

**ENGLEWOOD CITY COUNCIL
ENGLEWOOD, ARAPAHOE COUNTY, COLORADO**

Regular Session

June 7, 2010

1. Call to Order

The regular meeting of the Englewood City Council was called to order by Mayor Woodward at 7:40 p.m.

2. Invocation

The invocation was given by Council Member McCaslin.

3. Pledge of Allegiance

The Pledge of Allegiance was led by Council Member McCaslin.

4. Roll Call

Present: Council Members Jefferson, Olson, Penn, Gillit, McCaslin, Wilson,
Woodward

Absent: None

A quorum was present.

Also present: City Manager Sears
City Attorney Brotzman
Deputy City Manager Flaherty
City Clerk Ellis
Deputy City Clerk Bush
Director White, Community Development
Senior Planner Langon, Community Development
Planner Voboril, Community Development
Police Chief Vandermee
Victim Witness Advocate Maynard, Court
Victim Witness Coordinator Wenig, Police

5. Consideration of Minutes of Previous Session

(a) **COUNCIL MEMBER GILLIT MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO APPROVE THE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF MAY 17, 2010.**

Mayor Woodward asked if there were any corrections or modifications. There were none.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson, Gillit

Nays: None

Motion carried.

6. Recognition of Scheduled Public Comment

There were no scheduled visitors.

7. Recognition of Unscheduled Public Comment

Mayor Woodward said this is an opportunity for the public to address City Council. Council may ask questions for clarification but there will not be any dialogue. Please limit your presentation to three minutes. There is a clock at the podium, so please keep your eye on that.

(a) Elaine Hults, an Englewood resident, said although I did not attend the meeting held at the Malley Senior Center, friends of mine advised me of the discussions. One issue deeply concerns me. Evidently there are residents in Englewood who object to street parking to the degree that these...that threatens the safety of the vehicles and would be costly to their owners by some actions taken. I have found, it necessary at times, to park on the street when providing transportation to those needing medical attention. Many of these occasions have occurred very late at night and early in the morning. Not only was it necessary when I cared for my extremely sick and disabled husband, but when others needed dialysis treatments, ER care at Porter and Swedish, as well as doctor visits. The street has more lighting and it is closer to the entrance of the building. To say this issue distresses me is putting it mildly. I should hope that you, as the governing body of the City of Englewood, would speak out on behalf of us who volunteer to help others who cannot help themselves. Thank you.

Mayor Woodward said thank you.

(b) Matthew Crabtree, an Englewood resident, said good evening. I wanted to expand on what Elaine had talked about. I was at that meeting and although...well...I do want to say I want to commend you for having a community meeting like that, but the direction of the conversation went towards the end of the meeting, was very negative. To give you a bit of a synopsis of what was discussed. There was concern from members of the audience, in one particular part of the City, about on-street parking. I am not criticizing them for their concern or their opinion. That is certainly theirs. Although the conversation quickly went downhill after that. They were curious as to what a disabled vehicle would be considered. Commander Gary Condreay provided an excellent synopsis and understanding of what a disabled vehicle was. At that point, mumbling and murmuring in the audience resulted in a comment from the same people that brought up the concern that, oh, well does that mean I have to deflate their tires to get the car towed? That is a threat of vandalism. Although I am not criticizing those people, as they were probably frustrated at the moment, as our governing body, and specifically the individual running the meeting, Ms. ah...Council Member Olson should have certainly stood up at that point and said I understand your concerns, but that is vandalism and that is not appropriate. Instead what happened was six of the seven members of Council laughed and the member of Council...Ms. Olson...that was running the meeting, candidly covered her ears, in a joking manner...as in I see no...I don't see the problem, I don't hear the problem. This was truly disappointing to see the actions of Council not saying anything at that point. It is a true concern. Now, I don't know if that means that these individuals are actually going to go out there and deflate somebody's tires because they are parked on the street longer than two weeks. But still, something should have been said at that point. Thank you for your time.

Mayor Woodward said thank you.

(c) Steve Scott, an Englewood resident, said Mayor Woodward and members of the Council...I come tonight, first, foremost to thank you for your participation and attendance at the LOVEnglewood event. In our debriefing time, we saw it as a great success and not a great success because we had nearly 1500 people there. Not a great success because it went off without a hitch. Although, both of those things made it very enjoyable. We considered it a success, because the City came together and pulled something off that demonstrated that we can do exactly that. Just wanted to reiterate that LOVEnglewood is not a worship event at the high school. LOVEnglewood is not a church. LOVEnglewood is not even a conglomeration of churches. LOVEnglewood is you and me. Citizens, business owners and residents of Englewood that love this City. And we stand here tonight, not only to thank you, but to share with you that the work has really now just begun. LOVEnglewood has already partnered with Young Life and given them almost \$4,000.00 to help with the development of the middle school...it's called Wyldlife at the middle school level, of the Young Life organization. A service organization that has proved, for decades all over the world, that they can help our children develop healthy self-esteem and develop goals and strive for those. I don't have to tell you that, here in Englewood, we struggle with things for our children to do. We want to partner with you. We want to partner with you to help provide our children with options, with alternatives to hanging out in the park unsupervised, using their artistic

skills on dumpsters in the alley. We want to make ourselves available to you. We would like to play a part in Ride Your Bike to Work Day, passing out water at our station and to be a part in our Police Department's service; volunteering with them at the Fourth of July event at the park. So, again, I just want to...in closing, thank you for your participation in the birth of LOVEnglewood and to invite you...and to invite you...to partner with us to make Englewood a better place for our children. Thank you very much.

Mayor Woodward said thank you.

(d) Bev Cummins, an Englewood resident, said I was wondering..did you receive my letter in your packet? Have you received my letter? Did you read it? Council Member McCaslin said yes. Ms. Cummins said good...thank you. I was just curious whether I should read it again or...and I want to thank Elaine for reading it at the meeting when I was gone. I was out of town. I want to thank the Englewood Herald for publishing it for me. I hope it will mean something to everyone, because I feel exactly like I spoke in the letter. That I don't see how we can discriminate against any business that has good purpose to it. You know, if it was another pot place, and I maybe wouldn't be quite as involved...well, I wouldn't be...let's put it that way...because I think we have enough. But, as it is, I hope you will consider realizing that a thrift store, a buy-back, a used furniture store, any of those, are a thrift store. It doesn't matter what else they are called. They are used items and they should be as important to anybody as they were to me and my mother. Thank you.

Mayor Woodward said thank you. And just for clarification. Your letter was placed into the public record at the last meeting, as well as other communications written...through the post office and e-mails. So, those were all a part of the public record. Ms. Cummins said thank you.

8. Communications, Proclamations and Appointments

(a) An email from Miodrag Budisa indicating his resignation from the Board of Adjustment and Appeals was considered.

COUNCIL MEMBER JEFFERSON MOVED, AND COUNCIL MEMBER PENN SECONDED, TO ACCEPT THE RESIGNATION OF MIODRAG BUDISA FROM THE BOARD OF ADJUSTMENT AND APPEALS.

Mayor Woodward asked if there were any remarks.

Mayor Woodward said I would like to congratulate Mr. Budisa on his new position. It is out of town...out of the state, effective June 1. So, we certainly appreciate his service to the community and wish him luck in what he is going to do in his new position.

Mayor Woodward said if there is nothing further...please vote.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

9. Consent Agenda

There were no additional items submitted for approval on first reading. (See Agenda Item 11)

(a) Approval of Ordinances on First Reading

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO APPROVE CONSENT AGENDA ITEM 9 (b) (i).

(b) Approval of Ordinances on Second Reading

(i) ORDINANCE NO. 16, SERIES OF 2010 (COUNCIL BILL NO. 12, INTRODUCED BY COUNCIL MEMBER McCASLIN)

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT REGARDING THE APPLICATION FOR AND ACCEPTANCE OF A 2010 EDWARD BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD - 2010-H4990-CO-DJ.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit

Nays: None

Motion carried.

(c) Resolutions and Motions

There were no resolutions or motions submitted for approval.

10. Public Hearing Items

(a) Mayor Woodward said there was a request in question to Council to re-open the Public Hearing tonight on Council Bill No. 11, authorizing amendments to Title 16, the Unified Development Code, to permit buy-back, second-hand, thrift and consignment uses as uses-by-right in the MU-B-1 Zone District. We do have a couple of people who are signed up. I had brought it forward. I don't have any further questions on it. Is there anybody that would like to make a motion to re-open the Public Hearing?

COUNCIL MEMBER GILLIT MOVED, AND COUNCIL MEMBER WILSON SECONDED, TO RE-OPEN THE PUBLIC HEARING TO CONSIDER TESTIMONY ON COUNCIL BILL NO. 11, AUTHORIZING AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE TO PERMIT BUY-BACK, SECOND-HAND, THRIFT AND CONSIGNMENT USES AS USES-BY-RIGHT IN THE MU-B-1 ZONE DISTRICT.

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit

Nays: None

Motion carried and the Public Hearing opened.

All witnesses were duly sworn.

Elaine Hults, an Englewood resident, said I presume that this particular issue concerns having to do with the consignment store that is due to be in the area on Broadway. I have been watching, in the previous room that we usually have the pre-session in. I took a very close look at the map there and noted the various areas of Englewood. Englewood seems to be dividing itself...from what I see. We have our Civic Center, which is right here, surrounding this area with some stores and a few restaurants. But, it seems to me the same plan is intended to be done in the area where we have the hospital, Swedish Hospital, and its medical office buildings. It does involve private areas of single-family homes. I'm very concerned about this. I see a division. Instead of enhancing the main artery of Englewood, which is really the main aorta, bloodstream of the City, and a feed, north and south, to all parts. In fact, I love Englewood, because it is so convenient. I can go east, west, north and south with no problem and no great distance of time. I feel that this is a bad judgment when we are ignoring the historical area. I have seen pictures of the original Broadway. I guess it looked like it was in the 30's and 40's and it was charming and it was bustling. We need to bring Broadway to life and not keep separating it. People know what's on Broadway, because they traverse it. They don't know what's off Broadway. Thank you.

Mayor Woodward said thank you.

Bev Cummins, an Englewood resident, said I think maybe I should read my letter to everyone that didn't read it in the Englewood Herald and also you up there. I hope I won't be infringing on anybody's time or if it is not necessary, you can tell me right now. Yes or no? Council Member Gillit asked are we re-admitting what we

already have in the record. Mayor Woodward said we are re-admitting...we have re-opened the Public Hearing so...would you mind pulling the mike down just a little bit? I am having a real hard problem hearing. Ms. Cummins said I'm sorry. Council Member Olson said she's asking if she should re-read the letter that was read last time? Mayor Woodward said it's not necessary; however, if you would like to, you certainly may. Ms. Cummins said well...I think if it's been read and also, you know, in the paper, I think that is probably sufficient. But I do thank you for your consideration. Thank you.

Mayor Woodward said thank you.

