



**MINUTES
REGULAR MEETING OF THE CITY COUNCIL
CITY OF LAKEWOOD**

7:00 P.M

February 10, 2020

Minutes are not a verbatim transcription, but rather an attempt to capture the intent of the speaker by the City Clerk.

ITEM 1 – CALL TO ORDER

Mayor Paul called the meeting to order at 7:00 p.m. in the Council Chambers, Lakewood Civic Center South, 480 South Allison Parkway, Lakewood, Colorado.

ITEM 2 – ROLL CALL

Those present were: Mayor Adam Paul, Presiding

Charley Able
Sharon Vincent
Dana Gutwein
Mike Bieda
David Skilling
Anita Springsteen
Barb Franks
Jacob LaBure
Karen Harrison

Absent: Ramey Johnson

Others in attendance: Kathy Hodgson, City Manager
Tim Cox, City Attorney

Full and timely notice of this City Council meeting had been given and a quorum was present.

ITEM 3 – PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited, and the audience remained standing for a moment of silent prayer.

ITEM 4 – PUBLIC COMMENT

Brian Houghton – Englewood resident – He spoke about the rockets at Bear Creek Lake Park. They conducted a survey of the people at the park to ask them if the launching of rockets bothered them. Most of the people stated they were not bothered by them.

Karen Morgan – Lakewood resident – She spoke in favor of the model rockets at Bear Creek Lake Park. She wanted the City to accommodate this activity.

Vic Moss – Lakewood resident – He pooled his time with three other citizens. He stated he was a commercial drone pilot and spoke about drones and how the City has shut them down. He stated it was not Council's fault, but they can fix it. He spoke about the City's drone agreement and the permitting process. He was denied the permit and knew he would be but he completed the application anyway. The wording in the agreement was against federal law and violated 1st amendment rights. He offered to meet with them to get the issues figured out.

Patrick McKay – Highlands Ranch resident – He stated he was a drone hobbyist. He stated the agreement and permitting process made anyone flying a drone a criminal. There was plenty of room in the City to fly drones. He urged Council to work with the drone community to reconsider the ordinance.

Scott Randall – Colorado Springs resident – He stated he was a drone pilot. He spoke about the permit requirements and about the impracticability of them. They were pushing small business drone operators out of business so unqualified people are operating them.

Laura McGee – Lakewood resident – She spoke about blighting and the concept of spot blighting and talked about the process. She spoke about the state statute definition of blight and twelve factors of which four are required for a property to be designated as blighted.

Debora Emert – Lakewood resident – She spoke about her disappointment with the process following the approval of the ordinance for the initiative petition. She also spoke about blight and the proposed resolution.

Gene Givens – He stated he flew drones for his work. He shoots aerial photos of properties for realtors. He stated he was approached by a realtor who wanted him to do aerial photos at a property in Lakewood by tomorrow but with the rules of getting a permit, 72-hours in advanced, that would not be possible. He said he can no longer take business in Lakewood.

Kathy Hodgson, City Manager – She stated staff was currently doing internal reviews on drones. The City wanted to work with the experts in this area.

ITEM 5 – EXECUTIVE REPORT

Kathy Hodgson, City Manager, gave her executive report.

- The Metro Districts agenda item has been rescheduled for April 6th.
- Water in Lakewood study session will be scheduled in May.

- The sidewalk at 6th and 10th on Sheridan was underway.
- The Finance Department was analyzing revenues. We had a good holiday season. The Department heads saved over 5%.
- She announced that Cory Peterson was appointed as the new Human Resources Director.
- Staff was working on scheduling a follow-up meeting in March to Council's Planning Session.

CONSENT AGENDA ORDINANCES ON FIRST READING

City Clerk Michele Millard read the Consent Agenda into the record. The Consent Agenda consists of Items 6 through 10, inclusive.

ITEM 6 – RESOLUTION 2020-10 – EXPRESSING THE INTENT OF THE CITY OF LAKEWOOD, COLORADO, TO ENTER INTO FINANCIAL OBLIGATIONS IN THE APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF \$6,700,000 TO FINANCE GOLF COURSE IRRIGATION REPLACEMENT AND DEFEASE AN EXISTING LEASE PURCHASE AGREEMENT

ITEM 7 – ORDINANCE O-2020-4 – AMENDING SECTION 3.04.090(A) OF THE LAKEWOOD MUNICIPAL CODE TO ALLOW CONSTRUCTION PROJECTS TO BE AWARDED UP TO \$10,000 WITHOUT COMPETITIVE QUOTES

ITEM 8 – ORDINANCE O-2020-5 – AMENDING TITLE 10 OF THE LAKEWOOD MUNICIPAL CODE PERTAINING TO VEHICLES AND TRAFFIC

ITEM 9 – APPROVING MINUTES OF CITY COUNCIL MEETINGS

City Council Meeting
City Council Meeting

August 12, 2019
November 25, 2019

ITEM 10 – ACCEPTING MINUTES OF THE BOARDS AND COMMISSIONS

Board of Appeals

December 10, 2019

Public Comment: None.

