

City Council Meeting Minutes

**January 2, 2018
City Hall, Council Chambers
749 Main Street
7:00 PM**

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council: ***Mayor Robert Muckle
Mayor Pro Tem Jeff Lipton
Councilmember Jay Keany
Councilmember Chris Leh
Councilmember Susan Loo
Councilmember Dennis Maloney***

Absent: ***Councilmember Ashley Stolzmann***

Staff Present: ***Heather Balsler, Interim City Manager
Joe Stevens, Director of Parks & Recreation
Ember Brignull, Open Space Manager
Chad Root, Chief Building Official
Kristin Dean, Principal Planner
Megan Davis, Intergovernmental Affairs Director
Meredyth Muth, City Clerk***

Others Present: ***Sam Light, City Attorney***

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Councilmember Keany All were in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Chief John Willson, Louisville Fire Protection District, stated there were multiple structure fires yesterday. The first on Pinehurst Court, there were no injuries, but it was a total loss on the house; the cause under investigation. Shortly after that had chimney fire at 414 East Raintree Court, it was put out quickly. Both had bystanders notify the homeowners to get them out. The third fire was a chimney fire at 153 West Sycamore Lane, likely caused by animal nests.

Councilmember Loo asked for any ways to avoid chimney fires. Willson stated call 911 if you see fire and give a good address. Clean chimneys at least twice each year; make sure fires have good heat and don't just smolder. This will keep combustibles down in chimneys.

Chuck Coughlin, 665 West Sagebrush Drive, stated he lives above the Coyote Run Open Space and noticed the community path has been closed. He asked what kind of risk there is and would it be reopened.

APPROVAL OF THE CONSENT AGENDA

MOTION: Mayor Muckle moved to approve the consent agenda, seconded by Councilmember Loo. All were in favor.

- A. *Approval of Bills***
- B. *Approval of Minutes: December 5, 2017 Special Meeting; December 6 Special Meeting***
- C. *Approval of Special City Council Meetings in January and February***
- D. *Approval of Designation of Places for Posting Notices for Public Meetings***
- E. *Approval of Resolution No. 1, Series 2017 – A Resolution Supporting the Reauthorization of the Colorado Lottery Division by the General Assembly in 2018***
- F. *Approval of the Mayors and Commissioners Coalition and Commuting Solutions Transportation Business Initiative***

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Mayor Muckle stated staff will get back to Mr. Coughlin with more information on the trail and the long-term plan.

CITY MANAGER'S REPORT

Interim City Manager Balsler stated the miners cabins will be moved on Thursday to a temporary location at the City Services Building. They will be stored and protected from the weather until a final location can be determined.

REGULAR BUSINESS

APPOINTMENTS OF CITY ATTORNEY, WATER ATTORNEY, MUNICIPAL JUDGE, DEPUTY MUNICIPAL JUDGE AND CITY PROSECUTOR

Mayor Muckle explained every two years, the City Council appoints a City Attorney, a City Prosecutor, a Municipal Judge and a Deputy Municipal Judge pursuant to Section 9 of the Home Rule Charter. In addition, the City Council may employ other special counsel such as a Water Attorney.

MOTION: Mayor Muckle moved to make the appointments for 2018-2019: City Attorney – Light Kelly, P.C.; Water Attorney – Hill & Pollock; Municipal Judge – Kristan Wheeler; Deputy Municipal Judge – David Thrower and City Prosecutor – Colette Cribari. Councilmember Leh seconded the motion. All in favor.

City Clerk Muth swore in Municipal Judge Kristan Wheeler. Judge Wheeler swore in Sam Light, City Attorney; Alan Hill, Water Attorney; David Thrower, Deputy Municipal Judge and Colette Cribari; City Prosecutor.

The appointees thanked the Council for their chance to serve the City.

Councilmember Leh stated all of the people appointed tonight care deeply about the rule of law. This is very important to all of us and for people to see that every day. He also noted none of these people are getting rich doing this work. They could be making more money in the private sector, but they love the work and do it well. He wanted to recognize the importance of the work they do.

DISCUSSION/DIRECTION/ACTION – DOG OFF-LEASH AREA AT DAVIDSON MESA

Mayor Muckle stated his appreciation for all of the people interested in this issue. He noted the deliberative process the City takes on projects. He thanked the Open Space Board (OSAB) taking up this challenging issue.

