Meeting Called to Order
Ms. Celia VanDerLoop called the meeting to order at 5:37 p.m.

- Roll Call – Ms. Kathy Houston took roll call. Present: Ms. Celia VanDerLoop, Ms. Cathy Cooney, Ms. Alisha Brown, Ms. Genene Duran and Ms. Patti Shwayder. Absent: Dr. Chris Wiant, Mr. Lewis Koski, Mr. Jim Rada and Mr. Jim Garcia. Quorum determined.

- Approval of Agenda – Ms. Celia VanDerLoop requested a motion to approve the agenda of January 10, 2019. Ms. Patti Shwayder made a motion to approve the agenda of January 10, 2019. Ms. Alisha Brown seconded the motion. The motion passed 5-0.

- Approval of Minutes – Ms. Celia VanDerLoop requested a motion to approve the minutes of December 13, 2018. Ms. Patti Shwayder made a motion to approve the minutes of December 13, 2018 as written. Ms. Alisha Brown seconded the motion. The motion passed 5-0.

Discuss the Need for Formal Review of the Board of Public Health & Environment’s Bylaws
The Board has agreed to move this agenda item to the February 14, 2019 meeting. Ms. Duran made a motion to move this agenda item to the February 14, 2019 meeting for discussion to include all Board Members. Ms. Shwayder seconded the motion. The motion passed 5-0.

Public Comment on Items Not on the Agenda
There aren’t any requests for public comment on items not on the agenda.

Request for a Public Hearing to adopt new Rules and Regulations Governing the Green Building Ordinance, Chapter 10, Buildings and Building Regulations of the Denver Revised Municipal Code (D.R.M.C.), Katrina Managan, Environmental Quality
Ms. Katrina Managan introduced herself as the Climate Smart Buildings Team Lead for the Environmental Quality Division of the Denver Department of Public Health & Environment (DDPHE) and explained the process leading to where we are today. Ms. Managan stated, “As you know, the citizen-led green roofs initiative was on the ballot and passed by voters. As a result, the Department formed a task force to address the challenges and that task force has met nine times from January 19th to June 7th. The task force reached a consensus recommendation and drafted a revised ordinance; the ordinance passed on November 2nd. The process included stakeholders from all sides and the Department published the draft rules for public
comment for 30 additional days. The revised rules incorporating public comment are the rules before you.”

Ms. Managan continued, “One of the challenges was that the original ordinance language was copied from Toronto, Canadian code, which resulted in many code and legal conflicts. The requirement, as originally written, was for a green roof and/or solar panels and was to be applied to existing buildings. However, 90 percent of the existing buildings in Denver cannot support the weight of a green roof. Additionally, construction costs were disproportionate resulting in significantly higher construction costs specifically for retail buildings.” Ms. Managan stated, “The green roof task force included two City Council members, four City staff, the primary green roof proponents, real estate experts from various sectors, Denver Water, Xcel Energy, solar experts and other industry experts. There are benefits to the green roof ordinance such as reducing urban heat elements, adding green space, and providing better energy efficiency and wastewater management.” Ms. Managan explained, “New buildings have eight options for compliance: 1) install a green roof; 2) put green space anywhere on site; 3) pay the City for offsite green space at $50/square foot (managed by DDPHE); 4) a combination of green and solar; 5) a combination of green and energy efficiency; 6) solar only; 7) energy efficiency only; and 8) green building certification (i.e., LEED certification). For existing buildings, the trigger is roof replacement; options are to install a small green roof; green ground space; pay the green space fee; a green building certification; solar; or enroll in an energy program (administered by DDPHE).”

Ms. Managan stated, “The Department’s role is managing the green building fund, annual reporting to City Council; verification of LEED certifications with new buildings; managing an energy program for existing buildings; and reviewing master energy plans for campuses. The energy program for existing buildings is to achieve a reduction goal in greenhouse gas emissions over five years; achieve an Energy Star score of 85; improve energy use by specified percentages; become LEED certified later; install solar; or buy offsite solar.”

