

# ***City Council Meeting Minutes***

**November 5, 2018  
City Hall, Council Chambers  
749 Main Street  
7:00 PM**

**Call to Order** – Mayor Muckle called the meeting to order at 7:00 p.m.

**Roll Call** was taken and the following members were present:

**City Council:**        ***Mayor Robert Muckle  
Mayor Pro Tem Jeff Lipton  
Councilmember Jay Keany  
Councilmember Chris Leh  
Councilmember Susan Loo  
Councilmember Dennis Maloney  
Councilmember Ashley Stolzmann***

**Staff Present:**       ***Heather Balsler, City Manager  
Megan Davis, Deputy City Manager  
Kevin Watson, Finance Director  
Aaron DeJong, Economic Development Director  
Kurt Kowar, Public Works Director  
Rob Zuccaro, Planning & Building Safety Director  
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 Councilmember Maloney. All were in favor.

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

Alisa Millette, who lives in Kestrel at 1996 Kaylix Avenue, stated she wants a safe and clean living environment. She stated she meets the affordable housing requirements for Kestrel and volunteers to help others work on composting/recycling. She wants to make sure the neighbors are not living in fear of anyone with mental illness placed in the community. She noted some of the people living there have addiction issues and some are selling drugs. This is not acceptable in the community and the safety checks are not taking place. Most residents are hardworking, good residents. Although she knew she did not have all the answers, she would like dangerous residents removed from the community. She thanked Council for listening.

Deb Fahey, 1118 West Enclave Circle, asked everyone to vote in the election tomorrow.

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

MOTION: Mayor Muckle moved to approve the consent agenda, seconded by Councilmember Loo. Passed 6-1, Councilmember Stolzmann voting no.

- A.** Approval of Bills
- B.** Approval of Minutes: October 12, 2018; October 16, 2018; October 23, 2018
- C.** Approval of Proclamation for November 24, 2018 as Small Business Saturday
- D.** Approval of a Special Meeting on November 13, 2018
- E.** Approval to Start the December 4, 2018 Meeting at 6:30 pm
- F.** Approval of Contract with CliftonLarsonAllen, LLP for Utility Billing Services
- G.** Approval of Purchase of 2019 Tymco Regenerative Air Sweeper
- H.** Approval of Front Range Landfill Services for Waste Disposal
- I.** Approval of Modification to Louisville Revitalization Commission Contract with Desman, Inc. for Parking Structure Conceptual Design Services

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

None.

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

City Manager Balser asked Director Zuccaro for an update. He introduced Felicity Selovski, the new historic preservation planner. He stated staff is mostly caught up on roofing permits and will soon be turning them around in a day or two. He thanked everyone for the extra help and work on this.

### **REGULAR BUSINESS**

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**1021 MAIN STREET – DISALVO HOUSE**

**RESOLUTION NO. 49, SERIES 2018 – A RESOLUTION DESIGNATING THE DISALVO HOUSE LOCATED AT 1021 MAIN STREET A HISTORIC LANDMARK**

**RESOLUTION NO. 50, SERIES 2018 – A RESOLUTION APPROVING A PRESERVATION AND RESTORATION GRANT FOR THE DISALVO HOUSE LOCATED AT 1021 MAIN STREET**

Planner Selvoski stated this request is for a landmarking and preservation grant for 1021 Main Street. The landmarking criteria require social or architectural significance. Staff finds this building meets both due to the original work and detailing of the home and this was the home of the DiSalvo family for 39 years.

She stated the applicants are requesting a grant of \$42,929 which exceeds the \$20,000 grant limit. She reviewed the proposed work and noted staff feels the property meets the extraordinary circumstances criteria for exceeding the grant limit based on the original detailing and the costs involved in renovation.

Staff recommends approval of both the landmarking and the grant request.

Councilmember Loo asked why staff raised their recommendation for funding from the original of \$20,000; was that after talking to the Historic Preservation Commission. Selvoski replied it was and stated the applicant provided information about the costs that showed where repairing original materials increased costs over just replacing.

Public comments – None.

Councilmember Stolzmann stated she felt all the criteria are met for landmarking, but did not feel the extraordinary circumstances are met for the additional funds over the maximum grant amount.

Councilmember Maloney stated this is a great opportunity to landmark this house. He does feel there are extraordinary measures and can support the grant. He asked the applicant if they were okay with the naming as the DiSalvo house. The applicants noted they were fine with the name. Mayor Muckle agreed with Councilmember Maloney.

