

Approved

**PLANNING AND ECONOMIC DEVELOPMENT (PED)  
POLICY COMMITTEE MEETING**

February 12, 2020

**Members Present:** Councilmember Francoise Bergan, Chair; Councilmember Crystal Murillo, Vice Chair; Councilmember Allison Hiltz

**Others Present:** Jason Batchelor, Nancy Freed, George Adams, Andrea Amonick, Bob Oliva, Cindy Colip, Scott Berg, Tod Kuntzleman, Dan Money, Vinessa Irvin, Hector Reynoso, Natasha Wade, Tom Blevins, Jose Rodriguez, Mark Smith, Stephen Rodriguez, Elena Vasconez, Sara Wile, Andrea Barnes, Susan Chapel, Liia Koiv-Haus, Daniele Stuftt, Ryan Loomis, Daniel Krzyzanowski, Heather Lamboy, Phil Nachbar, Karen Hancock, Claire Dalby, Julianna Berry, Chris Johnson, Dean Antweiler, Mark Withiewicz, Kevin Smith, Chance Hourichi, Yuriy Gorlov, Kevin Hougen, Dennis Lyon, Bob Bengen, Gayle Jetchick, Leigh Hettick, Melvin Bush, Garrett Walls, Margee Sobey, Brad Pierce, Stephenie Baca

**APPROVAL OF MINUTES**

January 8, 2020 minutes were approved.

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**MINERAL LEASING PROGRAM UPDATE**

*Summary of Issue and Discussion:*

Hector Reynoso, Real Property Services Manager, gave the committee a general update on the Mineral Leasing Program and mentioned that it was established in 2017 in order to ensure efficient leasing of city-owned minerals.

The city, as a mineral rights owner, may choose to extract minerals by drilling or by leasing mineral rights to a drilling company. Since 2011, the City has entered into thirteen oil and gas leases with five different companies - ConocoPhillips, Anadarko, Bison Oil & Gas, Rocky Mountain Hydrocarbon, and Aspired Energy. The city is continually approached by additional companies seeking to lease city-owned mineral rights. Mineral extraction companies have expressed interest in competing for leasing rights to city-owned minerals. The city requires a non-surface use agreement from mineral extraction companies in order to lease city-owned minerals.

Leasing city-owned minerals involves negotiating terms for bonus payments, production royalties, non-surface use, and other terms. Title reports determine who owns mineral rights to a specific tract of land. A bonus payment is a one-time payment made at the time of signing a lease and is based on a certain dollar amount per net mineral acre. The amount of funds received from royalty payments depends upon production, net of expenses (i.e. costs of acquiring rights-of-way, drilling costs, etc.). Currently, the city negotiates non-surface use agreements with potential lessees. Other negotiable terms include initial lease period, shut-in royalties, shut-in period, and pooling & unitization.

In an effort to ensure the efficient leasing of city-owned mineral rights, Real Property Services (RPS) adopted and implemented a Mineral Leasing Program (MLP), with City Council support, that is modeled after the programs of Weld County, federal government, and Colorado State Land Board. The MLP provides standard policies, procedures, and dictates minimally acceptable terms. Implementation of this program allows the city to dictate terms by establishing a minimum acceptable bonus payment and production royalty and establishing a maximum term of 3-years with a 5-year shut-in period. If production has not begun in 8-years, the city regains control of its minerals and could lease them anew. The process works as follows:

- 1) Companies submit an application seeking to lease city-owned minerals
- 2) Upon receipt of the application, RPS requests highest and best offers from competing companies, and advertise with the Colorado Oil and Gas Association.

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- 3) Applicants are provided 45 days from the date their applications are requested by the city. The proposed terms are similar to Weld County & Colorado State Land Board requirements.
- 4) Upon receipt of applications (45 days after initial request), RPS compiles the offers and recommends the highest and best offer to city council, at executive session, for their review and recommendation.
- 5) Upon receipt of a favorable recommendation at executive session, RPS proceeds to obtain approval at regular session. (If no favorable recommendation is received at executive session then RPS does not proceed with approval at regular session. At this point, companies may proceed with statutory pooling.)
- 6) Upon approval at regular session, the Mayor executes a lease and the city receives the upfront bonus payment and long-term royalties per the executed lease.