Ms. Duran asked, “What are the location and funding requirements for the purchase of the offsite green space?” Ms. Managan stated, “There are three goals that are considered: 1) the green space should be in close proximity of the building making the purchase; 2) funds should be spent in a lower income/higher need area; and 3) to spend it where it will have the most impact.”

Ms. Shwayder asked, “How will this impact affordable housing?” Ms. Managan stated, “For new affordable housing, Enterprise Green Community Certification is usually pursued; for existing affordable housing, there are programs such as Energy Outreach Colorado and the energy program that allows purchasing offsite solar.”

Ms. VanDerLoop asked, “Since these are joint rules, who is the approving body for Community Planning & Development (CPD)?” Ms. Managan stated, “Their agency requirements are the same and we will have a joint public hearing; once approved, the CPD manager will sign the rules and regulations as well.”

Ms. VanDerLoop asked, “Who would hear variances and appeals pertaining to these rules and regulations.” Mr. Scott Prisco of CPD stated, “If it is building code related, it would go to the Board of Appeals with CPD. Anything related to enforcement, compliance or to request a variance would go before this Board.”

Ms. VanDerLoop asked, “What distinguishes a campus from a subdivision?” Mr. Chris Gleissner with Building Services in CPD stated, “People typically think campus means institutional; but groups of buildings can work together to meet these obligations. You could have an office campus that could essentially work together to meet the options available for the entire campus—some buildings within the campus may use a different option than the other buildings in the same campus.”

Ms. VanDerLoop asked, “What keeps the campus from saying we’ll do that later?” Mr. Gleissner explained, “The campus ‘program’ requires a time commitment of when they will become compliant once construction is completed.”

Ms. VanDerLoop asked, “Does the irrigation limitation include vegetable growing?” Ms. Managan stated, “Denver Water set this limit based on an analysis for 25% turf grass.” Ms. Managan will verify with Denver Water if that limitation includes urban agriculture.
Ms. Duran asked, “How much of an administrative burden will this program put on the Department?” Ms. Managan stated, “Two new positions have been approved for the 2019 budget to help administer the program.”

Ms. VanDerLoop asked for a motion to set the public hearing. Ms. Duran made a motion to set the Public Hearing to adopt the Rules and Regulations Governing the Green Building Ordinance, Chapter 10, Buildings and Building Regulations of the Denver Revised Municipal Code (D.R.M.C.) for February 14, 2019. Ms. Cooney seconded the motion. The motion passed 5-0.


Ms. Alice Nightengale introduced herself as the Director of Animal Protection and stated, “This request may sound familiar as a public hearing was requested previously in November.” Ms. Nightengale explained, “We did receive a fair amount of public comment around what we were regulating and as a result, we pulled the rules and regulations and added an applicability and exemption section. The new section clarifies for the public what we are actually regulating.” Ms. Nightengale stated, “We are now requesting a public hearing to adopt the rules and regulations governing off-leash enclosures.”

Ms. Shwayder asked, “How do these apply to new versus existing off-leash enclosures?” Ms. Nightengale stated, “There is a grandfather clause for any structure—and to be clear—this is for construction and maintenance of the site, not location. We are aware there are existing enclosures that are being used and we have grandfathered in the construction of those. However, the operational maintenance would still apply; we are asking for double gates as that is a safety concern. New construction structures would have to be compliant with the criteria here, and of course, anyone can petition the Board for a variance.”

Ms. Shwayder explained that her company owns many apartments that are pet friendly and asked if they would have to have double gates and conform to them. Ms. Nightengale asked if the enclosure already exists. Ms. Shwayder replied, “Yes.” Ms. Nightengale stated, “Then yes, we’re asking if there is an enclosure that already exists, that a double gated entrance be added.”

Ms. Shwayder asked, “How will property owners will be receiving the information on the new requirements?” Ms. Nightengale stated, “We will reach out to the community to inform them of the changes and what the process is; we will also allow for a grace period to come into compliance.”

