competitive bidding procedures as described by the authority or by the Urban Renewal Law, which requires notice for requests for proposals to redevelop the property to be transferred. The authority shall consider the financial and legal ability of the applicants/respondents to fulfill their proposals. At least 15 days prior to executing a contract of conveyance of property, the authority must give notice of its intent to council. The notice is for information only; council cannot veto or impose requirements on the transfer.

The authority may transfer, dedicate, or devote its property for public uses in accordance with the urban renewal plan with or without compensation, subject to such terms, conditions and covenants as the authority determines to be in the best interest of the community and in compliance with the plan. Property acquired by eminent domain and conveyed for public uses is not subject to the elaborate newly-legislated requirements described herein regarding prerequisites to the utilization of eminent domain.

L. NEGOTIATE/AGREEMENT FOR REDEVELOPMENT

Along with staff and consultants to assist the authority to carry out the council's urban renewal plan, the management team should consist of real estate/development advisors and negotiators to coordinate and effect contracts with developers, property owners, the authority and the city to realize redevelopment projects. It is important in the negotiation process that developers and or users understand they may negotiate terms of contracts only with the authority's staff/consultants and not be able to run them to policy makers and public officials when negotiations are inevitably difficult. An early and initial estimation of the market value of the project area property (ies) is essential.

At the very least, proposed projects must eliminate blight and prevent the spread of blight, comply with the plan, fit in the commercial market and be financially (public and private) feasible.

Typically, a redevelopment project and redevelopment agreement involves the following: identifying the market, thereby affecting the land uses (i.e. types of retail, commercial uses); size of the project; control and conditions of the land; infrastructure required (utilities, roads, parking, access); timing (including time requirements for the authority to deliver a clean site and time requirements for the developer to begin and complete project improvements); land use restrictions and covenants, such as types of retail uses and, perhaps, operating requirements (i.e. must operate a certain use, such as a grocery store, for 10 consecutive years); consequences and penalties for not meeting requirements and deadlines, such as financial penalties or right of the authority to take or buy the land back; financing, including public and private requirements of funds (this is the greatest

risk to the authority in that at times with certain redevelopment projects it must anticipate costs in advance of knowing final costs). Financing variables are influenced by final costs of acquisition of land, relocation of businesses or people and remediation of hazardous conditions or materials. Following negotiations, a redevelopment agreement or disposition and development agreement (DDA) is prepared memorializing the contract between the developer, authority and/or city.

With the agreement, the authority may finance its obligations under the DDA and undertake other requirements such as acquisition of property, relocation of businesses or persons and remediation of hazardous conditions of the site, if necessary.

Again, the financial risk to the authority is that if assemblage of a redevelopment site requires use of eminent domain, the final fair market value for land and improvements may not be determined until after construction of the redevelopment project has begun or has been completed by the developer. Negotiations with a developer must include who/how this risk is to be addressed.

M. FINANCING URBAN RENEWAL PROJECTS

An urban renewal authority may finance its projects by special or general obligation bonds, secured by property, loans, grants or other assets of the authority. If authorized by the urban renewal plan, the authority may receive property and/or sales tax increments. The city may establish improvement districts, special assessments or other funding sources available to it for the authority. The authority may issue tax-exempt bonds; however, because of the Tax Reform Act of 1986, many activities that had theretofore been “common” for urban renewal projects may not be financed by tax-exempt funds. Therefore, the authority may have to issue a combination of tax exempt and taxable bonds or taxable bonds. The manner in which property conveyance documents are structured and the uses of property may also determine whether tax-exempt funds be used. Therefore, an investment banker and bond counsel must be retained at the commencement of the redevelopment process to render advice regarding the financial structuring of urban renewal projects, as well as advice regarding the application of TABOR to financing proposals. Such advice should be utilized and included in the urban renewal plan.

N. TAX INCREMENT FINANCING (TIF)

The urban renewal plan may provide for property and/or sales tax increment financing for the authority. If the plan includes provisions for property tax increment financing and if the renewal area contains existing or proposed residential uses, the school district within the urban renewal area must be allowed to participate in an advisory capacity with respect to the inclusion of this financing mechanism in the plan. It is recommended that the city provide notices, information and communication (meetings) with the school district, the council and other taxing districts regarding proposed redevelopment programs early in the process.

The property tax increment is determined by establishing the assessed valuation of the taxable property last certified prior to adoption of the plan within the urban renewal area as the base amount. The existing ad valorem property taxing entities (school district, county, fire district, water and sanitation district, etc.) continue to receive the taxes generated by their respective levies applied to that base assessed valuation. The taxes generated by the levy set by each taxing entity applied to any assessed valuation in excess of the base assessment is paid to the authority as increment. By this method, every other taxing entity can adjust the revenue it receives, and consequently the amount received by the authority, by varying its mill levy. The incremental revenues received by the authority are to be used for debt service and financial obligations of the authority. Upon payment of all debts and financial obligations of the authority or 25 years from the effective date of the utilization of property tax increment in the plan, whichever is earlier, all property tax revenues (base and increment) are to be paid to the respective property taxing entities (county, school district, etc).

The sales tax increment is determined by establishing the municipal sales tax revenues collected within the urban renewal area during the 12 months preceding the month the plan is adopted as the base amount. For each plan year thereafter, the city receives all sales tax revenue generated within the urban renewal area until it has received the base amount. Thereafter, for the remainder of the plan year, the authority receives the city's portion of the sales tax generated within the urban renewal area as the increment.

If property tax increment financing is used, all (100%) of the increment must be paid to the authority. If sales tax increment financing is used, the plan may provide that all or any portion of the municipal sales tax increment be paid to the authority. If there is a general reassessment of property or an increase in the sales tax rate, the base amounts must be proportionately adjusted.

The county assessor must be notified in writing of the utilization of property tax increment immediately following the approval of the plan by council.

O. TIF AND TABOR

In *Olson v. Golden*, 53 P.3d, 747 (Colo. App. 2002) the Court of Appeals ruled that the Golden Urban Renewal Authority "is not a local government and therefore not a district under TABOR". The court reasoned that urban renewal authorities do not share some of the characteristics of a "district" under TABOR, in that they have no power of taxation nor does the Urban Renewal Law, or any other state statute, provide any authority or means for elections by an authority or related to an authority, which are necessary under certain provisions of TABOR. The Colorado Supreme Court denied certiorari; therefore, this rule of law presently applies to all urban renewal authorities in Colorado.

P. EFFECTIVE DATES OF HB04-1203

Those portions of the new legislation that apply to urban renewal have two effective dates: 1) the relocation requirements apply to any property in an urban renewal area for which an eminent domain action is filed on or after July 1, 2004 and 2) the provisions relating to blight determinations and the process for utilization of eminent domain apply to findings of blight and establishment of an urban renewal authority and urban renewal area on or after August 3, 2004.

Q. LITIGATION/APPEAL OF BLIGHT FINDINGS

Under HB04-1203 only a property owner with a fee ownership whose property is within an urban renewal area may file a challenge under Rule 106(a)(4) in the district court within 30 days of council's determination of blight. However, contrary to the Civil Rules of Procedure under Rule 106, the city must prove a negative - that it did not abuse its discretion or exceed its jurisdiction. Further, the new legislation states that a determination of blight by council is a legislative matter (not a quasi-judicial matter which is consistent with a Rule 106 review).

