

Council Request Update

July 20, 2017

Council Request: 17-042

Assigned to: City Attorney's Office

Request: Provide an update as to the status of the depot property renovations **Response:** Please see attached from City Attorney Alison McKenney Brown

Council Request: 17-045

Assigned to: Finance and Administrative Services
Request: Cost for Producing the Paper Council Packet

Response: Please see attached from Director of Finance and Administrative Services Kathleen

Rinkel.

Council Request: 17-073

Assigned to: City Attorney's Office

Request: Legal opinion on assessment of building use taxes to school districts **Response:** Please see attached from City Attorney Alison McKenney Brown

Council Request: 17-077 Assigned to: Utilities

Request: Report on illegal dumping signs on drains

Response: Please see attached from Director of Utilities Tom Brennan.

Council Request: 17-078

Assigned to: City Attorney's Office

Request: What authority does Englewood have over Englewood Housing Authority

Response: Please see attached from City Attorney Alison McKenney Brown

Council Request: 17-084

Assigned to: City Attorney's Office

Request: What is the City's responsibility for road construction at West Adriatic Place

Response: Please see attached from City Attorney Alison McKenney Brown

Council Request: 17-085 (Updated)
Assigned to: Police Department

Request: Copy of crime stats for the 4300 Block of South Broadway before and after the arrival

of Giving Heart's homeless services center

Response: Please see attached from Commander Tim Englert.

Council Request: 17-090

Assigned to: City Attorney's Office

Request: Update on Studio 420 review process

Response: Please see attached from City Attorney Alison McKenney Brown

Council Request: 17-095

Assigned to: City Attorney's Office

Request: Legal Review of Urban Renewal Authority and Urban Renewal Authority plans

Response: Please see attached from City Attorney Alison McKenney Brown

Council Request: 17-102

Assigned to: City Attorney's Office

Request: Mechanics of creation of paving districts

Response: Please see attached from City Attorney Alison McKenney Brown

Council Request: 17-106

Assigned to: Finance and Administrative Services

Request: Timeline for close-out of Saunders Construction contract for the Englewood Public

Schools

Response: Please see attached from Director of Finance and Administrative Services Kathleen

Rinkel.

Council Request: 17-116

Assigned to: Finance and Administrative Services

Request: Cost of implementation of the Tyler New World software – staffing costs

Response: Please see attached from Director of Finance and Administrative Services Kathleen

Rinkel

Council Request: 17-122

Assigned to: City Attorney's Office

Request: Legal opinion – Can a condition be placed on City sewer line easement that is

granted by the City?

Response: Please see attached from City Attorney Alison McKenney Brown

Council Request: 17-124

Assigned to: City Manager's Office

Request: Include Loretto Heights conservation project meeting dates on City's website

Response: Please see attached from Executive Assistant Christa Graeve.



To: Mayor Jefferson

City Council

City Manager's Office

From: Alison McKenney Brown, City Attorney

Date: Thursday, July 20, 2017

Re: Council Request for Depot Property update – 17-042

ISSUE(S): Provide an update as to the status of the depot property renovations.

RESPONSE: Tom Parsons was invited by staff to address the City Council regarding the current status of the depot property renovations at the regular meeting held on Monday, May 15, 2017.



Response to Council Request 17-045

To: City Council

From: Kathleen Rinkel, Director of Finance and Administrative Services

Date: July 19, 2017

Subject: Cost for Producing the Paper Council Packet

Following is a summary of the City's cost for producing the Paper Council Packet and the associated delivery for 47 Study and Regular Council Meeting in 2017. This is based on actuals through June extrapolated for the remainder of the year:

Estimated costs for 2017

	Salary/Benefits	
Cost of Staff Time	\$15,188	An average of 6.75 hours across 4 staff each week
	Paper Cost	
Paper	\$1,185	23,704 pages @ \$.05/page (actuals thru June 2017, less residuals report, doubled)
Residuals report	\$350	One time charge broken out separatly because it was so large
	Transportation	
Cost City Van	\$268	6 mi RT; 5% of annual vehicle expenses
Total Cost to produce and		
deliver paper packets	\$16,991	

Please let me know if you have any questions.