Mayor Pro Tem Lipton stated this was placed on the agenda at his request due to the out pouring of emotion at the last OSAB meeting; many greatly concerned the City was planning to close the dog off leash area (DOLA) at Davidson Mesa. OSAB is taking on the issue of how to keep the dog park sustainable. Its current use is not sustainable. Part of the discussion was a possible closure. He wants the public to know the Council has no interest in closing the dog park, but they are interested in how to make it better, and if there are other areas that could be used for a dog park. He wants the public to know there are no plans to permanently close the dog park, only improve it. He asked Council to take closure off the table as an option.

Mayor Pro Tem Lipton added that at the OSAB meeting that the community felt we weren't communicating with them. At some point we need to discuss how to better communicate with the community on all issues.

Councilmember Maloney agreed with Mayor Pro Tem Lipton. He stated Council has no will to close the dog park. We do need to have open discussion and boards need to look at all aspects of every issue, even if Council doesn't plan to close the park. He asked people to be cautious about what they read on social media. He stated he doesn't want it to be a habit of Council having to address issues from the dais if better communication can solve the issue.

Public Comments

Rob Scott, 946 Arapahoe Circle, thanked the Council for their service. He stated there needs to be more opportunities for off leash areas. We should find a way to revegetate that area and to educate the public. We shouldn't let a preservationist view point cloud the use of this land; we don't need or want a Boulder preservation governance policy in Louisville. Perhaps charge non-residents to use it.

Bruce Janda, 806 West Mulberry Street, thanked everyone for their work on this. The dog park is good for everyone. He is encouraged by the recommendation not to close the park and the words tonight. He would like to make sure there is a commitment to keep it open and find additional areas for dogs. This area is being loved to death, we need better management, more maintenance, and we need more bags and trash cans. He asked if complaints are wide spread or are limited. We are all committed to making this work.

Rick Ruggles, 893 Larkspur Court, agreed the park is loved and it is attracting more and more people. It is good it is used, but that creates other challenges. He noted photographers are using the areas that are off limits and we need better enforcement. He noted it is used by people from all over the County. He suggested the City should use social media to announce meetings. There needs to be more trash cans and bags available.

Rodney Sauer, 401 Spruce Street, stated the off leash area needs to be larger or there need to be additional areas for dogs off leash. He was happy to hear there are no plans to close it. He would like to see more areas for off leash in Louisville.

Katie Byrne, 1111 West Enclave Circle, asked if this discussion is being driven by the neighboring resident. She stated this is a good problem to have. We have to resolve overuse. She suggested expanding the existing park or creating another park in town. She also stated the area is frequently out of poop bags, the City needs to refill those more often and add more trash cans.

Cindy Bedell, 662 West Willow Street, stated many nonresidents are using the park causing great overuse. One option might be to close it one day per week for maintenance; perhaps institute a parking fee for nonresidents. She suggested putting some trees in to get some shade on the grassy areas; perhaps leaving part of the area vacant some days and rotating that space around for less use. She also asked the Council to consider keeping the Recreation Center open until 10 pm with the new expansion.

Laurie Marcum, 469 East Raintree Court, stated the recently installed crusher fines on the trail are too powdery and people are avoiding it and walking on the grass.

Helen Moshak, chair of OSAB, 493 Eisenhower Drive, encouraged Council to make sure they listen to all voices in the room and to staff. The Charter calls for recommendations from OSAB. She noted this area is open space, not a park. She stated all the good ideas on management are vital to this project. It is important to find best practices, manage this property as open space, engage the community, and honor the charter. We know we can solve this problem; OSAB is available to continue this dialogue.

Council Comments

Councilmember Keany thanked the public for coming to OSAB and Council. He noted there is a great deal of misinformation on social media. He stated open communication is important to the process. He thanked OSAB for their work on this. He supports both OSAB and the public sentiment to keep this area available. The Charter is very clear that once something is designated as open space it takes a city wide vote to change that. That is there to protect the land. He noted ways for the public to get information on what is happening in the City.

Councilmember Leh thanked the public for attending. He stated he hopes there is no need for an election to change the designation of the property. He noted there are a great number of good ideas being presented tonight and they should be evaluated. We don't want to pit parks people against open space people or dog owners against open space. There are tensions about land use, but there are many ways to collaborate on this before there is true conflict. We all want the DOLA to continue to work.