If the property owner prevails, he/she is entitled to attorneys' fees.

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MEMORANDUM

TO: Lafayette Urban Renewal Authority Commissioners

FROM: Dave Williamson

DATE: July 6, 2015

RE: **2005 Urban Renewal Law Amendment (House Bill 15-1348)**

Near the end of the 2015 Colorado state legislative session, the Colorado General Assembly adopted House Bill 15-1348 (the "Act"), which amended provisions of the Colorado Urban Renewal Law. (C.R.S. Section 31-25-101 et seq.) The bill was hastily drafted and enacted, and as result contains numerous ambiguities that will most likely result in a further amendment in 2016. When Governor Hickenlooper signed the bill into law, he released a letter dated May 29, 2015, pointing out several of the further refinements to the bill that he felt must be addressed in the upcoming legislative session.

Several of the ambiguities in the bill are such that there is no consensus among municipal attorneys as to how the bill will be interpreted. Most significantly for the Lafayette Urban Renewal Authority is the question as to whether (or when) the bill will apply to effect the operations of LURA.

CONCLUSION

Unless and until there is a modification to Lafayette's existing urban renewal plan, or the adoption of a new urban renewal plan, House Bill 15-1348 will not directly impact the operations of the Lafayette Urban Renewal Authority. It may be wise to consider whether any modifications to Lafayette's existing plan should be implemented before the end of this year.

SUBSTANTIVE PROVISIONS OF HOUSE BILL 15-1348

House Bill 15-1348 addresses three primary substantive changes to the Urban Renewal Law. It (i) increases the number of urban renewal authority commissioners; (ii) requires a notice, negotiation and mediation process that must be utilized in the event that an urban renewal project proposes to use property tax increment as a means of financing urban renewal activities; and (iii)

provides for a rebate of excess property tax increment funds to the originating taxing entity in the event a refund is required.

(A) Number of Commissioners

House Bill 15-1348 increases the number of commissioners to 13, with “not fewer than 10 of whom must be appointed by the mayor.” Three commissioners are to be appointed by outside governmental entities – one by the county commissioners, one by the school district and one by special taxing districts that are located within the city limits. “A majority of the commissioners constitutes a quorum¹”

(B) Notice, Negotiation and Mediation

The primary substantive provision of the Act will extend the period of time required to implement urban renewal projects that rely on property tax increment financing. The bill requires that the city provide notice to the county and the various affected taxing entities of a proposed tax increment funded project, and that there be a negotiating period of up to 120 days with these entities to determine whether, and the extent to which, the tax increment funding should be shared. If there is no negotiated settlement, the Act requires mediation, although some attorneys suggest that it is really binding arbitration. As a practical matter, this general process is already utilized for most urban renewal authorities that have a plan that was placed into existence within the last 10 years or so.

(C) Return of Funds to Taxing Entity

The Act provides that in the event of a rebate of tax revenues by reason of TABOR or otherwise, there will be a prorate return of revenues to the taxing entity that would have otherwise originally generated the revenues.

APPLICABILITY OF H.B. 15-1348 TO LAFAYETTE

Subsection (2) of section 4 of HB 15-1348 provides that:

This act applies to:

- (a) Municipalities, urban renewal authorities and urban renewal authority plans created on or after January 1, 2016; or²

¹ The language of the statute does not specify whether a quorum is based upon a majority of the commissioners “in office” or a majority of the commissioners that are “authorized by law.” My initial research indicates that the quorum will be calculated by the number of commissioners “in office.” Thus, for example, if the outside entities do not appoint any commissioners and the mayor were to appoint three additional commissioners there would be 10 commissioners in office and a quorum would be six. However, because this remains ambiguous, and because, if the law applies, decisions that have significant adverse consequences (e.g., issuance of bonds) would be best authorized on the assumption that a quorum requires seven commissioners.

² Even the word “or” is problematic in determining the applicability of the statute.

- (b) Urban renewal plan amendments or modifications adopted on or after January 1, 2016, that include any of the following: any addition of an urban renewal project; an alteration in the boundaries of an urban renewal area; any change in the mill levy or sales tax component of any such plan, except where such changes or modifications are made in connection with refinancing any outstanding bonded indebtedness; or an extension of an urban renewal plan for the duration of a specific urban renewal project regardless of whether such extension or related changes in the duration of a specific urban renewal project require additional alteration of the terms.

The City of Lafayette, LURA, and Lafayette's current urban renewal plans were all created prior to January 1, 2016. Thus, there is no application of House Bill 15-1348 to LURA by virtue of (a) unless a new plan is adopted after January 1, 2016.

The interpretation of the applicability under subparagraph (b) is less clear. However, there is no applicability of the Act under (b) unless there is a "plan amendment or modification" that occurs after January 1, 2016. Even then, only certain plan amendments or modifications would trigger application of the Act.

Some confusion arises because of the lack of a clear definition of "urban renewal project." In my view, the Lafayette Urban Renewal Authority may continue its individual, specific projects without regard to House Bill 15-1348 so long as those individual "projects" do not require an amendment or modification of the existing plan. In the event that a plan amendment or modification is proposed after January 1, 2016, a specific analysis must be completed to determine whether such plan amendment or modification would implicate provisions of the Act.

Lastly, because the applicability of the law applies only to "plan amendments or modifications," that are adopted after January 1, 2016, LURA should be aware that plan modifications that are adopted in 2015 will not implicate House Bill 15-1348. I'm not sure there are any plan amendments currently being considered, but if there, the plan amendment process should be accelerated such that it is completed in this calendar year.³

Copy to Mayor and City Council, Gary Klaphake and Jenn Ooton.

³ The applicability language of House Bill 15-1348 does not distinguish between "substantial modifications" to the urban renewal plan versus other than "substantial modifications." The Urban Renewal Law provides for a different process if a proposed modification is "substantial." However, based upon the language of House Bill 15-1348, it appears that only substantial modifications would trigger application of the Act.

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MEMORANDUM

TO: City of Lafayette Mayor and City Council
City of Lafayette Planning Commission

FROM: Mary Lynn Benham, Assistant City Attorney

DATE: Monday, May 09, 2011

RE: **Quasi-Judicial Proceedings and Use of the Internet**

As Planning Commission makes the transition towards “paperless” meetings, we felt this would be an appropriate time to remind both Planning Commission and the City Council regarding certain prohibitions pertaining to quasi-judicial proceedings.

Both City Council and Planning Commission act in a quasi-judicial capacity when making land use decisions directed at a specific property or property owner, such as a rezoning or subdivision of property, or consideration of a site development plan for a property. Quasi-judicial actions usually require a determination of facts, and application of those facts to existing standards and policies. The party whose rights are directly affected by the quasi-judicial hearing is entitled to participate fully in the hearing process.

When City Council or Planning Commission is acting in its quasi-judicial capacity, its decision must be based *only upon evidence presented during the course of the public hearing*. The only exception to this rule is that you may consider matters that are commonly known to the public, such as “it is dark at midnight” or “Baseline Road has high traffic volumes”. This rule, established by the courts, further prohibits individual Councilors or Commissioners from investigating details of specific, quasi-judicial applications or pending matters outside the scope of the public hearing.

