

City Council Meeting Minutes

**August 21, 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
Kurt Kowar, Public Works Director
Rob Zuccaro, Planning & Building Safety Director
Lisa Ritchie, Associate Planner
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 in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

John Pendergraft, 2559 North Franklin, stated he received notice from the Parks & Recreation Department regarding an encroachment on open space. He stated he mowed the allowed 10-foot section of weeds from his fence in an effort to keep weeds

down. He stated he also cut a 3-foot by 12-foot path from his fence to the multiuse path and he cut one for his neighbor as well. He said he will abide by the rules and not cut the path again, but he noted the weeds get very heavy and should be taken care of.

Tom DeLorey, 587 Augusta Lane, asked if the City has a policy to require people to cut down dead trees on their property.

APPROVAL OF THE CONSENT AGENDA

Councilmember Maloney thanked staff for the work on item E, it was a good collaborative effort.

Councilmember Stolzmann asked to move items B and F to the regular agenda. Mayor Pro Tem Lipton asked for E to be moved as well.

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

- A. Approval of Bills**
- B. Approval of Minutes: July 12 & August 2, 2018; August 7, 2018 –
*moved to regular agenda***
- C. Approval of Special Meeting on September 11 and Approval to Move
the September 18 meeting to September 17**
- D. Approval of Resolution No. 33, Series 2018 – A Resolution of the City
of Louisville Authorizing the Assignment of the City's Private Activity
Bonds Allocation for 2018 to the Boulder County Housing Authority;
Providing Other Details in Connection Therewith; and Providing an
Effective Date**
- E. Approval of Energy Future Collaboration Memorandum of
Understanding & Attachment 1 – *moved to regular agenda***
- F. Approval of Resolution No. 34, Series, 2018 – A Resolution Approving
an Amended Agreement with the Urban Drainage and Flood Control
District for the Design and Construction of the BNSF Railroad
Underpass Project – *moved to regular agenda***
- G. Approval of Resolution No. 35, Series 2018 – A Resolution
Establishing Refuse, Recyclables, and Compostables Collection and
Disposal Fees Effective September 1, 2018 for the City of Louisville,
Colorado**
- H. Approval of Resolution No. 36, Series 2018 – A Resolution Approving a
Renewal and Amendment to an Intergovernmental Agreement with
Boulder County for Hazardous Materials Management**

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

None.

CITY MANAGER'S REPORT

City Manager Balsler noted the City is hosting block parties on August 22 at Bella Vista & Hoover and on August 23 at Pine & Garfield to celebrate the completion of new traffic safety improvements. There will be free food and drinks and a street painting project for all ages.

City Manager Balsler asked Director Kowar to report on recent water issues. Director Kowar stated staff has been getting reports of discolored water from some areas of town. This has been caused by some water main breaks in the area and some construction activities. Staff is visiting homes and testing the water for health and safety issues. Staff is flushing the system to remove the colored water.

REGULAR BUSINESS

Approval of Minutes: July 12 & August 2, 2018; August 7, 2018 – moved from consent agenda

Councilmember Stolzmann stated the August 7 meeting minutes from the focus group need additional detail reflecting the spirit of the conversation. She felt the minutes did not give detail on how things are currently going. Councilmember Maloney stated there was additional information about organization and operation he would like added. Staff will bring a new version of the August 7 minutes back to Council for consideration at a later date.

Mayor Muckle moved to approve the minutes from the July 12 & August 2 meeting; Councilmember Keany seconded the motion. All in favor.

Approval of Energy Future Collaboration Memorandum of Understanding & Attachment 1 – moved from consent agenda

Mayor Pro Tem Lipton stated he is generally in agreement with the content, however he is concerned that it does not affirmatively state in the MOU that this is a non-exclusive agreement.

Attorney Light stated there is no covenant in this document binding the City to exclusivity. The contract also gives the City the right to leave the contract at any time.

Mayor Pro Tem Lipton would still like it clearly included in the MOU.