A motion was made by Council member Skilling to approve Council Minutes, accept all minutes for Boards and Commissions, order all ordinances introduced on first reading to be published into the Denver Post Newspaper for public hearing set for dates included in the ordinances, and to adopt resolutions, all of which are included in the Consent Agenda

Items, for the record and introduced by the City Clerk. It was seconded.

Vote on Consent Agenda:

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	ABSENT	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	X	
SKILLING	X				
			TOTAL	10	0

The motion passed.

END OF CONSENT AGENDA

ORDINANCES ON SECOND READING AND PUBLIC HEARINGS

ITEM 11 – ORDINANCE O-2020-3 – AMENDING CERTAIN PROVISIONS OF TITLE 14 OF THE LAKEWOOD MUNICIPAL CODE TO AUTHORIZE TEMPORARY SHELTERS IN PLACES OF RELIGIOUS WORSHIP

Public Comment: None

Council Discussion: None.

A motion was made by Council member Skilling to approve Ordinance O-2020-3. It was seconded.

Vote on Ordinance O-2020-3

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	ABSENT	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	X	
SKILLING	X				
			TOTAL	10	0

The motion passed.

ITEM 12 – ORDINANCE O-2020-1 – AMENDING LAKEWOOD MUNICIPAL CODE TITLE 12, AND ARTICLE 10 OF TITLE 17, TO REFLECT CHANGES IN STATE AND FEDERAL LAW RELATING TO WIRELESS SERVICES AND COMMUNICATIONS

Ken Fellman, Attorney at Kissinger & Fellman, P.C., gave a presentation summarizing small cell in Lakewood. He recommended working under state law versus federal law. There are some discrepancies between the state statues and the federal law. He described what small cell facilities were and what they looked like. He explained why they are needed. He addressed radio frequency emissions.

He spoke about studies that have been conducted on the negative health impacts but said more studies needed to be conducted.

He stated that staff needed direction on if there should be a setback for roof-mounted antennas. Staff would like direction from Council if roof-mounted antennas should be allowed on the roof edge (better coverage) or required to be setback for aesthetic reasons.

The staff recommendation was (1) adopt the Resolution establishing the fee schedule for small cells; and (2) adopt the Ordinance amending Article 10 (Wireless Services and Communications) and Title 12 (Streets and Sidewalks).

Public Comment:

Dr. Timothy Sheckley – Boulder resident – He pooled his time with three other citizens. He published a report – Re-Inventing Wires: The Future of Landlines and Networks and he gave a copy to Council. He recommended moving this topic to a study session. He spoke about two other reports – Policy Report-Small Cell Facilities in Boulder and Reclaiming Local Control Over Cellular Wireless Facilities in Colorado. He said no one was getting sued. He spoke about 10 points on a memo that he will distribute to Council. He spoke about the radio frequency emissions and the risks they bring to the public.

Diana LoSacco – Ward 3 – She spoke about the Federal Communications Commission (FCC) law and her concerns with small cell towers.

Melissa Reagan – attorney with Howard and Sherman, outside counsel to Verizon Wireless – She talked about the recommendations that were sent to staff and Council and referred to a January 13th letter. She stated they urged City Council to adopt roof mounted facilities.

Penelope Carrier – Lakewood resident – She stated she was born with autoimmune problems and a weakened immune system. She said she was also sensitive to the electromagnetic frequencies. She stated her concerns were with the densities of the towers.

Carol Baum – Lakewood resident – She gave Switzerland as an example and talked about damage to health. She spoke about the harmful effects of 5G on the environment as well as people.

Lynn Judson – Lakewood resident – She supported moving this to a study session. She suggested a wire-based system versus a wireless system. She believed internet security was a huge issue. She stated fiber optics were faster than wireless and said energy efficiency was a concern as well.

A motion was made by Council member Skilling to approve Ordinance O-2020-1 on second and final reading. It was seconded.

Council Discussion:

Council member Able – He asked if Council could use Home Rule to create their own ordinance.

Fellman – He talked about a state statute and a court ruling. He stated Denver tried to make that challenge, that they were a Home Rule authority and the Colorado Supreme Court in a 7-0 vote said “no”, because it was deemed to be a matter of statewide concern.

Able – He asked if the companies could put promotional information on them.

Fellman – He stated that was one of the benefits of making changes now, that the City could regulate the aesthetics by adopting the design plan. The City could require them to go underground, equipment on the inside of a pole, add landscape etc.

Able – He asked if the frequencies would be inhibited if they were underground.

Fellman – He stated the antennas would not be underground. To enforce putting them underground it would have to be for a health/safety issue.