In particular, now that City Council and Planning Commission review documents electronically and utilize laptops during meetings, it is particularly important that you refrain from using the Internet—via your laptops or home computers—to access, investigate, or research information about a quasi-judicial application. You should not use the Internet to access such information during the public hearing or at any other time. This is to ensure that all Councilors or Commissioners have access to the same information, and to ensure fairness to the applicant and other interested parties.

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MEMORANDUM

TO: City of Lafayette Mayor and City Council
City of Lafayette Planning Commission

FROM: David S. Williamson, City Attorney
Mary Lynn Benham, Assistant City Attorney

DATE: Monday, May 09, 2011/Reviewed-updated April 4, 2016

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In the past, we have advised you that site visits and *ex parte* communications with applicants or interested parties (e.g., neighbors of a project) outside the context of a public hearing are prohibited. Moreover, if you have personal knowledge about an application that was obtained outside of the public hearing, you must disregard that information unless it is presented at the public hearing by one of the participating parties. (If you offer this information of your own accord, you risk becoming a witness and thus disqualifying yourself as a decision maker.)

Finally, City Council and Planning Commission should be aware that these same rules apply to future applications, *i.e.*, applications that are not formally pending with the City, but are reasonably anticipated to be filed with the City. You should exercise the same care to avoid actions that would impair your ability to act in a quasi-judicial, unbiased manner once the application is filed.

Please let us know if you have any questions.

cc: Gary Klaphake
Phillip Patterson
Karen Westover

**WINDHOLZ & ASSOCIATES
ATTORNEYS AT LAW**

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James A. Windholz, P.C.
David S. Williamson
William P. Hayashi

TELEPHONE: 303-443-3100
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MEMORANDUM

TO: Planning Commission, City of Lafayette

FROM: Dave Williamson

DATE: November 28, 2011

RE: **QUASI-JUDICIAL PROCEEDINGS/CODE OF ETHICS**

Quasi-Judicial/Legislative Actions

Typically, Planning Commission acts in either a quasi-judicial capacity or in an advisory/legislative capacity. Quasi-judicial matters involve a proceeding directed at a specific property or property owner, such as a rezoning or subdivision of property, or consideration of a site development plan for a property. Quasi-judicial actions usually require a determination of facts, and application of those facts to existing standards and policies. The party whose rights are directly affected by the quasi-judicial hearing is entitled to participate fully in the hearing process.

Legislative matters are those which apply generally to an entire class of properties or property owners, such as rezoning a large area of the City ("Comprehensive re-zoning") or amending the zoning code regarding density, use or other regulations that apply to an entire zone district. Generally, legislative matters establish the City's policies. Annexation, by its state legislative mandated procedures, is also legislative. Zoning/subdivision regulation changes, comprehensive re-zoning and street vacations are legislative actions.

Limitations/Differences in Procedures

When Planning Commission is acting in its **quasi-judicial capacity**, its decision must be based only upon evidence presented during the course of the public hearing. The only exception to this rule is that Planning Commission may consider matters that are commonly known to the public, such as "it is dark at midnight" or "Baseline Road has high traffic volumes".

Further, this rule established by the Courts, prohibits individual Commissioners from investigating details of specific, quasi-judicial applications or pending matters outside the scope of the public hearing.

A. Site Visits

For this reason, site visitations to real property that is the subject matter of any quasi-judicial proceeding before Planning Commission should be conducted in the context of the public hearing, with all members of Planning Commission viewing the property at the same time. This ensures that all members of Planning Commission have access to the same information. Therefore, if a site visit would be helpful to a determination in a quasi-judicial proceeding, arrangements should be made for the entire Planning Commission to visit the site at the same time. When a site visitation occurs, there should be no discussion regarding the application or the events of the matter before Planning Commission during the site visit other than very general descriptive matters or identification purposes (i.e., property lines, general location of streets, buildings, etc.).

Whenever a particular application for a quasi-judicial matter will be presented to Planning Commission, you should refrain from visiting the location on your own. This is not to say that you must go out of your way to avoid the site if you happen to drive by the location, but rather, you should simply not make any special efforts to view the property or otherwise educate yourself as to the application. Certainly you should not "walk" the property unless in the context of the public hearing.

B. Ex Parte Communications

Similarly, when ever you learn that a particular matter may come before you in a quasi-judicial capacity, you should refrain from talking to interested parties about the matter, except in the context of the public hearing when all parties are present and able to observe these communications. Accordingly, because neighborhood meetings on the pending application conducted by an applicant are not a part of the public hearing, you should not attend such meetings. If a citizen approaches you to discuss a pending application, you should advise that citizen that you can only consider information presented at the public hearing, and encourage them to defer discussing the matter until the hearing is conducted.

C. Personal Knowledge.

In the same vein, if you have personal knowledge about an application that was obtained outside the public hearing, you must disregard the information unless it is presented at the public hearing by one of the participating parties. (If you offer this information on your own accord, you risk becoming a witness and thus disqualifying yourself as a decision maker.)

Legislative matters, such as an annexation ordinance or comprehensive rezonings, do not have these restrictions. You may be lobbied, talk with constituents, view the property and discuss the matter amongst yourselves outside of the public hearing. (Caveat: Any discussions by 2 or more Commissioners about the business of the Planning Commission is considered a "public meeting, requiring compliance with the Colorado Open Meetings Law.)

Code of Ethics/Conflicts of Interest

The City's Code of Ethics is found in Chapter 42 of the Lafayette Code of Ethics, (which is attached) and applies to the conduct of the Planning Commission Members. The rules pertaining to conflicts of interest are found in the Code of Ethics. Particular attention should be given to the definitions that are found in the Code of Ethics.

A. Code of Ethics

The Code of Ethics sets out four specific, primary "Rules of Conduct" that apply to the Planning Commission they are:

1. Planning Commission members may not contract with the City unless the contract is awarded through a competitive bidding process with public notice. (Incidental contracts, as determined by City Council, or less than \$2,500, are exempted.)
2. Planning Commission members may not use any confidential information obtained by reason of their position in furtherance of any personal or financial interest. Confidential information may not be revealed to third parties without the necessary authority.
3. Planning Commission members may not, in their official capacity, solicit or accept gifts from any one donor if the value exceeds \$100 per year (subject to certain exceptions.)
4. Planning Commission members may not solicit or accept any gift, favor, etc., if the gift, favor, etc., is intended to influence your decision as a Planning Commission member.
5. Planning Commission members may not engage in "substantial financial transactions" with any person that is supervised by Planning Commission. Planning Commission members may not participate in any decision in which the Planning Commission member has a conflict of interest.
6. Planning Commission members may not represent third parties in proceedings before the Planning Commission. If a Planning Commission member has personal business, they may appear before the Planning Commission but only through an agent.

Additionally, the Code of Ethics contains a general provision against performing any act that gives rise to "an appearance of impropriety". (This is the catch all - "smell" test.)

B. Conflicts of Interest

The "conflict of interest" rule requires further attention. The rule requires Commission Members to refrain from **participating** in any matter in which they have a "financial or personal interest". (Check those definitions"!) You should remember:

1. "Financial interests" include not only matters in which you stand to gain financially, but also matters in which you, or your business competitor, stand to lose from a financial perspective. (e.g. A Commission Member who owns an interest in a hotel is prohibited from participating on an application for rezoning by a competing hotel; a Commission Member who is

also on the Board of Directors of a bank is prohibited from participating in the rezoning application of a business, if the competitor of the applicant/business has a loan with the bank.)

