

# ***City Council Meeting Minutes***

**September 4, 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 Dennis Maloney  
Councilmember Ashley Stolzmann***

**Absent:**                ***Councilmember Susan Loo***

**Staff Present:**        ***Heather Balsler, City Manager  
Megan Davis, Deputy City Manager  
Rob Zuccaro, Planning & Building Safety Director  
Kristin Dean, Principal Planner  
Lisa Ritchie, Associate Planner  
Chad Root, Chief Building Official  
Kurt Kowar, Public Works 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 Stolzmann. All were in favor.

## **PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

None.

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

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

- A. *Approval of Bills***
- B. *Approval of Minutes: August 7, 2018; August 14, 2018; August 21, 2018***
- C. *Approval of Proclamation for Constitution Week***
- D. *Approval of Resolution No. 38, Series 2018 – A Resolution Establishing a Board and Commission Application Review Committee to Provide a Recommendation Regarding Which Applicants to Interview***
- E. *Approval of Special Meeting on October 30 at 7:00 pm***

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

Councilmember Maloney thanked staff for the Labor Day and Fall Festival activities this weekend.

### **CITY MANAGER'S REPORT**

City Manager Balsler thanked the community and staff for the weekend festivities.

### **REGULAR BUSINESS**

---

---

**RESOLUTION NO. 39, SERIES 2018 – A RESOLUTION APPROVING A PRELIMINARY PUD TO ALLOW FOR A 48,623 SQUARE FOOT RELIGIOUS INSTITUTION AND A PRELIMINARY PLAT TO CREATE 4 LOTS FOR CURRENT DEVELOPMENT, CREATE 2 PARCELS FOR FUTURE SUBDIVISION AND DEVELOPMENT, AND DEDICATE 2 OUTLOTS TO THE CITY FOR A FUTURE TRAIL; LOCATED ON 51.45 ACRES AT THE NORTHEAST INTERSECTION OF 96TH STREET AND DILLON ROAD (ST. LOUIS PARISH PRELIMINARY PLAT AND ASCENT CHURCH PRELIMINARY PUD)**

Mayor Muckle introduced the item.

Planner Dean stated the item was noticed as required. This is a request for a plat for the three properties in the St. Louis Parish General Development Plan (GDP). The St. Louis and Games properties will retain their lots as is and this is the preliminary PUD for Ascent Church which is 13 acres with 4 lots and two outlots. This includes a PUD for the

Ascent property. She reviewed the existing PCZD agreement and subdivision requirements which must be met when the first property develops.

- a. The design and improvements to all public streets and other public ways within or adjacent to the Property, including the provision of signage, lighting, and signalization of the streets.
- b. The coordination of and payment for on-site and off-site utilities including, but not limited to, water, sewer, storm sewer, drainage, streets, landscaping, fencing, streetlights.
- c. The execution of a Subdivision Agreement (SA) prior to City Council approval of the Final Plat. The SA may provide for phasing of public improvements, but such phasing must be approved by the City.
- d. A financial guarantee for all phased improvements as required by the City.
- e. Public Land Dedication for the entire property prior to the recording of the first subdivision of the property.
- f. The agreement that all parties will cooperate with one another in accomplishing the terms, conditions and provisions of the PCZD Agreement

The agreement requires with the first development of any of the lots in the GDP all streets must be included, there is coordination of utilities, there is the execution of a subdivision agreement, and the public land dedication be met for the entire property prior to recording the first subdivision.

At this time, Ascent is the only property owner ready to develop. The applicant is suggesting a phased plan. Phase 1 would be for Ascent with the Games and St. Louis properties developing later. All owners are parties to the agreement and are following the terms of the agreement with some requests for modifications.

