

# ***City Council Meeting Minutes***

**May 1, 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  
Councilmember Ashley Stolzmann***

**Staff Present:**       ***Heather Balsler, City Manager  
Megan Davis, Deputy City Manager  
Kevin Watson, Finance Director  
Joe Stevens, Director of Parks & Recreation  
Aaron DeJong, Director of Economic Development  
Kurt Kowar, Director of Public Works  
Rob Zuccaro, Director of Planning & Building Safety  
Emily Hogan, Assistant to the City Manager  
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**

Anna Finkelstein, Center for People with Disabilities, stated she is here with residents of Kestrel to ask for a sidewalk on Highway 42 and a traffic signal at Hecla Drive and Highway 42 so residents can get from Kestrel across the street safely to the grocery store.

Jane Lagrander, 1906 Kaylix Avenue, Apt 101, stated she is unable cross the street at Hecla to get to the grocery store. There needs to be a crosswalk and light installed and the speed limit lowered. She noted people are still crossing the road where there was a previous fatality.

Luca Abruscato, 1220 Kaylix Avenue, stated he would like a light or a pedestrian crossing at Hecla and Highway 42. There needs to be a sidewalk there within a reasonable amount of time.

Deb Fahey, 1118 West Enclave Circle, stated that at the recent Sustainability Board meeting the 5<sup>th</sup> graders at LES presented their idea for a plastic bag tax. She noted California has banned plastic bags. It can be done and there are people that approve of this idea.

Amy Dixon, 732 South Pratt Parkway, Longmont CO, stated she is a staff member at the Center for People with Disabilities. She stated they help people get out of nursing homes and into independent living, but then they are traffic bound in an apartment and can't get to the grocery store. There needs to be a fix for the pedestrians.

Maria Stepanyan, Executive Director of the Center for People with Disabilities, stated they support these fixes at Kestrel and are willing to help.

### **APPROVAL OF THE CONSENT AGENDA**

MOTION: Mayor Muckle moved to approve the consent agenda removing item C to the regular agenda; seconded by Councilmember Stolzmann. All were in favor.

- A. Approval of Bills**
- B. Approval of Minutes: April 17, 2018**
- C. South Boulder Road Connectivity Feasibility Study and Plan *moved to regular agenda***
  - 1. Approval of Contract Between the City of Louisville and Fehr and Peers for the South Boulder Road Pedestrian and Bicycle Connectivity Feasibility Study and Plan**
  - 2. Approval of Resolution No. 24, Series 2018 – A Resolution Approving a Grant Agreement Between the City of Louisville and the State Board of the Great Outdoors Colorado Trust Fund for Funding of the City of Louisville South Boulder Road Pedestrian and Bicycle Connectivity Feasibility Study and Plan**

- D. Approval of Resolution No. 25, Series 2018 – A Resolution Approving a Business Assistance Agreement with Solid Power, Inc. for an Economic Development Project in the City of Louisville***
- E. Approval of 2018 Water Main Replacement Contract***
- F. Approval of 2018 Older American’s Month Proclamation***

### **COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA**

Mayor Muckle stated the City is aware of the issues at the crossing at Kestrel and are actively working on making the intersection safer. He noted it is a State Highway which the City doesn’t control; but we are working through the process to have a light installed.

Director Kowar stated staff is gathering data to make our case to CDOT to get the approvals for the light and to lower the speed limit. CDOT will make the final decision. We want to make sure anything we do quickly doesn’t make it worse. A sidewalk will be in place in the next 30-45 days. The traffic signal is in design, it is a 6-9 month design process, followed by a 6-9 month construction process. We are also working with other property owners for other connections as well.

Mayor Muckle noted there is a requirement from the State that the need must be there before the light can be installed.

Councilmember Loo stated perhaps Kestrel can work with Via to help with a shuttle for the grocery store.

### **CITY MANAGER’S REPORT**

City Manager Balsler thanked the Kestrel residents for their comments. She asked Director DeJong to report on the Downtown Business District’s conversation about a possible Business Improvement District election. He stated members of the district were originally interested in perhaps doing a mill levy election in November but they have now decided not to move forward with this in 2018.

