



MINUTES

City Council Regular Session (livestreamed)

August 27, 2024

City Council Chambers, 350 Kimbark St., Longmont, CO

1. MEETING CALLED TO ORDER

The August 27, 2024, Regular Session of the Longmont City Council was called to order at 7:00 p.m. by Mayor Joan Peck in the City Council Chambers.

A. The Longmont City Council meets in person for two regular session meetings and one study session meeting each month.

Regular and study session meetings are live-streamed and can be watched at:

- *The City's Agenda Management Portal webpage at <https://www.longmontcolorado.gov/online-services/agendas-and-minutes/agenda-management-portal>*
- *The City's YouTube channel at <https://Bit.Ly/Longmontyoutubelive>*
- *Via Longmont Public Media's website at <https://LongmontPublicMedia.Org/Watch/>*
- *On Comcast Channels 8 or 880*

All City Council meetings are open to the public.

2. ROLL CALL - PLEDGE OF ALLEGIANCE

Dawn Quintana, City Clerk, called the roll. Those present were Mayor Peck and Council Members Diane Crist, Susie Hidalgo-Fahring, Sean McCoy, Marcia Martin, Aren Rodriguez, and Shiquita Yarbrough.

Mayor Peck led the assembly in reciting the Pledge of Allegiance.

3. CHAIR REMINDER TO THE PUBLIC

Mayor Peck reviewed the procedures for Public Invited to be Heard and Public Hearings.

A. Public participation at regular and special City Council meetings is regulated by Rule 5 of City Council Rules of Procedure.

- **Speakers should sign up on the sheet outside of Council Chambers prior to the start of the meeting at 7 pm.**
- **Each speaker is limited to three (3) minutes and one person may not give or assign their time to others.** The Chair may regulate the time for public participation, may restrict cumulative or redundant presentations, and may require that each speaker's comments pertain to the subject under discussion
- **Only Longmont residents and employees of the City of Longmont may speak during "First Call – Public Invited To Be Heard" (Item 8) and must sign up on the list prior to the start of the meeting**
- **Persons wishing to speak on a specific Second Reading or Public Hearing Item (Item 10) are asked to add their name to the speaker list for the specific item prior to the start of the meeting**
- **Anyone may speak and no sign-up is required to speak during "Final Call – Public Invited To Be Heard" (Item 13)**

4. APPROVAL OF MINUTES

A. August 13, 2024 – Regular Session

MOTION

Sean McCoy moved, seconded by Susie Hidalgo-Fahring, to approve the August 13, 2024 – Regular Session minutes as presented

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

5. AGENDA REVISIONS, AND SUBMISSION OF DOCUMENTS, AND MOTIONS TO DIRECT THE CITY MANAGER TO ADD AGENDA ITEMS TO FUTURE AGENDAS

Dawn Quintana, City Clerk, explained that an additional document was added to Item 10E and that staff was requesting to add Item 9J to the Consent Agenda.

Eugene Mei, City Attorney, explained that the reason for the additional consent item 9J was that the city and the appellant had reached an agreement earlier in the day to remand the McDonald's at Sandstone Marketplace Conditional Use Site Plan back to the Planning and Zoning Commission to consider the additional evidence requested to be introduced by the appellant.

- A.** Item 10E – **O-2024-58**, A Bill For An Ordinance Approving The Concept Plan Amendment For A Portion Of The Schlager Williams Annexation Known As The ModernWest 2 Development, Generally Located South Of Rogers Road And East Of Airport Road

- Additional Document – Letter from Applicant's Attorney added to the record 8/27/24 at 12:10 pm

- B.** Item 9J – **R-2024-60**, A Resolution Of The Longmont City Council Remanding The Decision Of The Planning And Zoning Commission Denying The McDonald's At Sandstone Marketplace Conditional Use Site Plan

- This additional resolution for Item 12A regarding the McDonald's Appeal was added to the agenda at 4 pm on 8/27/24 along with a request to consider this resolution as Item 9J on the Consent Agenda

MOTION

Aren Rodriguez moved, seconded by Marcia Martin, to approve adding Item 9J to the Consent Agenda

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

6. CITY MANAGER'S REPORT

There was no report from the City Manager.

7. SPECIAL REPORTS AND PRESENTATIONS

- A. Brief Presentation By Erik Davidson, Chair of Regional Transportation District (RTD) Board, On Diversifying RTD's Financial Foundations To Guarantee A Resilient Transit Future

Erik Davidson, Chair of Regional Transportation District Board, advocated for and asked for council's support of RTD's desire to DeBruce that will be on the ballot this November. He explained how RTD is funded as well as how the organization had turned from struggling to now having increased bond ratings. He described the support for Front Range Passenger Rail and concluded sharing that RTD was finally seeing a turn around and was restoring its workforce and was asking to be allowed to continue to retain revenues that RTD has been allowed to retain since 1999.