Dean reviewed the street plan which aligns with the GDP and allows all properties access to the four-way access and includes a right-in, right-out access. Ascent does not warrant a traffic signal at this time, but future development will require updated traffic studies. Funds for the traffic signal will be included in the financial guarantee in the agreement. The proposal includes private roads with a private access agreement and it includes maintenance provisions. Phase 1 will include sidewalks only on the Ascent property, the rest will come with the rest of the development.

A drainage channel will be constructed from the Ascent detention pond to Dillon Road to accommodate the Ascent property. The agreement includes provisions for additional detention ponds if needed with rest of the development of the whole property. Sewer will be brought in from Arthur Avenue and will require permits from BNSF, water will come in from the 96<sup>th</sup> and Dillon Road intersection.

Dean stated the applicants are requesting a deferment of a portion of the land dedication fee. The Plat is for Outlots A & B which will serve as regional trail connections. This is in conformance with the GDP but the full dedication is not met. Ascent will make their payment with the final Plat, the Archdiocese and Mr. Games

request their dedications be deferred. If agreed by Council, those fees would need to be paid when developed and be paid based on appraised values at that time. Ascent would owe \$173,079 now. Dean noted without this plat the Outlots would not be dedicated to the City for future trail use. Staff also feels this development of the property may serve to catalyze additional development.

Staff views the request as a subdivision modification request. Staff finds the application meets the modification request requirements: it does not alter the essential character of the neighborhood, it still meets the purposes set forth in the zoning code; there are no other design alternatives, and there is no additional land we would like dedicated through this process. Dean noted the options now are to require the full dedication fee, accept the deferment request, or require an alternate means to satisfy the requirement.

Dean reviewed the options for trail design. Planning Commission and Open Space Advisory Board prefer option B which elevates the trail.

Staff finds the PUD meets all requirements of the CDDSG and landscape design standards. Dean reviewed the architecture. She noted the fiscal model shows there is a \$910,000 negative fiscal impact annually, but when the high and low scenarios are factored in with possible commercial development on the property we could see positive fiscal impacts with the development of the three properties.

Staff recommends approval.

Mayor Pro Tem Lipton asked about the private roads, he is concerned about allowing private roads given previous issues with maintenance on private roads. He asked what tools we have to enforce maintenance. Attorney Light stated we typically put in subdivision requirements that the owner or successor is required to maintain the roads. It makes sure there is a funding mechanism in place to pay for maintenance.

Mayor Pro Tem Lipton asked if those same mechanisms are in place in other areas. Attorney Light stated no they were not included at that time. Mayor Pro Tem Lipton wants to make sure we have a mechanism where the City can require maintenance.

Attorney Light stated additional language can be attached establishing the performance standards for maintenance. Mayor Pro Tem Lipton stated he likes an option so the City has the ability to enforce the maintenance. Dean stated the applicant is aware we are looking to include an elevated level in the maintenance agreement and it will be enforceable.

Councilmember Maloney asked if there is a landscaping requirement for phase 1. Dean, stated yes there is a plan to implement landscaping with the church and any later commercial development will also be required to meet landscaping requirements and with the first development of either commercial property the sidewalk along 96<sup>th</sup> Street will be installed.

Councilmember Stolzmann stated Outlot A will be platted at this time and asked if all of Outlot A would be dedicated at this time. Dean stated yes, both Outlots will be platted and dedicated to the city with this plat. Councilmember Stolzmann asked if the other lots would have to be platted again. Dean stated not unless they propose a development that requires a subdivision of the land.

Councilmember Stolzmann asked if there is a way we don't have to plat the north and south lots at this time. Dean stated the owners would have preferred that but it would require an amendment to the GDP and the agreement. After discussion, all parties decided to plat in accordance with the agreement but ask for the modification. Director Zuccaro stated this is a unique situation as there are three different property owners trying to work as one property owner which is unusual for PCZD zoning. This is why the applicants are asking for phasing the infrastructure plan.

Dean added staff felt platting all three properties was the only way to get the land dedications. Staff felt if we had the land dedicated to the City we could be assured the land was in place to build the trail when we are ready.