City Manager Balsler asked Director Zuccaro to give an update on the Design Guidelines process. Director Zuccaro stated the Industrial and Commercial Design Guidelines update has begun with public meetings the last couple months. Staff will meet with Council in June for more direction and to make sure staff is on the right track before drafting the document and having further public input. He stated Envision Louisville currently has a survey posted for people to give input.

Director Zuccaro noted it is National Preservation Month and the City created coasters for the restaurants to celebrate some of our local landmarks.

### **REGULAR BUSINESS**

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## **PROCLAMATION – SISTER CARMEN COMMUNITY CENTER DAY**

Mayor Muckle presented the proclamation celebrating their 40<sup>th</sup> anniversary. Dave Ireland, board member of Sister Carmen, thanked the City for their support and noted some upcoming events to support the center.

**RESOLUTION NO. 17, SERIES 2018 – A RESOLUTION APPROVING A FINAL PUD TO ALLOW FOR A 37,171 SQUARE FOOT COMMERCIAL BUILDING, WHICH INCLUDES A 10,754 SF PARKING GARAGE, ON TWO LOTS TOTALING 14,114 SQUARE FEET ZONED CC; A FINAL PLAT TO VACATE THE LOT LINE BETWEEN LOTS 8 AND 9, BLOCK 3, TOWN OF LOUISVILLE; AND A SRU TO ALLOW FOR OUTDOOR EATING AND DRINKING ESTABLISHMENTS AND A PARKING GARAGE; LOTS 8 & 9, BLOCK 3, TOWN OF LOUISVILLE SUBDIVISION (712 & 722 MAIN STREET) *continued from 3/20/18; applicant requests continuance to 7/17/18***

Mayor Muckle reopened the public hearing. He stated the applicant has asked for a continuance to July 17<sup>th</sup>.

Councilmember Stolzmann asked about a comment in the applicant letter regarding “conflicting information.” Mayor Muckle noted that conversation should happen at the July 17 meeting.

Mayor Muckle moved to approve the continuance to July 17; Mayor Pro Tem Lipton seconded, all in favor.

## **RESOLUTION NO. 26, SERIES 2018 – A RESOLUTION APPROVING A REQUEST TO EXTEND THE APPROVED PLANNED UNIT DEVELOPMENT FOR THE LOUISVILLE MILL SITE FOR THREE YEARS**

Planner Trice stated the applicant, Louisville Mill Site, LLC, requests a 3-year extension for the Planned Unit Development (PUD) for the property at 500-544 County Road, which will expire on May 19, 2018. The applicant is not requesting any changes to the 2015 approved PUD. Staff recommends approval of the request.

### **Public Comments**

Jeff Meier, 470 County Road, stated he supports the development but is frustrated by the lack of activity on the site. He asked if Council can ask some questions about why it’s not moving forward. He inquired if the approval can be for less than three years?

Councilmember Stolzmann stated she finds the PUD still meets the criteria for the PUD and therefore it must be approved as that is the criteria by which it must be judged. The alternative is to deny it which would mean someone would have to start over which would take even longer.

Mayor Muckle stated he agreed with Councilmember Stolzmann and he hopes the floodplain resolution will help get this moving. Councilmember Keany agreed.

Councilmember Keany moved to approve Resolution No. 26, Series 2018; Councilmember Maloney second. All in favor.

### **DISCUSSION/DIRECTION/ACTION – LOCATION FOR THE MINERS CABINS**

Planner Trice stated the City acquired and relocated the Miners Cabins from 825 Lee Avenue to temporary storage at the City Services building on January 4, 2018 so the City could take additional time to determine the best location for the cabins and complete the landmarking process. The next step is to conduct a feasibility analysis of three possible locations to determine their final home.