Sincerely,

Kathleen Rinkel, CPA, CMA
Director of Finance and Administrative Services
krinkel@englewoodco.gov
(303) 762-2401





To: Mayor Jefferson

City Council

City Manager's Office

From: Alison McKenney Brown, City Attorney

Date: Wednesday, July 19, 2017

Re: Legal Opinion on Assessment of Building Use Taxes to School Districts

ISSUE(S): May the City of Englewood impose sales and use taxes upon contractor's for the construction of an improvement for governmental institutions including school districts, non-profits, or religious institutions?

OPINION: It is legal for the City to impose sales and use taxes upon non-profits, including school districts.

ANALYSIS: The Constitution of the State of Colorado authorizes home rule cities to impose municipal taxes as provided for within their Charter. The Colorado Supreme Court determined in 1911 that the decision regarding the application of taxes to any entity, including those deemed nontaxable by other governmental entities, **excluding the federal government**, was within the scope of authority a municipality may grant to itself within its Charter.

The Charter of the City of Englewood empowers the City Council to levy taxes and excises as may be necessary to obtain revenue for the operation of the City. The City Council, pursuant to the authority granted by Charter, adopted a sales tax and a use tax by ordinance. Sales tax and use tax are excise taxes. Provisions within the Englewood Municipal Code setting forth the application of each of those municipal excise taxes provide for exemptions from such taxation for governmental institutions, non-profits, or religious institutions *in the conduct of their regular functions and activities*. A limitation upon that exemption provides that the excise taxes levied by the City shall not extend to building materials or supplies to be used by a contractor for the construction of an improvement for governmental institutions, non-profits, or religious institutions.



To:

Mayor Jefferson and City Council Members

Through:

Eric Keck, City Manager

From:

Tom Brennan, Director of Utilities

Date:

July 12, 2017

Subject:

Council Request No. 17-077

Report on illegal dumping signs on drains.

City Council requested a report on illegal dumping signs on drains in regards to their maintenance replacement status. The drain markers are currently being replaced this summer when staff time is available. All missing or damaged markers will be replaced by the end of this year. The markers are being replaced with the same marker that exists today.





To: Mayor Jefferson

City Council

City Manager's Office

From: Alison McKenney Brown, City Attorney

Date: May 9, 2017

Re: Legal relationship between City and EHA

Issue(s): What legal authority does the City of Englewood have in regard to the Englewood Housing Authority?

Opinion in brief: The City of Englewood has limited control over the Englewood Housing Authority (EHA) through its commissioner appointment and removal process.

Facts/Background: The City of Englewood, Housing Authority, (EHA) was established in 1972 by Resolution 48, pursuant to C.R.S. 69-34(4) (1963). The Housing Authority statutes were recodified at C.R.S. 29-4-201 et seq. in 2000. C.R.S. 29-4-203 defines "Authority" or "housing authority" as a corporate body organized in accordance with the provisions of State statute for the purposes, with the powers, and subject to the restrictions provided by State statute. While a housing authority is a separate corporate entity, the relationship between a City and a housing authority is much closer than that of a City to an urban renewal authority. C.R.S. 29-4-206 requires commissioners to maintain strict compliance with all laws of the state of Colorado. C.R.S. 29-4-208 provides that any person may file written charges with the mayor of the enabling City alleging that the authority is willfully violating any law of the state. Such allegation sets into motion a procedure for removal of any commissioner who willfully violated such law. The EHA appears to have the same requirements as provided by State statute for compliance with the Open Meetings and Open Records laws as any other local public body, and the City can enforce compliance through the commissioner removal process. The EHA is not, subject to the City of Englewood's Charter language requiring submission of minutes of boards and commissions for inclusion in the "book of records", but is required to provide those documents pursuant to the City's adoption of the Colorado Municipal Records Retention Schedule, Schedule No. 20, Entities Appointed by Municipality.



To: Mayor Jefferson

City Council

City Manager's Office

From: Alison McKenney Brown, City Attorney

Date: June 25, 2017

Re: Request for extension of West Adriatic Place.

Issue(s): How does the City create a new roadway within an established residential district?

