

# ***City Council Meeting Minutes***

**October 16, 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 (arrived 7:02)  
Councilmember Susan Loo  
Councilmember Dennis Maloney  
Councilmember Ashley Stolzmann***

**Staff Present:**       ***Heather Balsler, City Manager  
Tracy Winfree, Interim Parks & Recreation Director  
Aaron DeJong, Economic Development Director  
Rob Zuccaro, Planning & Building Safety Director  
Kristin Dean, Principal Planner  
Ember Brignull, Open Space Manager  
Meredyth Muth, City Clerk***

**Others Present:**    ***Kathleen Kelly, 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 Mayor Pro Tem Lipton. 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 Loo. All were in favor.

- A. Approval of Bills**
- B. Approval of Minutes: October 2, 2018; October 4, 2018; October 9, 2018**
- C. Award Contract to Northwest Roofing for Golf Course Hail Damage Repairs**
- D. Approval of Special Budget Meeting on October 23, 2018 at 6:30 pm**

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

None.

## **CITY MANAGER'S REPORT**

City Manager Balser asked Director Zuccaro to report on how building permits for reroofing is going. Director Zuccaro noted that in 2017 the City processed a total of 1730 total permits while since June of this year and the hail storm the department has processed 4115 reroof permits on top of normal day-to-day activity. Currently it is taking staff three weeks to process a permit to allow work to begin. The Building Division has made the midroof inspection a priority and are completing those the next day after request for inspection. This inspection is done before shingles are installed to look for code issues. Staff has send out 333 correction notices for work to be fixed so they are finding issues in about 10% of the permits. As they are prioritizing the midroof inspection it is holding up the final inspections somewhat. Those are running at about two weeks out. However, staff feels the midroof inspection should be prioritized as delaying that slows down the process significantly whereas delaying the final inspection has less impact. The department has hired 10 temporary employees. Staff is expecting about another 2000 – 4000 permits to come in for reroofing.

Councilmember Loo asked that the turnaround time noted on the website be more clear. She noted the slower final inspection is holding up solar reinstallations.

## **REGULAR BUSINESS**

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**RESOLUTION NO. 48, SERIES 2018 – A RESOLUTION APPROVING A PUD AMENDMENT TO REMOVE THE EXISTING MATERIALS ON THE ONE-STORY BUILDING AND REFACE THE FAÇADE WITH HORIZONTAL FIBER-CEMENT BOARD AND METAL AS AN ACCENT MATERIAL AND ACCENT SIDING, AND**

**OTHER MISCELLANEOUS MODIFICATIONS; LOUISVILLE SUBDIVISION, BLOCK B, LOTS 2, 3, & 4 (720/726 FRONT STREET)**

Planner Dean stated this request has been duly noticed as required. This is two buildings on one lot and this request is for the one-story building to replace the siding with fiber-cement board and metal accents. Staff finds this fits in the context of the block and meets the downtown design guidelines. The applicant is asking for 8” boards and staff accepts that as it replicates original cement block width. Staff finds this does meet the criteria for the downtown design handbook.

Matt Brundage, Park 111 Inc, the applicant representative, noted this building was clad in stucco in 1990 and they are now proposing an exterior remodel to the building and to reestablish the identity of the one-story building from its neighbor. They plan to demolish the current storefront and increase the head height of the doors to better meet the design handbook. The proposed secondary siding matches other siding in the area. The proposed 8” siding recreates the original look of the building. They believe the proposed remodel is a significant remodel to the building and enhances downtown.

Mayor Muckle asked if the HPC supported the changes. Dean stated both the HPC and the Planning Commission voted unanimously to approve this change.

Public Comment – None.

Mayor Pro Tem Lipton moved to approve Resolution No. 48, Councilmember Loo seconded.

Councilmember Stolzmann stated she supports the motion and feels the changes meet the criteria in the downtown design guidelines. Mayor Muckle agreed.