Greg Ham, President of the Denver Christian School Board, said I wanted to just mention since the Public Hearing was re-opened, that I would hope that Council does consider the size limitation on the size of the facilities that might be allowed...that you would consider increasing that from 10,000 to 12,000 feet, which is probably about the sales area that we would be seeking to use in the building that we have targeted. So I just wanted to let the Council know if you could consider that option...we'd like you to consider if you could raise it by 2,000 feet. Thank you.

Mayor Woodward said thank you.

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO CLOSE THE PUBLIC HEARING TO CONSIDER TESTIMONY ON COUNCIL BILL NO. 11 AUTHORIZING AMENDMENTS TO TITLE 16: UNIFIED DEVELOPMENT CODE TO PERMIT BUY-BACK, SECOND-HAND, THRIFT AND CONSIGNMENT USES AS USES-BY-RIGHT IN THE MU-B-1 ZONE DISTRICT.

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson, Gillit

Nays: None

Motion carried and the Public Hearing closed.

11. Ordinances, Resolution and Motions

(a) Approval of Ordinances on First Reading

(i) Planner Voboril presented a recommendation by the Community Development Department to adopt a bill for an ordinance approving an Intergovernmental Agreement between the Denver Regional Council of Governments and the City of Englewood regarding the licensing of the 2010 Denver Regional Aerial Photography Project. He said good evening Council members. I am here tonight to make a recommendation on Council Bill No. 13. The City has previously participated in this project in the years 2002, 2004, 2006 and 2008. Basically, the project is a project sponsored by DRCOG where the members, the DRCOG members, cities and counties, get together and join as one entity in order to negotiate a better price on aerial photography that we all use in our business practices. The savings are very substantial. For the City area alone, the City will be saving 4 to 5 times the cost that it would cost for the City to provide that imagery by ourselves. Basically, aerial photography is used by Community Development, Public Works, Utilities Department and the Wastewater Treatment Plant to do mapping and analysis, project planning and engineering, and infrastructure management. DRCOG has quoted Englewood a price not to exceed \$5,000.00 for this imagery. The imagery will include the areas of the City's limits. It will also include the entire Englewood/Littleton Wastewater Treatment Plant area, which extends from Englewood down into Douglas County. It also will include additional metro areas of interest to the City, as well. Funding for this project was included and approved in the 2010 departmental budgets. At this time, I would invite Council to give me any questions they have on this project.

Council Member Gillit said yes, I have a question. Englewood hasn't...I mean there's been...hardly any change at all. What would the harm be of just saying...we just took these pictures two years ago, can we go a little longer? You know. Is it imperative? Is it something we have to have to do or is it something that...? It just seems...again, another \$5,000.00 for a picture, you know, just seems to be a lot of money spent when we're trying to really reduce some costs. Mr. Voboril said you know, basically, this is a discretionary item, but it is very helpful in our planning processes that we do, such as the small area plans. There are things that, you know, that it seems like Englewood doesn't change but, you know, we do have the new building at Broadway and Yale.

There is a new bank building at the corner of 285 and Logan. And there are a lot of housing developments that have occurred in the last few years as well. Just in-fill developments as well. And so, we do find this imagery very, very valuable and it...you can't beat this price. There would be no way that we could provide this imagery, especially to our Wastewater Treatment Plant, for that entire area, all the way into Douglas County. It is a steal, basically, for \$5,000.00. Council Member Gillit said again, we haven't changed the Wastewater Plant. And, we do know what our changes were. Would it stop business by not having a newer than two-year old photo? Mr. Voboril replied we would still be able to do our business as the City of Englewood, but things like...another project I wanted to mention is McLellan. The City is working very hard on McLellan and those images will be very valuable for those processes. Council Member Gillit said thank you.

Mayor Woodward asked if there were any other questions for John. There were none.

COUNCIL MEMBER PENN MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO APPROVE AGENDA ITEM 11 (a) (i) - COUNCIL BILL NO. 13.

COUNCIL BILL NO. 13, INTRODUCED BY COUNCIL MEMBER PENN

A BILL FOR AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) ENTITLED "LICENSING AGREEMENT REGARDING DENVER REGIONAL AERIAL PHOTOGRAPHY PROJECT" BETWEEN THE DENVER REGIONAL COUNCIL OF GOVERNMENTS AND THE CITY OF ENGLEWOOD, COLORADO FOR THE CITY'S PARTICIPATION IN THE DENVER REGIONAL AERIAL PHOTOGRAPHY PROJECT (DRAPP).

Mayor Woodward asked if there were any comments.

Mayor Woodward said I'd like to comment that I agree. This is a real bargain. Having been, prior to Randy and Joe being on DRCOG as board members or alternate...was involved...and this is...this aerial photography is...I mean you couldn't touch this type of price. I think further, we even use it for some Code issues and verification of, actually, site plans and things like that...to verify whether something was there or wasn't there at certain times and some things like that. So I am very supportive of this. I think it keeps things current and it also has proven to be valuable to the different departments of the City.

Mayor Woodward said are there any other comments? There were none.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson
Nays:	Council Member Gillit

Motion carried.

Mayor Woodward said typically when we have a no...I think Rick was pretty clear on why he was voting no...so, I appreciate that.

(ii) Planner Voboril presented a recommendation by the Community Development Department to adopt a bill for an ordinance authorizing an Intergovernmental Agreement with the Colorado Department of Labor and Employment to receive labor and employment data for the City of Englewood through the Denver Regional Council of Governments. He said thank you Mayor. Basically, I'm here to make a recommendation on Council Bill No. 14. This is a follow-up of, again, for a previous agreement that we did in 2008. So, this is just basically kind of renewing our agreement that we approved for 2008 with the State. Labor and employment data is used to provide analysts and decision makers with critical detailed information regarding detailed information concerning the City's economy. Basically, it helps us in order to further our economic development goals. Basically, by going through DRCOG to get this data, basically we will be saving the \$230.00 State processing fee and so this project will basically cost the City nothing. And, with that, I will invite any questions from Council.

Mayor Woodward asked if there were any questions. There were none.

COUNCIL MEMBER McCASLIN MOVED, AND COUNCIL MEMBER WILSON SECONDED, TO APPROVE AGENDA ITEM 11 (a) (ii) - COUNCIL BILL NO. 14.

COUNCIL BILL NO. 14, INTRODUCED BY COUNCIL MEMBER McCASLIN

A BILL FOR AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) ENTITLED "LICENSE AGREEMENT" BETWEEN THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT AND THE CITY OF ENGLEWOOD, COLORADO IN SUPPORT OF THE CITY'S USE OF STATE WAGE AND EMPLOYMENT DATA.

Mayor Woodward asked if there was any discussion. There was none.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson, Gillit
Nays: None

Motion carried.

Mayor Woodward said thank you John.

(iii) Police Chief Vandermee presented a recommendation by the Englewood Police Department to adopt a bill for an ordinance approving a Memorandum of Understanding between the 18th Judicial District Juvenile Assessment Center and the City of Englewood establishing the method of fee assessment for use of the Juvenile Assessment Center. He said good evening Mayor Woodward and members of Council. The Police Department is recommending that City Council adopt a bill for an ordinance approving a Memorandum of Understanding between the City of Englewood and the 18th Judicial District Juvenile Assessment Center which maximizes limited resources and reduces duplication of efforts among participating agencies when processing certain juvenile subjects. We have been involved with the Juvenile Assessment Center since approximately 2000. With this Memorandum of Understanding, it establishes an agreement for how the charges to operate the Juvenile Assessment Center are distributed among the agencies in the 18th Judicial District that take advantage of the process. Just to give you an idea, Englewood had 81 clients in the last cycle, which was 2009-2010. That represents 3.74% of the total juvenile population that was transferred...I'm sorry...the population of the City of Englewood in the 18th Judicial and 3.25% of the use of the Juvenile Assessment Center. So, they take a formula and that's what the Memorandum of Understanding establishes...is that agreement for payment. I would invite questions.

Mayor Woodward asked if there were any questions for Chief Vandermee. There were none.

COUNCIL MEMBER GILLIT MOVED, AND COUNCIL MEMBER OLSON SECONDED, TO APPROVE AGENDA ITEM 11 (a) (iii) - COUNCIL BILL NO. 15.

COUNCIL BILL NO. 15, INTRODUCED BY COUNCIL MEMBER GILLIT

A BILL FOR AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT ENTITLED "MEMORANDUM OF UNDERSTANDING FOR THE 18TH JUDICIAL DISTRICT JUVENILE ASSESSMENT CENTER" ESTABLISHING THE METHOD IN WHICH THE PARTICIPATING GOVERNMENTAL ENTITIES ARE ASSESSED FEES FOR THE USE OF THE JUVENILE ASSESSMENT CENTER.

Mayor Woodward asked if there was any discussion.

Mayor Woodward said I just did quick math on those clients. It is roughly \$193.00 per client, which for a juvenile assessment seems pretty reasonable.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,

Nays: Olson, Gillit
None

Motion carried.

Chief Vandermee said thank you.

(iv) Police Chief Vandermee presented a recommendation by the Englewood Police Department to adopt a bill for an ordinance authorizing acceptance of Victim Assistance Law Enforcement (VALE) grant funding for 2010 in the amount of \$16,740.00. He said thank you. The Police Department is requesting that Council support a bill for an ordinance accepting the 2010 VALE grant funding in the amount of \$16,740.00. We again applied to the VALE board...our Victim Assistance Coordinator Nancy Wenig and Commander Sam Watson presented themselves, presented our grant application and it was awarded in its entirety at the \$16,740.00 level. That represents about 30% of the funding for the Victim Assistant position in the Municipal Court, Nicole Maynard. So, we are requesting approval to accept that grant. And, I invite questions, again..

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER PENN SECONDED, TO APPROVE AGENDA ITEM 11 (a) (iv) - COUNCIL BILL NO. 16.

COUNCIL BILL NO. 16, INTRODUCED BY COUNCIL MEMBER WILSON

A BILL FOR AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A VICTIM ASSISTANCE LAW ENFORCEMENT (VALE) GRANT FROM THE VICTIM ASSISTANCE LAW ENFORCEMENT BOARD OF THE 18TH JUDICIAL DISTRICT.

Mayor Woodward asked if there was any discussion.

Council Member Gillit said great job. Chief Vandermee said thank you.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson, Gillit
Nays: None

Motion carried.

Chief Vandermee said thank you. Mayor Woodward said thank you Chief.

(b) Approval of Ordinances on Second Reading

(i) Council Bill No. 11 permitting buy-back, second-hand, thrift and consignment uses was considered.

Mayor Woodward said this is authorizing amendments to Title 16 of the Unified Development Code to permit buy-back, second-hand, thrift and consignment uses as uses-by-right in the MU-B-1 Zone District.

Mayor Woodward said is there a motion for approval?

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO APPROVE AGENDA ITEM 11 (b) (i) - COUNCIL BILL NO. 11.