Opinion in brief: The City of Englewood is legally permitted to institute a standard process for the establishment of roadways within the City. The City has created and followed standard procedures for the establishment of roadways in residential districts. In areas of new construction roadways are built as part of the development process. In areas of established homes roadways are built pursuant to the improvement district process.

In association with the proposed extension of West Adriatic Place, the City accepted dedications of land from many, but not all, of the impacted property owners during the early 1970's. The face of the deeds for these parcels also include a limitation upon the permitted use of this land, limiting the City to only use the land for street purposes. A limitation of use does not mandate that the property ever be used, only limits the use to which the property may be put. It should be noted that if the City should ever transfer ownership of these parcels the limitation of use would run with the land.

The timeline for extending West Adriatic Place is dependent upon several factors. First, an improvement district would need to be established to provide funding for the paving of a new roadway extending Adriatic Place through the center of Block 14, Evans Park Estates, Englewood, Arapahoe County, Colorado. Additionally, beyond the time associated with creating an improvement district, the timeline for completion of this roadway project would be extended by the necessity of obtaining those portions of land still held by private landowners over which the proposed roadway would be built.

To: Chief of Police John Collins

From: Commander Tim Englert

Date: June 1, 2017

Subject: Council Request 17-085 (Updated)

Council Request 17-085

Requested by: Councilmember Olson: Requested a copy of crime stats for the 4300 Block of South Broadway before and after the arrival of Giving Heart's homeless services center.

Assigned to: Police Department

This case was assigned to the Impact Team May 1st, 2017, after a complaint from a business owner related to a transient camping in the alley. The situation was immediately resolved and multiple follow-up investigations failed to find any additional camping issues in the area.

Englewood Police Department Crime Analysis Unit researched crime statistics for the area as well as calls for service (CFS) at Giving Heart (4358 S. Broadway). Analysis showed five CFS at this location during a two year period. In order to view crime trends potentially associated with Giving Heart crime analysis was done within .25 miles of Giving Heart looking at crimes potentially related to transient activity, certain crimes such as Domestic Violence Assaults were excluded. During the year preceding Giving Heart opening (02/01/2015 to 02/29/2016), there were 132 crimes reported in this area. During the year after Giving Heart opened (02/01/2016 to 02/28/2017), there were 122 crimes reported. This slight decrease in crime reflects a city wide pattern of reduced crime during this same period.

Impact Officers conducted an extensive canvas of the 4300 Block of S. Broadway and immediate area to determine what issues businesses and residents had. Nine residents in the 4300 Block of S. Lincoln were contacted, none of the residents noted any concerns or any additional transient activity in the area.

Four businesses in the area were contacted and reported issues with transients in the area. The problems reported included transients sleeping in various locations, begging, trash, possible drinking in public, verbal disturbances, etc. Most business reported they were not calling the police when issues occurred and all were encouraged to contact police when problems arise. One additional business was left contact information and has not responded back to Impact Officers. One business in the area was allowing

transients to loiter on the property for hours and providing them with water. This business has agreed to stop this practice.

Impact has met with Giving Heart staff (all are volunteers) about the issues. Giving Heart has many programs and assists with Severe Weather Shelter Network (SWS) as a pick up and drop off sight. Many of the concerns voiced may be related to severe weather days when extra clients come and go form the center. Several business owners reported a decrease in problems since the weather has warmed up. Giving Heart is looking at other location options for SWS clients. Giving Heart reports they do weekly trash pickups in the area.



To: Mayor Jefferson

City Council

City Manager's Office

From: Alison McKenney Brown, City Attorney

Date: July 19, 2017

Re: Update on Studio 420 review process

Issue(s): Provide an update on the Studio 420 administrative review process.