Councilmember Leh commended the applicant for a good design and the effort to keep in character in downtown. He feels all of the criteria are met.

Voice Vote: All in favor.



**UPDATE – PRELIMINARY MARKET ANALYSIS RESULTS FOR MCCASLIN AREA DEVELOPMENT STUDY**

Director DeJong stated this item is for a check in with the City’s consultants EPS and Trestle on the market study and a chance to review the preliminary findings.

Dan Guimond of EPS stated this is midpoint in the first phase of the analysis that will lead into development scenarios and feasibility. They have reviewed the study area and some of the national retail trends affecting this area. He noted the impact of ecommerce on brick and mortar stores as well as the impact of retail chain consolidation and store closures. He added the current issue of value stores and specialty stores doing well but

middle market stores not doing well. He stated food and beverage is a growing portion of retail sales, and entertainment and fitness uses are backfilling retail space.

He reviewed the retail area's history. Since 2005, retail development has shifted to the east of Louisville/Superior and toward Boulder where household growth has continued. He noted the major stores in the corridor are already present in the regional trade area and those that are not have left due to poor performance or as the result of consolidations.

He noted the McCaslin subarea is still doing very well in many metrics. Rental rates are higher than the surrounding area and vacancy rates are lower. Councilmember Maloney noted the vacancy rate can be misleading as the Sam's club building is excluded in the number.

Guimond stated the sales tax in the subarea has grown almost 6% annually from 2013 – 2017, most of it from building materials and eating/drinking establishments. The six hotels generate about 15% of the sales tax in the area, marijuana dispensaries also contributed to the increases.

Councilmember Stolzmann asked if there is an estimate of what sales tax revenue can be contributed to hotel users or other specific groups (daytime office workers, etc.) Guimond stated they are still working on this but will have more information on this at coming meetings.

Councilmember Stolzmann would like to know what the use tax contribution is over time similar to sales tax.

Guimond noted the data show a sales tax level about exactly the same in 2009 as it was in 2013. It took four years for the sales tax to come back after Sam's closed and since then it has increased more than expected.

Councilmember Maloney noted that if any zoning changes are recommended as a result of this the Council will also have to consider the effect on property tax collections.

Danica Powell, Trestle Strategy Group, stated they are still reviewing all of the guiding legal documents affecting Parcel O and there are many of them. She reviewed the timeline of development for the parcel, when uses were approved, and how this development history affects the regulatory environment on Parcel O.

She reported on outreach efforts including a meeting with the Citizen's Action Committee taking input and suggestions. They have met with developers in the area and all property owners in the Parcel O. They are sharing the information as they gather it and incorporating it into the outreach.

Upcoming engagement efforts will include reaching out to area HOAs for input, completing area employee outreach, and some pop-up events in the area. They are looking to get input from a diverse group of stakeholders.

Powell reviewed what they have heard so far:

- McCaslin is still a good retail location for neighborhood and community retail including grocery
- It is no longer a regional location and other big boxes may choose to leave
- Opportunity for other commercial uses including fitness, entertainment, medical and professional office, and hotels
- A destination draw like the Sports Stable would increase market draw
- Additional rooftops would help retail uses thrive including for-sale and for-rent housing
- Virtually any supportable uses will require the GDP and Codes Covenants & Restrictions (CCRs) to be amended
- Visibility and access are very challenging

Powell reviewed the input received from neighbors/community:

- Continued support for big box development
- Support for walkable, pedestrian friendly uses with active streetscapes and consolidated parking
- Openness to new uses including office, residential, and innovative retail – food hall, bowling, recreation, hotel, co-working, small neighborhood office and service retail, event space
- This should have a regional draw – reason to get off McCaslin, draw for Highway 36
- Concern about retail uses leaving Louisville and moving East
- Sales tax revenue – how to replicate historical patterns, fiscal model
- Additional community outreach ideas – RTD Pop up, Meet with Employees, Focus Groups or online questionnaire
- Integrate past community input (South McCaslin Area Plan, 80027 Facebook Group)

Powell stated there are two themes emerging: regional uses that draw people off of the highway and neighborhood support services for neighbors and employees. Also, there is concern about retail moving east and the fiscal health of the community.