2. Financial interest prohibition extends to family members.

3. The "Personal interest" prohibition does not apply if your interest is substantially identical to others in the neighborhood (e.g. Personal Interest "Rule of Thumb" relating to notification area; other examples of "Personal Interests" subdivision application by your boss; rezoning application by your mother-in-law.)

C. Conflict of Interest v. the "Appearance"

Determining whether you actually have a conflict is sometimes difficult - - more difficult than recognizing that your participation creates an "appearance of impropriety". If you have doubts about whether an actual conflict exists, but there is probably an "appearance of impropriety", and the rules of conduct require that you recuse yourself.

D. Procedure when you have a conflict of interest or "appearance of impropriety".

1. Publicly declare the conflict of interest.

2. Refrain from participating, including efforts to influence other Board Members - - you must leave the room.

E. Violations of Code of Ethics

The Code of Ethics specifically provides that if a member violates any rule of conduct such violation shall be grounds for removal from office. Additionally, although not stated in the Code itself, violation of the Code of Ethics also subjects the final actions of the Planning Commission to reversal should an offended party appeal the action of the Planning Commission.

c: Karen Westover
Phillip Patterson

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2. Refrain from participating, including efforts to influence other Board Members - - you must leave the room.

E. Violations of Code of Ethics

The Code of Ethics specifically provides that if a member violates any rule of conduct such violation shall be grounds for removal from office. Additionally, although not stated in the Code itself, violation of the Code of Ethics also subjects the final actions of the Planning Commission to reversal should an offended party appeal the action of the Planning Commission.

c: Karen Westover
Phillip Patterson

WINDHOLZ & ASSOCIATES

ATTORNEYS AT LAW

1650 38TH STREET
SUITE 103 WEST
BOULDER, COLORADO 80301

James A. Windholz, P.C.
David S. Williamson
7835
William P. Hayashi

TELEPHONE: 303-443-3100
FACSIMILE: 303-443-

MEMORANDUM

TO: Mayor and City Council, City of Lafayette

FROM: Jim Windholz & Bill Hayashi

DATE: May 23, 2005

RE: COLORADO OPEN RECORDS ACT

In response to Council's inquiry requesting an overview of the Colorado Open Records Act (CORA) C.R.S. 24-72-201 et seq., we advise you as follows:

OVERVIEW

According to CORA, "public records" includes all writings of any type, made, maintained or kept by the City. All such records are to be open for inspection. Case law holds that CORA is to be interpreted broadly to favor disclosure and its exceptions are to be narrowly construed.

DEFINITIONS

Correspondence includes communications sent by mail, courier and electronic mail with the latter including any electronic message transmitted between two or more computers/terminals regardless of whether or not the message is converted to hard copy format, viewed upon transmission or stored for later retrieval.

Public records includes Councilor's correspondence, except for work product (Councilor's may release work product prepared for them), personal matters, correspondence from a constituent that by its nature and content the constituent reasonably expects to be confidential. Public records do not include constitutionally protected materials of a private nature such as intimate communications with a spouse, even if the communications occur while using a municipality's internet system.

Public records do not include work product, which is defined as materials that are deliberative in nature and generally assembled by staff for Council for the purpose of assisting Council in making decisions regarding City business. This includes notes and memoranda that provide background information and preliminary drafts and other pre-decisional materials or materials used to assist Council in its decision making process.

Work product does not include final versions of documents that express Council's final decision or materials that are merely comparisons of existing laws or ordinances, or explanations of general bodies of law, such as this memorandum.

INSPECTION REQUEST

Public records requests must be made to the official custodian of the records requested. The official custodian is the one responsible for the maintenance, care and keeping of public records. In accordance with the duties set forth in the Charter, the City Clerk serves as the City's official custodian. CORA provides that the official custodian may establish rules regarding the inspection of records as necessary to protect the records and to avoid unnecessary interference with the operation of the custodian's regular duties. Case law has interpreted this to mean that the custodian may also establish research, retrieval and copying fees.

If the City Clerk has custody of any Councilor's correspondence, upon receipt of a request for such correspondence, the Clerk must consult with the Councilor prior to allowing inspection of the record.

Records which are readily available, such as a current ordinance, must be provided upon request. If the record is not readily available, the custodian must have such records available for inspection within three working days after receipt of a request. CORA provides that the three day period may be extended to seven working days if extenuating circumstances exist. Extenuating circumstances are limited to situations where the request is so broad and without specificity that it encompasses all or substantially all of a large category of records that the request cannot be fulfilled in three days, or where the custodian's office must devote all or substantially all of its resources to an impending deadline, or where the request is so voluminous that the request cannot be fulfilled without substantially interfering with the custodian's regular duties.

There is also recent case law which provides that a custodian cannot be subject to sanctions although the records are not provided within seven working days if it is physically impossible to retrieve the records within such time.

DENIAL OF INSPECTION

The custodian shall deny inspection where it is contrary to any state statute (i.e., state statute specifically provides that records of executive session are not disclosable), federal law or regulation or court order. The custodian shall also deny, unless otherwise required by law, inspection of personnel files (excluding applications, employment contracts,

performance ratings and compensation) letters of reference, trade secrets, addresses, telephone numbers and personal financial information of past or present users of public utilities and services including recreational and cultural services, records submitted on behalf of candidates for city administrator who are not finalists for the position, contents of real estate appraisals prepared for the City relative to the acquisition of property, specialized details of security arrangements or investigations and documents protected under the "deliberative process privilege". This privilege, which is similar to work product, is to protect documents such as staff memos, draft contracts and Councilor comments which are so candid or personal that disclosure would stifle honest and frank discussions necessary to develop and implement City policy.

CHALLENGE OF DENIAL

If the custodian denies inspection, such inspection should be in writing and cite the applicable law upon which access is denied. Any person denied access to a record may, after having provided the City three days prior written notice, bring an action in Boulder County District Court requesting that the judge order release of the requested records. If the court finds the denial was improper it will order the custodian to permit inspection and the applicant shall be awarded costs and reasonable attorney fees. If the court finds denial was proper it shall only award the custodian costs and attorney fees if it finds the action to be frivolous or groundless.

The statute also provides that if the custodian reasonably believes that disclosure, although not prohibited, would do substantial injury to the public even if the record is otherwise subject to release (Columbine autopsy reports), or if the custodian cannot in good faith after exercising reasonable diligence determine whether the record is subject to disclosure, then the custodian may petition the Boulder County District Court for a decision as to whether the record is subject to public inspection.

Regardless of the court's decision, so long as it finds that the custodian acted in good faith after exercising reasonable diligence, it will not award costs and attorney fees against the custodian.