Advantages of implementing this MLP can include:

- Ability to negotiate surface non-use
- Potential for higher bonus payments
- Potential for higher royalty payments
- Ability to standardize terms, conditions and duration in a transparent fashion

The city may decide not to enter into mineral lease with a particular company or any company at all. However, a company seeking to extract minerals could petition the Colorado Oil & Gas Conservation Committee (COGCC) to force the city into a lease through Forced or Statutory Pooling. Forced Pooling is the consolidation of minerals and combining of land within a drilling unit. Terms of a Forced Pool lease are dictated by the COGCC and include certain penalties for non-consenting mineral owners.

Disadvantages of Statutory Pooling can include:

- Non-payment of bonus payments, and
- Penalties on royalty payments.

Mr. Reynoso asked the committee if they agree with continuing this process.

Q: Vice Chair Murillo asked if SB181 would affect Forced or Statutory Pooling should the city decide not to enter into a mineral lease.

A: Mr. Reynoso replied that the bonus payments would not be received by City and royalties would be decreased with Forced Pooling, with the passage of SB181 the royalties would result in 13 percent for gas wells and 16 percent for oil wells.

Q: Chair Bergan asked if drilling doesn't take place, royalties won't be collected.

A: Mr. Reynoso confirmed that is true that royalties will not be collected if operations are not commenced within the five years of the lease term. The city will be able to recover the minerals and lease them out should another company become interested in drilling.

Deputy City Manager Nancy Freed added that there are a few that will be moving forward but since it has been awhile, we want to make sure the committee understands how the process works with moving forward to City Council Executive Session with mineral leasing recommendations.

Q: Chair Bergan asked for verification that the city is currently receiving revenue without drilling which includes bonuses.

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A: Mr. Reynoso said that is correct and drilling is not allowed on surfaces of city owned land and that a lot of sites are located under roadways and on properties that the city has acquired.

Outcome: The Committee agreed that the Mineral Leasing Program will continue as recommended.

Follow-up Action: No additional action required.

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## **2019 DEVELOPMENT REVIEW ANNUAL REPORT**

### Summary of Issue and Discussion:

Office of Development Assistance (ODA) Manager Vinessa Irvin briefed the committee by giving an annual report of the development review functions conducted by the Development Review Team for the 2019. She gave background about how the Development Review Fund (DRF) was created to account for all the revenues and expenditures of the city's development review activities and mentioned that it operates like an enterprise fund in that the fees charged for the development review services should be sufficient to cover all the costs of providing them.

### **Development Review Fund, Development Review Workload/Performance Measures/Staffing and Development Review Process**

The fund began 2019 with funds available balance of \$11.7 million. Total revenue collected was \$17.6 million. After all expenditures, including the \$2.2 million payment to the General Fund and monies allocated to make payments for the new workflow system, the balance in the DRF at the end of 2019 was \$12.0 million. Development activity remained strong in 2019, with workloads increasing in most areas over what was experienced in 2018. The performance measures in many areas remained at or near the 95% goal. Of note however is the area of PW – Engineering. There was approximately a 70% increase in their workload. This significant increase caused their performance to decrease.

In 2019, staff continued to work closely with the development community on the zoning code update. The new code was approved by city council and became effective on September 21, 2019. There was continued progress made on the Accela workflow system implementation project.

### **2019 Budget and Actuals**

Ms. Irvin shared the fund balance history back to 2016 and compared the 2019 budgeted revenue and expenditures to actual revenue and expenditures in the DRF. She said the variance figures provide the difference between the projected planned target budget and actual for the year.

The total revenue for 2019 was \$17.6 million and expenditures were \$17.3 million which includes the \$2.2 million transfer to the General Fund.

- Ending funds available 12/31/2018: \$11,708,717
- Ending funds available 12/31/2019: \$12,028,045

Q: Chair Bergan asked why so much money is needed in this fund.