Councilmember Loo asked how the consultants are addressing questions about why retail is moving east. Powell stated they don't have the answers on this yet but this will be based on the market study.

Guimond reviewed some of the opportunities and challenges affecting the Parcel.

#### Opportunities

- Continued support for big box development
- Support for walkable, pedestrian friendly uses with active streetscapes and consolidated parking
- Openness to new uses including office, residential, and innovative retail – food hall, bowling, recreation, hotel, co-working, small neighborhood office and service retail, event space
- This should have a regional draw – reason to get off McCaslin, draw for Highway 36
- Concern about retail uses leaving Louisville and moving East
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#### Challenges

- The Centennial Valley GDP restrictions
- “Parcel O” CCRs
- Limited trade area growth and growth in surrounding cities
- Limited inventory of potential retailers to re-fill the empty box
- Outdated site development plan
- Risk in City process and entitlements
- Visibility and access are limited

The McCaslin area is still a strong retail location, there is significant daytime population, and it is growing. There is potential to expand neighborhood and community services and retail. There is potential to attract complementary commercial uses. For challenges there are restrictions in the Centennial Valley GDP and covenants for Parcel O. Most of the uses that might work or be interested on this site are limited or prohibited by one or both of these documents.

Councilmember Leh stated there is little chance we would get a big box back in that location. He stated we should be realistic in what we can expect to move into that location. There is a perception among residents we will get certain retailers that are not likely to come here.

Councilmember Leh asked if there is a way to draw people from outside Louisville to spend their money here. Guimond stated preliminary conclusions are the trade area that Sam’s and Kohl’s were drawing from is larger than the community trade area this area is likely to get; about a two-mile radius.

Councilmember Leh asked if the new development in Superior will benefit Louisville. Guimond stated it very likely will with housing growth and the regional draw of the Sports Stable.

Guimond reviewed the next steps including completing the market analysis and developing potential development scenarios. He noted they started out looking just at the Sam's Club site but now needs to include the Kohl's site in the scenarios.

The objective is to come up with a few viable scenarios for development and then look at the financial feasibility and how well it might align with the community's desires. Additionally, it will look at the fiscal perspective to the City and sales tax. Finally, it will identify what regulatory changes would be needed to support the scenarios.

Mayor Pro Tem Lipton asked if in the next update they can provide more information on the CCR's and what they mean to the property. Powell stated she will also bring a diagram of how the zoning, the GDP, and the market all affect this area. Mayor Pro Tem Lipton would also like legal advice at some point if the City can amend the GDP without an applicant.

Councilmember Maloney stated it appears we need to transition from a regional draw to a more community based trade area. Guimond stated the overall draw has shrunk with the loss of the big boxes, he feels it will function better on a community trade area.

#### Public Comments

John Leary, 1116 LaFarge Avenue, stated there is a gap in that we know what people are buying, but we don't know who is doing the buying. We are getting more money from sales tax than only what residents are spending. We need to know where people are coming from and if they will always be there. There are limits on how much locals will spend, but the regional area spending can make up for that and it needs to be identified.

Councilmember Loo asked if the outreach will tell us what types of uses people will support. An entertainment venue might bring in a lot of regional traffic. She would like to know if the community would support something like this. Powell stated the questions will narrow down as the process continues, but they are hearing people are looking for areas to go for family oriented time. She stated they will test the economic viability of that with the scenarios.

Councilmember Loo stated she sees a disconnect between what the property owners are interested in doing and what residents are interested in visiting and that will need to be addressed. Powell stated both sides have a desire to see this area flourish with a different type of use but it will take changes to the regulations. In the end, the landowners will need to want to allow these changes.