Finally, please be advised that this memo is to serve as a general overview of the open records law. Any specific question should be directed to our attention.

c: Gary Klaphake
Bonnie Star
Susan Koster

WILLIAMSON & HAYASHI, LLC
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BOULDER, COLORADO 80301

DAVID S. WILLIAMSON
WILLIAM P. HAYASHI

Telephone: 303-443-3100
Fax: 303-443-7835

MEMORANDUM

TO: City Council, Boards, and Commissions of the City of Lafayette

FROM: Dave Williamson

DATE: September 10, 2008

RE: **ELECTRONIC COMMUNICATIONS/OPEN MEETINGS
AND OPEN RECORDS**

The Boulder Valley School District was recently sued under the Colorado Open Meetings Act as a result of the e-mail practices of its members. In response to recent inquiries for an update regarding open meetings and electronic communications among City Council, boards, and commissions, please be advised as follows:

OPEN MEETINGS

The Open Meetings Law, C.R.S. §§ 24-6-401 - 402, which purports to apply to home-rule municipalities, applies to all meetings of local public bodies. The purpose of the Open Meetings Law is to ensure that public policy formation and public business are not conducted in secret, and to allow public access to meetings at which public business is discussed by local public bodies.¹

The statute defines "local public body" to include any board, committee, commission, authority, advisory body, policy-making body, rule-making body, or any body to which a local government or its official has delegated or appointed decision-making functions.² This broad definition includes the City Council, as well as all boards, commissions and task forces appointed by the Lafayette City Council.

"Meetings" are defined by the statute as "any kind of gathering convened to discuss public business, in person, by telephone, *electronically*, or by other means of communication"³ (emphasis added). All meetings of *three or more* members of the City Council or local board or

¹ C.R.S. § 24-6-401; *Bd. of County Comm'rs v. Costilla County Conservancy Dist.*, 88 P.3d 1188 (Colo. 2004).

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commission at which *any public business is discussed or formal action is taken* are declared public meetings for which notice must be provided and, except for executive sessions authorized by law, the public is permitted to attend.⁴ Case law holds that public “meetings” may occur even at impromptu gatherings and events other than regularly scheduled meetings. Moreover, the Open Meetings Law specifically provides that if Council, board, or commission members use electronic mail to “discuss pending legislation or other public business amongst themselves,” the electronic mail may be treated as a public meeting.

One of the requirements of the Open Meetings Law is that minutes must be kept of any public meeting at which adoption of any proposed policy, rule, regulation or formal action occurs or could occur (e.g., any meeting of Council, a board, or a commission where a formal action may be made) and the minutes must be available for public inspection.

Any citizen who believes that Council, or a board, or a commission have not complied with the Open Meetings Law may seek injunctive relief from the court for an order requiring compliance. If the court finds a violation, the citizen shall be awarded costs and reasonable attorneys’ fees.

OPEN RECORDS

It is the public policy of the state that all public records shall be open for inspection. Colorado Open Records Act (CORA), C.R.S. 24-72-201 et seq. Public records include all writings made, maintained or kept by the City “for use in the exercise of functions required or authorized by law or administrative rule or involving the receipt or expenditure of public funds”. Importantly, note that public records also include “correspondence” (including electronic mail even if the message is not viewed upon receipt, but stored for later retrieval) of public officials.

Public records do *not* include: correspondence without a demonstrable connection to public business; communication from a citizen or elected official’s response that clearly implies by its content the citizen expects confidentiality; work product (drafts of documents) or other records such as contents of real estate appraisals, details of security operations and personal financial information of public utility users otherwise protected by CORA.

With respect to correspondence between councilors, and members of boards and commissions, such correspondence is a public record if it is through the City electronic mail system or stored on the City’s intranet, for example, and the subject matter is demonstrably connected to public business. Members of City Council, boards, and commissions should be aware that their electronic and other written communications regarding public business are likely to be considered public records even if transmitted over private computers and via private internet providers.

Any person may request to inspect public records; and, if denied access, may petition the Boulder County District Court for release of the records. If the court finds denial of inspection improper, it shall award the person who has filed the action court costs and attorney’s fees.

⁴ C.R.S. § 24-6-402(2) (b).

ANALYSIS/LEGAL OPINIONS/RECOMMENDATIONS

We understand that members of Council, and of boards and commissions, often communicate by electronic mail. As an initial point, absent one of the exceptions stated above, such communications, regardless of whether sent and received via a City or personal e-mail address, are public records.

When two or more members of City Council or of a board or commission respond to an e-mail from another member, a public meeting has occurred and the requirements of the Open Meetings Law (i.e., notice, opportunity for public attendance, etc.) are applicable. (Again, the law specifically excludes from the open meeting requirements e-mails exchanged among elected officials that *do not relate to public business*.⁵) Minutes may or may not be required. If there is no response by a member to another member's e-mail, there is no public meeting, although the initial e-mail is a public record. Although neither state statute nor case law addresses the issue of whether the e-mail communications must be contemporaneous, as with instant messaging, chat rooms, e-mail to LISTSERVs, or other means of electronic communication, it is our opinion that the City Council and the City's boards and commissions should broadly interpret these legal requirements. Courts hold that the Open Meetings Law is to be interpreted to favor public participation, and the state law specifically recognizes that meetings may occur by e-mail.⁶

It does not appear that proximity of *time* with respect to the exchange of e-mail messages is necessarily determinative to whether a public meeting has taken place. The determinative factor is simply whether three or more public officials or members of a board or commission are participating in the e-mail exchange and that public business is *discussed* in the e-mail messages. In other words, it would be difficult to successfully argue that e-mail exchanges among three or more board members, for example, are outside of the open meeting requirements simply because the e-mails were exchanged over a period of time. However, the time period over which the exchange took place would be one factor in determining whether or not there was a "discussion." This same analysis is likely to be applied to other types of electronic communications, such as blogging, instant messaging, chat rooms, LISTSERV messages, etc.

While there is no Colorado case law addressing these issues directly, courts in other states have considered e-mail communications as open meetings. For example, the Nevada Supreme Court held that a "public body using serial electronic communication to deliberate toward a decision or to make a decision on any matter over which the public body has supervision, control, jurisdiction or advisory power violates the Open Meeting Law." *Del Papa v. Board of Regents of University and Community College System of Nevada*, 956 P.2d 770, 778 (Nev. 1998). And, in Washington, the court of appeals made a distinction between the "passive receipt of information by e-mail" and the "active discussion of issues" by e-mail. *Wood v. Battle Ground School Dist.*, 27 P.3d 1208, 1217 (Wash. App. 2001). If Colorado follows the holding in the Washington case, a distribution by e-mail of information regarding public business to public officials from another public official is not a public meeting so long as it is only passively received. However, once there is a responsive e-mail sent to the other recipients, the

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communication becomes a public meeting subject to the notice, citizen attendance, and minutes requirements of the Open Meetings Law.

This leads to the conclusion that if three or more members of City Council or of a board or commission exchange e-mails, correspond in a chat room or via instant messaging, or engage in some other method of electronic communication, concerning a topic of public business, such exchanges should be deemed a public meeting. Given the practical difficulties in providing the required notice, allowing for citizen participation, and keeping minutes in such situations, we recommend that the City Council and the City's boards and commissions refrain from engaging in this practice.

Instead, perhaps Council, board and commission members who desire to respond should either wait until the next meeting or just telephone the other member and speak with him/her one-on-one. Please note that if a conference call ensues involving three or more members, the call would be a public meeting subject to the Open Meetings Law notice, participation and minutes requirements.

