

Niwot LID Advisory Committee Meeting Minutes

November 5, 2019
Mountain View Fire & Rescue Station
8500 Niwot Road, Niwot, CO

The meeting was called to order at approximately 7:00 pm.

Members Present: Laura Skaggs, Anne Postle, Lisa Rivard, Cornelia Sawle, Jim Eastman, Mary Coonce, Bruce Rabeler, Scott Firle

Guests: Catherine McHale, Megan Flaherty, LuAnn Pyatt

Staff: David Thayer, Office of Financial Management; Mark Ruzzin, Commissioners' Office

Approval of Minutes:

The board considered the minutes of the September 3, 2019 meeting.

ACTION: Anne moved to approve the minutes of the September 3, 2019 meeting, as presented; Mary seconded the motion and it passed unanimously.

Discussion with LuAnn Pyatt, Local Government Liaison, Colorado Department of Revenue

The committee had an extensive conversation with special guest LuAnn Pyatt, the Local Government Liaison for the Colorado Department of Revenue. LuAnn was joined by David Thayer of the Boulder County Office of Financial Management; David is responsible for reporting sales tax revenue and other financial data to the advisory committee.

Laura introduced LuAnn to the committee and provided background on the goal for LuAnn's visit.

Highlights of the discussion included the following:

- LuAnn began by noting that House Bill 19-1240, regarding point of delivery for taxation purposes, became law on June 1. The bill codified CDOR rules that remote sellers – businesses selling and delivering goods to Colorado residents – must follow regarding the collection of state and local sales and use taxes. The state is now creating a Geographical Information System tool for businesses that will allow users to access sales and use tax rates on an address-specific level. Once the GIS system is in place, around June 2020, all businesses, regardless of sales volume, will be required to collect and remit state and local taxes.
- It is likely that the LID has seen some growth in tax collections as a result of this move to collect sales taxes on remote purchases. It would not be possible to determine what sectors these increased sales are coming from, as all businesses are required to collect the taxes.
- LuAnn explained how CDOR is tracking the sales tax collections of the small districts around the state. She also discussed how CDOR collaborates with the local jurisdictions in this effort, which in the case of the LID is Boulder County.

- Senate Bill 19-006 set up a process to work collaboratively with Colorado’s home rule jurisdictions and other stakeholders to develop a uniform statewide sales and use tax collection system to help bring a further level of clarity and simplicity to the collection of sales and use taxes across the state.
- LuAnn walked through the various statutes and processes that CDOR is required to follow and has in place to preserve confidentiality within the sales tax collection process. She explained how NAICS (North American Industry Classification System) codes are used by the state. The state utilizes this federal standard and allows individual business owners to choose which NAICS code applies to their business. This selection determines the sector “buckets” (retail, information, accommodation/food service, etc.) that tax collection totals are put into when they are reported to the advisory committee on the reports shared by county staff.
- There were several questions about how NAICS codes are determined, who makes those decisions, how NAICS codes can be changed, how they are applied within small districts like the LID, etc.
- David Thayer from the county provided additional detail on how the county uses NAICS codes to report tax collection data to the LID while maintaining the confidentiality standards established by the state.
- There was some discussion about the marijuana dispensary, and the fact that the LID can’t be told what sector the dispensary is in for sales tax collection reporting purposes.
- LuAnn explained how the state keeps an eye out for the small districts across the state to be sure that mis-appropriations do not happen, to avoid the problems that the LID has experienced in the past when monies have been mistakenly transferred to the LID. Additional CDOR staff will be coming onboard in January 2020 to assist with this effort.
- While CDOR cannot provide a list of the businesses located within the LID that remit sales taxes, this information is shared with the county. The county can reach out to the state any time that LID members or the county itself has questions about whether or not a business located within the LID is remitting taxes as required.
- LuAnn clarified that local improvement districts in Colorado do not have authority to charge or collect a use tax; Boulder County, though, does collect a use tax on deliveries and sales within the Niwot LID.
- Questions were asked about car sales at Gunbarrel Motors, and if the LID tax is applied to these sales. LuAnn explained that car dealers typically only collect the sales taxes that pertain to all residents (state sales tax, perhaps the RTD and Science and Cultural District sales taxes), and let the county clerk of the county in which the car buyer lives collect all the city and county taxes that apply at the buyer’s place of residence. The Niwot LID tax, then, will not be collected on the sales at Gunbarrel Motors (unless a resident of the district purchases a vehicle).
- That said, the tax will be collected on parts sales that are being picked up at the Niwot store.
- LuAnn reiterated that if there are any questions about whether a business located within the LID is collecting the LID sales tax, members should bring those questions to the county and the county can then reach out to her.
- LuAnn and the committee spent some time discussing how to track or “self-police” businesses in the LID to be sure that the LID tax is being collected.
- The committee spent some time walking through the various NAICS code sector classifications and discussing examples of how sales taxes might be collected from these sectors. For example, in the finance classification, if a financial services office is leasing a printer, leases are a sales tax transaction, so the LID tax will be collected on those leases.