#### Applicant presentation

Jim Candy, Ascent Church, thanked staff for their help in the planning process. He stated they want the development to be a benefit and value to the City including using the building, playfield, and amenities as a community benefit. The church chose this property which is a higher risk but fits the vision. They feel this development has essentially no impact on residential areas, and while it doesn't generate taxes, it may spur some development.

Candy stated for the land dedication Ascent is ready to dedicate and pay its fees. They have been working with the Archdiocese and Mr. Games and all understand the need for the land dedication. The Archdiocese and Mr. Games are ready to dedicate land, they are only requesting a deferral of fees. No one has found a reasonable alternative to this request.

#### Public Comments

Amanda Fox, 384 Jackson Circle, stated she is a church member and she knows these applicants to be good guys. We want a church in our community. The church has an outreach team to better serve the community and she stated she has found the church truly makes helping the community a priority.

Deb Fahey, 1118 West Enclave Circle, stated she is not a member but the church has been very helpful in helping seniors in need in the community.

Councilmember Maloney stated he is supportive of the project; he would like a discussion at some point of the possibility of retail on 96<sup>th</sup> Street given its impact on traffic. Regarding the dedication fee he feels the deferment is reasonable and meets our long-term needs. He also likes design B for the trail design. He would like to ask for some naturalized aspect of the landscaping along 96<sup>th</sup> Street.

Mayor Pro Tem Lipton stated he supports moving this forward and supports the fee deferral. Councilmember Keany agreed.

Councilmember Leh stated the application meets the criteria and he supports the fee deferral given the unusual circumstances and hopes it will help activate development on the other parcels.

Mayor Muckle moved to approve Resolution 39, Series 2018 with a waiver for the deferment of fees in lieu and to use option B for the trails.

Attorney Light stated the Council could add that it be subject to a condition that the plans shall be revised to state that the sidewalk along Dillon Road will be constructed by the owner of Parcel 2 or their successor with the first development on such property. Mayor Muckle accepted that language. Councilmember Maloney seconded the motion.

Mayor Muckle asked for discussion on motion.

Councilmember Stolzmann stated she supports the motion and the application but feels there are probably better ways to handle these issues. She stated she appreciates staff found a way to get through this. She stated she does object to not getting land dedication fees for all parcels at this time and would ask staff to try not to do this again going forward. She appreciated the interpretation of the application from Planning Commissioner Rice.

Voice vote, all in favor.

**ORDINANCE NO. 1763, SERIES 2018 – AN ORDINANCE AMENDING TITLE 17 OF  
THE LOUISVILLE MUNICIPAL CODE REGARDING WIRELESS FACILITIES – 2<sup>ND</sup>  
READING, PUBLIC HEARING (advertised *Daily Camera* 8/12/18)**

City Attorney Light introduced the item and Mayor Muckle opened the public hearing.

Planner Ritchie stated all public notification requirements were met. She showed various photos of what some wireless facilities look like and how they can be screened. She noted new to the ordinance is small cell facilities that can be placed in the right-of-way with certain provisions which is a new requirement under State law.

Ritchie stated this is an update repealing and reenacting this section of the code in its entirety and is being recommended to comply with recent Federal and State regulations,

to update and improve the design and location standards, and to ensure the regulations accommodate public safety.

New Federal regulations preempt local rules and require local governments approve applications that have non-substantial changes within 60 days, approve those with substantial changes within 90 days, and new applications within 150 days.

New State regulations also preempt local regulations and apply to small cell facilities in the right-of-way. They do allow local governments to regulate design and location but local governments may approve applications for small cell facilities in the right-of-way with a licensing agreement within 90 days.

This update reflects the City's desire to accommodate wireless facilities, minimize impacts to the community, encourage colocation, and encourage providers to provide services to the city quickly, effectively and efficiently. It establishes applicability requirements for different types of facilities, exempts certain facilities, and allows temporary facilities for special events or declared emergencies. She noted there are standards that apply to all wireless facilities which include compliance with federal requirements and addressing operational and maintenance requirements, abandonment and removal, colocation requirements, and lighting restrictions.