COUNCIL BILL NO. 11, INTRODUCED BY COUNCIL MEMBER GILLIT/WILSON

A BILL FOR AN ORDINANCE AMENDING TITLE 16, CHAPTER 5, SUBSECTION 1.1, AND CHAPTER 11, SUBSECTIONS 1 AND 2, OF THE ENGLEWOOD MUNICIPAL CODE 2000, TO PERMIT BUY-BACK, SECOND-HAND, THRIFT AND CONSIGNMENT USES AS USES-BY-RIGHT IN THE MU-B-1 ZONE DISTRICT.

Mayor Woodward said okay...discussion.

Council Member Gillit said one of the questions that I have...the gentleman raised the question about going from 10,000 to 12,000 square feet on that. What would be our process for re-looking at that? Is it something we could approve the 10,000 on and ask...see if they could get a variance for the other 2,000? That way they could have the 10,000 now, and we discuss the 12 versus the 10 now? What's the process of that? City Attorney Brotzman said you may modify that number. Which is...you can either approve it now and send the rest back to P & Z if you would like...or you can actually modify the overall square footage...of what you are looking at. The distinction in the staff report that was being made is changing how you define floor area...was never discussed...sort of, at any level. So in creating a difference, you actually need to send that one back to Planning and Zoning. But describing the size of the buildings overall, you can actually set that tonight.

Mayor Woodward said we could do the 12,000 square feet, for example, or 3500 or 14,000 or whatever number we came up with. But we could modify that to 12,000 square feet and move on.

And, Council Member Jefferson said, that will also push the Council Bill 11 back to first reading, based on those amendments. Correct? City Attorney Brotzman said correct.

Mayor Woodward said right. And then the next reading would be our next meeting. Which, I think, we...during the first reading...had discussed...would probably be our track. Or possibly our track, I should say.

Council Member Jefferson said so, in that situation, you know, they could use...is it 10,000 square feet for the retail use and, for example, for a 12,000 square foot building they could use 2,000 for storage? Is that correct? Mayor Woodward said that would be correct. Council Member Jefferson said I just wanted to be clear.

Or, Council Member Wilson said, could we just say 12,000 feet for the store building and then over that would have to be storage? Council Member Jefferson said sure. What we would be limiting would be the number of retail square footage. Ms. Wilson said yes. And so, Mr. Jefferson said, we could set that number at any number we wanted to, that would exclude the amount of square footage used for storage and other purposes.

Mayor Woodward said for storage and the other exclusions of floor area that have pointed out in our...for certain areas. Council Member Jefferson said...that are defined...yes.

Mayor Woodward said other discussion?

Council Member Wilson said but that would be in all the areas, not just limited to downtown. Correct? Mayor Woodward said correct. That would be the whole MU-B-1 area, which would include all the way over to Hobby Lobby or Elati and down into Market Place, where Big Lots is and stuff.

Council Member Jefferson said well, for example, B-2 doesn't have that square footage requirement currently. Council Member Wilson said right. So, Council Member Jefferson said, B-2 could have an extremely large thrift use...for example.

Council Member Wilson said but...or do we want to just limit it...the 12,000 square feet to the downtown area?

Council Member Jefferson said that's what the question would be here, tonight, if we chose to go that route. Because tonight we are only looking at B... Mayor Woodward said MU-B-1. Council Member Wilson said yes...but no... Mayor Woodward said if we look at, and correct me if I am wrong, if we look at just the downtown area...the three block area, then that will be creating an overlay, which we will be sending back to Planning and Zoning and going through the whole...starting all over again. So, this is just going to be my personal recommendation...is that if we are going to change square feet, in fact, I would make a motion...I will make a motion.

MAYOR WOODWARD MOVED TO PUT IN A SQUARE FOOTAGE FOR A SMALL THRIFT STORE, NOT TO EXCEED 12,000 SQUARE FEET, AND ALLOW THAT IN THE MU-B-1 AREA, WHICH WOULD BE THE WHOLE AREA.

Mayor Woodward said then we could do that on first reading right now. Go through a second reading in two weeks. And then in 30 days it would become law. And...so that would be my motion to have a small area of 12,000 square feet and anything larger as a...not allowed in this area for thrift stores. Council Member Wilson said could we say... Mayor Woodward said the reason I'm saying that is specifically what was brought up in the Planning and Zoning Commission, which was King Soopers. Now, there is no expectation that King Soopers will be moving in the near future or currently. However, King Soopers has moved around the City, has grown. And the fear being that maybe King Soopers does develop a new site and move somewhere and turn into a super center or a larger store and vacate their premises on Broadway, which would then allow a thrift store...you could have a super large Super Savers...in that, what I consider to be our historical area, which is from Floyd south to Hampden.

Council Member Jefferson said there are also some other very large properties...in the Englewood Plaza, the former Phar Mor and Englewood Market Place, as well, that would be potentially used for large scale operations. But, I understand your concern...I was just... Mayor Woodward said I would suggest too...with...I've got a motion on the floor...but I would also suggest that we bring it to a Study Session...discuss it...start discussing it and seeing specifically what we are looking at, and then, from there, with staff's input and stuff, send that back to P & Z. And if they want to modify from there, fine. However, in the meantime we have defined and not stopped any progress from going on right now.

Council Member Wilson said could we...with the 12,000 square feet...can we say retail space? Mayor Woodward said no. We say 12,000 square feet of floor area. Ms. Wilson said okay. But that does not include rest rooms, office area...? City Attorney Brotzman said correct. It is currently defined in the Code.

Mayor Woodward said it does include rest rooms and office areas. It does not include what is laid out here. Basement areas with parking or storage areas...it is very specific in the Code. Council Member Wilson said okay.

COUNCIL MEMBER GILLIT SAID I WOULD LIKE TO GO AHEAD AND SECOND THE MOTION. Mayor Woodward said thank you Rick.

Council Member Jefferson said I am personally, generally supportive of Council Bill 11 as written, but I am certainly open to the discussion of the square footage, if that is the direction that general consensus of Council wants. But, I am generally supportive of, again, Council Bill 11, as written. You know, I generally see no definite distinction, I guess, is where I am kind of coming from. I see no definite distinction between thrift and these other uses. As they have the same function of retail in second-hand goods. And so, you know, I feel like trying to split that hair is going to be difficult, because whatever use it may be that wants to move into...for example, under the Mayor's example...K-Mart...or, I'm sorry, King Soopers...I feel I can get away saying hey, I'm a second-hand shop, not a thrift shop. So, I guess I need a little help on how we could more definitely define those. Because I just see that as being very problematic going forward.

Mayor Woodward said I think that could be discussed in that Study Session that I had mentioned. With staff's input and then go to P & Z...if there is such a discussion. Certainly, a thrift store, as its defined right now, is a non-profit for the value to be able to get donations and the donations to be the possibility of a write-off, then, through the IRS. That's a lot different than a second-hand store, where you may buy something and sell it second-hand. Such as... Council Member Jefferson said I generally understand the distinction, as defined currently, but I guess I generally reject that distinction. And, again, suddenly you are making a distinction between the same type of operators, based on the operator being a 501C3 or not and in my mind I just...again, I don't think that is the appropriate definition. You know...and so...again, I would love to hear more comments from the Mayor or from Rick...Council Member Gillit...about...again, how they see an opportunity to reject thrift and still allow these other three type of uses in this district. Council Member Gillit said I don't think we are rejecting thrift. Council Member Jefferson said large scale thrift. I mean that is basically what your motion

would propose. It would reject large scale thrift over 12,000 square feet. Am I missing something? Mayor Woodward said that is correct. Council Member Gillit said yes.

Council Member Jefferson said I guess my rationale...I'm just trying to understand the rationale between...how are we going to distinguish between a 12,000 square foot thrift versus 12,000 square foot second-hand? Because if it is 5013C status, I'm not on board with that.

Council Member Olson said I totally see where you are...this is my problem with it as well. I don't agree with this as the definition of thrift...as a non-profit. I think it's...I think it doesn't take into account Savers, which is a for-profit and they receive donations...totally...people drop things off there, as well. So, I think we've blurred some things here that make it difficult for that decision then. I am...I am now reluctantly in favor of this. And I am only reluctant, because I am concerned that our business district downtown does not have a clear plan. And I am really concerned about creating something that they can't live with over time. And that is my only reservation with that area. But I can see the need for it, after walking through there and seeing nine empty stores. I think we need to do something, so I am open to this. But I do worry about this non-profit definition. If that can be put off to another point and still...another point in time and we can still go ahead with this, I think we need to do that. We have some confusion...

Mayor Woodward said I think we can bring it forward in a Study Session, regardless of whether the motion...my motion to revise passes or not. I think we should for discussion purposes.

City Attorney Brotzman said I am confused. Because there are actually two pieces to this. One is...did you just do size of second-hand, thrift, consignment stores? Did you put all of...Planning and Zoning said...allow them in this district. You just put a size restriction on those. Did you do more than that and redefine only thrift? Mayor Woodward said oh, I thought that... Council Member Jefferson said that recommendation that was highlighted in the staff report was suggesting that thrift could be separated out and that that usage, in and of itself, could be eliminated by square footage.

City Attorney Brotzman said it could be, it could be...or you can limit all of those categories... Council Member Jefferson said I think that is what the Mayor's motion was...correct me if I'm wrong your honor.

Mayor Woodward said my intent is a...I said it was for thrift...however, we could go with 12,000 with all of it. I mean...Council Member Jefferson said I think that would be more reasonable.

And, Council Member Olson said, forget the definitions? City Attorney Brotzman you would leave the definitions as is. Mayor Woodward said you would have a large and a small. Small would be any of these under 12,000. Large would be any of them over 12,000.

Council Member Jefferson said, basically, what you would be doing...rejecting all of these uses that exceeded that 12,000 square footage.

And, Mayor Woodward said, I think the argument that will take is truly somewhere around three to four thousand square feet is truly real.

But, Council Member Wilson said, I think with the definitions they don't have to be non-profit, but they are donation driven...donation driven. Council Member Jefferson said not necessarily. Consignment is like a... Council Member Wilson well, no...I'm talking about thrift. Council Member Jefferson said thrift? Oh, I'm sorry. Council Member Wilson said thrift are donation driven, but they can be for profit or non-profit. Council Member Jefferson said correct. And so, Council Member Wilson said, I think that's where... Council Member Olson said that's what I'm saying...it's not helpful. Council Member Wilson said yes. So, I mean, at some point after this passes, can we go back and change that definition? Mayor Woodward said Dan, can we do that now? Remove the words...

City Attorney Brotzman said the answer is you can...right now what you have done, is you have simply changed it to add a square footage limitation. You haven't changed the definition of thrift yet. Council Member Wilson said could we? Mr. Brotzman said you may. Council Member Wilson said tonight? Mr. Brotzman said yes.

You haven't done that yet. Council Member Wilson said okay. But, it wouldn't have to go back, it could move forward tonight? City Attorney Brotzman said no, no. Ms. Wilson said no, what? Mr. Brotzman said it doesn't...you may change the definitions. Staff gave you some proposals as to language. Council Member Wilson said okay. So, Mr. Brotzman said, you may...on top of the 12,500, you can also redefine it if you wish. Council Member Wilson said I just think that would be more fair, more honest and more what is the truth...as how that reads...versus...and after talking to Linda, when she said that Savers was a for profit, that makes total sense. And that, you know, there is not a...something that makes people feel uncomfortable...it's just donation driven.

