



# City of Littleton

Littleton Center  
2255 West Berry Avenue  
Littleton, CO 80120

## Meeting Agenda - Final City Council

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Tuesday, November 16, 2021

6:30 PM

**Council Chamber**

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**Regular Meeting**

### **1. Roll Call**

### **2. Pledge of Allegiance**

### **3. Approval of Agenda**

### **4. Comments / Reports**

- a) City Manager
- b) City Attorney
- c) Council Members
- d) Mayor

### **5. Citizen Appearances**

Guest Citizens - Cub Scouts Pack #742

### **6. Public Comment**

*If you wish to address the city council under Public Comment, please sign-in on the public speaker form before the call to order for this meeting. Each speaker will be limited to three minutes. The city council is not authorized by the Colorado Open Meetings Law to discuss, comment, or take action at the meeting on any issue raised by public comment that is not part of tonight's agenda. The Mayor may refer the matter to the City Manager and/or City Attorney for immediate comment after Public Comment, or staff to obtain additional information and report back to council as appropriate.*

### **7. Consent Agenda Items**

- a) [Ordinance 30-2021](#) Ordinance 30-2021: An Ordinance on first reading amending Title 3, Chapter 9 of the City Code relating to retail sales and use tax  
**Attachments:** [1. Ordinance No. 30-2021](#)
- b) [ID# 21-246](#) Motion to approve minutes of the November 9, 2021 special meeting

Attachments:      [1. 11-09-2021 - CC Minutes - DRAFT](#)

## **8. General Business - None**

## **9. Ordinances on Second Reading and Public Hearing - None**

## **10. Presentation of Service Awards**

## **11. Mayor Valdes calls for motion to appoint city clerk as chairperson**

### **Adjournment Sin Die**

#### **1. Call to Order by City Clerk**

#### **2. Seating of New Council**

*Newly elected mayor and newly elected/re-elected council members will be sworn in individually and will take a seat at the dais after receiving their oath of office.*

- a) Swearing in Ceremony - Judge Ethan Feldman

#### **3. Roll Call (by City Clerk)**

#### **4. Mayor Schlachter - Request for Nominations for Mayor Pro Tem**

*The mayor will invite nominations for appointment of Mayor Pro Tem. Once all nominations are received, the mayor will invite questions from the dais to the nominees. After each nominee has had an opportunity to respond to questions, the mayor will request a motion and a second on nominations, in the order they were made (if more than one nominee), i.e. the first request for a motion/second will be for the first nominee. A roll call vote will follow a motion and second. If the first nominee receives a majority vote, no further action will be taken and that nominee will be appointed Mayor Pro Tem. If a majority vote is not received for the first nominee, the process will continue until a nominee receives a majority vote.*

- a) Questions to nominees
  
- b) Request for a motion/second and a vote on nominee(s)

#### **5. Adjournment**

*The public is invited to attend all regular meetings or study sessions of the city council or any city authority, board, or commission. Please call 303-795-3780 at least forty-eight (48) hours prior to the meeting if you believe you will need special assistance or any reasonable accommodation in order to be in attendance at or participate in any such meeting. For any additional information concerning city meetings, please call the above referenced number.*



Staff Communication

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**File #:** Ordinance 30-2021, **Version:** 1

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Agenda Date: 11/16/2021

**Subject:**

Ordinance 30-2021: An Ordinance on first reading amending Title 3, Chapter 9 of the City Code relating to retail sales and use tax

Prepared by: Reid Betzing, City Attorney

**PURPOSE:**

To amend the City Code's retail sales and use tax sections to reflect the will of the voters raising the sales and use tax from 3.00% to 3.75%.

**PRESENTATIONS:**

**Staff Presenter(s):** Reid Betzing, City Attorney  
Tiffany Hooten, Finance Director

**Additional Presenter(s):** None

**SUMMARY:**

On August 26, 2021, council passed an ordinance to submit a ballot issue to the registered electors of the City of Littleton Colorado to increase the sales and use tax rate by  $\frac{3}{4}$  cent from 3.00% to 3.75%.

Electors approved ballot issue 3A by a vote of 8,636 (58.81%) to 6,055 (41.19%) to raise the sales and use tax rate from 3.00% to 3.75%. In order to implement the voter's decision, it is necessary to amend certain sections of our code that reflect 3.00%.