Wireless facilities are allowed in the right-of-way through a license agreement with design standards for concealment and compatibility, height requirements, and separation requirements. There are also regulations related to interference with vehicular, pedestrian and bicycle circulation, or other hazards to public safety.

Wireless facilities not in the right-of-way are allowed on non-residentially zoned properties and on institutional structures or structures with 8 or more units on residentially zoned property. There are also design regulations for wall-mounted facilities, roof-mounted facilities, freestanding and alternative tower structures, and ground-based accessory equipment.

These procedures and requirements meet the mandated timelines under federal and state regulations, provide for administrative review for facilities that meet the code, and allow for a Special Review Use process for new freestanding towers, new non-small cell facilities in the right-of-way; and for facilities not meeting the standards in the code.

Staff feels these new regulations will allow more flexibility in more locations, but it also raises the bar on the design standards.

Staff has worked with Verizon and feels the new ordinance meets some but not all of their requests. There was a letter from Verizon that speaks to a waiver for height being administratively granted by staff under certain conditions. This would require a small change to the ordinance. These areas need more review and staff is requesting a continuance tonight to make a change to the ordinance.

Councilmember Maloney asked what parts of the letter staff agrees with or disagrees with. Ritchie stated there is some disagreement with Verizon over interpretation of FCC regulations. Staff and the consulting attorney believe the code is in compliance; staff would also like to keep some of the language Verizon would like amended.

Councilmember Maloney asked about the change related to height. Ritchie noted they are requesting additional height to 35 feet. Staff is open to discussion if Council is interested. There is also a request to add additional 5 feet to existing structures and in small cell facilities to 8 feet.

Ritchie stated the reason for the continuance is code changes pertaining to height require a hearing and there might be areas to allow administrative approval under certain circumstances.

Councilmember Maloney asked if this will work for 5G infrastructure when it is needed. He would like that addressed next time. He wanted it clear that HOA common property was not included in the phrase about allowing on structure or structures with 8 or more units on residentially zoned property. Ritchie noted staff would double check the intent of that statement.

Ken Fellman, Kissinger and Fellman, consultant to the City stated new state laws require cities to allow small cell facilities in the rights-of-way subject to design guidelines. This is a use-by-right subject to the City's police power. Federal provisions say no state or local government can prohibit the facilities so if this can't meet our regulations it would be considered preemptive by the City. Because of this, he recommends a continuation so staff can determine if the height limit is workable and we aren't being preemptive.

Both legally and technically this is a rapidly changing area and new laws are likely. This is really good option, but we may need to make changes as we start seeing deployment and the FCC may change the law to create further preemptions. Even if approved, this may need to be evaluated and changes made in the next few months.

Regarding 5G the extra height request may solve that, but there is no accepted standard for 5G so it is hard to legislate toward. Other communities have found some of this language staff is suggesting has been acceptable. This ordinance will position the City to deal with 4G and 5G networks.

Melissa Regan, Sherman & Howard, representing Verizon, stated the height request is to be proactive to be able to reach 5G implementation. She noted photo simulations in her letter so members can see what they might look like. The thought is the need for additional 8 feet would get both 4G and 5G on existing structures and 35 foot proprietary poles to allow 4G and 5G without asking for changes. The taller pole allows



for fewer poles to get coverage. Residential areas are where the need is greatest; these small cell facilities allow us to service those areas.

Councilmember Maloney asked Regan what is the density looking at for 5G antennae; how many blocks apart. Regan stated they can bring back something that can show where it might go, but it is hard to say exactly.

Mayor Pro Tem Lipton asked if the residential pole example is what we can expect. Regan noted attachments to light poles would be likely depending on the infrastructure in a residential area.