Response: An administrative hearing was held on June 16, 2017, for the purpose of determining whether the Licensing Officer's Order To Comply with the Notice To Cease and Desist issued to the Appellant **WAS** or **WAS NOT** arbitrary or capricious. The hearing officer was the Director of Finance, as mandated by City Code. The hearing lasted a full work day. Evidence was presented by both the City and representatives of Studio 420. The hearing officer was required to review evidence presented by both parties to determine whether the evidence supported the City's decision to revoke the business permit. Evidence was presented in association with the following issues:

- Whether Applicant's business license application indicated any intent to operate a membership club, and instead only indicates the intent to operate a retail business. Operation of a membership club is beyond the limitations of the retail business license issued to Applicant.
- Whether Applicant advertises marijuana smoking services to the public and operates the business for the public within a "public place".
- Whether Applicant's license was obtained by fraud, misrepresentation, or false statements.
- Whether Operation of a marijuana consumption club constitutes a danger to health, safety, and welfare of the public as provided by Colorado Law.
- Whether Applicant's actual use of the property violates City Ordinance, State Statute, Colorado Constitution and/or Federal Law.

The Hearing Officer completed her review of the information submitted on July 17, 2017, and will mail copies of her determination to both parties on or before July 24, 2017.



To: Mayor Jefferson

City Council

City Manager's Office

From: Alison McKenney Brown, City Attorney

Date: June 25, 2017

Re: Legal review of the urban renewal authority and urban renewal authority plans.

ISSUE(S): Can EURA continue to exist if there is no plan and no project area?

CONCLUSION: The provisions of C.R.S. 31-25-102 Urban Renewal do not speak directly to the question of an URA being dissolved at the completion of an Urban Renewal Plan or an Urban Renewal Project. However, a URA is given most of the same powers and status as a corporation, allowing it to carry out the details of each plan and project without direct oversight by the municipality which created it. C.R.S. 31-25-102 Urban Renewal is written to allow for a Urban Renewal Authority to develop multiple urban renewal plans, obtain real property, and develop multiple urban renewal projects. Each UR plan must be approved by the Governing Body of the Municipality which created it. (C.R.S. 31-25-107) Unlike a privately created corporation, once a URA has been validly created it continues to exist as a body until abolished by the Governing Body of the municipality which created it. (C.R.S. 31-25-115).

FACTS/BACKGROUND:

The Englewood Urban Renewal Authority (EURA) was established in 1972 by Resolution 49, and reactivated by Resolution No. 58, in 1981. EURA was organized pursuant to C.R.S. 31-25-101 et seq. C.R.S. 31-25-104(b) provides that a Governing Body creates a EURA after making certain findings of fact. C.R.S. 31-25-115 (2) allows for the Governing Body to abolish an urban renewal authority by ordinance upon resolving any outstanding debts of the authority. While an urban renewal authority exists, however, "the commissioners and their successors are constituted an urban renewal authority, which shall be a body corporate and politic." This separation of identity protects the City from responsibility for the authority's debt, but it also prevents the City from actively managing the affairs of the authority. The EURA is required to comply with the Open Meetings and Open Records laws of the State.



To: Mayor Jefferson

City Council

City Manager's Office

From: Alison McKenney Brown, City Attorney

Date: June 25, 2017

Re: Mechanics of creation of paving districts.

Issue(s): How does the City create a new roadway within an established residential district?

Opinion in brief: You asked for an overview of the process for creating an improvement district to fund the paving of a new roadway extending Adriatic Place through the center of Block 14, Evans Park Estates, Englewood, Arapahoe County, Colorado. It should be noted that in addition to the standard process associated with creating an improvement district the City would need to actively obtain those parcels of land held by private landowners over which the roadway would be built. The specific timeline for the process provided herein would be extended for that amount of time necessary for the City to obtain any of the properties not currently held by the City over which a road would run.

The process for establishing any improvement district is as follows. You can see that the timeline for establishment of the improvement district and construction of the roadway would be at least a year. The process in brief, and excluding most of the specific details, is as follows:

- Step 1. Create a district, either through petition signed by at least 30% of property owners within the proposed district or by action of the City Council.
- Step 2. Public hearing before City Council (unless 100% of impacted property owners signed petition). City council determines whether to send the question of creation of a district to the voters of the district or whether to dismiss the petition and end the process.
- Step 3. Vote of the electors of the district regarding the organization of the district and such other matters as the governing body deems appropriate including, but not limited to, the issuance of bonds or other matters for which voter approval is required under TABOR.
- Step 4. Ordinance declaring district organized. If a majority of the votes cast at the election are in favor of the organization, the governing body shall adopt an ordinance declaring the district organized.
- Step 5. Governing Body becomes board of Improvement District.