**PRIOR ACTIONS OR DISCUSSIONS:**

On August 26, 2021, council passed an ordinance to submit a ballot issue to the registered electors of the City of Littleton Colorado to increase the sales and use tax rate by  $\frac{3}{4}$  cent from 3.00% to 3.75%.

On November 2, 2021 ballot voters approved the sales and use tax rate increase.

**ANALYSIS:**

Staff Analysis

It is necessary to amend certain sections of our City Code to reflect the will of the voters prior to January 1, 2022.

Council Goal, Objective, and/or Guiding Principle

Goal 2: Financial Sustainability

Goal 8: Good Governance

Fiscal Impacts

The increase in the sales and use tax rate is anticipated to provide an additional \$9.8m annually beginning January 1, 2022 to address the capital and infrastructure needs of the city.

Alternatives

None. This is as a result of the November 2, 2021 election results.

**STAFF RECOMMENDATION:**

Staff recommends approval of the ordinance on first reading amending provisions of the retail sales and use tax ordinance, Title 3, Chapter 9, of the Littleton Municipal Code regarding a 3/4 cent sales and use tax increase to fund the cost of capital improvements.

**PROPOSED MOTION:**

I move to approve Ordinance 30-2021 on first reading amending Title 3, Chapter 9 of the City Code relating to retail sales and use tax.



Tax Schedule		
Amount Of Sale		Littleton Sales Tax
\$2.50 to	\$2.83	\$0.08
\$2.84 to	\$3.16	\$0.09
\$3.17 to	\$3.49	\$0.10
\$3.50 to	\$3.83	\$0.11
\$3.84 to	\$4.16	\$0.12
\$4.17 to	\$4.49	\$0.13
\$4.50 to	\$4.83	\$0.14
\$4.84 to	\$5.16	\$0.15
\$5.17 to	\$5.49	\$0.16
\$5.50 to	\$5.83	\$0.17
\$5.84 to	\$6.16	\$0.18
\$6.17 to	\$6.49	\$0.19
\$6.50 to	\$6.83	\$0.20
\$6.84 to	\$7.16	\$0.21
\$7.17 to	\$7.49	\$0.22
\$7.50 to	\$7.83	\$0.23
\$7.84 to	\$8.16	\$0.24
\$8.17 to	\$8.49	\$0.25
\$8.50 to	\$8.83	\$0.26
\$8.84 to	\$9.16	\$0.27
\$9.17 to	\$9.49	\$0.28
\$9.50 to	\$9.83	\$0.29
\$9.84 to	\$10.00	\$0.30

31 On all higher sales, three cents (\$0.03) ~~tax~~ shall be added for each one dollar (\$1.00) of additional selling  
32 price.

33 As passed by a vote of the people on November 4, 2003, and effective as of January 1, 2004, in place of the  
34 existing one cent (\$0.01) tax for each one dollar (\$1.00) of selling price, there is imposed upon the  
35 sale, ~~use, storage or consumption of food and food products which are to be consumed off the premises of~~  
36 ~~the vendor, unless prepared by the vendor at the place of sale for immediate consumption by the purchaser,~~  
37 a one half cent (\$0.005) tax for each one dollar (\$1.00) of selling price. The tax in each such transaction  
38 shall be rounded down to the lower whole cent. The one half cent (\$0.005) tax remaining in 2004 on such  
39 products is also repealed on January 1, 2005. No such tax in any amount shall exist thereafter on such  
40 products.

41 Notwithstanding anything in this section to the contrary, the sale of food as defined in subsections [3-9-3-](#)  
42 [2\(A\)17](#) and (A)18 of this chapter shall be exempt from taxation.