Mayor Pro Tem Lipton asked if the 36' would be allowed in what was originally presented. Ritchie stated that was 30'. Mayor Pro Tem Lipton asked if nonresidential was 46'; Ritchie stated 40' was suggested.

Councilmember Stolzmann stated tonight focused a lot on height but service is also a big concern and that needs to be balanced. The City would like improved service from all the carriers. When talking about replacing light poles it would be good to coordinate where it is optimal. Communication is important for our residents.

Mayor Pro Tem Lipton agreed with Councilmember Stolzmann this is important for our residents and how to provide competition for high speed internet services and stimulate competition. He asked if we can require carriers to co-locate on poles under current rules, is there a risk of being overrun with poles.

Ritchie stated there are separation requirements and carriers have to demonstrate technical need to have them closer together. However, we don't know how they will deploy and how fast. Ritchie noted maybe there can be varying heights based on the type of street arterial or residential.

Mayor Pro Tem Lipton said carriers might have more interest in co-locating if there are taller poles.

Councilmember Keany stated he is concerned if there is co-location how to control the appearance. Director Zuccaro stated the design requirement is what we do have control over so it is critical to do it right.

Mayor Muckle agreed with the need for good aesthetics, but also wants better service. He supported a continuance to October 2.

Mayor Muckle moved to continue Ordinance No. 1763, Series 2018 to October 2, 2018; Councilmember Keany seconded. Vote: All in Favor.

**ORDINANCE NO. 1764, SERIES 2018 – AN ORDINANCE ADOPTING BY REFERENCE THE 2018 INTERNATIONAL BUILDING CODE, 2018 INTERNATIONAL**

**RESIDENTIAL CODE, 2018 INTERNATIONAL MECHANICAL CODE, 2018 INTERNATIONAL FUEL GAS CODE, 2018 INTERNATIONAL FIRE CODE, 2018 INTERNATIONAL EXISTING BUILDING CODE, 2018 INTERNATIONAL PLUMBING CODE, 2018 INTERNATIONAL ENERGY CONSERVATION CODE, 2018 INTERNATIONAL PROPERTY MAINTENANCE CODE, AND 1997 UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS – 2<sup>ND</sup> READING, PUBLIC HEARING (advertised Daily Camera 8/12/18)**

Attorney Light introduced the ordinance and Mayor Muckle opened the public hearing.

Chief Building Official Chad Root stated the proposed Ordinance amends Municipal Code Title 15, Building and Construction, by adoption of the 2018 International Building Code series (2018 I Codes) and the 1997 Abatement of Dangerous Buildings Code. Staff recommends adoption of the updated building codes rather than the 2015 version because it is expensive to update the codes and purchase the books. Also, 2018 has been refined and removes the problems that were in 2015 and puts in place new technologies.

This update allows us to keep up the changing technologies in the construction industry and construction practices. Several amendments to the 2018 I Codes are included in the Ordinance based on local conditions and policies. These amendments include when specific types of permits are required or exempted, provisions for unique climate and geographic designations, prescriptive energy efficiency requirements, and other recommended technical specifications.

Mayor Pro Tem Lipton asked about wireless connectivity for residential smoke detectors. Root stated current code requires hard wired and interconnected smoke detectors. The 2018 codes allow for a wireless interconnection and it no longer has to be hardwired to an electrical line. It can be battery powered but then still have to talk to each other.

Mayor Pro Tem Lipton asked how we apply this requirement for a small renovation. Root stated under the current code a small modification would not require smoke detectors, the new code allows for battery powered smoke detectors in additions and remodels.

Director Zuccaro stated portable fire pits were mentioned in the staff report. The Fire District implements the fire code and support the code adoption but we do need additional discussion of portable fire pits in residential area. This could require an amendment after more study. Staff will bring back options on portable fire pits.