Councilmember Loo stated she feels it is strong enough and the language is clear this is not legally binding. There is the option to walk away with Council approval.

Mayor Pro Tem Lipton stated he just wants it clear the City can enter into agreements with other parties for similar projects if the option arises. Councilmember Leh agreed it would be good to include such language for clarity.

Councilmember Stolzmann stated the language is sufficient. The sections talk about working together in areas of mutual alignment, but if there are areas not in alignment we can address those outside this agreement with other companies. She thinks this provides the necessary protections we need.

Councilmember Maloney would like it more clear as well.

Mayor Muckle moved to approve the agreement but with direction to have the City Attorney and Xcel add that language prior to signing. Councilmember Keany seconded the motion. All in favor.

Approval of Resolution No. 34, Series, 2018 – A Resolution Approving an Amended Agreement with the Urban Drainage and Flood Control District for the Design and Construction of the BNSF Railroad Underpass Project – moved from consent agenda

Councilmember Stolzmann stated she supports the agreement but would like to give staff direction to look at the cost of the stormwater component so we can be assured we are not over charging the stormwater fund which would unnecessarily affect stormwater rates. Councilmember Stolzmann moved to approve the item with that direction; Councilmember Loo seconded the motion.

Councilmember Maloney stated if construction has an effect on utilities we need to balance the cost to the utilities to do the construction and not assume the enterprise fund will pick up all that cost.

Vote: All in Favor

ORDINANCE NO. 1762, SERIES 2018 – AN ORDINANCE APPROVING THE VACATION OF A 30-FOOT WIDE DRAINAGE AND UTILITY EASEMENT LOCATED ON LOTS 1 AND 2, COLORADO TECHNOLOGICAL CENTER FILING NO. 2 REPLAT A, DEDICATED BY THE PLAT OF COLORADO TECHNOLOGICAL CENTER FILING NO. 2 (ALLEN COMPANY) – 2nd Reading – Public Hearing

RESOLUTION NO. 37, SERIES 2018 – A RESOLUTION APPROVING A SUBDIVISION PLAT AND A PLANNED UNIT DEVELOPMENT (PUD) AMENDMENT TO ALLOW CHANGES TO THE SITE DESIGN, ARCHITECTURE, PARKING AND LANDSCAPING FOR PROPERTY ZONED INDUSTRIAL AND LOCATED ON LOTS 1 AND 2, COLORADO TECHNOLOGICAL CENTER FILING 2 REPLAT A

Attorney Light introduced the item. Mayor opened the public hearing.

Planner Ritchie stated this is consideration of a vacation of an easement and a replat and planned unit development (PUD) amendment to allow minor changes to the approved site design, architecture, and parking. The original PUD and plat were approved in 2011 with the PUD expiring and being reinstated in 2015. The owner and applicant remain the same; the previous plan assumed the owner would occupy both buildings, now they are contemplating the owner occupying Building B, and Building A to be leased to a tenant. The replat will adjust the lot line and vacate the easement.

The applicant is requesting a landscape waiver to the overall landscape coverage on Lot 1; collectively, the site does meet the minimum 25%. There is shared detention on the site. The applicant will record a parking agreement to allow shared parking between the properties should the lots sell to separate ownership.

The application meets all of the criteria except the one waiver. Staff recommends approval of both the ordinance and the resolution. Ritchie also entered into the record one additional item, a chart of the PUD criteria analysis.

Councilmember Maloney asked what happens if one lot gets sold and they have a joint waiver for landscape coverage. Ritchie stated it is normal to have multiple lots on one PUD, but staff would need to watch for any PUD amendment that would not cover the site as a whole. Staff will place a note on the PUD that these issues have to be considered together.

Councilmember Maloney asked if the applicant is ok with that. Applicant representative Bob Van Pelt stated yes.

Public Comments – None.

Public Comment again – None

Mayor Muckle closed the public hearing.