Trice reviewed the eight proposed locations: John Breaux Memorial Park; Highway 42 & Pine Street; South Main Street (across from Elks Club); Nawatny Greenway; Miners Field; Golf Course; Arboretum; and Jefferson Avenue & Hutchinson Avenue. She noted the HPC recommendation for the following three sites: one cabin at Breaux Park or Miners Field and one at Highway 42 and Pine; both at Miners Field; and both at Jefferson and Hutchinson.

Staff requests City Council approval to move forward with Phase 2 of the contract with analysis of three locations and direction on which three sites to analyze.

Councilmember Loo asked if the Miners Field location would conflict with the use of the field and if there is a problem with the dedication of the property. Trice stated there was some concern the cabins could be hit by baseballs and damaged; but staff now feels the field will work without a problem. Staff has submitted a CIP to realign the outfield fence which would give more space. Trice stated the dedication issue has been resolved. Director Zuccaro stated all of this will be part of the analysis in the contract.

Councilmember Loo stated the Parks Board should be consulted on this location. That site needs to be vetted carefully.

Councilmember Maloney asked if this would affect the shape of miners field. Director Stevens stated the existing fence line is not an arc shape and needs to be realigned. He stated there are things we can do to mitigate the effect on the cabins. Trice stated if this site is chose for consideration, the trees and drainage will be evaluated as well.

Councilmember Stolzmann asked if it would be cheaper to evaluate fewer than three sites.

Public Comments

Deb Fahey, 1118 West Enclave Circle, stated the HPC was very clear that they want one of the cabins at Highway 42 and Pine Street and one at John Breaux Park and that one be rehabilitated and open to the public.

Jean Morgan, 1131 Spruce Street, stated she has emailed a petition from last year asking for one cabin to go to Highway 42 and Pine and one at Miners Field. She stated if they are to be kept together, they should be at Miners field. Highway 42 and Pine is also a good location. She noted Miners Field is close to their original location and accessible to students.

Councilmember Stolzmann stated she doesn't feel there are good criteria identifying what we want in a site. She listed her criteria in her decision making: proximity to original location; ability to locate the cabins together; accessibility to view/tour the cabins; public sentiment toward a location; and cost. Her assumption is it costs more for two sites to be prepared for relocation than for one. She feels the Miners Field location meets all of these criteria. She stated going forward she is very wary of the cost and wants to keep the cost below the \$250,000 price tag.

Councilmember Keany stated he supports keeping the cabins together but it is not essential. Pine and Highway 42 isn't a place people will really see it well. Breaux Park is not big enough and he would rather not disrupt the park. His first choice is Miners Field; second choice is Hutchinson and Jefferson as it is adjacent to Old Town and has ties into the Acme Mine location.

Councilmember Loo stated she objects to using Miners Field as it is too cramped to host school children tours. She supports the Hutchinson location; it is next to a mine and close to an elementary school. The Arboretum would be a great way to spread around the history.

Councilmember Maloney stated he likes the Pine and Highway 42 location as you get a sense of our history as you drive by. He thinks Miners field is a good location as is the arboretum. The Nawatny Greenway would be a nice mix of new and old.

Councilmember Leh stated the cost is too high and we need to control that. He would like to help minimize the cost by limiting the sites for consideration. He would like to use some volunteer efforts in this project and spend less.

Mayor Muckle stated Miners Field is the best site for its historic context.

Mayor Pro Tem Lipton agreed Breaux Park is not appropriate. Other locations are adjacent to single family residential and he is not sure having tours there is a good idea as it impacts the neighbors. He leans towards Miners Field. The major cost is not in this site review but in the moving and rehabilitation.

City Attorney Light explained his interpretation that at least one of the sites needs to be in the existing Historic Preservation area to use Historic Preservation Fund (HPF) money on the site research. Councilmember Stolzmann stated her interpretation that the cabins came from the original historic preservation area so these expenditures are acceptable.

Mayor Muckle moved to study two options: 1) both cabins at Miners Field and 2) one at Miners Field and one at Highway 42. Councilmember Keany seconded.

Councilmember Leh stated some concerns for the Highway 42 site. Councilmember Loo agreed.

