

City Council Meeting Minutes

**July 17, 2018
City Hall, Council Chambers
749 Main Street**

**6:00 PM
SPECIAL MEETING – EXECUTIVE SESSION**

Call to Order – Mayor Pro Tem Lipton called the meeting to order at 6:00 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 (arrived at 6:05 pm)
 Councilmember Susan Loo
 Councilmember Dennis Maloney
 Councilmember Ashley Stolzmann

Staff Present: **Heather Balsler, City Manager**
 Megan Davis, Deputy City Manager
 Dave Hayes, Police Chief
 Meredyth Muth, City Clerk

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

PENDING LITIGATION

(Louisville Charter, Section 5-2(d) – Authorized Topics – Consultation with an attorney representing the City with respect to pending litigation, and C.R.S. 24-6-402(4)(b))

The City Clerk read the statement required by City Code.

Attorney Light stated Section 5-2(d) of the home rule charter authorizes an executive session for the purpose of consultation with an attorney representing the City with respect to pending litigation, which includes actual pending lawsuits as well as situations where the person requesting the session believes in good faith that a lawsuit may result. An executive session for this purpose is also authorized by C.R.S. Section 24-6-402(4)(b) of the Colorado Open Meetings Law.

For this executive session, the City Manager and City Attorney are requesting an executive session for consultation with the City Attorney regarding pending litigation, which in this case does not involve pending litigation but a situation where lawsuits against the City may result.

Mayor Muckle moved to go into executive session for the purpose of consultation with the City Attorney with respect to pending litigation and that the executive session include the City Manager, City Attorney, Deputy City Manager, and Police Chief. Councilmember Keany seconded the motion.

Voice vote passed 6-0.

Members went into executive session at 6:03 pm.

Members returned from executive session at 7:04 pm.

REPORT – DISCUSSION/DIRECTION/ACTION – PENDING LITIGATION

Attorney Light reported the Council was unable to finish their discussion and members will ask to go back to executive session at the end of the regular meeting.

Special meeting adjourned at 7:05 pm.

7:00 PM REGULAR MEETING

Call to Order – Mayor Muckle called the meeting to order at 7:05 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
Kurt Kowar, Public Works Director
Emily Hogan, Assistant to the City Manager
Rob Zuccaro, Planning & Building Safety Director
Dave Hayes, Police Chief

Tracy Winfree, Interim Parks & Recreation Director
Kathleen Hix, Human Resources Director
Meredyth Muth, City Clerk

Others Present: Sam Light, City Attorney

PLEDGE OF ALLEGIANCE

Mayor Muckle asked Scout Troup # 69 to lead and 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

Deb Fahey, 1118 West Enclave Circle, stated she would like the City to put a solar array on the Recreation Center. It has both cost savings and energy benefits. If there is solar on the Rec Center it could be used as a shelter with power in a natural disaster.

APPROVAL OF THE CONSENT AGENDA

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

- A. Approval of Bills**
- B. Approval of Minutes: July 3; July 10**
- C. Approval of 2018 Storm System Maintenance Project Contract**
- D. Approval of Consulting Agreement with Economic & Planning Systems, Inc. for the McCaslin Area Development Study**

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

None.

CITY MANAGER'S REPORT

City Manager Balser introduced Tracy Winfree the interim Parks & Recreation Director. Winfree introduced herself and gave some of her background working with the City of Boulder as Transportation Director, Interim Parks & Recreation Director, and Open Space & Mountain Parks Director. She retired from Boulder in June of 2018. She has worked with City Manager Balser for many years as a colleague and was honored to help out in this time of transition.

REGULAR BUSINESS

RESOLUTION NO. 32, SERIES 2018 – A RESOLUTION TO ACKNOWLEDGE AND ENDORSE THE ACHIEVEMENT OF ACCREDITATION BY THE LOUISVILLE POLICE DEPARTMENT

Chief Hayes stated this is a voluntary program to become accredited by the Colorado Association of Chiefs of Police (CACP). As a result of this process, the Department has a policy manual that can be accessed by smart phone by all police staff. He introduced staff members who were present and noted staff had input in this process.

Chief Hayes introduced Chief Paul Schultz of the Fort Morgan PD and chair of the Professional Standards Committee for CACP. Chief Schultz noted achieving accreditation means the law enforcement agency must show proof of compliance with approximately 180 professional standards developed by CACP. If the agency can show proof of compliance it can be granted accreditation. Of the approximately 300 law enforcement agencies in Colorado about 44 are accredited through the CACP program. This shows the organization is professional and using best practices. He recognized Chief Hayes and noted the efforts of Jen Kinney as well. He presented a plaque to Chief Hayes in recognition of achieving accreditation.