43  
44 **3-9-3-6: LIABILITY OF RETAILER FOR PAYMENT OF TAX; DUE DATES:**

45  
46 Every retailer also herein called the "vendor" shall, irrespective of the provisions of this section,  
47 be liable and responsible for the payment of an amount equivalent to THREE AND  $\frac{3}{4}$   
48 PERCENT (3.75%) ~~three percent (3%)~~ of all sales made by him of commodities or services  
49 specified in section 3-9-3-1 of this chapter, and shall make a return and payment to the city  
50 treasurer which must be received by the city treasurer on or before the twentieth day of each  
51 month for the preceding calendar month or months under report and such payment to the city  
52 treasurer shall be an amount equivalent to THREE AND  $\frac{3}{4}$  PERCENT (3.75%)~~three percent~~  
53 (~~3%~~) of such sales and also any excess tax collections over said THREE AND  $\frac{3}{4}$  PERCENT

54 (3.75%)~~three percent (3%)~~ as provided for in section 3-9-3-14 of this chapter, minus the  
55 collection expense of two and one-half percent (2.5%) or one hundred dollars (\$100.00),  
56 whichever amount is lesser, of such tax to cover the vendor's expense in the collection and  
57 remittance of the tax. However, if any vendor is delinquent in paying said tax except for illness,  
58 acts of God, public emergency, or acts of a public enemy or similar circumstances, the vendor  
59 shall not be allowed to retain any amount to cover his expense in collecting and remitting said  
60 tax, and an amount equivalent to the full THREE AND ¾ PERCENT (3.75%)~~three percent (3%)~~  
61 shall be paid to the city treasurer in addition to penalty and interest as provided for in subsections  
62 3-9-6-3(A) and (B) of this chapter by any such delinquent vendor.  
63

64 **3-9-3-14: EXCESS COLLECTIONS; FAILURE TO REMIT:**

65  
66 If any vendor shall, during any reporting period, collect as a tax an amount in excess of THREE  
67 AND ¾ PERCENT (3.75%)~~three percent (3%)~~ of his total taxable sales, he shall remit to the  
68 City Treasurer the full net amount of the tax imposed and also such excess. The retention by the  
69 retailer or vendor of any excess tax collections over the THREE AND ¾ PERCENT  
70 (3.75%)~~three percent (3%)~~ of the total taxable sales of such retailer or vendor or the intentional  
71 failure to remit punctually to the City Treasurer the full amount required to be remitted by the  
72 provisions of this Chapter is hereby declared to be a violation of this Chapter.  
73

74 **3-9-4-3: EXEMPTIONS:**

75  
76 **K.** To the storage, use, or consumption of any article of tangible personal property the sale or  
77 use of which has already been subjected to a sales or use tax of another statutory or home rule  
78 municipality legally imposed on the purchaser or user equal to or in excess of THREE AND ¾  
79 PERCENT (3.75%)~~three percent (3%)~~. A credit shall be granted against the city's use tax with  
80 respect to the person's storage, use, or consumption in the city of tangible personal property, the  
81 amount of the credit equal the tax paid by him by reason of the imposition of a sales or use tax of  
82 the previous statutory or home rule municipality on his purchase or use of the property. The  
83 amount of the credit shall not exceed THREE AND ¾ PERCENT (3.75%)~~three percent (3%)~~.  
84

85 **3-9-4-4: PAYMENT AND COLLECTION OF TAX:**

86  
87 **C. Optional Use Tax Deposit:**

88  
89 Optional Use Tax Deposit: Any person who shall build, construct or improve any building,  
90 dwelling or other structure or improvement to realty whatsoever within the City, and who shall  
91 purchase the necessary construction materials needed therefor from any source either within or  
92 without the corporate limits of the City, may at their election remit a deposit to the City prior to  
93 the issuance of any building permit, such deposit to insure and indemnify the City for the amount  
94 of Use Tax due at the time of issuing a certificate of occupancy, the expiration of any building  
95 permit or prior to final inspection of any job site. The amount of the deposit shall be based upon  
96 an estimate of the Use Tax to be payable on the construction materials needed therefor at the time  
97 the respective building permit is obtained. The estimate of the cost of construction materials to be  
98 originally and permanently incorporated in the particular project structure shall be determined by  
99 the City building official and this estimate shall be subject to adjustment only if the scope of the  
100 project is changed. If the taxpayer elects this basis for estimating the Use Tax and providing a  
101 deposit to insure the tax payment when due, then the provisions of subsection (B) of this section  
102 which provide for the filing of tax returns supported by related invoices will be waived. Upon