Mayor Muckle stated he would like to see all options considered and pros and cons. We will need to address the Standley Marketplace option as so many people mention it. He would also like to consider mixed uses that have significant public benefits (parks, water features, etc.).

Councilmember Leh stated we can't ignore the constraints that exist. It is important to be creative within the constraints that we have. We all need to hear exactly what the constraints are and what it would take to address those. He doesn't want to suggest we have the ability to do anything on the property; there are constraints. It sounds like we need to be down scaling our financial expectations in this area.

Guimond stated there are scenarios that suggest there may be ways to contribute to the continued growth of sales tax in this area and have a positive impact on the community.



### **DISCUSSION/DIRECTION – OPEN SPACE ZONING SCOPE OF WORK**

Open Space Manager Brignull stated this is a review of the scope of work for the zoning of remaining open space parcels. Staff is looking for direction to move forward with zoning on certain parcels. That zoning process will include public input and will follow the zoning rules and public notice rules laid out in the municipal code.

All of the parcels under consideration are currently managed as open space and meet the criteria for open space. Staff originally zoned all the easiest parcels; the only remaining properties are those under discussion tonight. She noted there may be other parcels to consider for zoning after this phase is complete. Brignull reviewed each parcel individually:

*Coal Creek Trail Corridor* – Brignull stated this area functions as a wildlife corridor and trail corridor and has not been designated as open space in the past. Staff recommends continuing the current management practice which is consistent with the Open Space-Visitor classification.

Councilmember Stolzmann stated this zoning process is needed for good stewardship of the land and to be proactive. For this parcel there is a privately owned section the trail goes through. She asked if it is acceptable to zone private parcels as Open Space with the owners approval. She would like a delineation between the golf course out of bounds area and the Open Space. She would like the area around the golf maintenance shop clarified. She would like the zoning to include the areas adjacent to the trail and Dillon Road also zoned or at least clarified.

Councilmember Maloney stated we need to make sure this zoning respects the connections to other trails. He would like a hardscape trail connecting the US 36 trail to the Powerline Trail. He asked if this zoning would allow that hardscape. He asked if this zoning would accommodate an expansion to the golf course maintenance building.



Councilmember Loo asked how Council's previous adoption of the open space map affects this discussion. If it was identified as open space on the map do we have to zone it now?

City Attorney Kelly stated the Open Space Master Plan inventories and classified certain properties as Open Space and was adopted by the City Council before the Charter was approved. The charter defines open space as land that is included within the open space zone district and it required the City create that zone district and the City Council designate the lands as open space and zone them as such. Once zoned open space, certain restrictions then attach to the land. The Master Plan inventoried and classified property but now this would zone land and classify it according to management policies (Open Space - Protected, Open Space – Visitor, and Open Space – Other).

Councilmember Keany asked how zoning this parcel would impact future expansion of the golf maintenance facility. He doesn't want to end up preventing expansion of the facility in the future or restricting access to the facility.

Members agreed to continue this property in the zoning process. Brignull stated staff will refine the specific parcel to not affect the golf shop and work with the various boards before bringing this back for final zoning consideration by Council.

*Dutch Creek Open Space* – Brignull noted this encompasses a section of the Coal Creek Trail and was designated in the master plan as Open Space. Staff recommends working with Parks to delineate the park area to the northwest, continuing the current maintenance practices, and zoning it Open Space-Visitor.

Councilmember Stolzmann noted she lives adjoining this parcel but does not think she needs to recuse herself as this designation affects many people. She would like to delineate the boundary between the open space and golf course parcels. She does not think any of the areas along the street should be included.

Members agreed to continue this property in the zoning process.

*Olson Property* – Brignull states this property is already designated open space on the north and staff is looking for direction on the southern section. This parcel is already managed consistent with open space practices. This would not zone the railroad right-of-way in the area.