Step 6. Engineer the project. Determine costs, select a contractor, etc.

Step 7. Determine financing for project. Improvement districts have most of the powers of a corporation including the authority to acquire, construct, install, operate, and maintain the improvements or provide the services contemplated by this part 6, as described in the petition or as later authorized by the voters of the district, including improvements located outside the boundaries of the district, and all property, rights, or interests incidental or appurtenant thereto and to dispose of real and personal property and any interest therein, including leases and easements in connection therewith.

Step 8. Impose assessments against real property within the district. An assessment shall be levied against all real property within the district necessary to pay all expenses of the district. All levies are collected by the County and remitted to the District board. All costs of collecting the same shall constitute a lien, until paid, on and against the property taxed, and such lien shall be a lien as for all other general taxes.

Step 9. Construct improvement.



Response to Council Request 17-106

To: City Council

From: Kathleen Rinkel, Director of Finance and Administrative Services

Date: July 13, 2017

Subject: Timeline for close-out of Saunders Construction contract for the Englewood

Public Schools

Following is a summary of our activity around the Saunders Contract and Use Tax for the construction of the Englewood Public Schools 7-12 campus project.

Our audit of the project is now complete and the payment of \$91,953 shown as 'in process' on July 12, 2017, will be paid on July 24, 2017. It is the second and final payment to the Englewood School District. After auditing the company, the actual purchases that were to generate the Use Tax were less than the original Englewood School District estimate.

This payment will be made from the Public Improvement Fund (PIF), which is where the Use Tax payments totaling \$374,456 were originally received. This payment impacts the existing Year-End anticipated PIF fund balance of \$752,493, reducing it to \$660,540.

Please let me know if you have any questions.

Sincerely,

Kathleen Rinkel, CPA, CMA
Director of Finance and Administrative Services
krinkel@englewoodco.gov
(303) 762-2401



City of Englewood, Colorado Finance and Administrative Services Department Revenue and Budget Division

Intergovernmental Agreement with Englewood School District Ordinance No. 57, Series of 2012

	Estimate Amount		Actual Amount			Difference	
 a - For projects described in Exhibit A, the actual rebate of 1/3 of the projects costs (It is anticipated that project costs will be \$300,000 with the rebate to the School District being \$100,000) 		100,000.00	\$	91,953.00	\$	8,047.00	
1. b - 50% of the actual Use Tax on the project (It is anticpated that total Use Tax on the Englewood Schools 7-12 Campus Project is \$600,000 with the 50% rebate being \$300,000)		300,000.00	\$	187,228.18	\$	112,771.83	
1.c - It is anticipated the total rebate to School District No.1 Arapahoe County will be \$400,000, but the actual costs and actual Use Tax shall determine the amount of the rebate.	\$	400,000.00	\$	279,181.18	\$	120,818.83	

1.a - Exhibit A 1/3 Project Cost Rebate Calculation

Line No.	Project		Estimate Amount	A	ctual Amount		Difference
1	Alternate 2 (includes \$24,000 for intersection improvements)	S	160,650.00	S	196,208.43	\$	(35,558.43)
2	Parking along Lehigh (not less than 40 spaces)	S	66,000.00	\$	61,269.96	\$	4,730.04
3	Mansfield Parking (not less than 29 spaces)	S	47,850.00	\$	-	S	47,850.00
4	Traffic Signal Improvements at Logan/Mansfield	\$	15,000.00	\$	18,380.61	\$	(3,380.61)
	Total	S	289,500.00	S	275,859.00	S	13,641.00
	Rebate 1/3 of actual project costs per Contractor Statement			\$	91,953.00		