Mayor Woodward said Dan, we can remove that for non-profit, right? City Attorney Brotzman said let me help. Right now you don't have that distinction. There is a recommendation or there is an explanation in there. What Planning and Zoning sent to you and what you approved on first reading, does not have that non-profit definition in it. Council Member Wilson said okay. Mr. Brotzman said so what you have currently is they are all lumped together. Consignment and thrift are together. Council Member Wilson said okay. City Attorney Brotzman said it sort of works backwards. If you want to keep it that way, you don't have to do anything. You can do a size limitation. If you would like to make distinctions between thrift and consignment stores, you would actually have to do an additional motion. Council Member Wilson said okay.

Council Member Wilson said I don't know how people feel about doing the additional motion or just leave it as is...since there are no definitions. Council Member Jefferson said yes, if we kept them all lumped together there would really be no issue there...in my mind. But I may be...it did get brought up at the Public Hearing. And some people did feel that it was inappropriate. Council Member Wilson said yes...that it was not correct. Council Member Jefferson said in my mind that is a totally separate issue...we can go back and do that at another time. Council Member Wilson said can we do that at another time...Dan? City Attorney Brotzman said yes...yes. Council Member Wilson said okay.

Council Member Wilson said the other thing...what I would like to say is...with the 12,000 square feet in downtown area...I feel strongly about that, that it will help maintain our historic look, our small town feel, our walk-ability. And so, I am in favor of the 12,000. I think that is important. My concern is, and we talked about doing an overlay into the business downtown...those three blocks. So, we can go ahead and pass this, send it back to P & Z for an overlay? City Attorney Brotzman said to look at an overlay. Council Member Wilson said to look at an overlay, for the other areas.

Mayor Woodward said we can pass this and send it back at another time. Just for clarities purpose. Council Member Wilson said okay. I'm with that...I'm good with that.

Council Member Penn said my concern...as we increase the size of this square footage, is...decreasing the size of storage and prep area and everything else. And I really have a concern with what's coming into these stores and will they be able to handle it and if they have this much square footage for retail, is it going to diminish their size of prep area and their size of storage and taking in merchandise? I really have a hard problem with this going up to 12,000 square feet.

Council Member Wilson said is it up to 12,000 square feet floor surface or is it...I mean they can use 8,000 for floor service and the rest for storage, correct? But, Council Member Penn said, I think the 12,000 is for display and sale purposes. Is that not correct? Several Council members spoke at once. But, Council Member Wilson said they don't have to use all of it. Mayor Woodward said I just heard 12,000 floor area. Council Member Wilson said...is the maximum. But, Council Member Penn said, does that include storage area also? City Attorney Brotzman said no. Council Member Penn said see, that's one...I'm having a hard time with that. So, I don't know if I can go to a store that big and not...and have a smaller...because that store is only 13,500 and that gives them 15...only 1500 square feet to do... Mayor Woodward said well, they don't have to be... Council Member Penn said I understand that. But that's one I'm having a problem with...how are they going to do that operation...and I know they are probably all smart enough to do that. But I have a concern with where they are going to put the merchandise, how they are going to prep the merchandise and how they are going to receive...without having great big semis on the back of their building again.

Council Member Olson said well, I would agree and I also...I'm a little bit concerned about...you are talking about them as if there is someone in particular, and this really isn't about any one business right now. It's about our general sense of what we want to be there. And so, you have to consider the possibilities of anyone going in there. Council Member Penn said I agree, but I'm... Council Member Olson said so someone could be very good at it and someone else not...and we've allowed it to be at a level that maybe can't handle it and someone is not as good at managing it. We've got to be clear about it. So, I agree with you, is what I am saying.

Council Member Gillit said I think a business that's going in there will understand their limitations. And they will choose whether to come in or not come in...understanding those limitations up front and they can make that choice. I don't think it's up... Here's 12,000...make the best of it. Several Council members spoke at once.

Council Member Wilson said I also think that there are codes that, you know, they violate, then they won't be around. So, I mean there are things in place that they have to go along with and have to not be in violation. Council Member Penn said why create problems? Council Member Jefferson said I appreciate you bringing that up. I think a lot... Council Member Penn said why create problems when you can kind of skirt the problems early and try to take care of them before we have to go send Code to them? But, Council Member Wilson said, the thing is...say up to 10,000 square feet...if you give someone who can't manage that...and then they...I mean I don't think 12,000 feet...square feet is...I don't think the number matters. I think it is how the operation is run. So, I think... Council Member McCaslin said right there you are saying that...12... Council Member Penn said that's right. Council Member McCaslin said then why are we putting a limit on 12,000? I don't understand. Council Member Penn said let's go 50,000. Council Member Wilson said for the downtown area to keep that historic feel. Mr. McCaslin said why don't we make it 14, 15...let's make it 16. Council Member Wilson said I like 12. Several comments were made at the same time. Council Member Jefferson said I agree...I struggle with the rationale as well there, so I would love some clarity on the rationale behind the... Council Member Gillit said isn't 12,000 square feet the average size of those buildings down there where... Council Member Jefferson said that is a very...that's a pretty large building... Council Member Penn said that is a large building down there. Mayor Woodward said it is up and down. Council Member Wilson said there is a mezzanine. Mayor Woodward said...in that particular building.

Council Member Olson said I visited some places last week that looked like they needed a lot more storage and ought to have thought about it and it is not a very fun place to go into...some of them. Others manage it very well. So, I would not want to put it on Code people or...I don't know how you would even regulate what people do inside their store to make it look well and I think it would be the last thing we ought to get involved in. Council Member Wilson said yeah. So, Council Member Olson said, I would agree with Randy that we set it clear to begin with, so that people who aren't good at this, who might try their hand in it and should be allowed to...come in and might do not as good a job. But at least we've helped set some guidelines.

Mayor Woodward said I think a tenant is going to come in and they are going to construct a wall with a door or doors that separates their receiving, storage area and whatever else might be there...from their retail store area. That would be pretty typical...for a retailer. So, certainly the City would see that and...I mean, an architect would be showing dimensions, so it would be very easy to...it would almost be too easy to determine and to know those numbers...to verify them.

Council Member Penn said I generally agree with you, but have you sat outside the Goodwill and you have those two big trailers sitting there every single day and we still don't do anything. And there is trash all over the place. We are going to create the same thing. And granted they are going to be...I hope they are good neighbors, I hope they do a great job, but that is one of my fears. And I think Linda hit it on the head. When you walk back on 33, 34, 3500 South Broadway...and you look at...behind the stores...we haven't done a very good job. Because there is trash, there is merchandise, there is throw out stuff, there is people dropping off stuff. And before we allow a business like this in again...we are just going to create the same problem.

Council Member McCaslin said I don't know. Last Friday, I went to about four or five different places...Savers, two Goodwill stores...the one looks like a Macy's inside of it, on 2nd and Broadway. And I was impressed. I really don't think we should limit...you know, the people have the opportunity to open these businesses. I mean who are we to tell them where your items are going, you know...and what you are going to do with it. I mean we can regulate our codes...let's not set them up for failure right away...give them a chance. I mean, I don't think

we should be limiting...I mean I don't know why we came up with 12,000. That's one thing I have to get a grip on...why it's 12,000...why did we pick 12,000...why don't we pick 14,000, why didn't we pick 16,000...what's...why was our recommendation 12? Mayor Woodward said well the recommendation...that was my number. P & Z's was 10. I heard public testimony tonight at 12.

Council Member Olson said I would prefer to go with what P & Z spent their time on and then is...that is the retail floor...right? Mayor Woodward said that's allowing everything. Ms. Olson said...10,000? Council Member Jefferson said P & Z is recommending allowing these uses without a square footage limitation. But, Council Member Olson said, there were... Council Member Jefferson said that's a staff recommendation. Ms. Olson said...oh, that's...I'm sorry.

Mayor Woodward said P & Z didn't have any recommendations as far as size.

Council Member Gillit said the reason I seconded it for the 12, is that we give added flexibility. If it doesn't work, we can change it back. We decide.

Council Member Jefferson said those existing uses will get to stay as a... Council Member Wilson said yeah.

Council Member Gillit said we give more opportunity. I think you increase your...you know, the people you are trying to bring in. And, of course, there is always the variances. We can look at different numbers, at different times...but 10,000 just seems so little...I don't know...a little small to me...12,000 seems a little bit more generous...gives them more space and make it a little bit user...more user friendly to the business. And I think that that is what they are asking for.

Council Member Penn said I think you can go in the opposite direction also and do the same thing at 10,000...find out that everybody is doing a great job and then increase it to 12,000 later on. I mean...it's the same as doing 12 and then going down back to 10. But, this way, at 10, you don't have to grandfather anybody in...if you go up to 12,000. They are already in.

Council Member Jefferson said I guess my question is...is there really a different look and feel between 10 and 12 and these others? I mean, I certainly understand where some people say, hey, some of these are kind of boutique and they are a couple thousand square feet and I guess I understand that rationale, but once you get up over 10,000 square feet, it's a big place. Again, I'm just kind of struggling with the rationale of limiting them generally.

Mayor Woodward said I have no problem with...you know, the existing King Soopers over there being a large thrift store. And at one time, the old Safeway, which is now Table Steaks...was Salvation Army. Times have changed and there is more big box stuff.

Council Member McCaslin said what is the square footage of King Soopers? What is the square footage of King Soopers? Director White said it's a little bit under 67,000 square feet. Council Member McCaslin said oh well...gee...what I'm thinking...that's 67,000. Mayor Woodward said right...that's what I'm saying. Council Member McCaslin said well...so 12,000...I mean you could go to 20,000 and not ever worry about anybody moving in...if you are worrying about someone moving in... Mayor Woodward said there isn't a 20,000...it was pretty clear on the staff report that there wasn't an area of 20,000. There is one site...are you going to rip down all those buildings? Council Member McCaslin said no. Council Member Penn said we did it once. Council Member McCaslin said but what I am asking you...you said you were concerned about King Soopers. There is 60,000 square feet...there no way if we limit it to 20,000...that anybody could move in a thrift or consignment store into there. Is that correct?

Council Member Jefferson said what about off of Broadway...I just have to complicate things a little bit further...and Englewood Plaza and Greenwood Market Place? Aren't there properties there that are pretty big size? I mean those are big, square footage buildings there. Mayor Woodward said you have Hobby Lobby and... Council Member Jefferson said I think those are...maybe not quite as big as the King Soopers lot, but they are close. I mean, they are huge. I don't know if anybody knows the answer to that? But I'll just convolute the issue a little bit more by saying there is also other opportunities, besides that King Soopers that are also

huge ones. But I just...I agree...in my mind that wouldn't be the most attractive business there, from my own personal standpoint. But if the reality is that that is the highest and best use at that moment, then I guess I'm not opposed. I mean if the reality is it is going to set vacant or if somebody is willing to operate a successful business there...I'm going to choose for somebody to operate their successful business there. I just think, economically, it really doesn't make sense...I mean, you know, tackling that type of square footage on a second-hand type of model...I don't think has ever been done before. I don't know. Point me out if I am wrong...I don't know how big Goodwill is...that is a pretty big space too. But, it's just difficult to make that type of square footage work, with that type of a model...with those type of margins.

