

**CITY OF LOVELAND
PLANNING COMMISSION MINUTES
August 27, 2012**

A meeting of the City of Loveland Planning Commission was held in the City Council Chambers on August 27, 2012 at 6:30 p.m. Members present: Chairman Meyers; Vice Chairman Middleton; and Commissioners Molloy, Dowding, Crescibene, Krenning and Leadbetter. Commissioners Absent: Fancher and Ray. City Staff present: Kerri Burchett, Current Planning; Alan Krcmarik, Executive Economic Advisor; Dave Klockeman, City Engineer; Robert Paulsen, Current Planning Manager; Judy Schmidt, Deputy City Attorney.

These minutes are a general summary of the meeting. For more detailed information, audio and videotapes of the meeting are available for review in the Community Services office.

COMMISSIONER COMMENTS

There were no comments.

STAFF MATTERS

Current Planning Manager Robert Paulsen commented that the Planning Commission has been invited to a joint study session with the City Council on October 9th to continue the discussion on oil and gas regulations. He stated there are items scheduled for the September 10th and September 24th Planning Commission meetings, and that staff will be scheduling a study session with the Planning Commission in October to review Title 16 and Title 18 code amendments.

CITIZEN REPORTS

There were no citizen reports.

COMMITTEE REPORTS

There were no committee reports.

REGULAR AGENDA

1 Zoning Board of Adjustment Findings 2012

This item was an informational report from the ZBA hearing officer on the 2012 variance decisions.

1 **Commissioner Crescibene**, who also serves as the Zoning Board of Adjustment Hearing
2 Officer, gave a brief report on the four variance applications heard to date in 2012. He noted that
3 all but one of the variances was approved.

4
5 **Vice Chairman Middleton** inquired as the final outcome of the denial of Variance #12-01.

6
7 **Commissioner Crescibene** reported that following denial of the variance, the carport structure
8 was removed.

9
10 **2. Development Permitting Process Flowcharts for Residential and Non-Residential**
11 **Development**

12
13 This item was an informational review of the recently developed process flowcharts that map the
14 City's development permitting process from initial application to certificate of occupancy.

15
16 **Kerri Burchett, Current Planning**, reported that staff is presenting the process flowcharts to
17 the Planning Commission for informational purposes and that any direction or comments will be
18 forwarded to the Title 18 Committee for consideration prior to the completion of code
19 amendments to Chapter 16.40 of the subdivision code. Ms. Burchett also indicated that staff
20 would initiate an outreach effort to inform development community members of the charts and
21 associated code amendments.

22
23 **Ms. Burchett** stated that the City's Development Review Team (DRT) went through a mapping
24 process and then created flowcharts to provide to applicants to help them understand the various
25 sequencing of the development review, site inspection and building permit process. Specifically,
26 with the purpose of providing clear benchmarks for the timing of site improvements, financial
27 securities, and building permit submittals. She stated that by going through this process the DRT
28 was able to identify areas that could be more efficient, clarify responsibilities of each
29 coordinating City division, and evaluate the financial security component to determine what
30 items required financial security and when that security was truly needed by the City.

31
32 She stated that the next step would be to draft a code amendment that would streamline the
33 process and clarify the financial component for applicants. She commented that she would
34 continue to work with the Title 18 Committee in this effort.

35
36 **Chairman Meyers** complimented Ms. Burchett and the entire DRT for their work on
37 documenting the process.

38
39 **Mr. Paulsen** commented that the completion of the charts was of significant value because
40 sequencing of the entire development permitting process had never been done before; he
41 emphasized the need to eliminate uncertainty and to provide clarity for applicants.

1 3. **Capital Expansion Fee Progress Report**

2 This item is an informational report on the City's Capital Expansion Fee program and the update
3 process that has been underway in 2012.

4 **Alan Krcmarik, Economic Fiscal Advisor**, gave a detailed presentation regarding the history
5 and methods of the program, including a fee comparison over time, a fee comparison with other
6 jurisdictions, an evaluation of levels of service, and the updated calculation of fees. He
7 stated that three additional topics will be discussed at the City Council's August 28 study
8 session:

9 1. Options to Adjust Multi-family Capital Expansion Fees
10 2. Options for the annual Adjustment for Inflation
11 3. Review possible fees to cover Operating and Maintenance costs

12 **Commissioner Krenning** commented on the customer satisfaction survey indicating that
13 satisfaction was marginally reduced and he believed that the reason is due to the economy and
14 that people are finally seeing that government has been stretched very thin and there isn't enough
15 staff available to make immediate responses. He also expressed concern that Loveland's CEF
16 level was fourth from the top of the list of surrounding cities.