Able – He asked if they could require them to be put high in the air and asked if that would help limit the health issues.

Fellman – He stated the technology might not work at that height so it would have to be at a height they can work.

Able – He believed that Council needed more information and that he was not comfortable voting on it tonight.

Council member Bieda – He asked if the advice Mr. Fellman gave tonight was guided by direction from staff.

Fellman – He stated he was just asked to look at the existing code and make some, if any, recommendations. There was no specific direction – City wants to comply with the law.

Bieda – He spoke about information given out by the U.S. Attorney General office regarding security. The technology came from China and they could hack into the 5G system any time they wanted.

Fellman – He stated there was a lot of political misinformation, some coming from our own government. He said China was far ahead, but it was an international competition. He had heard there were American manufactures for the 5G cells.

Council member Gutwein – She asked what the impacts would be if they did nothing and did not pass the updates.

Fellman – He stated there was a state law that said the small cells were a use-by-right in any zoning district. If the code was not updated, there was nothing that would stop any company for a applying for a site tomorrow.

Gutwein – She was concerned of what could happen if Council did not adopt the ordinance. She also did not want to put staff in the position that if a permit came in, they had to figure out what to do.

Council member Springsteen – She stated there was an effort to repeal the state law and asked Mr. Fellman if that was correct.

Fellman – He stated he was not aware of that.

Springsteen – She believed that they should put this ordinance on hold and proposed to have a study session for further research.

Council member Harrison – She asked if the City of Lakewood could prevent the implementation of the 5G technology.

Fellman – He stated legally, he did not think the City could.

Harrison – She clarified that if the City of Lakewood did not do anything right now that under federal law a cell tower could be built in any right of way.

Fellman – He stated that was correct.

Harrison – She was in support of the ordinance.

Council member Skilling – He stated at the Council Planning Session they decided to have a “check-in” and vote on whether or not to continue the meeting or postpone the topic to another night.

A motion was made by Council member Skilling to keep going and have a “check-in” in one hour. It was seconded by Vincent.

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN		X
ABLE		X	FRANKS	X	
VINCENT	X		JOHNSON	ABSENT	
GUTWEIN	X		LABURE	X	
BIEDA		X	HARRISON	X	
SKILLING	X				
			TOTAL	7	3

The motion passed. They will continue the discussion and have a “check-in” at 11:15 p.m.

Council members continued to ask clarifying questions and stated their opinions and concerns regarding the ordinance.

A motion was made by Council member Vincent to continue Ordinance O-2020-1 to April 27, 2020. It was seconded by Able.

Vote on continuing Ordinance O-2020-1.

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	ABSENT	
GUTWEIN	X		LABURE		X
BIEDA	X		HARRISON	X	
SKILLING	X				
			TOTAL	9	1

The motion passed

ITEM 13 – RESOLUTION 2020-9 – ESTABLISHING CERTAIN FEES FOR PLACEMENT OF WIRELESS CARRIER OR SMALL CELL FACILITIES WITHIN CITY OF LAKEWOOD PUBLIC WAY

Public Comment: None

Council Discussion: None.

A motion was made by Council member Skilling to continue Resolution 2020-9 to April 27, 2020. It was seconded.

Vote on Resolution 2020-9

	AYES	NAYS		AYES	NAYS
PAUL	X		SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	ABSENT	
GUTWEIN	X		LABURE	X	
BIEDA	X		HARRISON	X	
SKILLING	X				
			TOTAL	10	0

The motion passed.

A motion was made by Council member Skilling to pause all applications (incoming and in process).

Vote on motion to pause applications:

	AYES	NAYS		AYES	NAYS
PAUL		X	SPRINGSTEEN	X	
ABLE	X		FRANKS	X	
VINCENT	X		JOHNSON	ABSENT	
GUTWEIN		X	LABURE		X
BIEDA	X		HARRISON		X
SKILLING	X				
			TOTAL	6	4

The motion passed.

ITEM 14 – GENERAL BUSINESS

Able – He stated he was concerned with multi-use and what it meant for the City’s parks. He said that model rocketry was an acceptable use under the multi-use definition. He believed model rocketry should be allowed at Bear Creek Lake Park and believed it was an asset to the community. He would like a study session to further discuss this topic.

Mayor Paul – He stated there was consensus to stick with the current process and have the Parks Department continue to work with the Colorado Rocketry Association of Space Hobbyist (C.R.A.S.H).

ITEM 15 – MAYOR AND CITY COUNCIL REPORTS

Mayor Paul and City Council Members reported their attendance at previous meetings and events and announced upcoming neighborhood meetings and events.

ITEM 16 – ADJOURNMENT

There being no further business to come before City Council, Mayor Paul adjourned the meeting at 11:18 p.m.

Respectfully submitted,

Michele Millard, City Clerk