Council Member McCaslin said wasn't Savers 20,000, if I remember right? Council Member Olson said I think it was close to 30. Council Member McCaslin said 30,000. I mean...

Council Member Wilson said I am comfortable with 12, and then we send it back to P & Z...

Mayor Woodward said we discuss it. Council Member Wilson said yeah...oh, we discuss it. Council Member Penn said I am comfortable with 10. Council Member McCaslin said I am comfortable with 12.

Mayor Woodward said 10 eliminates one of our users. Council Member Olson said I'm sorry...what?

Council Member Penn said not if they keep it to 10,000 square feet of retail space. Council Member Wilson said floor space. Council Member Penn said floor space. It wouldn't eliminate them. Council Member McCaslin said then have 2,000 for storage. Council Member Penn said yes.

Council Member Jefferson said does everybody on this side also supportive square footage? Council Member Gillit said I'm for 12.

Mayor Woodward said I'm going to go ahead and call the question and try and restate it again with the information, that I believe, I heard Dan saying. And that is...

MAYOR WOODWARD MOVED AN AMENDMENT TO 12,000 SQUARE FEET, WHICH WOULD INCLUDE THRIFT, BUY-BACK, SECOND-HAND AND CONSIGNMENT AND CALL THAT SMALL AND ANYTHING LARGER THAN 12,000 OF FLOOR AREA WOULD BE LARGE.

Mayor Woodward said does that work for the second...Rick?

COUNCIL MEMBER GILLIT SAID YES. I RE-SECOND, MY SECOND.

Mayor Woodward said okay. Are we ready to vote on that? And that is just an amendment to our original.

Council Member Jefferson said this will send...just to be clear on the process...this will send this back to first reading, but not necessarily P & Z. Is that correct? City Attorney Brotzman said correct. Mayor Woodward said correct.

Council Member Wilson said are you going to vote? Council Member McCaslin said I'm thinking.

Council Member McCaslin said can I clarify? The 12,000 will allow thrift stores right now...the 12,000 floor space? Council Member Jefferson said no...this is going to push us back a little bit in this process...that was why I was clarifying the process. We are going to have to go back to first reading, pass it on first reading and bring it back two weeks later after that for another second reading to get back up to where we are now and then after that passes it will go into effect...help me out...in 30 days? 30 days.

Council Member Olson said so, if we were to approve it at 10,000 tonight, it would go forward? Mayor Woodward said the same thing...City Attorney Brotzman said right now...you have no limitation right now. Council Member McCaslin said we have no limitation...okay. You've got my vote. Council Member Wilson said so...okay.

Council Member Jefferson said what we are voting on is the motion to limit these uses to 12,000 square feet in B-1. Mayor Woodward said MU-B-1...right. Council Member McCaslin said oh...instead of...

Council Member Olson said basically what it does is it gives us a size difference that we've agreed on...that anything over and above is large...right? Council Member Jefferson said correct.

But, Council Member Wilson said, we have to wait a month? Council Member Jefferson said yes...this is going to push the process back a little bit.

Council Member Olson said so...if we don't...then what happens? City Attorney Brotzman said it depends on what you do next. You could pass this currently...there is no size limitation at all. It would then be 30 days after publication that they could move forward.

Council Member Jefferson said and so by amending this at all, this pushes the process back, a minimum of 4 weeks...2 weeks. City Attorney Brotzman said 2 weeks. Mayor Woodward said 2 weeks.

Council Member Penn said could we not then send it back to P & Z and create the 12,000 square feet without delaying this process. Mayor Woodward said no, we cannot go back to P & Z without hugely delaying this process.

Council Member Penn said I mean, if you voted as is now...and then we go back and make recommendations later... Mayor Woodward said then...the ones that in the meantime are use-by-right and we are asking after Study Session what our questions are...and then going back to P & Z to redefine... Council Member Penn said but it wouldn't delay any time for them to start now...if we accepted what's on the board right now. Council Member McCaslin said that would be...there is no size...everything's included...they would go through. Council Member Olson said you mean we would do an overlay. Is that what you are saying? Mayor Woodward said yes...we are on the amendment though. We are talking about the amendment. We are still voting on that.

Mayor Woodward said do you still need votes Lou? City Clerk Ellis said yes.

Council Member McCaslin said re-state the amendment please.

Mayor Woodward said the amendment is to limit or have two categories...a small and large. A small would be defined as up to 12,000 square feet of floor area for any buy-back, consignment, thrift or second-hand store.

So, Council Member Wilson said, why do we need two sizes? Why can't we just say up to 12,000 for those...period? Mayor Woodward said okay...period...and then what happens if somebody comes in and wants... City Attorney Brotzman said because you allow thrift stores of a larger size in other zone districts.

Council Member Jefferson said B-2 doesn't have a restriction on square footage.

Council Member Wilson said so we have to have small and large? Council Member McCaslin said no we don't have to. City Attorney Brotzman said no, you don't have to...but to get to the 12,000 that you are putting in here...that is the proposal.

Council Member Wilson said and there is no way to get around...unless we just go as is...for doing a second reading in two weeks? City Attorney Brotzman said correct. Council Member Jefferson said it only expands the process by two weeks though. Mayor Woodward said we discussed it at first reading that we would probably do that. Council Member Jefferson said yes...I apologize. Council Member Wilson said alright.

Council Member Jefferson said is everybody ready to vote on the amendment? Mayor Woodward said has everybody voted?

Vote results on the amendment to Council Bill No. 11:

Ayes:	Council Members Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	Council Members Penn, McCaslin

Motion carried.

Mayor Woodward said okay, now we are going back to the original amendment with that change. Is there any further discussion on that?

Council Member Wilson said no...not for me. Mayor Woodward said okay, thank you.

Council Member Jefferson said I'm sorry...we are going back to the original amendment. Mayor Woodward said the original...Council Bill No. 11. All we did was approve the amendment.

Mayor Woodward said is there any other discussion?

Council Member Olson said I am just very concerned for our business district that we do whatever we need to do to help them develop...in terms of the downtown area, in particular...a concept for that. And I know that this takes time and it just...I'm concerned...and I hope we are not undoing something that they want. Because they didn't come forward as a BID and give us any leaning one way or the other on this. But I just want to register that concern. And so whatever we can do to support the downtown business area and thinking through what do we want to be...I don't know what that will include...but I want to see us move forward on that.

Council Member McCaslin said I agree with you. In walking that particular couple of blocks...or the block that I did last Friday...I mean, most of the owners have no concern. They said oh, yeah, I don't have a problem with this. So, I feel like you Linda...I hope we are not limiting to someone who really wants to be down there...because of the size. That bothers me still.

Mayor Woodward said well, I agree with part of what you said Linda. And that is that I feel like we have not heard in the Public Hearing here, from the BID, from the business community...other than Mr. Cohn...existing...that I recall. We have had plenty of e-mails. We've heard in ACE...we heard at the BID, at Study Session, where they didn't want their stores and then four days later it was a different situation. So, I do agree that there appears to be a lack of direction as to what they want. But I'm very clear and I think parts of the community are very clear...is that they do not want...in what they consider what little historic area they have of Englewood...to be a large thrift store...possibly looking like the Goodwill or Super Savers in Littleton. A Super, Super Savers. Council Member Wilson said that is what I am hearing from citizens. So, Mayor Woodward said, I do agree with that and that would be my comment.

Council Member McCaslin said but you know, we talk about Goodwill and I just talked to a media relations person today from Goodwill and she was very open and honest. And I think Goodwill does a great job. I think there are a lot of people, even here, that shop at Goodwill. I don't know. Mayor Woodward said so what's...I don't understand the point. You say...but... Council Member McCaslin said well, if I was really...if I...you keep phrasing this as...you know, we don't want another Goodwill downtown. To me...if we don't want to use it...who is using the building? Like you always say...is it the usage? If we are saying...well, we don't want a place like Goodwill...to me that's kind of...I feel it's kind of discriminatory. I don't know...I'm trying to handle this.

Council Member Olson said the Goodwill up on Broadway and 1st or 2nd...is just amazing. So, to me it's not...my statement isn't about thrift or consignment. It's just pointing out a larger issue that we still do not have a clear vision for our downtown area. And all I'm asking is that let's keep moving forward with this, with the BID, with other folks that maybe aren't involved in the BID that might help us get some fresh perspective and that's all I'm saying. I'm not arguing for or against thrift or consignment or anything at this point. I just want to see us have a vision and be united with this as much as we can to go forward. And this is the time to do it...when we have empty buildings...so that we know what we are trying to attract.

Council Member Jefferson said I think there is some frustration that we haven't heard, necessarily, from BID in a consensus saying...you know, lobbying for one side or the other and certainly, we have heard from individual businesses and a couple have been vocal against this. You know, Sam Kaufman of our Kaufman's Big and Tall, has been pretty vocal and he sent an e-mail to all of us about it...that he is against these uses in B-1. But, that being said, I certainly understand the frustrations that...not having a united voice. But sometimes it's difficult on issues like this. Council Member McCaslin said right.

Council Member Wilson said but I think, you know, we are all trying to do what's best for the City. And I think limiting the size will help the downtown area stay the way most of us seem to want it to be. But what I am hearing from constituents and residents is they want to see buildings...they don't want to see empty buildings. I don't want to have a knee jerk reaction and just go okay, this is the way it is. But, it is kind of a new way of living and, you know, a greener way and it attracts different people who want to live that way. So, I feel that it is a positive step in that direction and limiting the size won't deteriorate the downtown area.

Council Member Jefferson said I agree and I think that would alleviate some of the concerns, of some of the local business owners, knowing that, for example, places like...properties like King Soopers, wouldn't turn into a thrift type use. Again, I personally, don't have that personal concern, but I think that will alleviate some of the constituent concerns...from business constituents, I guess. So, that is why I will be supportive of what we are voting on now. Mayor Woodward said as will I.

Mayor Woodward said is there any other further discussion? There was none.

Vote results on approval of Council Bill No. 11, as amended:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson, Gillit
Nays: None

Motion carried.

Mayor Woodward said okay. Council Bill No. 11 has passed unanimously, with amendments.

(c) Resolutions and Motions

There were no resolutions or motions submitted for approval.

12. General Discussion

(a) Mayor's Choice

(i) Mayor Woodward said I heard from the people at Cafe 180, which is the restaurant that is going in where the Spicy Pickle was. They are looking at an opening toward the end of June. They are going to have a fundraiser; I believe it is on October 19th, with...they want to do a ribbon cutting and stuff. Randy, I've put them... Council Member Penn said you know, I haven't...she has not got ahold of us at all. I don't... Mayor Woodward said well this was just last week that I suggested... Council Member Penn said hopefully, as long as she gets ahold of us, we will set that up for her. Mayor Woodward said okay. So I am looking forward to that. It gives some volunteer opportunities for some of us and some good, healthy food for some people in need.