17 **Mr. Krcmarik** clarified that within the market parameters they were given, Loveland did rank
18 among the top four in CEF fees. He explained how the fees were calculated.

19 **Commissioner Molloy** asked if Mr. Klockeman was going to present the 2035 Transportation
20 Plan to the Commission in 2012 and asked where collected and unused CEFs are kept.

21 **Dave Klockeman, City Engineer**, reported he would be presenting the 2035 Transportation
22 Plan in 2012 and clarified that most CEFs are collected city-wide and not for specific projects.
23 He clarified that if funds were collected for a specific project those funds remain in a specified
24 account until needed. He clarified that projects are prioritized each year and the projects are
25 funded accordingly.

26 **Commissioner Dowding** asked if plans to fund alternative transit had been identified in the 2035
27 Transportation Plan.

28 **Mr. Klockeman** clarified that transit funding and long-term funding for COLT would be
29 presented under a separate plan.

30 **Mr. Krcmarik** explained the fee comparisons for various city services, noting the majority of
31 CEFs collected are from residential construction. He stated fees for commercial and industrial
32 were only different if the use was for streets.

1 **Vice Chair Middleton** questioned how commercial square footage was determined. **Mr.**
2 **Krcmarik** stated that Larimer County Tax Assessor information is used; the fees are based on
3 square footage.

4

5 **Chairman Meyers** stated he would prefer a flattened, standardized rate on unit sizes. He stated
6 Council suggested that new growth pay for the capital

7

8 **Vice Chairman Middleton** questioned how the years are determined when calculating O&M
9 projections. Mr. Krcmarik clarified there is no applied standard and that different departments
10 have different timeframes.

11

12 **Commissioner Krenning** asked if the City, by ordinance, could move CEFs into the General
13 Fund.

14

15 **Deputy City Attorney Judy Schmidt** stated that is not allowed and that there is a statutory
16 requirement regarding the use of the fees.

17

18 **Commissioner Krenning** stated that Police CEFs should be lowered if the crime rate has
19 declined.

20

21 **Ms. Schmidt** stated that eliminating or reducing an impact fee would be a policy decision to be
22 made by City Council.

23

24 **Commissioner Krenning** stated he did not believe that emergency services should be a part of
25 the CEF program; rather, he indicated that such services should be funded through the City's
26 General Fund.

27

28 **Ms. Schmidt** stated that there must be a nexus between new development/growth and the need
29 for expanded facilities funded by the fees.

30

31 **Commissioner Krenning** suggested certain elements of CEFs be reduced to keep fees down to
32 make Loveland more affordable. He reiterated that he does not support CEFs for emergency
33 services.

34

35 **Commissioner Molloy** indicated support for CEFs for emergency services and commented that
36 he did not feel that CEFs are being used for their intentions.

37

38 **Commissioner Krenning** questioned the reliability of standard based fees and how they are
39 established. He stated that the standard for law enforcement, which was originally established in
40 the late 1960's by the FBI, was 1 officer per 1,000 population. He stated that standard is no
41 longer supported.

1 There was a brief discussion regarding how benchmarks are determined and **Mr. Krcmarik**
2 clarified the budget office makes recommendations to City Council which ultimately come from
3 the City Manager.

4
5 **Commissioner Krenning** complimented the staff for their presentation and generally
6 acknowledged city employees for doing a good job.

7
8 **4. Capital Expansion Fee Credits**

9
10 This is a public hearing item to consider proposed code amendments that are designed to clarify
11 the establishment of CEF credits when a change of use occurs. This item is a legislative matter
12 requiring a recommendation by the Planning Commission to the City Council.

13
14 **Robert Paulsen, Current Planning Manager**, gave a brief staff presentation on this item. He
15 noted that the amendment has been reviewed by the Title 18 Committee and was presented to the
16 Construction Advisory Board. He indicated that adjustments to the ordinance were made in
17 response to issues raised by the Title 18 Committee.

18
19 Mr. Paulsen stated that the amendment provides clarifications to the CEF provisions when a
20 change in use occurs. He emphasized that the proposed code language was designed to clarify
21 existing code provisions and to reflect the methodology used by staff in administering CEF
22 credits. He indicated that the amendment did not represent a policy change. Mr. Paulsen
23 explained that when a change in use occurs, the amount of CEF credit would be equal to the
24 CEFs that would be due for the discontinued use at the time a new use is established, based on
25 the current rate schedule. If the building were vacant, then the CEF credit would be calculated
26 based on the last known use. The new use would be required to pay the difference between the
27 credited amount and the amount calculated for the new use.