Councilmember Maloney stated it is important we communicate better so there is less misinformation. Use of the property as a dog off leash area is allowed within the Municipal Code; we should look for other areas where we can do this. He supports the recommendation from staff.

Mayor Pro Tem Lipton thanked OSAB for taking on this issue. The current state of the off-leash area is not sustainable and OSAB was willing to look at this and create a work plan for the next few months on how to better use the area. As a community, we do have a commitment to the preservation of open space even if this area is being used as

a park function. This is a requirement of the Charter and we want to hand these lands down to our children in the condition we got them.

Mayor Pro Tem Lipton moved that it is the sense of Council that OSAB should not pursue a recommendation that suggests a permanent closure of the DOLA at Davidson Mesa but supports OSAB's efforts to continue to develop a broad range of options and recommendations to help improve the use and management of the DOLA and to ensure its future sustainability. Councilmember Keany seconded the motion.

Councilmember Loo also thanked the Parks and Public Landscaping Advisory Board for their work on this issue. They are an equal partner in looking for new areas for another off-leash area.

Mayor Muckle opposed the motion only because the Council should allow OSAB to make recommendations without direction from the Council. He would prefer to direct OSAB to continue to look at options and take public input. It is not our job to tell the board what to do; that is not good policy. This can have a chilling effect on the board and would be a variation from our process. He stated he can't recall ever giving a board direction such as this. This is commenting on a plan that is not yet drafted. We need a full deliberative process to get a good outcome. OSAB will continue to take public comment into consideration.

Councilmember Maloney stated in principal he does agree with Mayor Muckle. He is concerned the Council does anything that gets in the way of a board making a recommendation. We may not agree that we don't want to close the DOLA, but that should be part of the discussion.

Mayor Muckle moved to direct OSAB to consider input from Council and the public and to continue working on a management plan for the DOLA and other areas. Councilmember Maloney seconded the motion.

Mayor Pro Tem Lipton stated he appreciated the idea of not interfering with boards; however he would like to remove only one option from consideration to focus the recommendation on options that the Council will consider in the end. Much of the emotional energy from the community will be focused on a permanent closure, when it really isn't an option we will consider. He stated it is not a good use of time for OSAB to consider an option that has no support.

Councilmember Leh agreed with Mayor Pro Tem Lipton. He doesn't want a board getting ahead of the Council if that is what Council wants. It makes sense to consider alternatives. He doesn't want to lead people to think we are going to consider closing the DOLA. He thinks many options are on the table and removing that option will give people peace of mind; closure is not a viable option. He suggested changing the motion to include the concept that having a dog park there needs to be preserved. Modification to the area is fine, but not closure.

Councilmember Loo stated change is not specific enough. We need to know from OSAB that they used preservation as a criteria, change may mean making it smaller, which is not an option. She supports the language if it is also noted the DOLA won't be made smaller. She is concerned the longer this drags out the more we are pitting some residents against others. She supports Mayor Pro Tem Lipton's motion; closure is not an option and we need to send that message. She is sensitive to the Mayor's concerns, but we need to send a clear message on this.

Councilmember Maloney stated we all agree the DOLA should stay open. However, we have approved plans before where we didn't agree with every detail. We never made statements about details in those cases, why do it in this case. He thinks we need to respect the boards and their ability to fully discuss items. We can make a statement but we need to uphold the principal of not getting into what the boards discuss.

Mayor Muckle reiterated closure is not a practical decision or even likely, but the process matters.

Mayor Pro Tem Lipton amended his motion to state "the City Council will communicate to the public it has no interest in a permanent closure of the DOLA at Davidson Mesa and supports OSAB's efforts to continue to develop a broad range of options and recommendations to help improve the use and management of the DOLA and to ensure its future sustainability." Councilmember Keany agreed to the amendment.

Councilmember Leh thought there was a need to be honest that the effect of this motion is that the recommendation will not include closure. He appreciates the Mayor's concerns, but if we know closure is not an option we should just say that. He agreed with the reticence to direct boards, but it is not unprecedented that Council directs a board. Council is simply establishing limits.