#### Public Comments

Marty Frary, 503 West Ash Court, stated he supports the adoption of the fire code to include allowance of wood burning fire pits.

Councilmember Maloney asked about the 1997 Abatement of Dangerous Buildings and why it should be adopted. Chief Building Official Root stated most cities have adopted this. It helps with nuisance problems such as requests from police to deal with hoarder homes or drug production homes. Currently there is little we can do to assist even with a complaint. This Code is a community code proven over time to give criteria what a nuisance property is and what needs to be done to the building. This gives authority to abate the property, board up the windows to keep the nuisance out. Eventually there will be a need to create an abatement fund and have the owners pay for the services completed on the home and have an ability to do a tax lien to pay back the abatement costs.

Attorney Light noted prior to 2003 this was in place, but it was repealed in 2003. This adds the option of an additional remedy through an administrative process to do the work to abate the condition and gives additional options for remedying a situation and seeking reimbursement.

Councilmember Keany asked if the property maintenance code would allow us to address the lack of upkeep on homes; does it give us more leverage. Root stated yes it does give that for items such as weeds and trash and goes hand in hand with the abatement code. Three entities Building Official, Health Department, and Fire Department can instigate something.

Councilmember Keany asked if fire pits are allowed in existing 2012 Code. Root said yes, portable fire places are allowed within certain parameters. Councilmember Keany asked if fire pits were restricted before. Root stated no they have been allowed.

#### Public Comments

Marty Frary noted he bought a fire pit 20 years ago and talked to the City and the Fire Department and understood it was legal. Then this June the Fire Department told him it was illegal. This prompted him to speak out for allowing them.

Mayor Muckle closed the public hearing.

Councilmember Maloney moved to approve Ordinance No. 1764, Series 2018;  
Councilmember Leh seconded.

Muckle asked for discussion of the motion.

Councilmember Stolzmann stated she appreciated staff considering local needs in this ordinance and appreciated taking out certain things to meet local needs.

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

## **DISCUSSION/DIRECTION – QUIET ZONE UPDATE**

Deputy City Manager Davis noted there is not a final report but wanted to update Council on where things currently stand with quiet zones. The Louisville and Lafayette Railroad Quiet Zone project will establish a quiet zone from Baseline Road in Lafayette to Dillon Road in Louisville. To establish the quiet zone, improvements are required at four of the five highway rail grade crossings including Baseline Road in the City of Lafayette, South Boulder Road, Griffith Street, and Pine Street in Louisville. Additional improvements are desired at Dillon Road to extend the quiet zone farther southeast through Louisville. A grant from DRCOG will fund a portion of the design and construction of all of the improvements except for Dillon Road. Dillon Road design and construction costs will be funded with City of Louisville funds only.

Clearances are slowly being received to complete the project. All plans have been finalized and approved by CDOT (environment, utility, right-of-way) and the design is completed. Staff submitted all documents for Baseline, Griffith, Pine Street and have gotten approval from BNSF and PUC. We have not submitted to the PUC for South Boulder Road and Dillon Road so we do not have cost estimates for those projects. Through the PUC process neighbors were notified, no comments were received for Pine Street or Griffith Street.

The schedule allows construction to start as soon as BNSF signs off. The City will complete median and curb work and we think BNSF can do their construction in early 2019.

Staff noted fencing has come up as an issue. For the South Street underpass we committed to fencing and did get approval to remove some of that for offset with a small reduction to 22 feet. BNSF has stated this fencing must be completed before they will approve the remaining crossings. Staff would like Council input.

Financial impact: The CDOT Grant Agreement budgeted \$1.56 M (82.79%) in federal funds and requires \$323,493 (17.21%) in local agency matching funds. The Lafayette IGA assigns 25% of local agency matching fund costs to Lafayette and 75% to Louisville. This IGA is for the design period only. Staff will expand the IGA to include construction after the consultant develops construction cost estimates. Estimates have gone up significantly, rough estimates on costs are around \$2.7M and we have \$2.2M available, some of which is dedicated to FHU to manage the project, and costs are still very vague. Staff thinks the City will be short in total at about \$500,000.