(ii) Mayor Woodward said also, I want to mention that Habitat for Humanity is having a workday, Metro-wide, this...on the 12th...this Saturday. And they are starting work on four townhomes on June 29, up on Baltic, in District 1. They have four families, with children, that are all moving into those townhomes. So, there is going to be...if you're into the construction work...contracting...Matt, you're somebody that I think has been a volunteer for Habitat...that opportunity is going to come June 29th, I think is kind of a ribbon cutting type of thing, and I'm sure they'll be right after...June 30th.

(iii) Mayor Woodward said also, I want to express my congratulations to Brook Bell on the successful completion of the American Institute of Certified Planners exam. That gives our Community Development Department 5 members that are certified planners by the American Institute.

(iv) Mayor Woodward said Steve, I would like to thank you for coming tonight. And I enjoyed the services that the group of churches had put on and yours and my discussion later on in the week...the following week. So thank you for coming. I think, you know, what you are doing is adding valuable assets to our community and to the middle school. As I had mentioned to you, I hope that can be moved in to the high school as those kids move on.

(v) Mayor Woodward said I want to mention that Sue had put in our packets that National League of Cities early registration is June 15th, for the conference in Denver that will be coming up in November...end of November and December. Of which, I know, Gary and I and Alan, the City Manager from...the Deputy City Manager from Lakewood and a Council member from Lakewood and another person from Lakewood have been working on doing a presentation and a mobile workshop. Those are due...those applications for the conference...on the 15th of June for the early registration. If you register later, it is a higher price. Those were covered in the budget. So, if you are going to do that, I would encourage you to do that. In fact, I would like to do that. Since it's due on the 15th of June. It's \$415.00...is the registration fee for Denver. So I'd like to make a motion for approval for that, coming in November and December.

Council Member Olson asked would this be the time for everyone to state whether they will be going or not and do it all at once. Mayor Woodward said this would be a good time, yeah, if they are able to. It's in your packet. Council Member Jefferson said remind me of the date again. Mayor Woodward said November 30th...to December 1,2,3 or something like that. Council Member Penn said I would be wanting to go, Mayor. Council Member McCaslin said I would also. Council Member Wilson said I would also. Mayor Woodward said you also what? Council Member Wilson said want to go. I would like to go. Bob does and Randy. Council Member Olson said I am unable to go. Council Member Jefferson said I thought she was planning on attending. Mayor Woodward said okay. Rick, this is an opportunity...something in town. Council Member Gillit said I understand. I have the same budget concerns I had last time. Mayor Woodward said okay. Council Member Gillit said even more so than last time. I still don't understand why we just can't send one or two and have them report back. We are talking about serious budget issues. It just seems inappropriate, so I'll say no. Council Member Olson said is it possible to use their discretionary funds of a person every month towards that. City Attorney Brotzman answered yes. Mayor Woodward said yes, those are available on an annual basis. Council Member Olson said so can I...so since I'm not using mine, can I offer mine up? Would you like to go Rick? Have you already used yours? Council Member Gillit replied yes. Council Member Olson said would you like to use mine? Mayor Woodward said did we change that? You can't do that. Council Member Olson repeated you can't do that. Sorry. Mayor Woodward said I think we did that in the past and we revised that. Several Council members spoke at once. Council Member Olson said you still can't do it. Okay. Well, so someone else could though... Council Member McCaslin said we could chip in for him. Take up a collection. Mayor Woodward said chip in for what? For who? Council Member Olson said a donation. Mayor Woodward stated Rick, the money is covered in the City Council budget. But, Council Member Olson said, he's not wanting to use the budgeted money. Council Member Gillit said we also budgeted that we would get a certain amount of money that we obviously know hasn't come in, so I just cannot, in my conscience, say yes. Council Member Wilson said do you have your discretionary funds? Council Member Gillit said I've already used mine. Council Member Penn said...used it up already. Ms. Wilson said oh...okay. Mr. Penn said I will use my discretionary fund since I've never used it. Council Member Wilson said I will use my discretionary fund. Council Member McCaslin said it's already budgeted. Council Member Wilson said yeah, but I...I don't use my discretionary fund.

Mayor Woodward said whatever...okay, let's take the motion all together then. Would that be okay? Several Council members agreed.

MAYOR WOODWARD MOVED, AND COUNCIL MEMBER WILSON SECONDED, TO APPROVE THE EARLY REGISTRATION FEE OF \$415.00 EACH FOR COUNCIL MEMBERS PENN, MCCASLIN, WILSON, WOODWARD AND JEFFERSON TO ATTEND THE NLC CONFERENCE IN DENVER AT THE END OF NOVEMBER AND BEGINNING OF DECEMBER 2010.

Council Member Gillit said can I please clarify? I would love to go. I just can't ask the residents to do that for me. It's my conviction. Council Member Wilson said but if we are all using our discretionary funds... Council Member Gillit said I've already used mine, so... Council Member Wilson said and you used yours... Mayor Woodward said that isn't the point Jill. Council Member McCaslin said because it is already budgeted. Ms. Wilson said okay. Council Member Gillit said I'm not against it. I'm not against the training. I just...I have already used mine through, you know, sending letters and contact information and forums and everything so... So, Council Member Jefferson said, won't you support the rest of us going? Council Member Gillit said using discretionary funds, yes. Which, Council Member Jefferson said, are still taxpayer dollars, so... Council Member Gillit said but it's already, it's already...you're going to use it. Then you won't be able to use it for

anything else. That will be your choice. Council Member Jefferson said I guess I value the value of the ongoing education and I feel like it enriches me personally to help make very difficult, complex decisions on behalf of the citizens. And, you know, I think that sum of all of our decisions over the course of our term will significantly outweigh the cost of the \$400.00 here to send us to a training, an educational type piece. And just to respond, you know, about sending one or two, and in some situations, particularly when things are in different locations, I'm whole-heartedly on board with that. But when it is right in our backyard, and I feel like I can get real bang for the buck for the constituents on this kind of a thing... Council Member Gillit said we just went to NLC two months ago. I haven't...we haven't even heard yet what we learned there. We just went to CML two weekends ago...last weekend. Mayor Woodward said no. Council Member Gillit said not CML. Breckenridge. Mayor Woodward said we haven't gone to CML. We haven't gone there yet. Council Member Gillit said whenever that is coming up. Mayor Woodward said we approved it. Council Member Gillit said we approved it. It just...Council Member McCaslin said CML hasn't come yet. It's in two weeks. You know, we... Council Member Gillit said that's why you have a green button and I have a red one... Council Member Jefferson said I understand exactly. That's why I just wanted to share... Mayor Woodward said Joe...did you second this? Mr. Jefferson said I will, since nobody else has. Several Council Members spoke at once. Mayor Woodward said Joe seconded it. Council Member Jefferson said and again, not to beat up on you...I just wanted to make it clear you know why I am generally supportive of this and... Council Member Olson said and I am very supportive of you all going and I would be asking too, but I am teaching a class out of the country at that time again and so I wish I could I be there. I think it is a great opportunity for you all together. Council Member Penn said tough duty again. Council Member Olson said yeah. There was laughter.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson
Nays: Council Member Gillit

Motion carried.

- (b) Council Members' Choice
- (i) Council Member Gillit:

1. He said thank you Mr. Mayor. A couple of things I have tonight. One is I had a constituent call me about Cafe 180 and was concerned about transients. When you offer free food, no pay, there's a concern of what's going to happen to our downtown. You know...I'm not saying it's a soup kitchen, but it's, in a sense, somewhat that. Where you are allowing people with no means to come in and eat. I'm thankful that there is a place like that but, you know, I have to air their concern as well. Have we looked at...has there been any impact at any...at the other location with transients or other people that we know of that we need to be prepared for? We don't want everybody parking in the King Soopers parking lot overnight waiting for the... Council Member Wilson said they probably don't have cars. Council Member Gillit said we don't know. Mayor Woodward said the other...the one up on Colfax has been successful in that they are not only serving the people in need, but they are also serving professionals and business people who are paying the value...what they believe the value to be. That is happening to the point that that particular one is actually running at a profit. And it's, I think, three or four years now that it has been in operation. So, if that helps you...I think you will find, because of the nature of food, that you will have a different type of clientele, and not only, I think, possibly what you might be thinking is homeless or something like that coming in, but you may find people that are coming from the senior centers or possibly people that would usually go to Malley for the VOA lunches, as a change maybe coming over there or somebody that just wants fresh food. Council Member Gillit said right. And I agree. I understand. I think the concern was we are looking for a certain image for our downtown and they were just concerned that this might conflict with that goal. I just wanted to bring it up because I said I would. Council Member Jefferson said another thing I'll highlight as well, was in just reading the Englewood Herald article, it seems like they are not just totally handing things out, they will put you to work or ask you to volunteer on some level if you do take some food for free...for no cost and maybe that's kind of a zoning question going forward. Council Member Wilson said I think it is also just giving back and, you know, like, I could go in there and pay for my lunch and work so someone else could eat. And I think...Council Member Jefferson said some people pay way above and beyond what the value is, is my understanding. Council Member Penn said yes. Council Member Wilson said yeah, and so being able to give back is just another way to volunteer in the City, that's not, maybe, through the

City per se. So I think it is a great opportunity and I really welcome them and are excited that they are coming; that they would choose Englewood for their restaurant. Council Member Jefferson said what about zoning...it's close to the...what about zoning?. City Attorney Brotzman said I don't believe there is... Council Member Jefferson said like for a...what do you call it...a soup kitchen...I don't know what the term for it...what is it...? Council Member Olson said it is not a soup kitchen. Council Member Jefferson said I know it. It isn't that. Council Member Olson said it is a retail operation with varying prices. I mean in terms of it's by the choice of the customer... Council Member Jefferson said sure...I'm just asking a question of where do we zone people who give away food? Food banks...I guess would probably be more appropriate. Council Member Wilson said but... Mayor Woodward said food banks are usually food that you take away. Council Member Jefferson said sure. Council Member Wilson said and this is in a restaurant so it's not just like someone, you know, having it on the corner. Council Member Jefferson said sure, sure. Council Member Wilson continued I don't...by restaurant, does that mean they have to charge? Council Member Jefferson said I think so, if I'm right, I mean...I don't know... If they are just totally giving food away, would that meet the definition of a food bank? I guess that's my question. Mayor Woodward said well, I don't think they are just giving food away. You are trading. You are either giving the value of what you believe the food to be worth or the value of your labor. Council Member Jefferson said sure. I'm not arguing that they don't sit in the current zone district. I'm just suggesting...I'm just asking what is the definition that defines the definition between a for-profit restaurant and a food bank? And I heard someone here...most of those are located in a church, they don't charge anything, and you know, sometimes...I don't know. Just looking for clarification. Council member Gillit said again, my point to bring it up is that I told them I would bring it up, so we'd let our Police Department know that we do have some residents concerned. Just if they could kind of keep an eye... And, hopefully we'll have nothing but great success.