At Council's request, Davidson clarified that if excess revenues were refunded to residents instead of retained, it would amount to approximately \$20-30 per resident.

Mayor Peck asked that the LX1 route be restored and that the FasTracks Internal Savings Account (FISA) dollars be used for the NorthWest corridor. Council Member Crist added that it would also be nice to get service on the east side of town.

MOTION

Joan Peck moved, seconded by Susie Hidalgo-Fahring, to support RTD's initiative to DeBruce

Approved: Joan Peck, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: Diane Crist

Abstained: None

Carried: 6 – 1

MOTION

Joan Peck moved, seconded by Sean McCoy, to direct staff to bring back a

resolution of support of RTD Debrucing

Approved: Joan Peck, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: Diane Crist

Abstained: None

Carried: 6 – 1

B. Results of Local Minimum Wage Community Engagement and Economic Analysis

Sandi Seader, Assistant City Manager, and Francie Jaffe, Sustainability Coordinator, provided a presentation on the local minimum wage community engagement summary and the economic analysis. Seader explained that HB19-1210 created a path for a local minimum wage, and in the summer of 2023, elected officials from the cities of Boulder, Longmont, Lafayette, and Louisville and the Town of Erie directed the Regional Minimum Wage Working Group to conduct a study of our regional economy and community engagement regarding a minimum wage increase. Boulder County increased the minimum wage for the unincorporated portions of the county and she noted that Denver and Edgewater had increased their minimum wages as well. Four scenarios were considered in the analysis:

- Each of our four scenarios begins with Colorado’s minimum wage in 2024 of \$14.42.
- Two are designed to reach Unincorporated Boulder County’s minimum wage, one as soon as possible under existing law (a maximum 15-percent increase per year) (Scenario B1) and the other in 2035 (Scenario B2).
- The remaining two scenarios are designed to reach Denver’s minimum wage, one as soon as possible (Scenario D1) and the other in 2035 (Scenario D2).
- These were just a place to start, if Council wants to increase the local minimum wage, they can craft any scenario as long as it does not increase over 15% in any one year.

Seader reviewed the community engagement that included eight focus groups of business owners and employees, and a questionnaire completed by 79 business owners and 136 employees. She also gave a brief overview of the themes from the business owner and the employee perspectives as outlined

in the PowerPoint.

Seader introduced Dr. Andrew Dyke of ECONorthwest who did the economic analysis. Dr. Dyke reviewed the existing conditions analysis and highlighted that the analysis shows a disproportionate representation of Hispanic workers in lower-wage industries. He also discussed many aspects of the existing conditions analysis including commute patterns noting that one in five people commute outside their municipality of residence.

Dyke shared models of how the minimum wage increases under the four different scenarios would be projected and he discussed the impacts of raising the minimum wage including how it would impact poverty levels, prices, and tax revenues. He said the analysis showed that these impacts would result in relatively small changes. The more important effect would be on municipal budgets, he noted. The broad conclusions that could be drawn from the economic analysis were:

- On net, the literature indicates that increases in the minimum wage can be an effective way to improve outcomes for low-wage workers.
- The available evidence indicates that localities can successfully increase the minimum wage without causing great economic harm, but there are important trade-offs to consider.
- The impact analysis quantifies many potential impacts of increasing the minimum wage, providing order-of-magnitude information about the likely positive and negative trade-offs for four scenarios of minimum wage increases. Evidence suggests the local minimum wage can be increased without causing great economic harm, but there are important trade-offs to consider and different industries would be impacted differently.

Dyke concluded his portion of the presentation with a review of the three recommendations:

1. Recommendation #1: Consider an approach similar to Scenario B2, where the regional minimum wage reaches that of Unincorporated Boulder County in 2035.
2. Recommendation #2: Conduct a mid-cycle evaluation of Scenario B2 in 2030.
3. Recommendation #3: After reaching the target wage, index the minimum wage annually based on the regional Consumer Price Index for All Urban Consumers (CPI-U).

Council engaged with Dr. Dyke to discuss and clarify aspects of his analysis and recommendations.

Seader explained the impacts on the city as an employer and shared that the total ten-year cost to the city of each of the scenarios would be:

B1: \$10,687,817

B2: \$7,012,642

D1: \$6,528,310

D2: \$3,879,964

Lastly, Seader explained that each of the five communities could address minimum wage separately or jointly. Longmont was the second of the five cities to present on the topic. The City of Boulder, she said, made a decision on August 22 to increase the minimum wage in 2025, and directed staff to bring back two proposals for an escalation schedule. Lafayette, Louisville and Erie would discuss in September. She pointed out that staff was not requesting direction at this time.