103 payment of said deposit to the Finance Director, which is computed on the basis of THREE AND  
104  $\frac{3}{4}$  PERCENT (3.75%) ~~three percent (3%)~~ of fifty two and one-half percent (52  $\frac{1}{2}$ %) of the permit  
105 valuation or THREE AND  $\frac{3}{4}$  PERCENT (3.75%) ~~three percent (3%)~~ of actual material costs as  
106 accepted by the City building official, the taxpayer shall be issued a receipt identifying the property  
107 which is the subject of this deposit and the building permit number. Prior to final inspection of the  
108 project or issuance of a certificate of occupancy, if it is determined that the scope of the project  
109 was expanded and therefore the amount of the Use Tax deposit is not sufficient to provide for full  
110 payment of the Use Tax, the additional Use Tax due must be received by the Finance Director  
111 before either the final inspection of the job site, or the issuance of the certificate of occupancy. If  
112 the deposit is sufficient to pay for the Use Tax due, then upon the final inspection of the job site,  
113 or the issuance of the certificate of occupancy or the expiration of the building permit as specified  
114 in the Building Code adopted in section 4-1-1 of this Code, the deposit will then be used to pay  
115 the amount of Use Tax due. Any excess amount of the deposit will be returned to the person  
116 making the deposit by mail within thirty (30) days of the assessment of the Use Tax. If the taxpayer  
117 purchases construction materials originally and permanently incorporated in the structure from  
118 Littleton vendors possessing a valid Littleton retail Sales Tax license, he may submit invoices or  
119 statements reflecting the purchase therefor and make application to the Finance Director within  
120 thirty (30) days directly following the final inspection to the job site, or the issuance of the  
121 certificate of occupancy, or the expiration of the building permit for credit or refund of any amount  
122 paid as Sales Taxes to the City and in which event it shall be the duty of the person making such  
123 application to furnish all necessary bills and invoices evidencing the payment of the tax, and if the  
124 said Finance Director is satisfied that there has been such payment, he shall either credit the  
125 account of the taxpayer if the Use Tax has not been levied or refund the amount if the Use Tax  
126 levy has been paid through said deposit. The amount of any Use Tax due and not paid constitutes  
127 a lien upon the real property benefitted by the use of such materials.  
128

129 **E. Machinery and Construction Equipment; Thirty Days or Less:** Mobile machinery and self-  
130 propelled construction equipment which is located within the City for a period of thirty (30)  
131 consecutive days or less shall be subjected to the City's Use Tax in an amount equal to an amount  
132 calculated as follows: The purchase price of the equipment shall be multiplied by a fraction, the  
133 numerator of which is one and the denominator of which is twelve (1/12) and the result shall be  
134 multiplied by THREE AND  $\frac{3}{4}$  PERCENT (3.75%) ~~three percent (3%)~~.  
135

136 **F. Credit Provisions Apply:** Where the provisions of subsection (E) of this section are utilized,  
137 the credit provisions of subsection 3-9-4-3(K) of this section 3-9-4 shall apply at such time as the  
138 aggregate Sales and Use Taxes legally imposed by and paid to other statutory or home rule  
139 municipalities on any such equipment equal to THREE AND  $\frac{3}{4}$  PERCENT (3.75%) ~~three percent~~  
140 ~~(3%)~~.  
141

142 **H. Burden of Proof:** If the equipment declaration is given as provided in subsection (G) of this  
143 section, then as to any item of mobile machinery and self-propelled construction equipment for  
144 which the customary purchase price is under two thousand five hundred dollars (\$2,500.00) which  
145 was brought into the City temporarily for use on a construction project, it shall be presumed that  
146 the item was purchased in a jurisdiction having a local Sales or Use Tax as high as THREE AND  
147  $\frac{3}{4}$  PERCENT (3.75%) ~~three percent (3%)~~ and that such local Sales or Use Tax was previously  
148 paid. In such case, the burden of proof in any proceeding, shall be on the City to prove that such  
149 local Sales or Use Tax was not paid.  
150