Councilmember Loo stated she would like Hutchinson and/or Nawatny Greenway as they may be cheaper for installation.

**Vote:** Motion passed 4-3 (Mayor Muckle, Mayor Pro Tem Lipton, Council Member Stolzmann, Council Member Maloney voted yes.)

Councilmember Keany asked that if there is no savings in only doing two options would Council like to consider adding a third site. Director Zuccaro stated staff will bring back the item if there are no cost savings in only doing two.

### **South Boulder Road Connectivity Feasibility Study and Plan**

#### **Approval of Contract Between the City of Louisville and Fehr and Peers for the South Boulder Road Pedestrian and Bicycle Connectivity Feasibility Study and Plan**

#### **Approval of Resolution No. 24, Series 2018 – A Resolution Approving a Grant Agreement Between the City of Louisville and the State Board of the Great Outdoors Colorado Trust Fund for Funding of the City of Louisville South Boulder Road Pedestrian and Bicycle Connectivity Feasibility Study and Plan**

**Moved from consent**

Director Kowar stated this item is to hire a consultant to establish a baseline for the South Boulder Road corridor for data around accidents, traffic volumes, safety, existing facilities, and possible new facilities. Part of this would be funded by a grant from Great Outdoors Colorado (GOCO). This is a discussion of the whole corridor and the feasibility of improvements at various locations.

Councilmember Stolzmann stated she asked this be removed to the regular agenda so Council can narrow the focus of the study. She feels we already have public feedback and know people want an underpass at South Boulder Road and Main Street and one at South Boulder Road and Eisenhower Avenue. We know we want to these two underpasses designed in this process and after that we can discuss funding and priorities. The public needs to know we have heard them and are being responsive.

Other improvements would be complementary, but they should not be ways to avoid doing the underpasses.

Councilmember Maloney asked how this fits into the Transportation Master Plan (TMP) which will have a long list of transportation needs. Director Kowar stated the TMP is a high level viewpoint of city needs with many projects. This project will be very specific to the needs of the South Boulder Road corridor and getting more information and more certainty on pricing.

Councilmember Loo asked if we don't use the \$75K from GOCO for this, could we use it elsewhere. Deputy City Manager Davis stated narrowing the focus may be acceptable. The grant application stated there would be three alternatives so if we reduced the scope of work it might change the funding level.

Councilmember Leh stated people have spoken and they want an underpass. The proposal talks a great bit about public engagement; but we may not need that on this topic; we know what they want.

Councilmember Keany stated there may be options other than an underpass that are financially feasible and we should not discount options that will make it safer to cross South Boulder Road. He stated we may not need the public outreach.

Mayor Pro Tem Lipton stated his expectation is cost estimates for underpasses and other options not at-grade that may integrate into a longer term solution. Traffic will only get worse on South Boulder Road. We committed to the community that we would get a cost estimate on a tunnel and other options are also helpful. We should also look at bike lanes on South Boulder Road. At a minimum we would like estimates on underpasses at the two locations and any other options not at-grade.

Director Kowar stated staff will have to justify the costs of these improvements so some public process will likely be needed to make sure we are on track.

Mayor Muckle supported focusing on getting outcomes we know our citizens want; underpasses at Main Street and at Eisenhower. He noted the Main Street crossing could be very expensive; we should study our options there.

Councilmember Stolzmann moved to give staff direction that two of the three designs be underpasses at Eisenhower and Main. Councilmember Maloney seconded. All in favor.

Councilmember Keany asked if we find an overpass is significantly cheaper than an underpass that the information be included.

Councilmember Keany moved to approve the contract with the amendments as directed by Council; Councilmember Stolzmann seconded.



**Vote:** Motion carried by unanimous roll call vote

Councilmember Keany moved to approve Resolution No. 24 with authorization for the Mayor and City Manager to negotiate and approve potential revisions to the grant contract to meet the direction from Council; Councilmember Maloney seconded.