Vote on the Mayor Muckle's motion to direct OSAB to consider input from Council and the public and to continue working on a management plan recommendation for the DOLA and other areas. Councilmember Maloney seconded the motion.

Vote: Motion failed 1-5, Mayor Muckle voted yes.

Vote on Mayor Pro Tem Lipton's motion to state the City Council communicates to the public it has no interest in a permanent closure of the DOLA at Davidson Mesa and supports OSAB's efforts to continue to develop a broad range of options and recommendations to help improve the use and management of the DOLA and to ensure its future sustainability.

Vote: Motion carried by unanimous roll call vote.

RESOLUTION NO. 2, SERIES 2017 – A RESOLUTION APPROVING A SECOND AMENDMENT TO THE FIRE STATION NO. 2 PLANNED UNIT DEVELOPMENT AND SPECIAL REVIEW USE TO ALLOW FOR AN APPROXIMATELY 1,968 SQUARE FOOT ADDITION ON THE SOUTHEAST CORNER OF THE BUILDING, REMOVE EXISTING INTERIOR FURNACES AND EXTERIOR GROUND MOUNTED AIR-CONDITIONING COMPRESSOR UNITS AND ADD NEW, ROOFTOP PACKAGED AIR HANDLING UNITS, REPLACE A PORTION OF THE EXISTING MATERIALS WITH PRE-FINISHED METAL SIDING, INSTALL MINOR LANDSCAPE IMPROVEMENTS SURROUNDING THE BUILDING AT THE LOCATION OF THE NEW ADDITION, RECONSTRUCT THE TRASH ENCLOSURE, AND OTHER MISCELLANEOUS MODIFICATIONS; LOT 1, FIRE STATION NO. 2 SUBDIVISION

Planner Dean stated this is a request for a 2nd Amendment to the Fire Station No. 2 PUD and SRU to allow for an approximately 1,968 sf addition, removal of interior furnaces and exterior ground mounted air-conditioning compressor units and add new, rooftop packaged air handling unit, replace a portion of the existing materials with pre-finished metal siding, install minor landscape improvements, reconstruct the trash enclosure, and other miscellaneous modifications. This item was publically noticed as required.

The original PUD was approved in 1987 for the 5,300 sf fire station. The 1st Amendment was approved in 1998 for a 8,709 sf addition. The property is Zoned Residential Estate (RE). Parts of the exterior would be changed from wood siding to metal siding. This is not painted metal, but a fabricated metal with a long warranty, to cut down on maintenance costs.

This request is for a 1,968 addition, new roof mounted equipment, metal siding, new landscaping and a trash enclosure. Staff finds the application is compliant with the Special Review Criteria 1) Comp Plan: Continues to support the Fire Protection District 2) Economic Compatibility with Surrounding Character: Enhanced fire protection lends to overall economic stability. Replacing outdated mechanical equipment and replacing with new, more efficient equipment which is screened. 3) Internal Efficiency: No change to parking, vehicular access, drainage, sewer or water facilities. 4) External Effects: Changes to the lighting, landscaping, and trash containers meet the standards of the CDDSG with waiver request for the metal replacement. 5) Pedestrian Circulation: No changes to existing sidewalks and internal pedestrian circulation. Staff recommends approval of the resolution.

Kyle Callahan, 220 South Jefferson Avenue, architect for the project, showed the expansion plans. He stated the current building does not meet their needs and the expansion will allow them to meet their needs within a reasonable budget. The expansion brings the building to current code levels. The proposed expansion allows for residential spaces on the same floor, more safety, better office flow, addresses life safety issues, and includes other upgrades with a minimal expansion and not going

beyond the building footprint. He noted the new mechanical equipment to be installed on the rooftop is very quiet.

Councilmember Maloney noted the new HVAC looks to be much quieter than the existing ones which are installed behind the building. Callahan stated those will be installed in the well in the roof to keep it quiet and to reduce the impact on the surrounding area.

Deb Fahey, 1118 West Enclave Circle, stated the south side of the building would be great for solar panels.

Councilmember Maloney moved to approve the resolution; Councilmember Loo seconded the motion. Voice vote, all in favor.

ORDINANCE NO. 1751, SERIES 2017 – AN ORDINANCE ADOPTING BY REFERENCE THE 2017 NATIONAL ELECTRIC CODE – 2ND READING, PUBLIC HEARING (advertised *Daily Camera* 12/3/17)

City Attorney Light introduced the ordinance by title. Mayor Muckle opened the public hearing.