Staff asked for input on fencing if we are not able to agree to modifications for the fence offsets; would Council like to proceed and install per BNSF requests and how to address any budget shortfall.

Public Comments

Randy Caranci, 441 Elk Trail, Lafayette, owner of 540 Front Street, stated he currently has a lease at 500 Front for 22 feet from center of the tracks, 25 would put a jog in the fence of three feet from 540 to 544 Front. The 22 feet helps as people use that area for access. 18 feet would be optimal as that is what is on the north side of Pine Street and allows for parking. If the fence is completed at 22 or 25 feet it will be done and won't be able to ever change it. He wants to be sure he is treated fairly, need to get extra footage for parking. He said he does not remember getting notice.

Councilmember Stolzmann stated this is a priority and we funded Dillon at \$400K and it is now \$632K. She proposed funding the Dillon increase from CIP and asking Lafayette to fund increases at Baseline, and to ask the Revitalization Commission to help fund the projects.

Councilmember Maloney stated we are committed to all of the crossings. We made a commitment let's find a way to fund the quiet zones. Mayor Muckle agreed; this is a high priority and has been for a long time.

Councilmember Stolzmann stated parking is important for downtown. She asked if there is any way to get BNSF to go to the 18 feet, it worked on the north side, it should work on the south. If 18 feet can't work find a way to increase parking in that area equal to what we are losing to counterbalance the loss.

City Manager Balsler stated it took a long time to get to where we are working with BNSF. We can continue to discuss fencing but it may delay implementation of the quiet zones.

Councilmember Stolzmann asked why 18 feet is allowed on the north side of Pine Street but not south of Pine Street. She asked why BNSF is holding up the two crossings that are nowhere near where the fence issue is.

Director Kowar stated 25 feet is their standard, 22 is what we are holding at. If we feel strongly about the 18 feet we can push that, but we may have to accept 22 to get the quiet zones in all at the same time.

Mayor Pro Tem Lipton stated he is confused about the ownership of the land. Does BNSF own this land or is it private or City? Director Kowar said it is BNSF right-of-way. Mayor Pro Tem Lipton asked what incentive they have to give up anything. We don't have much leverage. Director Kowar agreed, the City is trying to be a facilitator for this.

Mayor Pro Tem Lipton asked if we have setbacks in the Code about how far away from the fence parking is allowed. Director Kowar noted it still would be BNSF right of way, our code would allow parking right up to the fence.

Mayor Muckle agreed the City should push to the extent we can but we will need a decision when this pushing is holding up the whole process. He asked how many parking spaces are being lost.

Mayor Pro Tem Lipton asked if the PUC has any say in this parking. Attorney Light said the PUC regulates only the crossing and those improvements at and near the crossing.

Councilmember Keany suggested we ask for 20 feet.

Randy Caranci noted he has a lease with the railroad and he pays for that. The incentive is the payment and the improvements.

Councilmember Stolzmann noted she doesn't want to delay the quiet zones, but doesn't understand how the South Street Underpass is related to this project. She would like to know how many spaces we are losing and are we delaying it by delaying this decision.. This is very frustrating and it seems arbitrary the railroad can do this.

City Manager Balser noted staff will talk to the Revitalization Commission, look at the capital projects budget and bring back additional information for the next update.

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

City Attorney Light noted there was a question on the previous building codes item, the City had gone from the 2009 edition to the 2012 and now to 2018.

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

Mayor Muckle reported on the Louisville Masters Criterium recently held in town. He saw the men's professional race and it was really incredible. The new race director is looking at ideas on how to make it more fun and to reduce impacts.

### **ADJOURN**

Members adjourned at 9:56 pm.

---

Robert P. Muckle, Mayor

---

Meredyth Muth, City Clerk