Public Comments – none.

Mayor Muckle moved to approve Resolution No. 32, Series 2018, Councilmember Keany seconded. All in favor.

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 & 5/1/18; *applicant requests vacation of public hearing while resubmitting new plans*

Attorney Light stated the applicant is requesting the application be withdrawn from the July 17, 2018 City Council meeting. The applicant anticipates resubmitting plans and the revisions will necessitate review by the Planning Commission and City Council at a later date.

Councilmember Keany moved to vacate the public hearing on Resolution No. 17, Series 2018. Mayor Muckle seconded, all in favor.

DISCUSSION/DIRECTION – OPTIONS REGARDING ANTICIPATED EXCESS REVENUES FOR 2016 RECREATION TAX

City Attorney Light stated that on January 1 the City began collection of the voter-approved a 0.15 sales and use tax for operating and maintaining certain recreation facilities. Based on year-to-date collections, the projected 2018 sales and use tax revenue from the tax will exceed the estimate used in Ballot Issue 2B meaning the Council will need to address the excess revenue.

Attorney Light noted Council would typically consider ballot initiatives at this time of year, however, the Finance Committee suggests not having a 2018 ballot question but to wait until 2019.

City Attorney Light reviewed the various options and TABOR issues related to the receipt of excess tax revenues. There won't be certainty on the amount until the end of 2018. In 2019 the City could submit a question to the voters if desired.

There is a pending case in the Colorado court of appeals concerning refund provisions of TABOR and how those affect obligations to make refunds and/or change the rates. We will learn more in the coming months how that might affect the recommendation and options available to Council.

Public Comments – None.

Councilmember Maloney stated the Finance Committee agrees with the City Attorney's recommendation and doesn't see any urgency to address this now but it should be on the work plan for 2019. Members agreed.

DISCUSSION/DIRECTION – 2018 CITIZEN SURVEY DRAFT QUESTIONS

Assistant to the City Manager Hogan stated the City hired National Research Center in May to complete a citizen survey. Staff, the consultant, Mayor Muckle, and Councilmember Leh worked on questions for the draft presented for review this evening.

Mayor Muckle stated in writing the draft, members tried to create questions with discrete topics.

Public Comments

Paula Elrod, 828 Jefferson Avenue, thanked Council for putting stand-alone museum questions on the survey.

Dan Mellish, 590 West Laurel Court, thanked Council for questions 8 & 9 and asked for some clarification in the question noting the reference to a new building should be called an addition as it will be connected. In question 8, he would like the financial numbers checked to be sure it includes renovation numbers not just new construction.

Members took a 10 minute break.

Dave Hooley, 117 S. Madison Avenue, felt one might see the ADA and restrooms as the highlight of the museum upgrade based on the current language. Perhaps note there is more in the plan.

Councilmember Leh stated this survey is a work in progress. Those working on the survey are hoping to get direction and help on what Council would like to see included and the style of questions. He wants the survey to give Council actionable information that will be helpful for decision making.

Mayor Muckle stated that initially there was interest in getting the results to use in this year's budgeting process. Councilmember Loo stated the budget is well underway so it may not be time sensitive.

City Manager Balsler stated the information can be used for the 2020 budgeting process instead of 2019 if the preference is to take more time.

Mayor Pro Tem Lipton stated he doesn't think these questions affect the budget and the budget can be changed later if needed based on shifting priorities. He would like to discuss the general themes and remand it back to the committee to write another draft.

Councilmember Maloney stated the idea was this was to be about policy but these questions are more operational and dilute the policy discussion. He felt the ranking questions have great value for policy direction. There needs to be more context on costs and how we fund things so residents can make a judgement. A question is needed on parking as that is a major policy decision needing to be made soon. He suggested doing a survey in 2020 for the operational issues.

Councilmember Stolzmann:

- stated she would like to remove any operational questions that are not specifically needed for Key Performance Indicators (KPI) data.
- She suggested more clarity on rankings.
- She agreed with Councilmember Maloney about the need to identify which items require funding decisions; perhaps asking "would you be willing to pay" questions.
- Question #6 on dog parks is too esoteric; it needs to be more direct.
- On the sustainability questions it needs to be clear which things require an additional funding stream and add more context.

