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## Land Use, Transportation & Infrastructure Committee Summary Minutes

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**Tuesday, January 24, 2012      10:30 AM      City & County Building, Room 391**

**Committee Members:** Robb, Chair; Montero, Vice-Chair; Brown; Lehmann; López; Shepherd

**Committee Staff:** Gretchen Williams

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**Council Members Present:** Lehmann, Lopez, Montero, Robb, Shepherd, Susman, Nevitt

**Members Absent:** None

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### Bill Requests

**BR12-0072 Amends the Transit Amenities Program (bus benches, shelters & advertising).**

*Rob Duncanson and Michael Holm, Public Works*

Councilman Nevitt gave the background of the Transit Amenities Program (TAP). Several years ago, there was a proposal to go to a single vendor for providing the bus stop benches and shelters in exchange for advertising on some of the amenities.

Rob Duncanson explained that the program was designed to enhance the transit rider experience, not as a revenue program. The program allows vendors to provide City-approved, standardized benches, shelters and kiosks. In return, the vendors may sell advertising space.

The vendors wanted a multi-year permit for shelters due to the size of the investment (\$30-40,000 per shelter).

Councilwoman Shepherd asked how the City determines where benches are needed. Mr. Duncanson said the City took calls with placement requests, mostly through 311, and those requests were evaluated. Most of them resulted in a request.

Councilwoman Susman asked why the City puts in benches for RTD. Mr. Duncanson replied that the City has to approve the right-of-way use, but the City doesn't own or maintain benches. They are owned by the individual vendor. RTD maintains about 200 shelters.

Councilman Nevitt said this is a classic public-private-partnership. The program enhances the amenities for riders when neither the City or RTD can afford to provide those amenities. The vendors provide them in exchange for advertising rights. The kiosks provided no amenities but allowed advertising, which was unpopular, so we moved away from the kiosks.

One vendor has started providing recycling bins.

Vendors have provided between \$1 million and \$2 million worth of amenities at their cost over the life of the program.

Mike Holm, Public Works, said one of the goals was increased revenue. Benches increase each year by \$20 over 10 years. The smaller articles will have lower permit fee, such as the recycling bins.

Vendors are required to empty trash and recycling, remove graffiti, and keep the structures clean and in good condition.

Mr. Duncan said we will look at the program again in 10 years and revise anything that does not seem to be working.

A motion offered by Councilmember Nevitt, duly seconded by Councilmember Shepherd to file the bill carried by the following vote:

AYES: Nevitt, Susman, Lehmann, Lopez, Montero, Robb, Shepherd(7)  
NAYS: (None)

ABSENT: (None)  
ABSTAIN: (None)

**BR12-0055 Amends the Zoning Code (Text Amendment #10) to mitigate the effect of governmental actions, such as right-of-way widening, on zone lots and uses.**

*Michelle Pyle, Community Planning & Development*

Michelle Pyle, Community Planning & Development, presented the staff report, explaining right-of-way vacation, condemnation and threat of condemnation. The proposed language amendment would allow the owner of a zone lot to amend that lot if the City proposed a right-of-way vacation. Under this language, they would be allowed to add the vacated land to their lot.

Michael O'Flaherty, Zoning Administrator, said that if the City takes land from a property for right-of-way or adds land through vacation of right-of-way, the lot is a different configuration. It may not meet all zoning requirements. The proposed language neutralizes the public action by allowing the private property owner some flexibility on zoning regulations related to the shift in the lot.

The second part of the language amendment is to allow for the expansion of compliant or nonconforming uses. It allows expansion of a lot with a non-conforming use if the alley was vacated, for example.

CPD recommends approval, and no public comments have been received.

A motion offered by Councilmember Lehmann, duly seconded by Councilmember Shepherd to file the bill carried by the following vote:

AYES: Nevitt, Susman, Lehmann, Robb, Shepherd(5)  
NAYS: (None)  
ABSENT: Lopez, Montero(2)  
ABSTAIN: (None)

**BR12-0043 Amends Ordinance 333, Series of 2010, enacting the new Zoning Code, regarding status of permits issued during the 6-month transition period.**

*Councilman Nevitt; David Broadwell & Kerry Buckey, Assistant City Attorneys*

David Broadwell, Assistant City Attorney, presented a brief overview of the circumstances leading to the proposed amendment (which was also discussed by the Committee at its meeting on Jan. 10, 2012).

Prior to adoption of the new zoning code in June 2010, there was discussion about allowing the old zoning code to continue for an overlap period during which people could pull building permits under the old or the new code. For 6 months, permits were issued under either code. Council's resolution of intent anticipated the transition period for all zoning permits.

The wording in Ordinance 333 of 2010, which adopted the new Denver Zoning Code, only cross-references one type of permit - to construct a new or alter an existing structure - rather than the total array of permit types, as was discussed during in the process.

The proposed bill is intended to conform the language of Ordinance 333 to what was actually intended. This is a housekeeping clarification to conform the ordinance to the practice. The main intent is to remove any potential cloud over any permits issued during that 6-month period.

Councilman Nevitt said his analysis indicated there are perhaps as many as 300 permits with a legitimacy cloud.

Councilwoman Robb asked if there is any other a remedy besides this proposed ordinance

Michael O'Flaherty, Zoning Administrator, replied that disputed cases can be appealed to the Board of Adjustment, which considers each on a case by case basis. The Board has already heard four cases. Each case has the

potential of being appealed to District Court.

Councilwoman Susman asked if this amendment would standardized the why the City handles these cases.

Kerry Buckey, Assistant City Attorney, said that Council adopting this amendment would verify what the City is doing.

Councilwoman Robb said when discussion the transition period, we were talking about building form, not uses. She does not believe that uses were every discussed. She said if this moves out of Committee, she will request that Council hold a courtesy public hearing.

A motion offered by Councilmember Nevitt, duly seconded by Councilmember Susman to file the bill carried by the following vote:

AYES: Nevitt, Susman, Lehmann, Shepherd(4)  
NAYS: Robb(1)  
ABSENT: Lopez, Montero(2)  
ABSTAIN: (None)