Council discussed the information with staff and expressed generally a desire to hear feedback from a larger representation of Longmont businesses and residents so that the best solution for Longmont could be considered.

Harold Dominguez, City Manager, reiterated that the Council did not need to give direction and could listen to the many members of the public interested in speaking on this topic before making any decisions.

8. FIRST CALL - PUBLIC INVITED TO BE HEARD

The following residents and business owners spoke in favor of increasing the minimum wage, some urging the Council to adopt the plan adopted by Boulder County, and cited the already high costs of living and housing as a contributing factor, and the need for many residents to work multiple jobs just to live here:

- Laura Maguire, 600 Longs Peak Avenue, Apt. 319
- Alejandra Beatty, President for Boulder Area Labor Council
- Nia Wassink, 1471 Alpine Street
- Chris Sydoriak, 705 Nelson Park Circle
- David Schwartz, 789 Glenarbor Court, minister of Unitarian Universalist Church of Boulder

- Jacob Waltz, 1100 East 17th Avenue, UFCW Local 7 member and employee at King Soopers
- Shakeel Dalal, 219 Francis Street
- Kathy Partridge, 2719 Denver Avenue
- Ira Chernis, 2719 Denver Avenue
- Rosie Glasscock, 2719 Denver Avenue

The following residents and business owners spoke against increasing the minimum wage or against the impacts of an increased minimum wage citing high costs of business, the need to further increase prices, and struggles witnessed in other cities where this has been done already:

- Jean Ditslear, 1541 Chukar Drive, co-owner of 300 Suns
- Luke Kunselman, 1727 Shavano Street, owner of Quarters Arcade and Bar
- Daniel Yerger, 1304 Lashley Street
- Gary Hodges, 2148 Stuart Street
- Chris Nelson, 8587 Niwot Meadow Farm Road
- Steve Altschuler, 1555 Taylor Mountain Drive
- Wes Isbutt, 730 Kimbark Street
- Garrett Walz, 507 Deerwood Drive

The following residents and business owners commented that more thoughtful discussion and analysis of the impacts of an increased minimum wage were needed before any action was taken:

- Nathan Say, 335 1st Avenue
- Rachel Shannon, 110 Emery Street, owner of D-Oh-Gee
- John Creighton, 328 Pratt Street
- Mike Root, 110 Emery Street

Edward Greif, 6024 St. Vrain Road, complained about airport noise and the repeated circling of planes and said this has changed drastically over the last several months.

John Tumminaro, 8750 Portico Lane, spoke about airport governance and suggested the possible future state of airport governance be based on data instead of personal testimony.

Jamie Simo, 517 Independence Drive, spoke in support of extending the open space tax and thanked council for voting to put the question on the November ballot.

Lance Whittaker, 1750 Collyer Street, shared that it was National Lotto Day, National

Peach Day, and others.

Scott Cook, 528 Main Street, Longmont Chamber of Commerce, stated that the Chamber had hosted focus groups for minimum wage and did not have a position on the topic but does want to keep a vibrant business environment. He again offered for the Chamber to host a moderated meeting.

Charlie Shilling, 224 Francis Street, spoke against some of the proposed building code changes in Item 9A and said hacking at the codes is not the best solution.

Ketih Yanez, 1756 Juniper Street, said we should recognize our police officers.

9. CONSENT AGENDA AND INTRODUCTION AND READING BY TITLE OF FIRST READING ORDINANCES

Dawn Quintana, City Clerk, read the titles of the ordinances and the Second Reading and Public Hearing Date into the record and reviewed all of the items on the Consent Agenda.

The Second Reading and Public Hearing for all ordinances introduced on this consent agenda will be held on September 10, 2024.

MOTION

Diane Crist moved, seconded by Susie Hidalgo-Fahring, to approve the consent agenda except items A

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- A. O-2024-60, A Bill For An Ordinance Amending Title 15 Of The Longmont Municipal Code On Land Use Regulations And Planning Approval Processes To Further Incentivize Affordable Housing Unit Generation**

Item 9A was removed from the Consent Agenda by Council Member Crist. However, due to late hour of the meeting, it was not addressed at this meeting. City Manager Dominguez indicated the item would be brought back on the next agenda.