- There needs to be context on the housing questions (11-13) but not sure what information is being sought by those questions.
- Felt questions 17 and 18 had been answered before.
- Need to ask a question about downtown parking and what it would cost.
- Should ask if people are willing to pay for an additional underpass to accelerate the installation of those.
- Ask if people want more art venue space.
- Would like a question about attitudes towards lifting the pit bull ban
- Ask if people support regulating the location of marijuana sales in the same way as we do liquor sales.

Councilmember Loo:

- Liked the forced ranking questions like 2016, should continue that here.
- Is concerned it is bordering on a “push poll” in that how the questions are asked may dictate answers. She was particularly concerned about this on the museum questions.
- We should ask something about taxes and fees. We need to communicate that all of these things cost money.
- Need to explain there are tradeoffs if we do something like ban herbicide use.
- Perhaps we need a question on broadband to clarify the options.
- Don’t see any library questions, do we need some.
- She would like a question about whether trail signage is needed.
- Need better questions on affordable housing.
- She noted there is a large section on short-term residential properties and she feels that space could be used for other more useful questions.

Mayor Pro Tem Lipton:

- #1 seems to be re-do of earlier surveys; we don’t need to measure again; it doesn’t provide actionable information or give us information we want.
- Agrees with Councilmember Stolzmann some of the scoring is not useful, will only learn a person is unhappy.
- Not sure why we are asking questions for the Fire Protection District. (Mayor Muckle noted the LFPD asked the City to include these questions.)
- Enforcement of traffic regulations rating system is not useful.
- We should stay away from recreation center questions until the new center is open and programing changes are in place.
- #4 on traffic and infrastructure needs to have costs or financing information attached; it needs context and an understanding that there are tradeoffs.
- There is a need for information on dog park issues #6, but we should add an option for “I Don’t Know.”
- #7 the museum question is bordering on a push poll as presented.

- #8 there are a number of things the City could finance from additional fees/taxes, we need the public to know this is one of a number of priorities the City may want to pay for including transportation and infrastructure for example.
- #9 regarding herbicides – the community needs to understand this comes at a cost; we will have more weeds if there is a total ban.

Members agreed the weed questions need to explain the outcomes and be clear; need to word it in a way to get a useful answer.

Mayor Pro Tem Lipton continued

- #10 on sustainability needed to clarify how we would do things, what it will cost and what the return on investment is. He stated we will get emotional responses not informed responses as written. We need more on the general concepts of sustainability; not so specific/technical.
- #11 Affordable Housing should be removed entirely; people don't have a basis to answer this.
- #13 Affordable Housing we need to explain what the role the City would play and include examples.
- #14 Accessory Dwelling Units, if we have to explain what it is this is probably the wrong place to ask this; there are other ways to get information on this.
- #15 Short Term Rentals should be re-worded "would you consider short term rentals in your neighborhood" so it is more personal.
- #16 Short Term Rentals is too technical to understand.
- #17 Business Assistance maybe should be removed or if kept, reword so people understand the source of funds for these are fees they pay; it's not free.
- #18 Sam's Club, may want to add apartments to the list of the types of housing.
- #19 Special Events, not sure people know what is city-sponsored or what isn't.
- D4 & D8 - Don't like asking people about income.

Councilmember Stolzmann #10 Sustainability – she would like it to be specific but we need to provide context and costs. We need the specific questions about what we could require and how tough the regulations could be.

Councilmember Leh stated on the sustainability issues it is important to get the temperature of residents on these things and whether people are comfortable with a requirement. Most people support providing incentives but there is a cost to doing that too and it is borne by everyone.

Councilmember Leh stated he was hearing there needs to be more context in the survey to explain the questions. He noted it is hard to do this in the space allowed; every question with context may force out other questions and it may be hard to do as many as we would like. He asked the other members to think about which questions really need context to reserve space.

Councilmember Loo asked why we aren't doing a forced ranking on the questions. It forces people to tell us what they really want for the money available. We could get valuable information about what people are really willing to spend their money on or if they want to pay more for what they want if we used forced rankings.

Mayor Muckle noted some of the questions are related to Key Performance Indicators and we need to keep those to get that data but we can thin out some of the other questions. He stated he doesn't object to using forced ranking questions unless they are ranking unrelated topics and then it requires a lot of context to make understandable.

The committee and staff will work on another draft that includes context and try not to make the questions too unwieldy. Councilmember Leh asked members to send suggested language for the questions.

Councilmember Stolzmann stated she likes the ranking questions to determine the tradeoffs and to see if people are willing to increase funding for items not included in the budget.