A concern has been raised that the threshold for inadvertently convening a public meeting, particularly in the context of an electronic public forum such as an online "blog" or "bulletin board," will deprive a second or third Council, board or commission member of their Constitutional rights to express their opinions as to public matters. The fear is that if a Council/board/commission member responds to a public issue in a public forum, another Council/board/commission member will not be able to respond for fear of creating a public "meeting." I do not read the Open Meetings Law so broadly. Certainly a second, third, or fourth Council/board/commission member can express their opinion in the public forum. In my opinion, the "public meeting" line is crossed when the Council/board/commission member "opinions" are not directed at the issue at hand, but rather the statements and opinions of the other Council/board/commission members. I believe a court would look to see if a "discussion" of city business is going on, as compared to merely and expression of an opinion on a matter of public concern.

In sum, to ensure compliance with the Open Meetings Law and CORA, we recommend that City Council and the City's boards and commissions consider their practices to ensure compliance with the laws as described above.

Copy to: Gary Klaphake
Department Heads

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DAVID S. WILLIAMSON
WILLIAM P. HAYASHI

Telephone: 303-443-3100
Fax: 303-443-7835

MEMORANDUM

TO: City Council, Boards, and Commissions of the City of Lafayette

FROM: David S. Williamson, City Attorney

DATE: September 10, 2008/Reviewed-updated April 4, 2016

RE: **ELECTRONIC COMMUNICATIONS/OPEN MEETINGS
AND OPEN RECORDS**

The Boulder Valley School District was recently sued under the Colorado Open Meetings Act as a result of the e-mail practices of its members. In response to recent inquiries for an update regarding open meetings and electronic communications among City Council, boards, and commissions, please be advised as follows:

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In sum, in regard to the Open Meetings Law and CORA, we recommend that City Council and the City's boards and commissions consider their practices to ensure compliance with the laws as described above.

Copy to: Gary Klaphake
Department Heads

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MARY LYNN BENHAM

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CONFIDENTIAL/ATTORNEY- CLIENT COMMUNICATION

MEMORANDUM

TO: Mayor and City Council

FROM: Dave Williamson

DATE: January 25, 2010

RE: **Executive Sessions – Confidentiality Requirements**

I have been requested to address Council regarding the confidentiality requirement that is associated with the conduct of executive sessions. More particularly, I intend to provide guidance as to the application and limits of the confidentiality requirement.

Legislative Background

City Council may meet in executive session only for the purpose of discussing specific categories that are authorized under the **Colorado Open Meetings Law**. (Section 24-6-402, C.R.S.) The most commonly used areas that allow an executive session are (1) conferring with an attorney for purpose of receiving legal advice on specific legal questions; (2) developing negotiating positions, strategies and instructions to negotiators; and (3) to discuss personnel matters.¹

The **Lafayette Code of Ethics** (found at Chapter 42 of the City's Code) specifically addresses Council's obligation with respect to any confidential information discussed in executive session. Section 42-3 (a) (2) b. specifically prohibits "Board Members" (which include City Council members) from disclosing any "confidential information" unless disclosure is authorized by a 2/3rds vote. Subsection a. of the same ordinance prohibits board members from using any "confidential information" in furtherance of a personal or financial interest. The Code of Ethics defines "confidential information" as:

¹ Additional areas that are appropriate for executive session, but which are not as common include (1) discussion of specialized details of security arrangements for investigations; (2) matters required to be kept confidential by federal or state law; and (3) a consideration of documents protected by the Open Records Act. A separate category relating to the purchase, acquisition and lease of real and personal property is also available; however, it is usually covered with the negotiation exception.

Any information that is not available to the general public, or is deemed confidential in accordance with local, state or federal law, and which is obtained by reason of a board member or employee's official position or under circumstances by which a reasonable person could anticipate that such information not be disclosed. *Confidential information shall include all matters discussed in executive session; however, information otherwise available to the general public does not become "confidential" merely because it was discussed in executive session. (Emphasis provided.)*

The "general public knowledge" exception sometimes gives rise to differences in opinion as to what matters can be discussed by Council members outside of the executive session.

The **case law** in Colorado has recognized that the *confidentiality* of the executive session cannot be waived by a single council member; it can only be waived by the action of the council as a body. Typically, this requires a majority vote of Council; however, in Lafayette the specific provisions of Section 42-3 (a) (2) b. require a 2/3rds vote.

The last legal concept that bears on the issue is that City Council is the policy making board and is to refrain from directly interfering with the administrative details of the operation of the City. This legal concept is imbedded in Section 4.6 of the City's Charter wherein the City's Administrator, Attorney, Clerk and Treasurer are designated as the "administrative officers" of the City, and Sections 5-20, 21 and 22 of the Municipal Code setting out the powers and duties of the City Administrator and addressing the relationship between the City Administrator, Department Heads and City Council.²

Limits of the "Confidentiality"

The concept that matters of "general public knowledge" are not made "confidential" merely because they are discussed in executive session often raises questions as to the extent to which Council members may carry on discussions regarding those matters outside the executive session. Matters of "general public knowledge" is not specifically defined. In my view, Council should start from the proposition that if there is any doubt, the matter should be treated as "confidential" and not subject to the "general public knowledge" exception.

Having said this, I think it is helpful to look at this issue by reference to the purpose for which the executive session is called.

(a) *Personnel Matters.* Because personnel matters involve the rights of specific third parties and because improperly revealing any confidential personnel matters can lead to significant City liability, Council should be extremely cautious in revealing any information pertaining to personnel matters, including information that is clearly "public knowledge." In the absence of a legally binding waiver by the affected third party, disclosing personnel information, even after authorization pursuant to a two-thirds vote of Council to waive the confidentiality requirement, would be inadvisable as it could lead to potential violation of a third party's rights and potential liability to the City.

² Section 6.8 of the Charter specifically authorizes Council to inquire and investigate as to the conduct of any department, office or officer. However, I do not read that section of the Charter as extending to authorize Council with respect to day-to-day administrative matters.

(b) *Legal Advice.* The scope of matters that fall within the “legal advice” category for executive session matters is extremely broad. Likewise the implications to the City of breaching the confidence associated with legal advice is broad and may differ widely depending upon the nature of the specific matter. Because such legal advice is derived from the City’s attorneys, it is highly unlikely that the “general public knowledge exception” would justify outside discussion. Given the breadth of implications associated with revealing confidential legal advice, and in order to foster open communications between Council and its legal advisors, there should be a clear understanding between Council members as to when specific legal advice can be disclosed.

(c) *Advising Negotiators.* Executive sessions associated with negotiations are likely the most problematic as they relate to the “general public knowledge” exception. Whether or not the subject matter of the executive session, and more importantly the “details” of the subject, is general public knowledge depends, of course, on the subject of the negotiations.

The primary purpose of allowing instructions to negotiators as a subject of executive session pertains to the competitive disadvantage to the City if a negotiation strategy and authority is available to the party contracting with the City. Council should bear this in mind in connection with these executive session matters. The legal precept that City Council should not interfere with the administrative details of the operation of the City is very important. Council should not interfere with the negotiation process other than to direct the parameters for its negotiators. Any direct contact with third parties could impact the ability of the City’s negotiators to fulfill their function. In many cases, even the identity of the party with whom the City is negotiating may not be “public knowledge” and is, therefore, confidential. (A good clue is whether the party is named in the motion to go into negotiations.) In such cases, any communications between individual Council members with those parties, which touches on the discussion in executive session pertaining to the party, could interfere with negotiations and constitute a breach of the executive session confidentiality. The potential for negative impact on the City’s ability to negotiate is not affected whether the contact was initiated by the Councilmember or the party with whom the City is negotiating.