- B. O-2024-61**, A Bill For An Ordinance Authorizing The City Of Longmont To Lease The Real Property Known As Vance Brand Municipal Airport Hangar Parcel H-31B (The Premises) To Edward J Cook (Tenant)

MOTION

Diane Crist moved, seconded by Susie Hidalgo-Fahring, to approve the consent agenda except items A

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- C. O-2024-62**, A Bill For An Ordinance Conditionally Approving The Vacation Of A Five-foot-wide Utility Easement And A Portion Of A Five-foot-wide LPC Easement Generally Located South Of 9th Ave Along The Northern Boundary Of Lot 1 Trinity Subdivision

MOTION

Diane Crist moved, seconded by Susie Hidalgo-Fahring, to approve the consent agenda except items A

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- D. O-2024-63**, A Bill For An Ordinance Conditionally Approving The Vacation Of A Thirty-Foot-Wide Access Easement Across The North Side Of The CR5 Storage SP, LLC Property Generally Located South Of State Highway 119 And East Of Weld County Road 5

MOTION

Diane Crist moved, seconded by Susie Hidalgo-Fahring, to approve the consent agenda except items A

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- E. R-2024-54,** A Resolution Of The Longmont City Council Authorizing An Intergovernmental Agreement For A Water Rights Exchange Between The City Of Longmont And Boulder County

MOTION

Diane Crist moved, seconded by Susie Hidalgo-Fahring, to approve the consent agenda except items A

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- F. R-2024-55,** A Resolution Of The Longmont City Council Approving An Amendment To The Collective Bargaining Agreement Between The City And The Longmont Professional Firefighters Association International Association Of Firefighters Local 1806 In Effect From January 1, 2022 Through December 31, 2024

MOTION

Diane Crist moved, seconded by Susie Hidalgo-Fahring, to approve the consent agenda except items A

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- G. R-2024-56,** A Resolution Of The Longmont City Council Approving The Revocable Permit And Service Renewal Agreement Between The City And Lamar Advertising

For Bus Benches And Shelters

MOTION

Diane Crist moved, seconded by Susie Hidalgo-Fahring, to approve the consent agenda except items A

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- H. **R-2024-57**, A Resolution Of The Longmont City Council Urging Longmont Citizens To Vote “Yes” On The Ballot Question Approving A \$739.8 Million Bond For The St. Vrain Valley School District Re-1J, On The November 5, 2024 Statewide Election Ballot

MOTION

Diane Crist moved, seconded by Susie Hidalgo-Fahring, to approve the consent agenda except items A

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- I. **R-2024-58**, A Resolution Of The Longmont City Council Urging Longmont Citizens To Vote “Yes” On The Ballot Issue Extending The Existing Two-tenths Of A Cent Open Space Sales And Use Taxes Indefinitely, On The November 5, 2024 Coordinated Election Ballot

MOTION

Diane Crist moved, seconded by Susie Hidalgo-Fahring, to approve the consent agenda except items A

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None
Abstained: None

Carried: 7 – 0

- J.** Item 9J – **R-2024-60**, A Resolution Of The Longmont City Council Remanding The Decision Of The Planning And Zoning Commission Denying The McDonald’s At Sandstone Marketplace Conditional Use Site Plan

- This additional resolution for Item 12A regarding the McDonald’s Appeal was added to the agenda at 4 pm on 8/27/24 along with a request to consider this resolution as Item 9J on the Consent Agenda

MOTION

Diane Crist moved, seconded by Susie Hidalgo-Fahring, to approve the consent agenda except items A

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None
Abstained: None

Carried: 7 – 0

10. ORDINANCES ON SECOND READING AND PUBLIC HEARINGS ON ANY MATTER

- A.** **O-2024-53**, A Bill For An Ordinance Making Additional Appropriations For Expenses And Liabilities Of The City Of Longmont For The Fiscal Year Beginning January 1, 2024

Mayor Peck read the title of the ordinance into the record. There was no formal staff presentation on this item.

Mayor Peck opened a public hearing on this item. There being no one present to address Council on this issue, the public hearing was closed.

MOTION

Sean McCoy moved, seconded by Marcia Martin, to pass and adopt **O-2024-53**, A Bill For An Ordinance Making Additional Appropriations For Expenses

And Liabilities Of The City Of Longmont For The Fiscal Year Beginning January 1, 2024

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- B. O-2024-55**, A Bill For An Ordinance Amending Title 9, Chapter 13.24, And Section 2.97.010 Of The Longmont Municipal Code Concerning Prohibiting Alleyway Obstructions To Ensure Access To City Services

Mayor Peck read the title of the ordinance into the record. There was no formal staff presentation on this item.

Mayor Peck opened a public hearing on this item. There being no one present to address Council on this issue, the public hearing was closed.