**Vote:** Motion carried by unanimous roll call.

### **DISCUSSION/DIRECTION – CITY PROGRAMS, GOALS AND KEY PERFORMANCE INDICATORS**

Assistant to the City Manager Hogan stated City Council adopted the City's first program-based budget in which revenues and expenditures were organized by programs and services in 2016. The budget was structured into 10 Program areas and 38 Sub-Programs to make it easier for the public to understand where the City invests taxes and fees to provide services and for Council to evaluate how efficiently and effectively the City uses those resources to achieve the objectives of each Sub-Program.

She stated progress toward the objectives of each Sub-Program is measured by Key Performance Indicators (KPIs). 38 KPIs were developed for the City's Sub-Programs. Staff reviews the KPIs annually to determine if the goals and objectives accurately represent staff's activities and if there are different KPIs that should be used to evaluate progress in accomplishing those goals and objectives. The proposed changes have been incorporated in the KPIs for Council's review. Reviewing the KPIs annually ensures that the City is using measures that provide useful information in regards to efficiency and effectiveness.

Staff is seeking feedback on these so they can begin collecting data for the upcoming budget retreat in July.

Public Comments – None.

Councilmember Maloney stated the KPIs evaluate the success of City programs and subprograms and ideally serve three purposes: 1) as a performance tool to help us continually improve, 2) as a management tool, and 3) most importantly as a communication tool to inform our citizens how the city is investing tax dollars and providing services.

Councilmember Maloney stated the Finance Committee discussed these but did not change any of the proposed revisions to the KPIs. He stated the conceptual framework is understood at varying levels in staff and in the Council. These should answer the question how do we know if a program is successful. Some KPIs answer this better than others. If we continue to use the KPIs we need to have Council and staff better understand these.

Councilmember Stolzmann agreed with Councilmember Maloney. This is about communication to the public but is also for Council to understand success and directors to manage their areas. When she looks closely at the KPIs in the areas where she hears complaints, these KPIs should tell us if we are doing well or not. She stated all sheets need more data, particularly those that have not changed from previous years. Previous year's information should be in all versions. All of the KPIs relate to FTEs, budget costs, and financial data and we need all that information with the KPIs. She requested each effectiveness measurement also needs a target number listed so we know if we are meeting the goal.

Mayor Pro Tem Lipton stated he views this as a continual work in progress. It is getting better but how we define success is different from our goal. That is the next step. We need to invest some additional time and training to get there. We need to better link the program budgeting with the KPIs. We are making good progress.

Councilmember Maloney stated the KPIs are integral to program budgeting so we need to embrace it and do it well.

Councilmember Loo asked if we think this much work is creating real productivity. She asked how we are measuring success and how do we keep people from gaming the system to look successful. She stated it is hard to measure quality using this system. We can measure the number of streets plowed, etc, but doesn't tell you if there are problems in that plowing. The quality of the work matters and right now she doesn't see how we are measuring that.

Mayor Muckle stated it is hard to come up with good KPIs that give us the information we want. He thinks we are pretty close to having KPIs we can use. We want some consistency in the KPIs and we will need to improve them as we move forward. He proposed all councilmembers submit recommendations for changes to staff and the Finance Committee will review those to bring a new version back to Council.

Councilmember Stolzmann stated the KPIs are supposed to give us information on quality; we can amend them to get more specific information. We need to look at them closely to see if we are getting the information we want. These will be more useful when employees embrace them. There is some work to be done, but some areas are top notch.

Councilmember Keany feels some of the information is useful but it is a lot of data to absorb. There needs to be more qualifying information to make them understandable.

Councilmember Maloney stated there is a qualitative measure in here but we need more information from residents if we are meeting expectations. Part of that is to complete a citizen survey more frequently.

Councilmember Leh asked how staff is evaluating the KPIs; they need to be worth the energy we are putting into them. City Manager Balser stated staff made suggested edits. We are looking to have continual improvement. We do need the trend data to see where we are.

Councilmember Leh suggested adding some KPIs on the effectiveness of Council.

Councilmember Stolzmann stated there are opportunities to measure if we are getting what we want without a survey. We would need to identify areas where we want specific information. We have to make sure the measurements are what we want to measure.