Councilmember Loo moved to approve Ordinance No. 1762, Series 2018;
Councilmember Keany seconded.

Mayor Muckle called for discussion of the motion - None

Vote: Motion carried by unanimous roll call vote.

Councilmember Loo moved to approve Resolution No. 37, Series 2018; Councilmember Keany seconded the motion.

Discussion of the motion - None

Voice vote, all in favor.

DISCUSSION/DIRECTION – COYOTE RUN UPDATE

Mayor Muckle introduced the item. Mayor Pro Tem Lipton recused himself as he owns property near the affected open space property.

Director Kowar stated staff is recommending the City begin a sole source design/build process with Hayward Baker for the Coyote Run Open Space slope mitigation. Staff is also recommending the continued engagement of Terracon for independent review of design, cost estimates, and construction management. We know the 2013 heavy rain caused some soil movement and it is slowly continuing to move. We have been monitoring the area and have come to the point where we need to be more proactive. This design/build process with Hayward Baker was recommended by Terracon as a good first step. Phase 1 would be for up to \$75,000 (\$50,000 for Hayward Baker and \$25,000 for Terracon review) for design and moving the project forward to Phase 2 construction.

The design process would be 4-6 weeks and we hope to have an opening in the construction schedule in October to complete the mitigation. The project will include installing a drilled shaft retaining system above the landslide to stop any additional upslope movement or erosion, and regrading and geogrid reinforcement of the current slide area. The goals are to manage costs, make sure the property owners concerns are alleviated, and to restore the open space land to its native state.

Councilmember Maloney asked for clarification if the \$75K is just for negotiating the phase one design and the rest of the \$550K would come later. Director Kowar stated yes this is for design. He added that if we use this design we will be committed to using them for construction and we would be locking into their costs.

Public Comments

Patricia Duff, representing the Saddleridge HOA, asked if construction would begin in October. Director Kowar stated that is the goal. Mayor Muckle stated we do hope to get a design and the costs to allocate the funds to do construction in October.

Councilmember Loo asked for clarification that if we spend \$75K for a proprietary design we can't use that design to bid out for construction. Director Kowar stated yes, but he noted there is a requirement for a performance threshold that they have to meet. This puts all the liability on the one company for long-term performance.

Councilmember Loo asked why not approve the whole contract (phase 1 and phase 2) tonight. Director Kowar stated staff wants to confirm more of the details before we commit to the entire amount.

Councilmember Loo stated there were discussions about working with the HOA to make certain no drainage water from the residences was being funneled to the open space. Has that been done? Director Kowar stated that information was conveyed to residents to ask them to reroute downspouts to the front of their lots away from the open space. He stated some residents did try to do it but there is no way to measure the effect.

Councilmember Loo asked if the revegetation costs are included. Director Kowar stated yes. Councilmember Loo would like an estimate of that cost. Director Kowar stated that will be a line item in the contract.

Councilmember Maloney noted this is a serious issue and we are responsible to fix it. He noted Terracon stated there is no immediate risk of failure. Do we need to push this so quickly given there is no imminent peril? Do we need a sole source contract if there is no immediate peril? This design/build does not give us options to consider.

Director Kowar stated soils engineering is a specialty and Hayward Baker is one of few companies that can do this work. Given the busy construction market we don't know if an RFP would get us a better price or product, but it would take a lot more time. We might be able to work through a layered process of dewatering and pinning slope back first, but in the end these will likely be a part of any design.

Mayor Muckle stated this seems to be a case where we would want to use the same people who design it to build it so they have to stand behind both. He stated he is not interested in a multistep process that takes longer to get the open space restored. We should do it all at once with a reputable company who will stand by the process. If we need more time we should take it with Hayward Baker.

Councilmember Stolzmann stated she supports the contract. It should be noted one monitor changed by 10 feet during the monitoring. We should be proactive to get homeowners in the area to keep groundwater off the site while we are working on this. There was a localized increase in water during irrigation season and we should be direct about that. She stated her only concern with the proposal is all the pinning is on the south side; she wonders why nothing is needed on the southeast side of the failure.