28
29 Mr. Paulsen stated this arrangement establishes an incentive for someone to redevelop property
30 and reduce their CEF payments using the existing credits.

31
32 **Chairman Meyers** asked if there were no CEFs collected how a CEF would be calculated.

33
34 **Mr. Krcmarik** stated that they would look at what is currently in place and use the terminology
35 "then current use".

36
37 **Ms. Schmidt** stated that this credit is not being created with the code change and it is currently
38 in the code. The purpose of the change is to clarify how the credit is applied. Capital expansion
39 fees as adopted are intended to pay for growth. She stated that at the time of redevelopment, the
40 applicant would pay then current CEFs and the credit would be based on then-current CEF's for
41 the discontinued use. The theory of providing the credit is to recognize that the discontinued
42 use is already served by the existing public infrastructure and that CEFs would only be paid for
43 any additional impacts created by the new use. She commented that overall, the CEFs due at the

1 time a use is changed would normally result in payment of additional fees, unless there is a
2 reduction in the intensity in the use.

3
4 **Chairman Meyers** stated that he can see where there would be a shortfall in the system and
5 stated that if it is being done anyway where is the incentive.

6
7 **Mr. Klockeman** used the example of the Jax store which replaced the vacant Shopko building
8 and the uses were the same so there were no additional CEFs required. He stated a Paint store
9 replaced a small hotel and the store received the credits from the hotel that previously occupied
10 the site and paid the difference because the intensity in use was greater.

11
12 **Ms. Schmidt** emphasized that this item is not to reconsider the policy decision which has been in
13 place for a long time, and the credit could only be used one time in the life of the development.

14
15 After a discussion on how credits are allocated on a development, **Mr. Klockeman** reported that
16 the credit is only for the portion of a development that is being changed and not the entire
17 development. He clarified that the fees, when they are applied for, would be valued at the then
18 current rate.

19
20 **Ms. Schmidt** reiterated that a change to the policy related to credits would need to be addressed
21 by City Council as the change in use credit being determined at the time it occurs is stated in the
22 existing Code.

23
24 **Chairman Meyers** expressed concerns about continuing the practice of applying the current fees
25 to the previous and proposed uses.

26
27 **Commissioner Krenning** stated that he sees this as amendment to the code to adapt to its
28 current policy and did not understand what the controversy was and felt the term credit should be
29 replaced with waiver.

30
31 **Mr. Paulsen** reiterated that the purpose was to clarify the existing Code language and reflect
32 current practices.

33
34 **Chairman Meyers** stated that he had concerns regarding how the CEFs would be tracked.

35
36 **Commissioner Krenning** stated that he felt this was a baseline and made sense.

37
38 **Chairman Meyers** stated that he was looking for the true intent and additional clarity and was
39 concerned about a potential funding gap being created.

40
41 **Commissioner Molloy** stated that the amendment is to help with redeveloping a particular site
42 which promotes new development.

1 **Vice Chairman Middleton** emphasized that the goal, as he saw it, was to promote
2 redevelopment.

3 **Chairman Meyers** stated there was too much ambiguity for him to make a decision.

4 **Commissioner Dowding** stated that the amendment to the Ordinance clarifying the existing
5 Code language was good and that it was not the purview of the Commission to change the
6 policy.

7 **Commissioner Crescibene** concurred with Commissioner Dowding. He also stated that he
8 supported the promotion of redevelopment.

9 **Vice Chairman Middleton** stated that he believed redevelopment was better than no
10 development.

11 **PUBLIC INPUT**

12 **Ed Klen, 6909 Shannon Court**, asked if all CEFs could be stripped from buildings and applies
13 to the main building and could the buildings remain standing or would they have to be removed.

14 **Ms. Schmidt** stated that such a transfer of credits would not be allowed under the proposed code
15 language.

16 **Mr. Klockeman** explained how credits are applied noting only excess credits can be applied to a
17 different lot and that the base credit would stay with the original lot.

18 *Commissioner Krenning made a motion to recommend that City Council approve the
19 amendment to Chapter 16.38.030 as described in the August 27, 2012 staff memorandum to
20 the Planning Commission and as specified in the draft ordinance identified as Exhibit A to the
21 August 27, 2012 memorandum. Upon a second by Commissioner Molloy, the motion passed
22 6-1. The vote was as follows: Yeas: Commissioners Dowding, Leadbetter, Middleton,
23 Crescibene, Molloy and Krenning. Nays: Chair Meyers.*

24 **Adjournment**

25 *Commissioner Dowding made a motion to adjourn. Upon a second by Commissioner
26 Middleton the motion was unanimously adopted.*