DISCUSSION/DIRECTION/ACTION – CITY OPTIONS FOR XCEL ENERGY'S RENEWABLE CONNECT PROGRAM PHASE II

Assistant to the City Manager Hogan stated Xcel Energy recently launched its Renewable Connect program which offers customers the option to increase their share of clean, solar power by subscribing to a new solar farm Xcel is building. The cost is in addition to regular electric charges. The cost varies according to contract length.

Currently, the City's electricity usage for facilities is approximately 33% renewable, specifically solar. That solar production comes from four sources: two solar gardens located in Boulder County, City-owned solar panels at the Water and Wastewater Treatment Plants, and solar capacity purchased from an array in Weld County.

The amount of energy available for Phase II of Renewable Connect depends on the capacity Xcel has to offer after Phase I is complete. Staff has provided an analysis of the City's remaining facilities to determine what the cost would be to enroll in Phase II and increase the City's share of renewable energy to approximately 100%. There are additional options to increase the City's share of renewable energy staff can also look into beyond Renewable Connect, including Xcel's Windsorce program.

Public Comments

Deb Fahey, 1118 West Enclave Circle, stated any arrangement with Xcel is an improvement but owning and operating the solar panels separately would be more secure in an emergency situation. If the City could buy, install, and maintain its own panels it would be less expensive in the long run.

Councilmember Maloney asked if the annual pricing is a projected price or a fixed rate. Director Kowar stated it is a projected number. Councilmember Maloney noted this price may go down in the future so he doesn't want to commit to a set price. Director Kowar noted there is a fixed termination fee if there is a desire to get out of the contract.

Mayor Pro Tem Lipton asked for more information and detail. Director Kowar stated staff has evaluated the program and packaged all of the major facilities the City can submit for. We don't know how much energy Xcel will have available in the program. The worst case scenario looks to be a net cost per year of \$1000 and a cost of \$42K if the City wants to get out of the contract.

Mayor Pro Tem Lipton stated the City should try to get as much as we can at this cost. Mayor Muckle agreed. He noted Phase I was for residential and smaller commercial facilities and Phase II might allow us to cover as much energy as we want for our big power consuming facilities at very low risk. It also puts the maintenance and long-term costs on to the utility.

Councilmember Loo stated she is concerned these costs will not be sustained and in the end it will cost us more; making assumptions about the future is risky. The downside risk is \$42K. This is probably not a bad price to pay to get to 100% renewable energy.

Mayor Pro Tem Lipton asked how this would affect the Renewable Energy Credits (REC); is it in the greenhouse gas inventory to give us a REC. Director Kowar noted this program gives us a REC where previous solar gardens have not.

Mayor Pro Tem Lipton stated the County methodology for measuring greenhouse gases doesn't give us credit for having a REC. We don't get credit for reducing our emissions as a City in that report and according to their methodology we are not making progress. This will be an important point in the next report and needs to be noted.

Councilmember Stolzmann asked Attorney Light if there are any issues with our budgeting rules and entering into this 10-year contract. Attorney Light stated this will end up being a utility charge. We may want to consider a non-appropriations clause to make sure we meet TABOR rules. Staff will check with Xcel to see if they have a boilerplate provision recognizing us as a municipality and our constitutional constraints. We will ask they add an addendum touching on the issues for public entities.

Councilmember Loo asked Attorney Light for the proper language for a motion with that clause. Attorney Light suggested a motion to direct staff to enroll in the program for all facilities noted on the list and that the Mayor and City Manager be authorized to execute the service agreement subject to final legal review. Councilmember Loo made that motion; Mayor Muckle seconded.

Vote: Motion carried by unanimous roll call vote.

Councilmember Maloney stated the County's Greenhouse Gas report doesn't note our solar inputs so we need to record that and be able to articulate its impact.

**CONTRACT WITH NOVAK CONSULTING GROUP FOR PARKS & RECREATION
DIRECTOR RECRUITMENT SERVICES**

Human Resources Director Hix stated based on the low unemployment climate across the nation and our recent experience with the Library and Museum Services Director recruitment RFP process, staff requests hiring The Novak Consulting Group (TNCG) as a sole source vendor for the Parks and Recreation Director Recruitment process to fill the position left vacant by the retirement of Joe Stevens. Based on previous work with Novak which includes lots of community feedback, staff recommends approval.

Public Comments – None

Councilmember Loo cautioned that the more we use only one certain firm the less likely we will get others to bid as vendors; they feel they won't get the contract and don't bid. We need to actively solicit others for projects like this in the future.

Councilmember Maloney stated he doesn't generally support sole source on principle, but feels Novak is competent and won't get any added value from an RFP process.