Mayor Muckle moved to approve an initial staff controlled budget of up to \$75K for a contract with Hayward Baker for the design phase of a design/build services contract for the Coyote Run mitigation with additional services from Terracon; Councilmember Keany seconded.

Mayor Muckle asked for discussion on the motion.

Councilmember Maloney asked which funds will be used to pay for this project. City Manager Balser stated Council decided on July 12 to split the costs of this 50/50 between the Capital Projects Fund and the Open Space & Parks Fund.

Vote: Motion carried by unanimous roll call vote 6-0; Mayor Pro Tem Lipton recused.

DISCUSSION/DIRECTION – RESIDENTIAL SINGLE WASTE HAULER WASTE REQUEST FOR PROPOSALS

Director Kowar stated this is for discussion of the request for proposals (RFP) for waste collection. We are entering into the last year of a five-year contract with Western Disposal so this is an RFP for the next contract. Staff would like to get the language right and understand what we are asking for when we get bids. The goal is to remove residents' solid waste in a convenient, environmentally responsible, and cost-effective manner.

Director Kowar reviewed the current solid waste diversion rates and reviewed the RFP timeline. The Utility Committee has reviewed possible changes in the program. He noted tonight is just discussion of the RFP and servicing the current accounts in the program. Staff did speak with some HOAs about joining the program. The general feedback is the HOAs were happy with their programs and have their own goals. Some may or may not be interested in composting and will review that option when they sign new contracts. Staff has not discussed this possibility with multi-family and commercial locations yet. This RFP focuses solely on our program.

Director Kowar reviewed how the cart size choices affect pricing. Currently, recycling is included and residents pay based on the size of the carts for trash and composting. The RFP has an option for incremental pricing based on the cost of the trash cart size and including recycling and composting. This is designed to encourage compost use and minimize trash. This option would include both recycling and composting in the cost of trash service that is incrementally based on cart size.

Mayor Pro Tem Lipton stated the increment strategy is confusing.

Councilmember Stolzmann stated we have heard from people that the composting structure does not encourage people to get a bigger sized compost cart so people then put things in trash when the compost full. The new option asked respondents to bid a price that includes composting and recycling with the cost of trash and is based on the size of the trash cart. There are also other bidding alternatives that don't include that option. This proposal also makes the cost of each gallon of trash the same so each 32 gallons of trash service will be priced the same.

Director Kowar stated a number of things may affect pricing in the bids including day of the week for pick up, if all of town is on one day, and other variables. We may want to explore spreading it out across the week if it is less expensive. This RFP requires all bidders to bid the same increment and there are also alternates respondents can bid.

Members confirmed they will consider pick up on multiple days or days other than Thursday as a part of this bid process.

Director Kowar stated that once bids are received they will be reviewed based on certain criteria. This would heavily weight (70%) pricing and also include weighting for other items including additional services, quality of the references, the pick-up schedule, equipment, and interviews. He asked Council's opinion on this review process.

Councilmember Loo stated pricing was heavily weighted last time and we choose a more expensive bidder. She stated we need to make sure with this RFP we are comparing apples to apples so that the weighting options shouldn't throw anyone out of the competition.

Councilmember Stolzmann stated that since we have stated the exact increment we are requesting it will allow us to compare the different contractors in a better fashion than we did in the past. Because we have been so specific about what services are to be required, she would increase the weight of pricing to 80%. Councilmember Loo agreed. Mayor Muckle agreed.

Councilmember Maloney wouldn't go above 70%. He stated price is important but these other qualities need to be weighed. Mayor Pro Tem Lipton agreed. He would also reduce the weight of the interview and the RFP. He is concerned there is too much weight on the subjective criteria. He is more interested in price and service.