Councilmember Stolzmann supports zoning the entire area. This area is identified for a possible future trail.

Councilmember Keany stated perhaps the southern area here could be used for a dog off-leash area or sports field so maybe the south section shouldn't be included.

Councilmember Loo agreed. She noted the southern part was previously considered for other uses and a dog park might make sense.

Mayor Muckle supports the entire property for zoning as open space. He feels it is too close to the existing dog park to be another one; it makes sense to make it open space and make it a trail corridor.

Councilmember Stolzmann stated there is a preliminary plan to use this as trail right-of-way and access to CTC, so she would not support using this for another use. She recommends zoning as Open Space Other so it is available for more use options.

Councilmember Loo would like more information on possible uses of the southern part before moving forward with zoning. She remembers possible other uses being suggested for this property, including a western access to CTC.

Councilmember Leh would like more information on the southern part before moving forward.

Members agreed get more information before moving this forward for zoning.

*Warembourg* – Brignull stated the northern section was zoned already but the northern exact border and detention section was not included. Staff recommends zoning this area; it would require a survey to identify all metes and bounds clearly.

Councilmember Stolzmann would like to include the areas of this parcel that go to Pine Street and Polk Street so it can all be managed as open space. Brignull stated staff did not include this section as we mow it regularly and treat it as park land. Councilmember Stolzmann would like the additional areas treated as open space.

Mayor Muckle stated the section going west to Polk makes sense to be managed as open space.

Councilmember Loo would like to wait on these areas until Council can get more information. Mayor Pro Tem Lipton agreed these parcels can wait until a later date after there has been further review and neighborhood input.

Councilmember Stolzmann stated waiting on the additional areas is fine as long as the parcel does come back for consideration. Councilmember Leh stated there are a large number of these types of parcels that will need to be addressed. Councilmember Maloney stated these additional sections of the parcel should be addressed at a later date after full consideration.

Members agreed to move this parcel forward with zoning as presented. The additional areas described by Councilmember Stolzmann will be brought back at a later date for consideration.

*Lake Park* – Brignull stated this parcel had previously been identified as open space – visitor in the 2004 master plan. In 2016 OSAB voted to zone this as open space but to keep the current mowing practices and improve mulching and grooming beds and improve weed control. In 2016 PPLAB did not take a formal vote on this but were supportive of the management practices at the time.

Councilmember Keany stated the neighbors in this area were not aware of the open space plan in 2004 that changed its designation to open space and changed the maintenance practices. He stated it should be Open Space – Other to allow the most amount of flexibility as open space.

Brignull reviewed three options for the parcel:

- a) If City Council is in favor of the existing management practices, then this property could be zoned as Open Space and managed consistent with the existing Open Space-Visitor classification. However, over time, existing landscape bed materials would be replaced with more xeric native plantings to meet the intent of the classification.
- b) If City Council is in favor of existing management practices but would like flexibility to install future entryway features, trail rests, trees and other buffer plantings then City Council could change the classification from Open Space-Visitor to Open Space-Other. This classification change would require a 2/3 vote of City Council and amendment to the 2004 Open Space Master Plan. Over time, existing landscape bed materials would be replaced with more xeric native plantings.
- c) If City Council would like the flexibility to install an active playground or sports field, and/or add bluegrass, and/or increase ornamental non-native landscape beds, then this property needs to be reclassified to Park which would require a City Council majority vote. She noted previously staff believed a vote of the residents was required for this, but now believe it can be done by a vote of the City Council.

Councilmember Leh agreed with Councilmember Keany stating this parcel is confusing for residents and has had a great deal of discussion of how we got here. He agreed it should be designated as Open Space – Other.

Councilmember Stolzmann stated this property has irrigation and non-native landscaping and we already promote active recreation here and have ornamental trees. She stated it should not be designated as open space.