MOTION

Joan Peck moved, seconded by Sean McCoy, to pass and adopt **O-2024-55**, A Bill For An Ordinance Amending Title 9, Chapter 13.24, And Section 2.97.010 Of The Longmont Municipal Code Concerning Prohibiting Alleyway Obstructions To Ensure Access To City Services

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- C. O-2024-56**, A Bill For An Ordinance Amending Chapters 14.32 And 4.78 Of The Longmont Municipal Code On Regulations Governing Electric Service

Mayor Peck read the title of the ordinance into the record. There was no formal staff presentation on this item.

Mayor Peck opened a public hearing on this item. There being no one present

to address Council on this issue, the public hearing was closed.

MOTION

Joan Peck moved, seconded by Susie Hidalgo-Fahring, to pass and adopt **O-2024-56**, A Bill For An Ordinance Amending Chapters 14.32 And 4.78 Of The Longmont Municipal Code On Regulations Governing Electric Service

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- D. O-2024-57**, A Bill For An Ordinance Amending Title 4, Chapter 4.04, Of The Longmont Municipal Code For Extending The Existing Two-Tenths Of A Cent Open Space Sales And Use Taxes And Referring Said Extension To A Vote Of The Qualified Electors

Mayor Peck read the title of the ordinance into the record. There was no formal staff presentation on this item.

Mayor Peck opened a public hearing on this item.

Gordon Pedrow, 2639 Falcon Drive, thanked the council for placing the open space tax extension on the November ballot.

Mayor Peck closed the public hearing.

MOTION

Sean McCoy moved, seconded by Marcia Martin, to pass and adopt **O-2024-57**, A Bill For An Ordinance Amending Title 4, Chapter 4.04, Of The Longmont Municipal Code For Extending The Existing Two-Tenths Of A Cent Open Space Sales And Use Taxes And Referring Said Extension To A Vote Of The Qualified Electors

Approved: Joan Peck, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: Diane Crist

Abstained: None

Carried: 6 – 1

- E. O-2024-58, A Bill For An Ordinance Approving The Concept Plan Amendment For A Portion Of The Schlagel Williams Annexation Known As The ModernWest 2 Development, Generally Located South Of Rogers Road And East Of Airport Road**

Mayor Peck read the title of the ordinance into the record.

Council Member McCoy disclosed that this topic was discussed at the Airport Advisory Board meeting on August 8, 2024, when he was filling in as a liaison. He stated that he left the meeting room various times and did not have a conflict of interest when considering this item. He said he did not read any emails on this topic but he did read his packet two weeks ago. He stated he will not be recusing himself from decision on this item as there is no conflict.

Mayor Peck stated that according to the Council Rules of Procedure it is up to the councilor to recuse them self and she asked if the Council accepted his statement. There was general consensus among Council Members to accept Council Member McCoy's statement.

Staff Presentation:

Grant Penland, Planning and Development Services Director, provided the staff presentation regarding the ModernWest 2 Concept Plan Amendment. He explained that ModernWest 2 (MW2) was 27.25 acres in West Longmont, part of a larger area zoned Mixed Use-Employment (MU-E), and there are a number of unincorporated properties in area. MW2 is designated MU-E in Envision Longmont with a strip of the Niwot Ditch and other greenways designated for parks/greenways. It is located within an identified area of change. The proposed development would contain a mix of high density residential and commercial/industrial uses consistent with the underlying MU-E zoning district. The district permits residential development at a minimum density of 18 units per acre as a secondary use.

Penland explained that the annexation agreement and concept plan adopted in 2000 are the controlling documents for this property and an amendment is necessary for uses not permitted under the previous Business/Light Industrial (BLI) zoning referenced in the adopted annexation agreement and concept plan.

Next, he provided a brief review of the regulatory history for Council's information and explained that the annexation agreement provides that the developers "use the property in a manner consistent with BLI zoning" and, the concept plan depicts "Industrial/Economic Development" uses for development areas. The BLI district was intended to primarily allow light manufacturing, warehousing and distribution, research and development, and commercial service type uses and limited residential uses were permitted but standalone residential was not permitted in the BLI zone. The MW2 property is located in the Airport Influence Zone. The applicant provided a 7460 letter or a Finding of No Hazard to Air Navigation letter prepared by the Federal Aviation Administration (FAA) Southwest Regional Office, as required. They also included a Land Use Compatibility Letter from FAA Denver Airport District's Office opposing the residential use due to its proximity to Vance Brand Airport. The FAA provided an advisory circular as guidance for land use compatibility to staff and staff used the circular as a guide regarding the current proposal. The applicant proposes to incorporate techniques identified in the circular to mitigate issues such as no development would occur in Zone A representing the Runway Protection Zone, and in Zone B which represents the Runway Approach Zone, development could occur subject to conditions. Penland also noted that staff was cognizant of the need for additional specificity in the Land Development Code regarding the Airport Influence Overlay but development proposals are subject to existing code requirements. He further noted that ModernWest 1 to the South got no opposition from the FAA.