2. He said the second issue I have is, not this last weekend, but the weekend before, my wife decided to take her car to the fire station to let our firemen install the car safety seat. I don't know what that says about her confidence in me when installing the seat. Which I support...we have great firefighters, who are also great car seat technicians. I think that's the term, correct? So one of the things we talked about is that my wife and I gave a donation to the firehouse, which I found out that we weren't supposed to do, so the donation was returned. But I did call Chief Mike Pattarozzi this morning and I talked to him. One of the things we'd like to do is have a community outreach where people can donate for car seats. I asked him...I just brought this brand new car seat for a child that may sit in two times...three times, but I guess you can't donate a very good one, you can donate a brand new one. The Fire Department has a way of buying them very inexpensive, \$60.00, which if they can buy a car seat for \$60.00, God bless them. That's...one of the things that they are going to need is that they are going to need some help. Later on this year, probably, I will be working with the Fire Department to do a community awareness and some...raising funds to help our underprivileged families, single mothers...get some car seats. So, we could look at doing something like that later on this year and maybe Council could help out. I'd love to be part of that. Let's help them out. Otherwise, that's it.

Mayor Woodward said I just want to kind of add onto that. I think, I don't know...Mike isn't here, but I think that Englewood is kind of known throughout the young families that they can come and have that service, so we have a lot of people that come in from outside the City for that service. And kudos to the Englewood Fire Department for... Council Member Gillit said so just for the record, if anybody would like to give to a car seat, it's \$60.00. You can make it out...I don't know how... City Manager Sears said just make it out to the City. Council Member Gillit said to the City of Englewood for car seats and we can help some of our single mothers and underprivileged families.

Mayor Woodward said thanks Rick.

(ii) Council Member Olson:

1. She said I have a couple of things. One has to do with the Council request that I made on the...it went out in the June 3rd Council Request Update, which was Request #10-113, the non-conforming lot-width concerns. I don't know if someone here can speak to this...Tricia isn't here anymore. But, maybe, it is a further request that... Mayor Woodward said Alan is here. Council Member Olson said Alan can, perhaps. Council Member Jefferson said oh joy. What a joy this is. There was laughter. Council Member Olson said I read this and I am really glad that there is so much documentation, but I am really concerned that this woman cannot...or this family cannot sell their home because of this, but I'm not sure that's still true or not based on what I am reading.

And so...is there any...it's the 37 1/2 lot problem. Director White said we have offered... Council Member Olson said a non-conforming lot. It's not a non-conforming structure, right, the structure is conforming, but the lot isn't and so she is not able to sell her house. It seems like there is 50 homes in the area that might be similar to this. Director White said we haven't had...we have offered to meet with her, and any banker of a potential seller, to explain this...or a buyer...to explain this situation and we have not been taken up on that offer yet that I know of. I...we quoted what I thought was a very appropriate sentence from the appraisal...saying that in his opinion, it did not affect the property value. All kinds of conditions go into the property not selling. Personally, I'm not convinced that a non-conforming lot status was why it is not selling. Council Member Olson said so that shouldn't be...I mean her last letter was May 7th, so you've contacted her since then? There wasn't any follow up to this one. So, the follow up to this one is that maybe someone has made contact with her again and...Mayor Woodward said I have talked to her on numerous occasions. In fact, as she put in there, on the enclosures, there was never a copy of the appraisal, although it said it was enclosed. Finally, I said please send me, please email me...I want to see the appraisal. And what the appraisal said didn't address the lot. It says non-conforming structure, which is a lot different than a non-conforming lot. And, in talking to some local lenders, they were baffled. In talking with Tricia, Brook, Audra, Alan...nobody else has gone through this program or problem within the City. And this started last summer and so somebody else has sold a 37 1/2 square foot lot with a house on it. So, I know, because I've been in the e-mail chain, that Tricia has offered to meet and do some things, but what Debra wants is a variance, but it is a variance on what? A variance is good for six months and it is on improvements. You don't get variances on land. And so, there's been no statement and until that meeting happens and, hopefully, she will bring her attorney so that there is some clarity on it. Because I think it's...I don't know what more Community Development can do to reach out to try to deal with this. Council Member Olson said I mostly wanted to get that in the public record so that we do know what has happened. Otherwise it looks like nothing else has happened. So, that's extremely helpful...thank you.

2. She said the second thing is the medical marijuana. I don't see it on the Study Session topics and I'm wondering if we know when it might come up? Do we have... City Attorney Brotzman said we are working on schedules for that...today, I don't have the dates yet. Council Member Olson said okay. Council Member Jefferson said soon? Mayor Woodward said the Governor is supposed to sign that this week. Council Member Jefferson said he has signed it. Mayor Woodward said oh, he did sign it today? Council Member Jefferson said yes, today or yesterday. Mayor Woodward said 1289...1284? Council Member Jefferson said both I believe. Mayor Woodward said great. Council Member Olson said thank you. I think that's it.

Mayor Woodward said thank you Linda.

(iii) Council Member Jefferson:

1. He said just to respond to some folks who came to comment today. To Elaine and Matthew; I don't think anyone ever really, you know, the conversation surrounding on-street parking certainly wasn't any sort of discussion around changing the policy. You know, I think it was more for clarification about what's appropriate on street and what's not appropriate on street. As far as slashing tires, I had to think about that. I took it as a joke and I assume that everybody else who laughed and did those things assumed it was in jest totally.

2. He said Steve, thank you for coming and commenting about LOVEnglewood. As long as...and I appreciate all of your comments tonight about the non-religious mission generally of the organization. That being said, I do believe that you guys would be great community partners for us, for the youth of our community.

3. He said and Bev, thank you for coming to share your support of these changes in MU-B-1. And that's all I have this evening.

Mayor Woodward said thank you Joe.

(iv) Council Member Penn:

1. He said thanks Mayor. Geez, a whole list. I don't know if I can get through all of this. I had a really good ride-a-long with Officer Allen. Thank you, Chief, for allowing me to do that. I had a good time, sitting in the middle of Santa Fe..getting excited. It was good.

2. He said I had my first District meeting...District 3 meeting at Duncan Park. I would like to thank Gary for being there. Thank you. Chief Vandermeer again was there talking about Code. And Jerrell Black...I think Jerrell went home...but Jerrell was there to talk about the progress of Duncan Park and we had a really good group. Bob was there to help with some of the talk. And Mayor Woodward also dropped in after this Cultural Arts meeting, I believe or maybe Englewood Housing Authority. So, thank you. My next District 3 meeting will be June 23rd, on a Wednesday at Cherrelyn Elementary at 6 p.m. We'll have the Impact Team, I believe, Code Enforcement again, Neighborhood Watch, and as always, we always have an open forum. So, you are welcome to come over and visit. Bring your lawn chairs. It is very casual, just like me. Please be there and have a lot of fun.

3. He said to continue the thing with Steve, we have a church-Chamber meeting tomorrow at 55 West Floyd at 11:00. We will talk about some of the partnerships with the City of Englewood, the Chamber, and the church groups throughout Englewood can have. And that will be up on the second floor at 55 West Floyd. Don't go on the bottom floor, because you'll go in the bar. So, we're on the second floor.

4. He said Friday we have the Chamber Golf Tournament, starting tee off at 8:00. So, if anybody would like to join, we still need golfers and all of that fun stuff.

5. He said later on in the month we have an Englewood Business Picnic again on the 29th of June. We invite everybody to be there. We have some old fashioned games. A lot of fun. Anybody is invited. You don't have to be a Chamber member. We'd like to have businesses. We'd like to have the City of Englewood there. Everybody. So, it starts at 6:00 and will be at Cushing Park. And so that is set up.

6. He said I just happened to be over at Bishop Elementary Friday and they had their bike rodeo. They had community day. They had a biathlon. It was really fun. The bike rodeo, I believe, was sponsored by Englewood Fire Department and Swedish Medical. Every one of the students at Bishop had an opportunity to go through the course. It was a great course and a great day. I hate to say it...the strong person in the McCaslin family did a great job. Congratulations to her and the whole staff and Englewood Fire Department for that.

7. He said and then I started a new garden over at Bishop. Anybody can join me. Sorry Steve. My worship time is Sunday morning, 9 to 11, in my garden and so if you would like to join me, coffee and donuts and probably weed the gardens, I'd like to have anybody there. All of the food will go to House of Hope or any of the food banks here in Englewood. None of it will go to anybody else. So, it has been a busy week and it will continue to be a busy week. Thank you.

Mayor Woodward said thank you Randy.

(v) Council Member McCaslin:

1. He said just to feed off of that I'd like to thank Randy and Jill for showing up at the community day at Bishop, and Tom thank you very much. I think you got some information. I'd like to thank the Fire Department for the bikes and also, the Police Department. What they did is they roped off the streets and were there the whole day. It was fantastic. My wife was so impressed. She said you guys are very responsive and she wanted to send thanks through Bishop Elementary. You guys did a great, wonderful job.

2. He said secondly, Steve, that...I don't think...you didn't stick around the last meeting, but May 23rd, that service worship was fantastic. My wife has been to Billy Graham and 70,000 people. It wasn't quite that big, but she said the energy was there. So, she really enjoyed it. I enjoyed it. Thank you so much for...I expected to show up to see two or three people in the stands, but it was very well attended so thank you so much for what you did.

3. He said the other thing I did this week...a couple of weeks ago or a month ago, I attended the energy conservation workshop, here at the Civic Center. I took up their...I went through Xcel and got the audit...\$120.00 audit which did the infrared and the blow...they set up a big blower through your door and they

do the audit as far as all your...what you need to caulk. In fact, I have three meetings tomorrow with insulation people and I have the caulkers coming out. So, I've got like a 110 year old house that needs a lot of work. It was very informative and I'll tell you what, it is going to be a different thing in our house.

4. He said I'd like to thank everyone for coming tonight to express all your concerns. I appreciate it. Thank you. That's all I have.

Mayor Woodward said thank you Bob.

(vi) Council Member Wilson:

1. She said yeah, I'd like to thank everyone and thank everyone for talking. I always appreciate when we see people in here...we are just not staring off into empty space.

2. She said also, I went to the service at the high school and thank you Steve for putting that together and with all of your other church-going friends. Council Member McCaslin said church-going friends? Council Member Wilson said...I mean there were a lot of people there and they all seemed to know each other.

3. She said Bishop I enjoyed. I bought two little plants for my grandchildren and took them and they were very excited to have flowers in these little pots that 2nd graders painted. So, they thought that was great. Council Member McCaslin said thank you.

4. She said I am looking forward to Cafe 180. I think it will be a great asset and I hope it takes off in the City.

5. She said also I went to the new bookstore, Fireside, over on Hampden, and walked through that and got a little...It will be open in a couple of weeks. It is very, very nice. He will have 80% used books, 20% new books, and it has a coffee bar inside, and it has little nooks and crannies like you think a bookstore should, so I'm looking for that to be a big asset and another business coming to the City.