A: Ms. Irvin said the funding increase was set to keep up with the additional staffing and act as a buffer, should there be another significant downturn in the economy.

Q: Chair Bergan wanted to know why the balance was not used for the increase in Engineering staffing and Council Member Hiltz asked if this is common practice with other departments funding to maintain a balance for future staffing needs.

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A: Ms. Freed said this fund is fee generated which pay for all staffing and most other department are funded through the general fund.

### **Development Review Workload/Performance Measures/Staffing**

Ms. Irvin explained the goal for management of staffing levels within development review is to ensure that we are providing a high-quality level of service and on-time review performance that has been committed to our customers. The method used is based on an historical average and the relationship between an optimum workload that allows staff to meet the performance measure goals that have been established. Development activity in all areas continued to be robust during 2019. Workload statistics in most areas increased from what was experienced in 2018 and remain above historical averages. She pointed out the significant increase in the civil engineering review workload which had an increase of approximately 70% over 2018.

During 2019 performance measures were above 95% in most areas with only a few exceptions as the Planning Department struggled to meet their performance goals, due to staff turnover and challenges filling vacant positions. As vacant positions were filled, and staff trained, there was significant improvement in 4th quarter 2019. The performance goals for Public Works-Engineering were not met in 2019. This was due to the combined impacts of the overwhelming increase in workload and difficulty in filling positions.

Ms. Irvin mentioned that these positions are difficult to fill due to the competitive job market and Management has been reviewing several options to address the workload and performance issues in this area and may determine it necessary to request additional staffing in 2020. At the end of 2019, there were 126 staff conducting development review activities, 122 FTE and 4 contingent/contract employees.

Q: Chair Bergan asked if interns are considered when filling these vacant positions to complete the lower end tasks of the process.

A: Ms. Freed said interns were hired in Public Works to fill accounting positions. High-level and experienced staff are needed for these unfilled positions. Ms. Irvin said there aren't lower engineering tasks that can fill an intern's position. Civil construction and drainage document reviews are where the tasks are struggling to keep up and requires high-level review experience. Public Works has looked into hiring third-party consultants to complete these types of tasks, but consultants are in demand as well and are hard to find. She said these positions are slowly being filled and mentioned that additional Engineering positions may need to be requested in the future.

There was a decrease of new building permits, but because of an increase in the permits issued on existing buildings, the total permits issued overall in 2019 increased over the previous year. Historically, ODA statistics for pre-application meetings, which occur at the beginning of the process, have been a fairly accurate indicator of the trend for the rest of the process over the next 12-18 months. The number of Pre-apps conducted increased 20% over the previous year and remain significantly above the historical average. We are tracking these numbers closely and believe that development activity will remain strong for the next 2 years.

Development Review analysis was conducted for the Development Review processes which are a critical component of ensuring the successful achievement of the city's goal of economic development and business growth. Over the past several years, the city has experienced a significant increase in development activity and workload over historical averages. There have also been turn-over in key management staff, mainly due to retirements. This has resulted in many challenges within the development review functions. Therefore, it was determined that a "start to finish" analysis of the city's processes and practices was necessary. An RFP was issued in October 2019 for a consultant to conduct the analysis and identify opportunities for enhancements and improvements. A consultant was chosen at the end of the year and their work will begin early in 2020.

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### **Business Process Management Improvements**

The goal is to provide services that are customer-centric, transparent and offer a seamless process from the customer's first point of contact throughout their entire interaction with the city. Staff remains focused on continuous improvement of our development review processes. As a result, the staff regularly examines and adjusts processes in response to changing conditions and customer input. Several efforts are currently being implemented and new initiatives are planned to begin in 2020.

Q: Chair Bergan asked if the tracking software that if being used is effective or a hinderance.

A: Ms. Irvin said the Amanda program is not as effective and is not keeping up with the current needs. In 2019 the upgrade to Accela software system was made and is making significant progress and a phased roll-out of the system is slated to begin in the 2<sup>nd</sup> Quarter of 2020.

Outcome: This item was for informational purposes only.

Follow-up Action: No follow-up action required.