At some point negotiation results become “public knowledge.” This typically occurs when a contract is negotiated within the parameters provided during the executive session. At this point, unless otherwise directed by Council in executive session, the assumption is that the matter will be placed before Council on the “public” agenda in conjunction with the formal approval process. The proposed agreement becomes “public” when announced to the public, however, the discussions that occurred in executive session leading to the agreement remain confidential, unless formally waived by a 2/3rds majority of Council.

Conclusions

There is, to a certain degree, a “common sense” approach that must be utilized when discussing with third parties matters that have been touched upon in executive session. The “common sense” approach requires consideration of the purposes that justify the executive session in the first instance. However, the best rule, if in doubt, is to refrain from discussing aspects of executive session matters unless the confidentiality has been formally waived or the matter has clearly become “public knowledge.”

Should Council have specific questions, please feel free to contact me. If you wish, we can discuss these issues further either in open session (in a generic discussion), or in executive session as this involves specific advice from legal counsel.

Copy to Gary Klaphake, Phillip Patterson

Chapter 42 - CODE OF ETHICS^[1]

Footnotes:

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Editor's note—Section 1 of Ord. No. 2008-19, adopted May 20, 2008, amended ch. 42 in its entirety to read as herein set out. Former ch. 42 pertained to the same subject matter and derived from Ord. No. 2000-38, adopted Oct. 17, 2000.

Sec. 42-1. - Purpose.

- (a) The purpose of this chapter is to promote public confidence in the city government, to maintain conformity with the provisions and intent of the City Code and Charter and to provide guidance in the event of real or potential conflicts of interest to the city employees and members of the city council and to the boards, commissions, committees and other authorities operating on behalf of the City of Lafayette. This chapter is intended to foster public trust by defining the parameters of honest government and by prohibiting the use of public office for private gain.
- (b) While it is critical that board members and employees follow both the letter and spirit of this chapter, it is equally important that they strive to avoid situations that may create public perceptions of violations of this chapter. Perceptions of such violations can have the same negative impact on public trust as actual violations.
- (c) To the extent matters addressed in this chapter are also addressed in state law, it is the intent of the city council that, pursuant to Lafayette's home rule powers, the provisions of this chapter shall control.

(Ord. No. 2008-19, § 1, 5-20-08)

Sec. 42-2. - Definitions.

The following terms and words, for purposes of this chapter, shall have the meanings indicated:

Appear on behalf of shall mean to act as a witness, advocate, or expert or otherwise to support the position of another person.

Board shall mean the city council, the planning commission, the board of adjustment and any other board, commission, committee, authority, and any other advisory, policy-making, rule-making, or formally constituted body of the City of Lafayette.

Board member shall mean a member of any board, including regular and alternate members and the mayor, but does not include any full-time or part-time city employee, unless the employee is also a board member.

Business shall mean any corporation, limited liability corporation, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

Confidential information shall mean any information that is not available to the general public or is deemed confidential in accordance with local, state or federal law, and which is obtained by reason of a board member or employee's official position or under circumstances by which a reasonable person

could anticipate that such information not be disclosed. Confidential information shall also include matters discussed in executive sessions; however, information otherwise available to the general public does not become "confidential" merely because it was discussed in executive session.

Conflict of interest shall mean a personal or financial interest of a board member or employee that interferes with or influences or may interfere with or influence the performance of his or her duties on behalf of the city. Conflict of interest does not include a personal or political bias which does not inhere to a personal or financial interest, as defined in this code, of a board member or employee.

Contract shall mean any arrangement or agreement pursuant to which any land, material, service or other thing of value is to be furnished to the city for a valuable consideration to be paid by the city or sold or transferred by the city.

Council or city council shall mean the city council of the City of Lafayette.

Employee shall mean any temporary or permanent employee of the city, including the city attorney and the municipal judge, but does not include council members.

Family shall mean any employee's or board member's parents, siblings, spouse and children and the spouse of any of them.

Financial interest shall mean a substantial interest held by an employee or board member that is:

- (1) An ownership of securities of a corporation, or of any beneficial interest in a partnership or firm, the aggregate amount of which securities or interest owned by the employee or board member and the employee's or board member's family is five (5) percent or more of any class of securities of such corporation or five (5) percent or greater ownership in such partnership or firm.
- (2) A creditor interest in an insolvent business;
- (3) An employment or a prospective employment for which negotiations have begun, or a contractual relationship that directly relates to a matter under consideration;
- (4) An ownership interest in real or personal property;
- (5) A loan or any other debtor interest; or
- (6) A directorship or officership in a business.

Official action shall mean any vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.

Personal interest shall mean a direct or indirect interest, not shared by the general public, having value peculiar to a particular employee or board member, whether or not the value is related to monetary, financial, commercial, or property matters, which value may accrue to such employee or board member or result in such employee's or board member's deriving or potentially deriving a personal benefit as a result of the approval or denial of any ordinance, resolution, order or other official action, or the performance or nonperformance thereof, by a public servant. Personal interest does not include any matter in which a similar benefit is conferred to all persons or property similarly situated to that of the employee or board member.

(Ord. No. 2008-19, § 1, 5-20-08)

Sec. 42-3. - Rules of conduct for board members and employees.

(a) The following shall apply to all board members and employees:

(1) *Contracting with the city.*

- a. No board member shall have any direct or indirect financial interest in any contract with the city unless the contract is awarded through a process of public notice and competitive bidding as provided in the City of Lafayette's Code of Ordinances or city policies, rules, or regulations, and the board member complies with all relevant procedures prescribed in section 42-4. Any such contract entered into in violation of the prohibition of this subsection shall be void.
- b. Employees may have a direct or indirect financial interest in a contract with the city, but only if the subject matter of the contract is (i) unrelated to the employee's official duties; and (ii) the financial interest is disclosed in the contract. Any such contract entered into in violation of the prohibition of this subsection shall be void.
- c. The prohibitions of this subsection shall not apply to any contract determined by the council to be an incidental transaction. Transactions of two thousand five hundred dollars (\$2,500.00) or less shall be considered to be of an incidental nature. Transactions of greater value shall be handled on a case-by-case basis.

(2) *Confidential information.*

- a. No board member or employee may use any confidential information in furtherance of any personal or financial interest or the personal or financial interest of any other person, unless such information is obtainable by the public at large.
- b. No board member or employee may disclose to third parties any confidential information, unless authorized to do so by a 2/3 vote of the applicable board.

(3) No board member or employee, in his or her official capacity, may solicit or accept from any one donor a present or future gift, favor, loan, service, honorarium, or thing of value, whose cumulative value is more than one hundred dollars (\$100.00) per annum, or under circumstances that would lead a reasonably prudent person to believe that such gift, favor, loan, service, honorarium, or thing of value was made or given primarily for the purpose of influencing or attempting to influence such board member or employee in connection with an official act, or as a reward for official action he or she has previously taken. This prohibition shall not apply to:

- a. Acceptance of food and refreshment at conferences, seminars, training sessions, luncheon and dinner meetings, special occasions and other instances in conjunction with city business.
- b. Admissions to conferences, seminars, training sessions, cultural events, award ceremonies, or conventions related to or in connection with city business.
- c. Campaign contributions reported under the Fair Campaign Practices Act.