Penland concluded the staff presentation by reviewing that the Planning and Zoning Commission recommended approval on June 26, 2024 by a 6-1 vote. He briefly reviewed the six review criteria and the three additional criteria for concept plans.

Applicant Presentation:

Micky Leyba of Permontes Group spoke first and described the location of the project, noting that MW1 is in the approval process currently. She explained that the Schlagel Williams concept plan was approved under different rules in Feb of 2000, and has use by right in BLI zoning and would include live/work units and studios which are encouraged in the BLI district. Today, without any public hearing, residential is allowed as a live/work product at a height of 45 feet. Leyba said that the many proposed changes would bring this site in line with current zoning and make it more compatible with the area than it is today. She described the plan and said it includes: an amendment for an

airport emergency landing easement; a primary greenway; the applicant seeks to permit the full range of uses in the MU-E district; and it is a phased master planned development. She noted that what is allowed by right does not fit with the neighborhood. The subject property is in an area of change and the proposed amendment is consistent with Envision Longmont. She noted the project is intended to be complementary to MW1, it includes a greenway to be dedicated to the city, and that FAA land use compatibility concerns have been addressed by restricting residential uses. The proposed amendment reflects a 100-foot landing easement and a 50' building setback that will sit beyond the aviation easement which will be centered over Mountain Brook Drive and provide a clear, safe, buffer zone. The aeronautical study was completed, and the FAA issued a determination of no hazard. Leyba detailed the infrastructure to be built, reiterated the proposal is consistent with review criteria, and highlighted the multi-modal connections of the development. She also provided an analysis that because the MU-E contiguous land use area including the MW2 parcel is comprised of 230 acres, the area has not reached the maximum 50% threshold for secondary uses.

Scott Dunn, land use attorney, presented next and reiterated that when the property was annexed, the concept plan did allow uses consistent with the zoning. The uses permitted in the BLI zone included live/work units and, he said, under the current concept plan the applicant does have the right to proceed. He also requested that the July 18th letter from the Airport Advisory Board (AAB) that was in the Council's packet be excluded from the record and not be considered because the AAB is not reviewing or advisory for development applications.

Mike Morgan, representing Modern West with respect to aviation issues spoke next and stated that none of the comments cited any FAA or other standard of safety or land use compatibility and he believes no such standard is being violated. The zoning already permits development of high occupancy commercial buildings up to 45 feet high and, thus, the issue is whether to permit mixed residential uses. He provided detailed explanation of the slope of aircraft on approach and takeoff from the airport, the number of flights per day, and about the inclusion of the emergency landing strip for additional safety. Morgan also explained flight patterns around the airport, how the aviation easement would bar anyone from bringing suit against the city and said he believed the city would not risk FAA grant assurances by approving this amendment and explained his reasoning that in his 40 years of practice he had never seen the FAA determine an airport to be in violation of grant

assurance 21. Additionally, he said that should the FAA find a violation, their goal is to bring airports into compliance.

Council asked how the letter from the Colorado Department of Transportation (CDOT) interacts and Harold Dominguez, City Manager, responded that we would consult our aviation counsel on that question.

Derek Guarascio of ModernWest Longmont gave an overview of the history of the property, of the zoning and reiterated what the concept plan amendment was and why they were seeking it. He shared that they were committed to building 12% affordable housing on-site to help reach the city's goal and to provide diverse housing types. He asked the Council to approve the Concept Plan Amendment.

Margaret Freund, Partner, described the benefits of mixed use neighborhoods, how the housing planned would benefit Longmont, and recapped that the amendment, if approved, would bring buildings down in mass and height and move residential to the north away from the runway center line. The adjacent MW1 site has mixed use and is part of a larger master plan. She also commented that should the FAA find a violation, that decision would be made in Washington and could be appealed. She echoed the request to approve the Concept Plan Amendment.

MOTION

Susie Hidalgo-Fahring moved, seconded by Shiquita Yarbrough, to extend the meeting past 11:00 p.m.

Approved: Joan Peck, Susie Hidalgo-Fahring, Marcia Martin, Shiquita Yarbrough

Dissented: Diane Crist, Sean McCoy, Aren Rodriguez

Abstained: None

Carried: 4 – 3

Erick Pilsk, city special counsel for aviation, then answered questions from Council.