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### **MISCELLANEOUS MATTERS**

#### Aurora Economic Development Council Update (Yuriy Gorlov):

Started 2020 with Porteos and Prologis distribution and industrial deals which will create additional jobs.

#### Havana Business Improvement District (Chance Hourichi):

On Havana Street - New businesses:

- New Pupusa Restaurant - NOW OPEN - HAVANA & 3rd
- Play Arcade - Fish Tables (Redemption Arcade, will follow up with Trevor)
- J Love African International Market (moved from Colorado Springs)
- Village on the Park - KIMCO- First Watch - A Day Time Cafe - Opened 2/10/2020, Share Tea, Five Below & 7 more leases Coming in 2020.
- Amcap - Gardens on Havana - new restaurant TBA is developing on the pad near Chick Fil A, AFC URGENT CARE Coming Soon, Ross will be Opening in half of the former Toys R Us space (the Ross at the Village on the Park will remain open).
- Shopping center remodel at Havana Plaza (Near Havana & Iliff)
- Bicycle Village: Uncle Joe's Hong Kong Style Bistro coming in 2020 - under construction & received liquor license, should finish construction by the summer.
- Kum and Go - Havana & Yale - Expected Ground Breaking in first quarter.
- CLOSED Businesses: Ecig of Denver (Havana Plaza)
- 2020 Multimodal study on-going.
- Argenta is in progress and will host a ground-breaking ceremony in the 2nd Quarter, should be closing on purchasing the surrounding properties in the next month and hopes to break ground in a few months

#### Aurora Chamber of Commerce Update (Kevin Hougen):

- Woman in Business 20<sup>th</sup> Annual Unsung Hero luncheon was conducted on February 7<sup>th</sup> which honored 19 amazing women who are making a difference in our community.
- A group from the Chamber was sent to San Antonio to accept an award from the Space Command.
- We are in the running for getting the Joint Operations Intelligence Center to relocated to BAFB which will employ 3500 people.
- Kevin went to Vandenberg AFB with General Raymond and went to Portland, Oregon to receive an award from the Association of Chambers for 2018 highest membership and revenue gain in the Western United States.

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- On March 13<sup>th</sup> is the 65<sup>th</sup> Annual Awards Dinner.
- Six job fairs are scheduled for 2020.
- 500 Raytheon Aerospace Engineering jobs coming to Aurora with \$40,000 sign-on bonuses. These jobs with incentives are available and are finding it very difficult to fill due to competitive job market.

### Planning Commission Update (Dennis Lyon):

- Planning Commission will be making a recommendation to City Council on the Aurora Places Comp Plan amendment and a rezone along Tower Road between 32<sup>nd</sup> and 35th. Zoning change will be from an industrial hub to a commercial hub.

### Oil & Gas Advisory Committee Update (Brad Pierce):

- Submitted the Fourth Quarter report from 2019 as backup to the committee.
- The O&G Advisory Committee and we were able to offer input on the Mineral Leasing Program that was presented.
- Mentioned that the O&G Advisory Committee is available to provide O&G input to the PED Committee when needed.
- At the O&G January meeting we had a toxicology presentation on the possible short-term health impacts from oil and gas and would like to bring to that presentation to the PED as an agenda item.

### Business Advisory Board Update (Garrett Wall):

January's meeting was well attended and completed the By-laws review which are to be review every two years. We wanted to bring them in line with the structure with how the terms work according to ordinance and making sure the BAB members understand that their term exists as three-year terms. Discussion led to extending the membership to 22 members and want to bring the minutes from that discussion to PED to gain additional background information. In summary, the BAB decided they wouldn't like to expand membership directly as appointed members just for the sake of being able to conduct business. The meetings are not that long and would like to keep the meetings as currently conducted because all members are business owners and are busy but need a quorum present to conduct business. We are trying to mitigate that by offering a call-in number and screen share, so all members could be involved.

The BAB likes the idea of subcommittees and would like to expand the board that way. Also, to define some field areas as Retail, Restaurant and Finance subcommittees and would call upon the PED to appoint additional board members and solicit through the SBDC and general public to have more board members in each of those subcommittees and would be more efficient to the board. Each subcommittee would be chaired by a BAB member and represent that subcommittee's interest.