- Dave explained that regarding remote sales, through the first 8 months of 2019 the county is seeing about 3-5% of sales taxes coming from remote sellers.
- LuAnn explained how the Marketplace Facilitator Act works in respect to remote sellers. To date in 2019, the state is not seeing much of an increase in sales taxes coming from remote sellers, as many of the large online retailers had already begun collecting state sales taxes before 2019. Local taxes were not being collected, however, so that is the change that is taking place this year.
- The committee, LuAnn, and Dave clarified steps that will be taken in respect to “suspicious” overpayments to the LID. The state works hard to identify these scenarios before the overpayment is distributed, though sometimes the fix is not possible to implement before the distribution is released by the state to the district.
- Bruce raised what the LID has considered a \$5,000 overpayment from the Feb 2018 distribution. LuAnn committed to researching this issue; she will get back to Dave with what she learns.

The committee thanked LuAnn and Dave for taking the time to visit with the LID. Lu Ann noted that CDOR has resources online that explain in detail the sales tax collection process, how it functions, etc., should committee members be interested in learning more. Information about NAICS codes can be found at <https://www.naics.com/search/>.

The committee spent some time discussing follow-up actions. Mary suggested that the issue of proper tax collection can be raised at an NBA meeting; Catherine mentioned that she can bring it to the attention of new businesses that she meets with. Jim suggested checking receipts when committee members purchase items from businesses in the LID.

Treasurer’s Report:

Bruce provided the Treasurer’s Report to the committee. In comparison to 2018, retail collections year-to-date are up \$3,000, while restaurant/food service collections are flat. Through August sales tax collections are up 6.6% over 2018. Bruce noted that about \$7,000 remains in the LID budget; with expected approval of the Economic Development Director funding request, the LID will find itself about \$5,700 over budget.

Mark mentioned that there is one 2018 reimbursement remaining, and reimbursements are going well for 2019. Bruce noted that his report now includes a list of funding requests that have been reimbursed and the amount of reimbursements. Through October just over \$81,000 of reimbursements have been processed, out of \$126,000 in approved funding requests. It’s clear that not all the funding approvals will be fully reimbursed.

The committee was reminded that the 2018 LID budget supplemental was about \$22,000; this year it may only need to be \$5,000 or so. This 2019 budget supplemental request of the BOCC will likely occur in December.

Funding Requests:

1. Niwot Business Association – Economic Development Director – \$12,500.00

Catherine McHale presented the funding request on behalf of the NBA. The request is retrospective to cover the first half of 2019. EDD funding in past years has been approved on a July-June schedule;

beginning in 2020 the request will be based on a calendar year (January-December) deliverable schedule. Catherine provided the committee with a report on first-half 2019 marketing activities. At the December meeting Catherine will be providing a report on the second-half 2019 marketing activities, and a funding request for 2020 EDD funding and first-half 2020 marketing activities. The committee commended Catherine for her excellent work in support of the LID.

ACTION: On a motion from Mary, seconded by Anne, the committee voted unanimously to APPROVE the funding request for \$12,500.00, as presented.

New/Old Business:

Megan Flaherty raised some questions about the recent repaving of Neva Road. Mark offered to connect Megan with county Transportation staff to get answers to her questions.

Cornelia raised concerns about the Eddie Running Wolf carvings, which are beginning to deteriorate. Catherine noted that Chuck Klueber has talked with Eddie, who isn't interested in dealing with the sculptures at this point in time. Discussions are being held now about actions to take to preserve the carvings as best as possible.

Mary noted that planning is moving forward to finalize the details for the Enchanted Evening event, including placement of musicians and other aspects of the event.

Public Comment:

There was no public comment, and the meeting was adjourned at approximately 8:30 p.m.