(4) No board member or employee may solicit or accept from any person or entity a present or future gift, favor, loan, service, honorarium, or thing of value whatsoever, if the gift, favor, loan, service, honorarium, or thing of value was made or given for the purpose of influencing or attempting to influence such board member or employee in connection with an official act, or as a reward for official action which he or she has previously taken.

(5) No board member or employee shall engage in a substantial financial transaction for his or her private business purposes with a person whom he or she inspects or supervises in the course of his or her official duties.

- (6) No board member or employee shall perform an official act that directly and substantially affects to its economic benefit a business or other undertaking in which such board member or employee has a substantial personal or financial interest or that directly and substantially affects to its economic detriment any business or other undertaking when such board member or employee has a substantial personal or financial interest in a competing business or undertaking.
- (7) No board member or employee, during his or her term with the city, may appear or be affiliated with a firm appearing concerning any transaction with the city, except under the following circumstances:
 - a. An employee or board member may appear on his or her own behalf, or through an agent, before any board of which he or she is not a member. A board member may appear on his or her own behalf, but only through an agent, before the body of which he or she is a member, if the board member follows the procedure prescribed by section 42-4 below.
 - b. An employee or board member, other than a member of the city council, may appear on behalf of another person before any board except the body of which the board member is a member. A city council member may appear on behalf of his or her spouse, parents, children, brothers, sisters, parents-in-law, grandparents, grandchildren, and children-in-law before any board except the city council.
- (b) The following shall, in addition to subsection (a) above, apply to all members of the city council:
 - (1) During his or her term of office, no member of the council, including the mayor, shall be a salaried employee of the city, except as a council member.
 - (2) A member of the council may be affiliated with a firm appearing on behalf of or employed by another person concerning any transaction with the city before the council if the council member follows the procedures prescribed by section 42-4 below.
 - (3) If a newly elected or appointed member of the council, including the mayor, finds himself or herself in violation of any portion of this chapter, he or she shall have forty-five (45) days after his or her election or appointment to either divest himself or herself from the personal or financial conflict or to resign from the council.

(Ord. No. 2008-19, § 1, 5-20-08)

Sec. 42-4. - Voting prohibited in certain instances.

- (a) No board member may vote on any matter before the board if the board member has a conflict of interest as defined above. On such a question, the member shall disclose the nature of the conflict of interest to the board prior to abstaining from voting. If the member requests the remaining members to determine whether the member has a conflict of interest, the remaining members shall determine, by motion adopted by the affirmative vote of a majority of the remaining members, whether a conflict of interest exists. Such motion shall state the basis of the determination and shall be conclusive of the question of whether a conflict of interest exists.
- (b) When a board member is precluded from voting on a matter because of a conflict of interest, then the board member shall physically remove himself or herself from the board and the room in which it is meeting, and shall refrain from attempting to influence the decisions of the other members of the board of which the person is a member. After the board has completed consideration of the matter, the board member may return and resume his or her duties as a member of the board.
- (c)

As soon as a board member determines that he or she has a conflict of interest on any matter before the board, then he or she shall immediately refrain from attempting to influence the decision of the other members of the board of which he or she is a member.

(d) No board member shall vote on any question concerning the member's own conduct.

(Ord. No. 2008-19, § 1, 5-20-08)

Sec. 42-5. - Voting required/quorum.

- (a) Except as provided in the Charter or this chapter, and except when recusal is required by reason of constitutional "due process" considerations, each board member who is present at a meeting shall vote when the question is called. Any board member who refuses to vote, except when required to abstain, shall be deemed guilty of misconduct in office.
- (b) While acting in a quasi-judicial capacity, Board members shall refrain from conduct that would require their disqualification from participation.
- (c) If board members are disqualified from voting pursuant to the provisions of this Chapter, and such disqualification causes the board to lose its quorum on the matter before the board, the matter shall be tabled until the next meeting at which a sufficient number of qualified board members are present to constitute a quorum. In the event that the number of disqualifications are such that tabling the matter will not result in a quorum of qualified board members, the quorum necessary to conduct that item of business shall be adjusted to consist of at least fifty percent of those members not disqualified .

(Ord. No. 2008-19, § 1, 5-20-08)

Sec. 42-6. - Duties of the city attorney.

- (a) Any employee or board member may request the city attorney for an advisory opinion whenever a question arises as to the applicability of this chapter to a particular situation.
- (b) Any person alleging that a board member has violated any provision of this chapter shall file a written complaint of such alleged violation with the city administrator, who may at his discretion refer the complaint to the city attorney. The city council hereby appoints the city attorney, pursuant to section 6.8 of the Charter, to inquire into said allegations. The city attorney shall make appropriate investigation and shall, within a reasonable time after receiving a written complaint, make a written finding as to whether there is probable cause to believe that this chapter has been violated. The city attorney shall provide a copy thereof to the city council, the complainant, and the board member in question. The City Attorney's finding that "probable cause" exists does not constitute a finding that a violation has in fact occurred. Rather, a finding of "probable cause" means that there is a reasonable basis to believe the underlying facts are true, and if found to be true by the subsequent decision maker, could constitute violation of this Chapter. If the city attorney determines that probable cause exists, then the matter shall be referred to the city council for further proceedings, pursuant to section 42-7. Nothing in this subsection (b) shall limit the authority of the city administrator to investigate the conduct of and discipline employees.
- (c) Should the city attorney at any time determine that he or she has a conflict of interest in carrying out the duties of this section, the city attorney may, in his or her sole discretion, appoint special counsel to undertake such duties, and such appointment is hereby deemed to comply with the requirements of sections 4.9(f) and 4.10 of the Charter, otherwise requiring approval of the council for the appointment of special legal counsel.

(Ord. No. 2008-19, § 1, 5-20-08)

Sec. 42-7. - Violations and penalties.

Any board member or employee who violates any provisions of this chapter shall be subject to the following:

- (a) If a violation by any member of the council is established to the satisfaction of a majority of the council, the violation shall be grounds for an official reprimand by the council. Provided, however, that if such violation constitutes statutory grounds for the removal of a city officer, or constitutes an act declared by the Charter to constitute misconduct in office, the violation shall be grounds for removal from office.
- (b) If a violation by any board member other than a council member is established to the satisfaction of a majority of the council, the violation shall be grounds for removal of the board member from the board of which he or she is a member. If the council votes to remove a board member from a board, there shall exist a vacancy on such board that shall be filled as provided by applicable law.
- (c) If a violation by any employee is established by the city administrator, the violation shall be grounds for discipline up to and including termination.

(Ord. No. 2008-19, § 1, 5-20-08)

Sec. 42-8. - Exemption.

Nothing in this chapter shall be deemed to apply to an employee or board member, other than a member of the council, who appears before a board to urge action on a policy or issue of a general civic nature.

(Ord. No. 2008-19, § 1, 5-20-08)