Line No.	Paid By	Date Received				Amount
1	Saunders Construction Inc	8/19/2013			\$	49,314.14
2	Saunders Construction Inc	9/17/2013			\$	58,004.32
3	Saunders Construction Inc	10/10/2013			\$	23,471.72
4	Saunders Construction Inc	11/13/2013			S	16,071.75
5	Saunders Construction Inc	1/14/2014			\$	11,833.25
6	Saunders Construction Inc	2/11/2014			\$	896.68
7	Saunders Construction Inc	7/22/2014			\$	2,359.93
8	Saunders Construction Inc	7/22/2014			\$	4,344.60
9	Saunders Construction Inc	1/28/2015			\$	208, 159.96
10						
	G/L Total - 30.9999,31304				\$	374,456.35
	Rebate 1/2 of Use Tax Receipts				\$	187,228.18
Payment					C	Cummulative
Application	Paid To	Process Date	Ar	nount		Amount
1	Englewood School District	4/22/2016	\$ 187	,228.18	\$	187,228.18
2	Englewood School District	7/12/2017	\$ 9	,953.00	\$	279,181.18
3					\$	279,181,18
Total			\$ 279),181.18		



Response to Council Request 17-116

To: City Council

From: Kathleen Rinkel, Director of Finance and Administrative Services

Date: July 11, 2017

Subject: Costs of implementation of the Tyler New World software – Staffing Costs

Below is a summary of the incremental staffing costs being covered within the new Finance/HR system project (Tyler New World) installation budget. These resources were allocated to assist in project management and supplemental support for staff.

The budget for the Finance/HR system of \$1,000,000 was approved in 2016 in the Capital Projects fund. Work on the project began in mid-2016. Our Go-live date for Finance is October 1, 2017, and the Go-live date for HR is January 1, 2018.

Initial expenditures in these areas are typically slow in the beginning of the project and ramp up dramatically as the project goes into data migration, testing and go-live preparation. We are currently in the beginning stages of data migration/testing and believe we'll be on target to spend our allocations.

Expense	Allocated	% of total Project Budget	Paid to Date	Balance
COE Project Manager	\$137,502.00	14%	\$50,159.34	\$87,342.66
FIN Temp Help	\$54,691.00	5%	\$17,171.02	\$37,519.98
HR Temp Help	\$75,000.00	8%	\$6,618.68	\$68,381.32
Oracle Consultant	\$20,000.00	2%	\$1,300.00	\$18,700.00
IT Consultant (Tyler Expert)	\$10,000.00	1%	\$427.00	\$9,573.00
Total Incremental Staffing	\$297,193.00	30%	\$75,676.04	\$221,516.96

Please let me know if you have any questions.

Sincerely,

Kathleen Rinkel, CPA, CMA
Director of Finance and Administrative Services
krinkel@englewoodco.gov
(303) 762-2401





To: Mayor Jefferson

City Council

City Manager's Office

From: Alison McKenney Brown, City Attorney

Date: Thursday, July 20, 2017

Re: Right to place conditions upon easement granted by City

ISSUE(S): Can a condition be placed on City sewer line easement to require a developer waive the use tax exemption provided by State Statute?

OPINION: The City Council, through their executive power, may refuse to vacate five feet of an existing easement. Use of the executive power to specifically impact one property differently than other properties should bear a rational basis to a legitimate governmental objective, such as health, safety or welfare. The legal question would be whether the decision **to conditions associated with the request to reduce a 20' sewer easement to a 15' sewer easement** bears a rational relationship to legitimate governmental objectives, so that it is not unreasonable, arbitrary, or capricious.

The analysis of this question is the standard analysis associated with use of the City Council's executive power. Use of the executive power to specifically impact one property differently than other properties should bear a rational basis to a legitimate governmental objective, such as health, safety or welfare. If a property owner suffers harm as a result of a City's arbitrary and capricious use of the executive power, they could challenge the City's action in district court.



Memorandum

TO: Mayor Jefferson and Members of City Council

THROUGH: Eric A. Keck, City Manager

FROM: Christa Graeve, Executive Assistant

DATE: July 20, 2017

SUBJECT: CR 17-124: Include Loretto Heights conservation project meeting dates on

City's website

There are currently no planned future meetings regarding the conservation of Loretto Heights. According to the office of Denver Councilman Kevin Flynn, no meetings will be scheduled until the owners respond to RFQ's (Request for Quote) that have been submitted.

The office of Kevin Flynn will be contacted periodically for updates on upcoming meetings.