Ms. VanDerLoop asked about the food and beverage section and whether or not it is referring to non-alcoholic beverages. Ms. Nightengale confirmed, “Yes, it is specific to no allowance of alcoholic beverages.”

Ms. VanDerLoop requested a motion to set a public hearing to adopt the Rules and Regulations Governing Off-Leash Enclosures. Ms. Shwayder made a motion to set a public hearing to adopt the Rules and Regulations Governing Off-Leash Enclosures for February 14, 2019. The motion was seconded by Ms. Cooney. The motion passed 5-0.


Ms. Nicol Hogg of the Department’s Public Health Inspections Division, stated they received and addressed all the feedback from the Board and stakeholders regarding these rules and regulations. Ms. Hogg explained, “The biggest change is a new section on waste management and disposal. Additionally, sharps are already regulated through Section 13 of the Colorado Waste Regulations and we used that as our guide for the new waste management section. We’ve also added new definitions that are specific to the new waste management section.” Ms. Hogg stated, “The main topics are that waste disposal should be packaged in a Department of Transportation (DOT) approved shipping container before transporting to a treatment facility; sharps containers must be disposed of within 90 days of being pulled out of use; and facilities are required to have a written medical waste management plan. The new section outlines the details of what needs to be in that plan.”
With no public comment or additional questions, Ms. VanDerLoop concluded the public hearing and stated the Department of Public Health & Environment presented the proposed rules at the November 8, 2018 Board meeting. The board requested several changes to the proposed rules and regulations and the Department made such changes and submitted a modified version of the rules accordingly. The Board entered into deliberations. The Board agrees on the changes made and Ms. VanDerLoop concludes deliberations.

Ms. VanDerLoop requested a motion to adopt the updated Rules and Regulations Governing Needle Exchange and Treatment Referral Programs. Ms. Genene Duran made a motion to adopt the updated Rules and Regulations Governing Needle Exchange and Treatment Referral Programs, Chapter 24, Health and Sanitation of the Denver Revised Municipal Code (D.R.M.C.) Ms. Cathy Cooney seconded the motion. The motion passed 5-0.

**BPHE Docket Number 18-47 Board Consideration, Petition for Review of a Hearing Officer’s “Findings of Fact, Conclusions of Law, and Recommended Decision Regarding Violation of Rules Governing Food Safety. Petitioner: Danica Lee, Director, Public Health Inspections Represented by Reggie Nubine with the Denver City Attorney's Office. Respondent: Mr. Justin Henry, owner of the Watering Bowl, Represented by Attorney Mr. Michael Mulvania.**

Mr. Mulvania, Attorney representing the Respondent, Mr. Justin Henry, moved for a continuance on this hearing on the grounds they were not notified of the correct hearing location and their supporters are now unable to attend.

Mr. Reggie Nubine, Attorney representing the Petitioner, the Department of Public Health & Environment, objected to a continuance on the grounds that the Department is ready to proceed with the hearing and the Respondent’s supporters’ testimony is irrelevant to this matter.

The Board would like to seek legal guidance regarding the above request for BPHE Docket Number 18-47 from the City Attorney’s Office, Ms. Lindsay Carder, representing the Board. Ms. VanDerLoop requested a motion to enter an Executive Session. Ms. Duran made a motion to enter an Executive Session to seek legal guidance. Ms. Cooney seconded the motion. The motion passed 5-0. The Board entered an Executive Session at 6:50 p.m.

Ms. VanDerLoop requested a motion to exit the Executive Session. Ms. Cooney made a motion to exit the Executive Session. Ms. Brown seconded the motion. The motion passed 5-0. The Board exited the Executive Session at 6:58 p.m.