1. Does this concept plan amendment comply with the FAA's letter and is it going to violate our grant assurances?

Pilsk responded that the letter says it will. He explained the risks of receiving a finding of violation or corrective action notice and said the FAA does not write letters lightly. He also pointed out that what is unique about this case is that the city has the land use authority and the ability to make appropriate decisions and could, therefore, be held to a higher standard in the FAA's eyes.

2. Could you explain what future residents would be asked to sign that would bar future litigation?

Pilsk explained that part of the agreement is to include a disclosure notice to property renters and owners that they would be required to sign.

3. Is the 50-foot setback enough?

Pilsk responded that it is still very close and said that is the basis of one of the FAA's concerns due to the concentration of people that close to the approach path.

Levi Brown, Airport Manager, then answered questions at the request of Mayor Peck.

1. What is the height of an airplane when coming in to land?

Brown explained that most would be at a 3-degree light slope, but it can vary by pilot and you could have someone come in higher or lower than that.

2. What is your feeling about these grant assurances – how seriously do you take these letters from the FAA?

Brown explained that he sees the winds changing and heard at a conference last year that the FAA is paying more attention to these land use issues.

The Council then wrestled with questions about the process and what would happen if the proposed plan were approved or denied, for example. Special Counsel Pilsk, Director of Planning Penland, City Manager Dominguez, and Assistant City Attorney Jeremy Tyrrell answered the questions.

3. If it is not approved, does it negate their ability to develop the property?

Penland responded that it did not and, depending on the proposal, it may not

require a public hearing. Under the existing annexation agreement, the property can be developed, and the FAA may not approve of that either but that is unknown at this time as the FAA letters have only addressed the proposed development. Part of the Development Review Process would include the FAA so any proposal will be reviewed.

4. What is within our power of decision in terms of what the outcome will be if Council votes yes or no on this plan?

The Council must look at the approval criteria and the question is really compatibility. Is there compatible land use and is the proposal in compliance with the rules and regulations?

If the Council were to deny the Concept Plan Amendment, that would be a final decision and subject to challenge in a court of law. Under the Land Development Code, the applicant would be barred from bringing a similar application for one year.

5. Could the applicant go ahead with the previous plan?

They could continue to pursue BLI uses and work with Planning staff to determine the procedure.

6. What exactly would be built if the amendment were not approved?

The applicant would make a specific proposal which could include a form of residential, but it would have to be no more than 50% of the gross floor area of the overall development. The FAA could still object to the proposal, but they have been clear that pure commercial use is of less concern.

7. Could the City be sued either way – whether approving or disapproving this amendment?

Yes, that is fair to say.

Mayor Peck opened the public hearing on O-2024-58.

The following thirteen people spoke in a prepared presentation format in opposition to the approval of this proposed amendment, and each shared their reasoning for their opposition.

- Johns Grunsfeld, 229 Airport Road, ModernWest 2 poses a significant safety risk.
- Marijke Unger, 1314 Carnation Drive, the airport is an integral part of the community and a lifeline during an emergency as seen during floods of 2013.
- R. Scott Hathcock, 1124 Chestnut Drive, the proposed change is a default on grant assurances which is an obligation/contract.
- Rick Waddell, 4950 Lee Hill Road, letters of determination of hazard or no hazard look at effects of a structure on landing, not takeoff.
- Keith Griffith, 7066 Johnson Circle, demonstrated with a diagram the safety risks even with normal flight paths flying so close to homes and urged council to reject this proposal and reconsider the original proposal.
- Dave Copp, 229 Airport Road, #33, spoke about the safety concerns and noted that if any other condition is added, clearance can disappear in a heartbeat.
- Rick Basiliere, 420 Nebraska Avenue, president of LOPA, 6 of the last 25 accidents have been on or near the ModernWest sites and noted Burley, ID was sued, and its funding pulled by the FAA for failure to meet safety standards.
- Melinda Jordan, 1110 Twin Peaks Circle, spoke about the positive economic impact of the airport.
- Al Manley, 940 Rangeview Lane, said the proposal does not meet criteria 1, 3, and 4, nor a or b of the additional criteria for concept plan amendments.
- Paul James, 229 Airport Road, talked about the legal implications and risks associated with the MW development.
- Merri Sanchez, 2255 Renaissance Drive, commented that the best option for the city might be to do an open space land swap with MW and acquire the land in the aviation easement to create open space in that area.
- Jim Voss, 229 Airport Road, Unit 11-4, summarized the group presentation and reiterated the reasons LOPA believes the concept plan amendment should not be approved.