### **DISCUSSION/DIRECTION/ACTION – REQUEST FOR PARTICIPATION IN AMICUS BRIEF TO COLORADO SUPREME COURT**

City Attorney Light stated the Boulder County Commissioners have asked whether the City would like to join in an amicus brief the County plans to file with the Colorado Supreme Court in *Colorado Oil and Gas Conservation Commission (“COGCC”) v. Martinez*, Case No. 27SC297. The amicus brief urges the Supreme Court to affirm the holding of the Court of Appeals (discussed below). If the City cares to participate staff would need that direction this evening. The County has asked other jurisdictions to participate as well.

To participate in the amicus brief, Louisville would need only sign the brief prepared by Boulder County. By signing the brief, Louisville would not become a party to the case; rather, Louisville’s signing would express its support for the arguments advanced in the amicus brief in support of the holding of the Court of Appeals. The County states the current filing deadline for the brief is May 7, 2018.

The heart of this issue is looking at what the COGCC did when they received a request to make a rule that requires protection of health, safety, and environmental resources. The COGCC stated they did not have the jurisdiction to promulgate such a rule.

Councilmember Loo noted the amicus brief in the packet is a draft. She asked if we would be signing onto a draft or final version. Attorney Light stated what is in the packet is a draft but we would be signing onto a final version which will be substantively like what is in the packet.

Councilmember Leh asked how many municipalities are submitting briefs. Attorney Light stated we only know those Boulder has listed and we don’t have any information if others are submitting separately.

Public comments – None.

Mayor Muckle stated he based his thinking on whether it would be good for our residents or if this would be good for their health, and he thinks it would be.

Councilmember Loo stated she feels this is a draconian precautionary approach. This proposal negates the 5<sup>th</sup> Amendment (Due Process) by taking away people's right to their mineral rights. If someone wants to support this, they should not use any energy. She does not support signing on.

Mayor Muckle stated the question before the court is whether safety has to be considered when making a decision on drilling. It is believed by many that the balance towards safety has not been considered by the COGCC. He stated he is interested in the COGCC being required to at least consider health and safety in its decision making.

Councilmember Stolzmann supports signing on to the brief because it is about the rule making authority of the COGCC and we do want them to absolutely consider health and safety when setting their rules. We don't have local control on this issue so we want them to do this.

Councilmember Leh stated the difficulty is the courts have made gas decisions a matter of state wide concern so we have no local decision making authority. If we can add our voice to indicate that the COGCC should take into consideration health and safety it is worth signing on to.

Mayor Pro Tem Lipton stated this isn't setting a foundation to ban gas drilling; it is protecting safety within the urban core and the ability to set rules that make sure health and safety are protected as people extract their mineral rights. What if someone wanted to reopen a coal mine here; would we want the ability to regulate safety in doing that. He stated local control is important; protection of private property rights is also important but it shouldn't supersede health and safety. As practical matter, local control is important to us.

Councilmember Maloney stated that as an elected official public safety is the number one priority. We have to respect property rights and mineral rights as well. There needs to be a balance.

Councilmember Keany stated he is a strong supporter of private property rights, but we do have safety rules we all abide by and that is the concern. He is cautiously supportive of this.

Mayor Muckle stated there is no doubt the COGCC will protect people's right to get to their mineral rights; we need to make sure safety is taken into consideration.

Councilmember Loo stated it seems we are making the assumption the COGCC has been being unsafe in the past and that is not true. Councilmember Maloney stated they aren't being dangerous but they should have to balance the issues.

Mayor Muckle stated technology is allowing drilling closer to urban areas now and safety needs to be a consideration.

Councilmember Stolzmann moved to have the City sign the brief, Councilmember Leh seconded the motion. Voice vote 6-1 (Loo voting no).

### **CITY ATTORNEY'S REPORT**

None.

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

City Manager Balser reviewed the May 8 meeting agenda.

### **ADJOURN**

Members adjourned at 9:50 pm.

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Robert P. Muckle, Mayor

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Meredyth Muth, City Clerk