Chief Building Official Chad Root stated this ordinance adopts the State of Colorado's Electrical Code, which is currently the 2017 National Electrical Code (NEC). Adoption of this Ordinance is required in order to be in compliance with the State of Colorado requirement that local jurisdictions follow the State's adopted code. The State of Colorado adopts the State Electrical Code on July 1 on a three-year cycle. Colorado requires jurisdictions in the State to adopt the State Electrical Code within one year from the date that the State adopted the code. The City never adopted the 2014 NEC when the State adopted the code. The City is currently still working off the 2011 NEC as of two months ago and doing reviews under the 2011 NEC. Thus, the City needs to adopt the 2017 NEC in order to be up to code with the State of Colorado. The proposed ordinance will adopt the NEC as it was adopted by the State of Colorado. The Building Code Board of Appeals and the Fire District are aware of this change and understand this is a State regulation.

Mayor Muckle asked for public comments – None.

Mayor Pro Tem Lipton asked if Root foresees any unintended consequences with this adoption; will the changes be significant or minor or in between. Root stated this new version requires new breakers that are more expensive for residents. The number of breakers doesn't change, but they are quite a bit more expensive. This code doesn't require work be completed for any area of a building not included in a permit.

Mayor Pro Tem Lipton asked about injection testing and if that applies to residential properties. Root stated it applies to commercial properties to make sure the load calculations show the electrical is sufficient for the design.

Mayor Pro Tem Lipton asked if there are other areas that we might hear complaints about in the code other than those listed in the Council Communication. Root stated there are probably more issues, but these are the big ones.

Mayor Pro Tem Lipton asked for an advance look at what other code changes we might be looking at next year and what the time and review process will be.

Councilmember Loo moved to approve the ordinance; Councilmember Maloney seconded.

Councilmember Loo stated it was interesting Council was required to adopt this by the State and didn't have any choice. Root stated even as home rule city we don't have any option not to adopt this.

Councilmember Loo noted when we wait this long to adopt new code it seems more drastic than if we keep up with it; we should adopt the new codes more frequently. This will cost people more money, but she hopes it is safer and more efficient for everyone.

Vote: Motion carried by unanimous roll call vote.

EMPLOYMENT AGREEMENT FOR HEATHER BALSER, CITY MANAGER

Mayor Muckle stated the City Council voted on December 6, 2017 that their top choice for City Manager is Heather Balser. This item is for Council approval of an Employment Agreement to employ Ms. Balser as City Manager, effective January 6, 2018.

Ms. Balser rose to the top of an applicant pool of over 100 applicants from a national search. The Mayor and Council invited five candidates to participate in the Council's in-person portion of the City Manager recruitment process, the Mayor and Council interviewed all five candidates in two-on-one interviews with the two Ward Councilmembers interviewing each candidate. The Mayor also interviewed each candidate. Council decided to move forward and negotiate a contract with Balser.

Attorney Light noted the City Manager serves at the will of the Council. The contract has provisions for performance evaluations, is effective January 6, includes a severance package as is typical for such contracts, and establishes a base compensation of \$180,000. It also includes updated language regarding the working environment, the provisions for separation and severance pay, language regarding benefits, and clarified language regarding outside activities.

Mayor Muckle moved to approved the contract; Councilmember Leh seconded the motion.

Vote: Motion carried by unanimous roll call vote.

City Manager Balsler thanked the Council for their selection and their confidence in her. She stated it is an honor to serve the community, council and staff.

DISTRIBUTION OF OPEN GOVERNMENT PAMPHLET

Attorney Light explained Section 4-16 (b) of the Home Rule Charter requires the City to “publish and update a pamphlet or other summary of Articles 4 and 5 of this Charter, and other laws relating to citizen participation in municipal government. The pamphlet or summary shall be provided to each member of a public body at its first meeting of the calendar year, and shall be made freely available to citizens on the City’s web site, City Hall, City Library and other public places, and at meetings of public bodies.”

CITY ATTORNEY’S REPORT

None.

COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

None.

ADJOURN

Members adjourned at 9:05 pm.

Robert P. Muckle, Mayor

Meredyth Muth, City Clerk