**Q:** Council Member Murillo asked if a quorum would be an issue if done this way and how it would work.

**A:** Mr. Well stated there wouldn't be official city business conducted in the subcommittees but would be more like public outreach committees for business owners which would review and discuss the next BAB's agenda and bring a more educated opinion back to the BAB meeting. He would like to bridge the gap between all the subcommittees that affect businesses in the city to bring them together. He reiterated that the Board members need to reach out to council members and council to reach out to the BAB members, He asked that the BAB members be introduced at each Ward meeting so that the general public could know who their business representatives are and would like BAB members to get SBDC license training, there would be a BAB member present to address ordinance issues.

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Q: Chair Bergan offered Mr. Wall to attend her Town Hall Meeting and said the General Manager of Southlands will be presenting in March. She agreed the idea of subcommittees was a good idea and asked how the BAB would interact.

A: Mr. Well said it would be up to that committee and how they best facilitate meetings. We want more attendance from the BAB members at the meetings that are already participating so they could offer their assistance and address business concerns. He said the idea to do this was from the sugary drinks presentation and how the BAB members felt that not enough outreach or research was conducted before suggesting an ordinance change.

Q: Chair Bergan asked if the BAB meeting times were changed.

A: Mr. Well said that this was discussed as part of the by-law review and BAB meetings are now adjusted to 11:00 a.m. instead of breakfast time.

Q: Vice Chair Murillo asked for a list of industries that are represented in current memberships.

A: Mr. Wells ensured this is the beginning of the discussion and will be providing backup of the mechanics and want council to decide what areas of the business community that are important. It will be an open dialog of the list that will be forthcoming.

Development Services Manager Andrea Amonick explained how the BAB appointments work, that three appointments are to be renewed and will send a list to the PED committee with information on the businesses they represent. She mentioned that council members are relied on for their knowledge about their Wards to best select appointments to the subcommittees, so outreach can be better utilized and enable the BAB to be able to assist as an advisory board to council.

Mr. Wall mentioned an additional ad hoc member Aurora Fire Rescue Commander Steven Wright from the Investigations & Inspections Division to the BAB who brings forth a small piece of the 2015 International Fire Code (IFC) for adoption. Commander Wright asked to bring outreach and process to the BAB. His intent is to bring updates and policy issues up as they affect development or permitting. We appreciate they're reaching out to the business community.

Planning Director George Adams mentioned status of the 2019 PED Agenda items status to be presented in March.

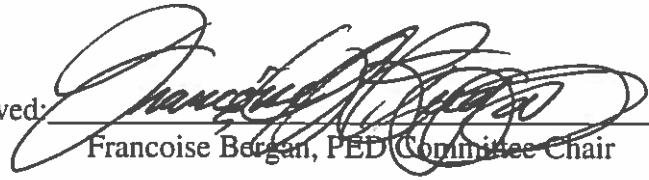
Chair Bergan suggest using a similar format for the status of the items as the HORNS Committee.

Mr. Adams mentioned how RTD service reductions (due to operator shortages), are throughout Aurora and will affect the R Line. He said staff is working with the Communications Department on an outreach campaign, on a press release media campaign, and are working with external stakeholders to communicate concerns to the RTD Board. He asked for council's support and from other constituents to express this opposition concern to RTD.

Mr. Hougen expressed concern over a Mill Levy Stabilization Bill being introduced at the State Capital that will create major challenges to the Cherry Creek School District and will cause around 700 teachers to be laid off. Their Mill Levy is about \$19 million via stabilization across the State at least \$7 million which will force Cherry Creek to bring the issue to the ballot every two years for the next six years and will have to raise their Mill Levy up \$60 million but are only allowed to keep \$20 million. He requested support from council with contacting delegates to communicate concerns with this issue.

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Francoise Bergan, PED Committee Chair

Next meeting date: March 11, 2020 at 8:30 a.m. in Mt. Elbert Conference Room