Councilmember Loo stated she is comfortable with the proposal and does like the smaller weight on the subjective areas of the review. Mayor Pro Tem Lipton stated he is more interested in price and service than anything else. Councilmember Leh stated he is fine with the weighting as presented.

Mayor Pro Tem Lipton asked about the increment noting if the typical house uses a 64-gallon trash and 96-gallon recycle bin with a 64 or 96-gallon for compost, the pricing will likely increase using this increment. Councilmember Stolzmann stated we won't know until we get the proposals back as the compost price will be baked into the base price for that alternative. However, in general the smallest will be the least expensive and the largest the most expensive.

Mayor Pro Tem Lipton stated he doesn't want to have to tell residents the costs went up because we are trying to encourage composting because that is a large increase in price for someone who may not appreciate the service. Councilmember Stolzmann stated that is why there are the different alternatives in the process. It gives us an out in the event the packaging of the composting drives the base price so high that people can't recognize the value.

Mayor Pro Tem Lipton stated the greatest incentive we can provide is more frequent pick-ups. People will put things in the trash because they just can't store compost for

two weeks between pick-ups. Councilmember Loo stated one of the original reasons to go to this program was to reduce trucks on the street; more pick-ups would be more trucks and be more costly.

Public Comments

John Ohannessian, 569 Augusta Drive and member of the Coal Creek Ranch Master Association, stated members want to keep their service with Western Disposal which is very efficient and cost effective. He stated a poll of the community clearly showed they don't want to be included in the city system.

Gil Saenz, 654 Manorwood Court and Coal Creek Ranch HOW, stated there are 486 homes in their association and none of that information is in the City's data. He stated he sees most composting is for grass clippings and isn't needed because most people have it hauled away. He doesn't want additional containers to store.

Tom Delorey, 587 Augusta Lane, stated he doesn't need composting.

Louise Geil, 208 Fairfield Lane Coal Creek Ranch, stated the Coal Creek Ranch HOA poll was very limited and biased. There was no place to indicate there might be something positive about composting. It is the environmental thing to do. She stated there is much more to composting than grass clippings. She thinks a cost of \$12-15 dollars is affordable and is the right thing to do.

Mark Persichetti, 1402 Taft Place and member of the Sustainability Advisory Board (SAB), stated the board endorses the compost and recycling costs embedded in the overall rate to reduce the size of the trash carts people are using. He stated it would be good to see if the City's program can match the costs the HOAs have. He stated one of the SAB's goals 10 years ago was to reduce truck traffic to once per week.

Yasmin Rahman, 462 Muirfield Circle, stated rising costs are an issue for some homeowners. She noted many Coal Creek Ranch residents do compost in their back yards already. She would like that Coal Creek Ranch not be included in the City program unless prices can be matched.

John Pavelich, 540 Manorwood Lane, stated no one has the right to tell him he should spend more money for a service.

John Leary, 1116 Lafarge Avenue, stated the ranking system of the bids should not include the references. They are important but should not be a part of the rating structure.

Deb Fahey, 1118 West Enclave Circle, stated there is something about having a good working relationship with current provider that should be considered. She noted the cost of composting is not just the pick-up of carts; there is also a cost when anything put

down the disposal is treated at the wastewater plant. Residents pay a cost either to put it out for pick-up or in the garbage disposal.

Director Kowar stated the review team will include staff and a member or members of the SAB. Councilmember Maloney stated it would be helpful to have someone from the Utility Committee included.

Director Kowar asked if there should be a public meeting during the selection process to share bid results and get input. Councilmember Stolzmann suggested once the bids are received it should come to City Council and the public can provide input on both the vendor and the options. Members agreed.

Councilmember Loo asked when a discussion of HOA inclusion might happen. Mayor Muckle reiterated this RFP only covers the current customers. Councilmember Keany stated if we get a good contract the HOAs may want to join in but we are not forcing anyone to join. Councilmember Maloney noted the RFP clearly states the HOAs are exempt from this contract.