151 **3-9-5-7: CREDIT FOR SALES OR USE TAXES PREVIOUSLY PAID TO ANOTHER**



152 **MUNICIPALITY:**

153

154 The City's sales tax shall not apply to the sale of tangible personal property at retail or the  
155 furnishing of services if the transaction was previously subjected to a sales or use tax lawfully  
156 imposed on the purchaser or user by another statutory or home rule municipality equal to or in  
157 excess of THREE AND ¾ PERCENT (3.75%) ~~three percent (3%)~~. A credit shall be granted against  
158 the City's sales tax with respect to such transaction equal in amount to the lawfully imposed local  
159 sales or use tax previously paid by the purchaser or user to the previous statutory or home rule  
160 municipality. The amount of the credit shall not exceed THREE AND ¾ PERCENT (3.75%)~~three~~  
161 ~~percent (3%)~~.

162

**Section 2:** Effective Date. This ordinance shall take effect on January 1, 2022.

164

**Section 3:** Severability. If any part, section, subsection, sentence, clause or phrase  
166 of this ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of  
167 the remaining sections of this ordinance. The City Council hereby declares that it would have  
168 passed this ordinance, including each part, section, subsection, sentence, clause or phrase hereof,  
169 irrespective of the fact that one or more parts, sections, subsections, sentences, clauses or phrases  
170 may be declared invalid.

171

**Section 4:** Repealer. All ordinances or resolutions, or parts thereof, in conflict  
173 with this ordinance are hereby repealed, provided that this repealer shall not repeal the repealer  
174 clauses of such ordinance nor revive any ordinance thereby.

175

176

177 INTRODUCED AS A BILL at a regularly scheduled meeting of the City Council

178 of the City of Littleton on the 16<sup>th</sup> day of November, 2021, passed on first reading by a vote of

179 \_\_\_ FOR and \_\_\_ AGAINST; and ordered published by posting at Littleton Center, Bemis

180 Library, the Municipal Courthouse and on the City of Littleton Website.

PUBLIC HEARING on the Ordinance to take place on the 7<sup>th</sup> day of December,  
2021, in the Council Chamber, Littleton Center, 2255 West Berry Avenue, Littleton, Colorado, at  
the hour of 6:30 p.m., or as soon thereafter as it may be heard.

PASSED on second and final reading, following public hearing, by a vote of \_\_\_\_\_ FOR  
and \_\_\_\_\_ AGAINST on the 7<sup>th</sup> day of December, 2021 and ordered published by posting at  
Littleton Center, Bemis Library, the Municipal Courthouse and on the City of Littleton Website.

ATTEST:

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Colleen L. Norton  
CITY CLERK

APPROVED AS TO FORM:

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Reid Betzing  
CITY ATTORNEY

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Jerry Valdes  
MAYOR





Staff Communication

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**File #:** ID# 21-246, **Version:** 1

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Agenda Date: 11/16/2021

Subject:

Motion to approve minutes of the November 9, 2021 special meeting

Prepared by: Colleen L. Norton, City Clerk

**RECORDING SECRETARY'S CERTIFICATION:**

I hereby certify that the attached minutes are an accurate representation of motions made and action taken at the November 9, 2021 special meeting of the city council. I have also reviewed the video recordings for the November 9, 2021 special meeting of the Littleton City Council and certify that the video recording is a full, complete, and accurate record of the proceedings and there were no malfunctions in the video.

**PROPOSED MOTION:**

I move to approve the minutes for the November 9, 2021 special meeting of the Littleton City Council.



# City of Littleton

Littleton Center  
2255 West Berry Avenue  
Littleton, CO 80120

## Meeting Minutes - Draft

### City Council

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Tuesday, November 9, 2021

6:30 PM

Council Chamber

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#### Special Meeting (start time is approximate)

#### 1. Roll Call

**Present:** 7 - Mayor Valdes, Council Member Driscoll, Council Member Fey, Mayor Pro-Tem Melin, Council Member Milliman, Council Member Grove and Council Member Rudnicki