6. She said and then, Bites should be opening up, where the Auld Dubliner was, and I don't know if Copper Pot opened up yet, across from Swedish. So, we are getting some energy back in the City...oh and Duffy's. And they also do fundraising too, if people or schools needed fundraising, they have a program for that. So, and I don't know if anyone has had their little cinnamon rolls, but they are delicious. So, another place is coming down at Brookridge. And that's all I have.

Mayor Woodward said thank you.

13. **City Manager's Report**

(a) City Manager Sears said we didn't get an opportunity this evening to consider the information that Mike put together on Ameresco and I think this is kind of a very important juncture...many of those this evening...but we would like to get Council's direction regarding Ameresco. I'll turn it over to Mike to go through the report.

Deputy City Manager Flaherty said I'm bringing forth two potential contracts for approval...for consideration by City Council, as soon as June 21st. Both of these were actually presented in outline form by Holly Green, the account executive for Ameresco, back on March 8th, but it has been several weeks since that has taken place, so I wanted to refresh your memory. The first agreement would be the energy performance contract. Ameresco has completed, well in December completed, the technical energy audit of all City buildings, with the exception of...well including the Wastewater Treatment Plant and the Water Treatment Plant. However the Wastewater Treatment Plant and the Water Treatment Plant are looking at the recommendations and will make a decision independently of the other City buildings. But the findings of the technical energy audit indicated that we could fund up to 1.4 million dollars in improvements through energy savings over a 15 year term. Those are outlined and you'll have a copy of the information from the TEA, with the contract, when that is presented to you. The reason that we've been delayed on this particular contract bringing forward is that we had a difficult time obtaining financing due to the potential passage of Amendment 61. However, Frank Gryglewicz, our Finance

Director, has been working with the Finance Director for Ameresco and they now believe that by the...prior to the 21st, they will have the financing in place and at that same meeting, assuming that it is in place, Frank will also bring forward an ordinance for the financing through a lease-purchase agreement and use of the qualified energy performance bonds that were made available to us by the State of Colorado, which will greatly reduce our costs for financing. The second agreement, and these are two independent agreements, is an Ameresco Power Purchase Agreement. During the technical energy audit, we requested that Ameresco conduct the necessary research to determine feasibility of photovoltaic solar panel applications. Although we could not fit them into the energy performance contract, due to cost, Ameresco made a proposal to finance and install the PV systems on five City buildings...the Malley Center, the Civic Center...this building, Safety Services...the Police and Fire building and the ServiCenter. I guess that's four buildings, excuse me. Ameresco, under the terms of this agreement, and this agreement is not yet final either...their attorney is working with our attorney on some issues. Many of them relating to certain constitutional provisions including the TABOR amendment that have to be accommodated by the contract, that have not yet been accommodated to our attorney's satisfaction. But under the terms of the agreement, Ameresco would design, build, own, and operate and maintain the system...selling the output to the City under a Power Purchase Agreement, which is an agreement that we bring forward. Ameresco would receive the Xcel incentives, including rebates and they would maintain the system for the term of the agreement. The cost to the City would basically be comparable to, at least in year one, to the cost that we are paying Xcel energy for power. However, the cost is 8.8 cents per kilowatt hour. On average we are paying just slightly more than that right now. However, the historical escalation of Xcel energy rates is 3.4%. Our escalation rate is capped at 2% annually. We also anticipate that the total...the cost of energy from Xcel is going to escalate in the future at a rate higher than its currently escalating. In fact, in 2011, if they bring the power plant online, at Comanche, the Comanche unit the projected rate increase is 5.7 for 2011. There is a graph on the second page of the memorandum I've provided for you. You can see in that graph, that there is not a large savings in the first several years of the contract. We really don't get into significant savings of over \$100,000.00 a year until year 15. The anticipated life of the PV solar system is about 30 years and based on the current rate of escalation of 3.4% of Xcel energy rates, our savings, based on the PPA...the Power Purchase Agreement would be a total of \$857,800.00 over a 30 year term. Obviously, we have also some other considerations including the structural integrity of the buildings that we are replacing these units on and Ameresco, once we sign the agreement, will not go forward until they have completed a detailed structural analysis that has significant costs, so they don't want to go forward with that at this time, until they know we have a contract in place. If the structural improvements...if structural improvements are required and Ameresco can fit them into their performance, they will do them. If they cannot or if we choose, due to the structural issues that may come up, either party can then cancel the contract, at least on that particular building. And again, this will come forward to Council as a full item for your consideration as soon as the 21st, if all things are in place. Questions?

Council Member Wilson said great job. Great, great job. I know that you have been working on this for awhile. It's phenomenal. It will be...it is just huge for the City. Council Member McCaslin agreed.

Council Member Jefferson said how much discussion are we planning on having on this, this evening? Is it just present and ask questions? City Manager Sears said we just wanted to let you know. It was really a Study Session issue. If there are questions concerning...about moving forward, but it is coming back with a contract. We just wanted to get Council's consideration as they move ahead. Council Member Jefferson said okay. Maybe I'll just ask a couple of quick questions and we'll just kind of leave it at that. One question was a little clarification on...you said Xcel rate increased in three years in 010...I'm sorry, 2010. And then, with the Comanche, I guess I didn't understand exactly what that meant. Deputy City Manager Flaherty said that's a new unit that's coming online at some point. If it comes online, it's going to bump all of our Xcel energy rates a bit to pay for that. Council Member Olson said you too will be paying more. Council Member Jefferson said okay, excellent. And then, the 3.4 historical rate increase you were talking about. Do you know how far that goes back, just out of curiosity? Deputy City Manager Flaherty said that goes back, I believe, to 1990. Mr. Jefferson said and then the last question I have for you...is you mentioned the purchase price of electricity is 8.8 cents per kilowatt hour, escalating at 2% per year, and you used the word capped just now. If the market escalation is less than that, we will pay less than that? Deputy City Manager Flaherty replied no. It will be 2% a year. Council Member Jefferson said okay. Thank you. That's all. Deputy City Manager Flaherty said it would not be greater than 2% but not less a year. Mr. Jefferson said thank you.

Council Member Gillit said I have a question Mike. Knowing that we were going to be discussing this, I talked to some engineers in the PV industry, and they are all telling me that in a year or two we will have a new generation of solar panels...solar cells. That the old generation is...the process is not environmentally friendly. It is environmentally friendly once it is made, but it is not an environmentally friendly process with all of the chemicals. And another thing I'm being told is that the cells don't, I mean, asking for 30 years out of a solar cell is like asking your Dell computer to last 30 years. The likelihood of...because those solar cells are computer chips...they are manufactured just like a chip...and, you know, I would like to have a little bit better guarantee of what are they using...are they going to be installing the old stuff? Are we...you know, are they going to be looking at the new technology? I also know that if cap and trade passes we are going to need to have something of this so...because I know our bills...the City bills will go up. I am concerned about, you know, like, Windows 7 is out, but they are trying to sell us XP still. Deputy City Manager Flaherty said that's a good point and the technology changes almost daily. I have the information on the systems that Ameresco is proposing to utilize and I'll provide that as part of the information in the packet for City Council for your consideration when this does come forward. But again, will this technology be different in two years? Probably it will be. The question is do we want to go forward now or do you want to wait two years and then by that time, there will be new technology coming in the next year that will even be better. So, it's always that question with any technology. We find it with computers that we pay multiple thousands of dollars for a few years ago that now we are getting for \$500.00, and they are faster and they are more powerful. It is just a question of when do you want to pull the trigger.

Council Member Olson said a follow up to that...that is a good question...and a comment. Usually companies like this do know their roll out for technology within five years, at least. So, they must know what they are going to come up with in two years, to some extent. When you present to us again, could they give us some comparisons on what they think the future might hold too, and timing issues and costs and that kind of thing as well? Deputy City Manager Flaherty said I can ask that certainly. Council Member Olson said I mean...if they can...I know it's not a precise... Deputy City Manager Flaherty said Ameresco does not manufacture units, but I'm certain that they will have information on what the current generation is versus what the benefit would be for waiting. Council Member Olson said great, thanks.

Several Council members said thanks Mike. Deputy City Manager Flaherty said thank you.

(b) City Manager Sears said the other thing, I will be out of town next week; partially on vacation and partially to...to my last service to the NASPA program for graduate schools. Getting paid for by them. I'll be done with that phase. But Mike will be here during that time. That's all that I have.

Mayor Woodward said thank you.

14. **City Attorney's Report**

(a) City Attorney Brotzman said I actually have several things tonight. The first is a request for a motion to settle City of Englewood versus Capri Pools for \$200,000.00.

COUNCIL MEMBER PENN MOVED, AND COUNCIL MEMBER WILSON SECONDED, TO APPROVE THE SETTLEMENT PROPOSAL, IN THE AMOUNT OF \$200,000.00, FOR ARAPAHOE COUNTY DISTRICT COURT CASE NO. 09 CV 2433 (CITY OF ENGLEWOOD v. CAPRI POOLS, LLC, LOUIS POOL COMPANY, LLC AND COUNSILMAN-HUNSAKER) PERTAINING TO THE LEAK AND FAILURE OF A WALL AT PIRATES COVE.

Mayor Woodward asked if there was any discussion or questions.

Council Member Jefferson said I am generally supportive of the settlement...the settlement amount significantly covers or covers all of our costs of repairs and also minimizes the risk of running up litigation costs. So, in my mind it makes a lot of sense.

Council Member Gillit said and just for clarity, we are not paying the settlement, we receiving the settlement. City Attorney Brotzman said we are receiving.

Council Member Olson said that's important... Several Council members spoke at once.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson, Gillit
Nays: None

Motion carried.

(b) City Attorney Brotzman said I do also want to recognize that during the Executive Session, we added one item along with employee negotiations, along with the litigation matter...we also had a real estate negotiation matter. It should appear...it will be...the negotiations will result in resolution that should come back on the 21st.

(c) City Attorney Brotzman said one other quick item. Usually I don't do recognition of City programs. I do want to recognize Dave Lee and the folks in Parks and Rec. They do a wonderful Memorial Tree Program. They did one in Cushing Park for my mother. There is also one for my father at the golf course. But Dave and his folks are just wonderful with that program and it is a lasting memory that is really a nice program.

Council Member Jefferson said thank you for sharing that. Council Member Olson said that's great.

City Attorney Brotzman said that's all I have.

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Council Member Penn said Mayor Woodward, I have one more thing...sorry. They are having a celebration here Saturday June 12th at 1:00 for the Freedom Service Dogs. They are graduating 16 dogs and I think, if you have time...it will be at Hampden Hall. Come by and visit. Council Member Wilson said I actually think there may be 20. Council Member Penn said Tom just told me 16. So 16 to 20. Council Member Wilson said I was just there this week, so... Council Member Penn said anyway...so if you have time...thank you.

15. Adjournment

MAYOR WOODWARD MOVED TO ADJOURN. The meeting adjourned at 9:42 p.m.

City Clerk