Attorney Light stated current city code 8.64.070 exempts the HOAs, commercial locations, industrial areas, and multi-family locations. This RFP cannot change that list of exemptions.

Director Kowar noted other considerations for the RFP include the emerald ash borer quarantine, street faire service, special events pricing options, customer service expectations, and ongoing communications plans. He asked if there any other topics not identified. Councilmember Keany stated he would like email notifications for service changes.

Councilmember Stolzmann asked if scoring direction is clear and if bid and alternatives are clear. Councilmember Loo is ok with both scoring and bid alternates but would like it clear days other than Thursday would be considered. Councilmember Maloney agreed.

Councilmember Stolzmann stated the major issue with current service is pricing and she feels we are undervaluing that on the scoring criteria. Councilmember Keany would increase the weight of the pricing and perhaps remove the references from the weighting until after the vendor is identified. Mayor Muckle agreed.

Mayor Pro Tem Lipton stated he is concerned we are locking into a process based just on price but residents want something balanced with a good value.

Director Kowar noted the pricing could be so close that it is not the deciding factor.

Mayor Muckle suggested to weight 75% for price and references removed from scoring but considered as a part of the conversation.

Director Kowar asked if large item pick up is still important to include. Councilmember Stolzmann stated there is a very low rate of people using this and it is being charged to everyone. Perhaps it should have unit based pricing for these items and charged directly to those who use it.

Mayor Pro Tem Lipton said very few know it is available, we should market it better, and more people would use it. We should keep it in. Councilmember Stolzmann stated it should be an a la carte item. Councilmember Maloney stated getting a la carte pricing would be useful, but perhaps marketing is more important so people will know it is available and how to use it. Councilmember Loo asked if we can request both a la carte pricing and it be included. Director Kowar stated that would work.

Director Kowar clarified the RFP is ready to be released as is. Members stated yes.

DISCUSSION/DIRECTION – REVIEW OF CITY COUNCIL RULES OF PROCEDURE

Clerk Muth stated the Rules were adopted earlier this year and at that time it was required they be reviewed within six months of adoption.

Mayor Muckle stated the Rules are working.

Councilmember Stolzmann stated the rules are clear and helpful. She thinks it would improve the process if when making a motion we would know there would still be time for comments. She would also like to have the references to the Charter where the items are required not just done by choice.

Mayor Muckle stated framing the motion earlier in the discussion is reasonable.

Councilmember Loo noted motions earlier can create more acrimony or stifle conversation. She likes the more informal approach to it.

Councilmember Stolzmann noted on quasi-judicial items if a motion is made earlier it is easier to say if you agree or disagree. It can be hard to discuss things without a motion sometimes.

Councilmember Leh agreed the charter references would be good. For framing a motion sometimes that can be helpful but it is not always necessary. Sometimes it stops robust development of an issue. A motion would help when we get off topic. If used logically, incrementally it can work. We don't want to make it too narrow.

Attorney Light stated on quasi-judicial matters most decisions are going to fall into approval, disapproval, or approval with conditions. He suggested using caution when using motions about conditions prior to reviewing all of the conditions.

Councilmember Stolzmann stated it needs to be clear when having a discussion what the goal is and making a motion earlier in the discussion can do that. She stated sometimes it is not clear if we are approving or denying something.

Members choose not to make any specific rule changes at this time.

CITY ATTORNEY'S REPORT

Attorney Light noted he is leaving his firm as of October 1 and Kathleen Kelly will be taking over as principal attorney serving Louisville from the firm. He thanked everyone for the opportunity to serve the community. Members thanked Attorney Light for all his work.

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

City Manager Balser stated we need to schedule an executive session and suggested September 4 or 11. After some discussion Mayor Muckle moved to change the special meeting on September 11 to begin at 6 pm for an executive session with the other items to begin at 7:30 pm. Councilmember Loo seconded. All in favor.

ADJOURN

Members adjourned at 9:54 pm.

Robert P. Muckle, Mayor

Meredyth Muth, City Clerk