Councilmember Maloney moved to approve the contract with The Novak Consulting Group, Councilmember Loo seconded.

Vote: Motion carried by unanimous roll call vote.

ORDINANCE NO. 1760, SERIES 2018 – AN ORDINANCE REPEALING AND RE-ENACTING WITH AMENDMENTS CERTAIN SECTIONS OF TITLES 4 AND 14 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING REGULATION OF CITY OPEN SPACE AND PARKS – 1ST READING, SET PUBLIC HEARING 8/7/18

City Attorney Light introduced the ordinance by title on first reading. Councilmember Mayor Muckle moved to approve Ordinance No. 1761, Series 2018 on first reading, send it out for publication, and set the public hearing and second reading for August 7, 2018; Councilmember Loo seconded.

Councilmember Stolzmann asked for a redline version of the existing rules and the proposed rules for 2nd reading. She would like further discussion of the changes noted in the council communication.

Voice vote: All in favor.

ORDINANCE NO. 1761, SERIES 2018 – AN ORDINANCE APPROVING AND AUTHORIZING A PETITION FOR AN AMENDMENT TO THE CITY'S ALLOTMENT

**CONTRACT WITH THE MUNICIPAL SUBDISTRICT, NORTHERN COLORADO
WATER CONSERVANCY DISTRICT TO INCREASE THE CITY'S ALLOTMENT OF
WINDY GAP WATER UNITS – 1st READING, SET PUBLIC HEARING 8/7/18**

City Attorney Light introduced the ordinance by title on first reading. Mayor Muckle moved to approve Ordinance No. 1761, Series 2018 on first reading, send it out for publication, and set the public hearing and second reading for August 7, 2018; Councilmember Maloney seconded.

Councilmember Maloney asked if this was budgeted for and is included in the utility rate models. Director Kowar stated it was.

Voice vote: All in favor.

RETURN TO EXECUTIVE SESSION

The City Clerk read the statement required by City Code.

Attorney Light stated Section 5-2(d) of the home rule charter authorizes an executive session for the purpose of consultation with an attorney representing the City with respect to pending litigation, which includes actual pending lawsuits as well as situations where the person requesting the session believes in good faith that a lawsuit may result. An executive session for this purpose is also authorized by C.R.S. Section 24-6-402(4)(b) of the Colorado Open Meetings Law.

For this executive session, the City Manager and City Attorney are requesting an executive session for consultation with the City Attorney regarding pending litigation, which in this case does not involve any pending lawsuits but a situation where lawsuits against the City may result.

Mayor Muckle moved to go into executive session for the purpose of consultation with the City Attorney with respect to pending litigation and that the executive session include the City Manager, City Attorney, Deputy City Manager, and Police Chief. Councilmember Loo seconded the motion.

Voice vote passed 7-0.

Members went into executive session at 9:02 pm.

Members returned from executive session at 9:38 pm.

REPORT – DISCUSSION/DIRECTION/ACTION – PENDING LITIGATION

City Attorney Light reported the purpose of the executive session was for the discussion of a possible lawsuit and to discuss strategy. There is no need for action tonight.

CITY ATTORNEY'S REPORT

None.

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

Members discussed a date and time to continue the budget meeting from July 12 that was not concluded. Members discussed various dates. Councilmember Stolzmann moved to set a special meeting for Thursday, August 2 at 6 pm. Councilmember Maloney seconded. Voice vote: all in favor.

Councilmember Maloney asked that a loss update from the recent hail storm be included at that special meeting.

Mayor Muckle stated the Transportation Commission is meeting this week to vote on the list of projects for CDOT to support with the possible ballot initiative. There is likely to be more funding for the NW area. Louisville added a line in it to make NW rail eligible for multimodal funding.

Mayor Pro Tem Lipton asked if that would include prioritizing the rail. Mayor Muckle stated it was not. He stated the idea is to say that if there is a practical plan to build the rail, the multimodal money could be used.

Mayor Pro Tem Lipton stated he would like a new cost benefit analysis for NW rail and it should be weighed against other options. He stated he doesn't understand why rail is the preferred option without fully looking at all options. Mayor Muckle stated the current proposal puts hundreds of millions of dollars towards Highway 119 and Highway 7 so it is likely that by the time rail is in place multiple other options will be in place also.

Councilmember Stolzmann noted some of the other options are not affordable either and agreed a new analysis is due. Mayor Pro Tem Lipton stated he would like to see new lifecycle costs for the rail.

ADJOURN

Members adjourned at 9:50 pm.

Robert P. Muckle, Mayor

Meredyth Muth, City Clerk