Councilmember Loo stated most citizens here don't necessarily understand the difference between a park and an open space and this is not an important designation for most residents. She agreed with Councilmember Stolzmann that this area should be a park.

Councilmember Maloney stated this should be either a park or Open Space – Other. If it is designated as park it would a great value to the community.

Councilmember Keany agreed a park designation is appropriate. He asked why the change in interpretation on if a citizen vote is required. He supports the park designation if we can do that without a citizen vote.

City Attorney Kelly stated the resident vote requirement is in the Charter but it is not in effect until the parcel is zoned and this parcel has not yet been zoned.

Councilmember Leh stated he supports a park designation if that is allowed. He asked again for confirmation that if it has not yet been zoned means we still have the flexibility to make it a park. City Attorney Kelly stated the Charter clearly allows for parcel uses to change if it has not yet been zoned as open space.

Mayor Muckle stated this is a change in interpretation from what he recalls. He stated he doesn't see a demand for more formal uses in Lake Park.

Mayor Pro Tem Lipton suggested not making a decision tonight and rather wait until we have the master plan for Cottonwood Park to see if it affects this. If we want to move forward tonight he prefers a park designation.

Councilmember Loo agreed this is a change in interpretation to her. She noted the PPLAB looked at this but did so without knowing that a change in designation could be done without a city-wide vote.

Mayor Muckle stated the value in the area is for wildlife and that exceeds the value of being a park. He supports zoning as Open Space – Other designation.

Councilmember Stolzmann stated there is a gazebo and park like features on this parcel and they need to be maintained at a higher level, but there is some community desire for a park that is a bit more wild. We need a balance that allows for some other uses.

Mayor Muckle and Councilmember Leh supported a higher level of maintenance on this property.

Mayor Pro Tem Lipton stated the Council does not have enough information to identify maintenance levels now without cost information and details.

Members agreed to not move forward this property for zoning at this time. Members will discuss the maintenance standard for the area at a later date.

*Walnut*– Brignull stated Walnut has not been designated as open space but is managed as such. PPLAB voted this should be a park designation and OSAB voted for open space zoning.

Councilmember Loo stated the Parks Board may not have the same opinion now on this designation. She stated at that time there was some feeling this space should be used more as an area for kids to play and should have fewer restrictions than what open space zoning allows.

Councilmember Stolzmann stated Walnut is a good candidate for open space and she would like to add in 0 West Walnut Lane in the zoning which is where you access the trail from Spruce Street.

Councilmember Loo asked if the Parks Board could be consulted again in this process.

Mayor Muckle supported zoning as Open Space – Visitor.

Councilmember Maloney supports Open Space – Other; this would allow more flexibility as it is surrounded by a residential area; he would like to allow more use options. Councilmember Loo, Councilmember Leh, and Councilmember Keany agreed.

Members agreed to move the parcel forward for zoning as Open Space – Other and include 0 Walnut Lane.

**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 – 2<sup>nd</sup> Reading – Public Hearing (advertised *Daily Camera* 7/22/18) continued from 8/7/18 – staff requests public hearing be vacated**

City Attorney Kelly introduced the ordinance.

Councilmember Keany moved to vacate the public hearing; Mayor Muckle seconded.

Voice Vote 7-0 to vacate the public hearing.

**CITY ATTORNEY’S REPORT**

None.

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

Mayor Muckle asked for a future agenda item for a City Manager evaluation tool.

Mayor Muckle reported the CC4CA has hired an executive director and formed a legislative group for addressing legislative needs.

Councilmember Stolzmann stated DRCOG has not yet taken a position on Proposition 110.

Councilmember Stolzmann stated Councilmember Loo and she met with Xcel for the Energy Collaboration project and established next steps in the process. Councilmember Loo noted one point of conversation is how to use infrastructure for better economies of scale.

### **ADJOURN**

Members adjourned at 10:13 pm.

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Robert P. Muckle, Mayor

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Meredyth Muth, City Clerk