The following residents spoke in favor of the MW2 concept plan because it would allow the city to solve, in part, the shortage of affordable and attainable housing:

- Dan Sorrells, 328 Grant Street
- Drew Sorrells, 328 Grant Street

The following residents spoke against the MW2 concept plan:

- Andy Gold, 1616 Naples Lane
- James Macintosh, 229 Airport Road, H73
- Dan Smith, 7471 Rozena Drive
- Bret Heidkemp, 151 Wydmere Circle
- Gordon Pedrow, 2639 Falcon Drive
- Tim Cook, North 65th Street
- Tara Menza, 2235 Parkview Drive
- Dan Peters, 1438 Somethingside Drive
- Rick Fowler, 2533 Lanyon Drive
- Trevor Edie, 1810 Jefferson Avenue
- Brett Pomainville, 5846A Grandville Avenue
- Harrison Earl, 1506 Chukar Drive
- Stephanie Yuhas, 712 Collyer Street
- Jacob Arment, 110 South Main Street
- Chris Nelson, 83rd Street
- Jay Epstein, 1871 Queens Drive
- Ken Buckspan, 3920 Iron Court
- Mike Hickman, 4013 Hawthorne Circle

Mayor Peck closed the public hearing.

As Council discussed the wording of a motion to deny, City Attorney Eugene Mei recommended that the Council direct staff to bring back a resolution denying the concept plan amendment at the next meeting.

MOTION

Sean McCoy moved, seconded by Marcia Martin, to direct staff to bring back a resolution denying the ModernWest 2 Concept Plan Amendment

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

- F. O-2024-59, A Bill For An Ordinance Adopting The 2024 Flood Insurance Studies And The Flood Insurance Rate Maps And Models For Weld And Boulder Counties**

Mayor Peck read the title of the ordinance into the record. There was no

formal staff presentation on this item.

Mayor Peck opened a public hearing on this item. There being no one present to address Council on this issue, the public hearing was closed.

MOTION

Susie Hidalgo-Fahring moved, seconded by Diane Crist, to pass and adopt **O-2024-59**, A Bill For An Ordinance Adopting The 2024 Flood Insurance Studies And The Flood Insurance Rate Maps And Models For Weld And Boulder Counties

Approved: Joan Peck, Diane Crist, Susie Hidalgo-Fahring, Marcia Martin, Sean McCoy, Aren Rodriguez, Shiquita Yarbrough

Dissented: None

Abstained: None

Carried: 7 – 0

11. ITEMS REMOVED FROM CONSENT AGENDA

Item 9A was removed from the Consent Agenda by Council Member Crist. However, due to late hour of the meeting, it was not addressed at this meeting. City Manager Dominguez indicated the item would be brought back on the next agenda.

12. GENERAL BUSINESS

- A.** Appeal Of The Planning & Zoning Commission Decision On The McDonalds At Sandstone Marketplace Conditional Use Site Plan (CUSP)

Due to the passage of Resolution R-2024-60 on the Consent Agenda, this item was not addressed by the Council because the resolution remanded the item back to the Planning and Zoning Commission for consideration along with the additional evidence as proposed by the appellant.

- 1.** **R-2024-59**, A Resolution Of The Longmont City Council Upholding The Decision Of The Planning And Zoning Commission Denying The McDonald's At Sandstone Marketplace Conditional Use Site Plan

B. Presentation of the 2025 Proposed Budget and the 2025-2029 Capital Improvement Program

City Manager Dominguez told the Council that the 2025 Proposed budget and the 2025-2029 Capital Improvement Program had been sent to them in order to meet the charter obligation. He stated that a presentation would be made at the next meeting.

13. FINAL CALL - PUBLIC INVITED TO BE HEARD

Brent Gouch, owner of Chik-fil-A at 215 Ken Pratt Boulevard, said he employs 99 people and might have to let some employees go if the minimum wage were increased. He said he would like to discuss the idea further and invited the Council to have a conversation with his employees.

John Grunsfeld, stated how impressed he was by the stamina of the Council to handle a wide spectrum of topics on one agenda and to work through the entire agenda.

14. MAYOR AND COUNCIL COMMENTS

There were no comments from Mayor or Council Members.

15. CITY MANAGER REMARKS

The City Manager had no additional items to bring before City Council.

16. CITY ATTORNEY REMARKS

The City Attorney had no additional items to bring before City Council.

17. ADJOURN

Mayor Peck adjourned the meeting by general consensus of the Council at 1:46 a.m., August 28, 2024.

Current Balance in 2024 General Fund Council Contingency: \$102,486

CITY OF LONGMONT, COLORADO

Mayor

ATTEST:

City Clerk

The video of this meeting can be found at <https://www.youtube.com/@cityoflongmont>