Ms. VanDerLoop reconvened the hearing at 6:58 p.m. and asked for a motion on BHPE Docket Number 18-47. Ms. Duran made a motion to allow the continuance of the Hearing, BPHE Docket Number 18-47 Board Consideration, Petition for Review of a Hearing Officer’s “Findings of Fact, Conclusions of Law, and Recommended Decision Regarding Violation of Rules Governing Food Safety to the next available Board meeting. Ms. Cooney seconded the motion. The motion passed 5-0. BPHE Docket Number 18-47 will be continued and rescheduled at the next available Board meeting.

**Executive Director’s Report**

**Noise Variance Update**

Ms. Nicol Hogg introduced herself as the Manager of the Denver Department of Public Health & Environment’s (DDPHE) Noise Program and she provided the Kiewit Noise Variance update (on behalf of Mr. Bob McDonald). Ms. Hogg referred to the spreadsheet that is included in the Board’s documentation packet and stated that it is updated based on weekly reports from the Colorado Department of Transportation (CDOT), which includes complaints, monitoring, etc. Ms. Hogg specifically referred to the November 2018 update where two complaints were logged from the CDOT hotline. Ms. Hogg explained, “The same complainant called at 9:00 p.m. and again at 12:45 a.m.; CDOT responded at 1:05 a.m. stating there hadn’t been any construction activity at that time, nor was any construction scheduled to occur at that time. It was determined that the noise activity was not related to the 1-70 construction project and it was also determined there were no noise violations.” Ms. Hogg stated, “The Department hasn’t had any other complaints and continues to monitor noise levels weekly. Monitoring is taking place during four-hour blocks at varying times.” Additionally, and in response to a question from Mr. Jim Garcia regarding the Spanish speaking response line, Ms. Hogg stated she had called the hotline herself in the middle of the...
night and requested a Spanish speaking staff member and was connected within one minute and 40 seconds; Ms. Hogg stated, “It appears the complaint system is working well.”

Ms. VanDerLoop asked, “What does IQC stand for?” Ms. Hogg stated, “It is CDOT’s acronym for their quality control inspector.”

Ms. VanDerLoop asked, “What are the differences between, LEQ, L-MAX and L-90?” Mr. Paul Riedesel of the DPHE noise program stated, “The L-MAX is the momentary high measurement; the LEQ is the average amount of sound that is measured for that hour; and L-90 is the sound that was present 90% or more of the time during the measurement.”

Department Highlights
Ms. Ann Cecchine-Williams is providing the Department Highlights on behalf of Mr. Bob McDonald.

Ms. Ann Cecchine-Williams stated, “The Caring4Denver initiative, recently approved by voters, will be an estimated $37 million per year to fund mental health and addiction services for adults and children which includes mental health treatment programs; suicide prevention programs; and opioid/substance misuse, treatment, recovery and prevention programs.” Ms. Cecchine-Williams continued, “We are in the process of establishing a special revenue fund to manage and allocate those funds which will go to a non-profit and be distributed to the community from there.”

Ms. Cecchine-Williams announced, “The Healthy Food for Denver Kids initiative, also recently passed by voters, will be comprised of a 13-person commission to distribute those funds; the initiative will fund approximately $7 million the first year and could be as much as $100 million over the course of 10 years. Similarly, we are in the process of establishing a special revenue fund for management and allocation.”

Ms. Cecchine-Williams announced, “There will be a Bloomberg press release for our work on climate change coming out tomorrow and another on Monday, which you all will receive.”

Ms. Cecchine-Williams explained, “We are finishing up with our internal pulse survey regarding how the management team is doing, employee morale, employee engagement, etc. Those results will be compiled and reviewed soon.”

Ms. Cecchine-Williams or Mr. McDonald will follow up with additional information requested by the Board and the next Board meeting.

Other Issues
There are no other issues before the Board at this time.

Adjournment
There being no further business, Ms. VanDerLoop requested a motion to adjourn. Ms. Cooney made a motion to adjourn and Ms. Duran seconded the motion. The motion passed 5-0. Meeting adjourned at 7:08 p.m.