#### 2. Pledge of Allegiance

#### 3. Approval of Agenda

#### 4. Comments / Reports

a) City Manager

*Mark announced that Steve Alexander, Street Supervisor, retired after 46 years at the City of Littleton. He also cited many of Steve's accomplishments over the decades and invited council members to see a new operations center dedicated to Steve Alexander at the service center.*

b) City Attorney

*No report*

c) Council Members

*Council Member Rudnicki - No report*

*Council Member Driscoll - No report*

*Council Member Fey - No report*

*Council Member Grove - No report*

*Council Member Milliman - Thanks to Shawn Walsh and Todd Vitale helping the city put 3a over the finish line. She met with two employees of Habitat for Humanity and they have partnered with South Metro Housing Options have 59 homes scattered around the City of Littleton for purchase for those people who meet the requirements. This program is addressing items on the 2017 Housing Study.*

*Mayor Pro Tem Melin - No report*

d) Mayor

*He got a chance to tour fire station 12 and encouraged others to make an appointment and visit. He is honored to make the key note speech on Thursday at the Veterans Memorial at Ketring Park for Veteran's Day.*

## **5. Citizen Appearances - None**

## **6. Public Comment**

*Frank Atwood, Costilla St. -Approval voting / Agenda item 7(a)*

*Emily Przekwas, NGAC member - Agenda item 7(a)*

*Iftin Abshir, Ridge Rd. - Agenda Item 7(a)*

*Julie Przekwas - Agenda Item 7(a)*

*Michael Shariff, Costilla Ct. - Land acknowledgement*

*David Hagan - Land acknowledgement*

*Tess Dougherty - Land acknowledgement*

*Pam Chadbourne, District 1 - Land acknowledgment / Agenda Item 7(a) / ULUC*

## **7. Consent Agenda Items**

- b) [ID# 21-240](#) Motion to approve minutes of the October 26, 2021 special meeting approved

### **Approval of the Consent Agenda**

**Council Member Milliman moved and Council Member Rudnicki seconded to approve ID# 21-240 on the consent agenda. The vote is 7-0. The motion carries unanimously.**

**Aye:** 7 - Mayor Valdes, Council Member Driscoll, Council Member Fey, Mayor Pro-Tem Melin, Council Member Milliman, Council Member Grove and Council Member Rudnicki

## **Items Removed from the Consent Agenda**

- a) [ID# 21-241](#) Motion to remove a board member from the Next Generation Advisory Committee

**Consent Agenda Item 7(a) was removed from the consent agenda by Council Member Grove**

**Council Member Grove moved and seconded Council Member Milliman to remove Iftin Abshir from the Next Generation Advisory Committee effective immediately. The vote is 6-1 with Council Member Grove voting no. The motion carries.**

**Aye:** 6 - Mayor Valdes, Council Member Driscoll, Council Member Fey, Mayor Pro-Tem Melin, Council Member Milliman and Council Member Rudnicki

**Nay:** 1 - Council Member Grove

## **8. General Business - None**

## **9. Ordinances on Second Reading and Public Hearing**

- a) [Ordinance 22-2021](#) Ordinance 22-2021: An ordinance on second reading approving the fourth amendment to the Newton property General Planned Development Plan (Aspen Grove) - Continued from October 5, 2021

**Council Member Milliman moved and Council Member Driscoll seconded to approve Ordinance 22-2021 approving the fourth amendment to the Newton Property General Planned Development Plan (Aspen Grove).**

**Council Member Driscoll moved and Mayor Valdes seconded to amend Ordinance 22-2021 approving the fourth amendment to the Newton Property general planned development plan to allow for residential use on the property and to eliminate the height and units per acre for future discussion. The vote is 0-7. The motion to amend fails.**

**Mayor Pro Tem Melin moved and Council Member Driscoll seconded to require a permanent minimum of 225K sq feet with a temporary minimum of at least 125K sq feet and a period with a minimum of two years. The motion to amend was withdrawn by Mayor Pro Tem Melin and Council Member Driscoll.**

**Mayor Pro Tem Melin moved to add a condition requiring a minimum of 212,500 sq ft of retail/commercial with a minimum of 125,000 sq ft of retail/commercial for no more than 2 years during any phase of construction and direct staff to work with the applicant to update the site development standards to accommodate that change. The motion to amend dies for lack of second.**

**Vote on the main motion is 4-3 with Council Member Grove, Council Member Fey and Mayor Pro Tem Melin voting no. The motion carries.**

## **10. Adjournment**

*Mayor Valdes adjourned the meeting at 9:43p.m.*