Mayor Muckle moved to approve Resolution No. 49, Series 2018 for landmarking; Councilmember Keany seconded.

Voice vote: All in favor.

Motion: Mayor Muckle moved to approve Resolution No. 50, Series 2018 for the grant, Councilmember Keany seconded.

Councilmember Keany stated he supports the extra grant money and noted it is a prominent house with great value to town. This is why we have the tax.

Councilmember Leh also supported the motion and was excited to see this project done.

Councilmember Loo asked how the money will be distributed. Director Zuccaro stated the owners have to prove they restored the home as presented in their application. He stated the fretwork replica or restored work would qualify for reimbursement. The detail work on this house is unique and difficult to repair and may require replication, but replacement with anything else would not qualify for reimbursement.

Councilmember Loo was concerned this fund is paying for something that is not an exact replacement. Selvoski stated staff will make sure anything that is reimbursed is exact. Director Zuccaro stated they would not be eligible for reimbursement for anything that changes from the original.

Councilmember Stolzmann stated she supports the maximum allowable grant but feels the HPC decision on the additional funds doesn't meet the criteria. The argument is not compelling enough to support the extraordinary circumstance.

**Roll call vote:** Motion passed Yes = 6, No = 1; Councilmember Stolzmann voting no.

**DISCUSSION/DIRECTION – PROPOSED 2019-2020 OPERATING & CAPITAL BUDGET, 2019-2024 CAPITAL IMPROVEMENTS PLAN, AND 2019-2024 LONG-TERM FINANCIAL PLAN**

Director Watson stated this is a final review of the budget; the packet materials are intended to give a brief summary and touch on the requested changes. If Council agrees on these, the final adoption will be November 27. The only outstanding item is another look at the golf course budget over the winter for possible changes in 2019.

Public Comments – None

Mayor Pro Tem Lipton stated this reflects the consensus and priorities of Council. He noted the Golf Fund will need some additional review as will the Recreation Fund in 2019. Those can be updated in 2019 for the 2020 budget.

Councilmember Maloney stated the General Fund transfers are showing a transfer to the Golf Fund and he thought that was not happening until the Golf Fund has been reviewed in 2019. He would like that still listed as to be determined.

Mayor Pro Tem Lipton agreed that should not be shown as a commitment until further review in 2019. Mayor Muckle and Councilmember Leh agreed.

Director Watson stated staff will remove that transfer from the adopting resolutions for November 27.

Council was satisfied with the budget with that change for adoption on November 27.

**RESOLUTION NO. 51, SERIES 2018 – A RESOLUTION AMENDING THE 2018 BUDGET BY AMENDING APPROPRIATIONS IN THE GENERAL FUND, OPEN SPACE & PARKS FUND, AND CAPITAL PROJECTS FUND, FOR ADDITIONAL APPROPRIATIONS WITHIN SUCH FUNDS AND ADJUSTING BUDGETED REVENUE IN THE GENERAL FUND, OPEN SPACE & PARKS FUND, AND HISTORIC PRESERVATION FUND – PUBLIC HEARING (advertised *Daily Camera* 11/02/2018)**

Mayor Muckle introduced the item and opened the public hearing.

Director Watson stated this resolution amends the budget as follow:

1. Add budget for the purpose of processing permits due to hail storm (\$99,000) and increase revenue budget for hail storm roofing permits (\$1,110,340);
2. Add budget for public information printing (\$7,000);
3. Add budget for recruitment services (\$51,300);
4. Add budget for review of internal controls at offsite cash collection areas (\$9,500);
5. Add budget for Coyote Run slope monitoring (\$45,000);
6. Add budget for following capital projects:
  - a. Coyote Run Slope Mitigation (\$550,000);
  - b. Railroad Quiet Zones (\$507,650); and
  - c. Library Building Automation (\$100,000);
7. Reduce budget for Downtown Surface Parking Expansion project (\$100,000), which was included in the 2019 Capital Improvements Plan; and
8. Increase other revenue affected by hail storm (Auto Use Tax = \$297,800).

The budget amendment is shown by line item detail and subtotaled by fund in Appendices A and B to the Resolution.

Director Watson added this addresses many hail storm issues, but does not address any of the City's property affected by the storm and insurance proceeds which is still to come.

Public Comments – None

Mayor Muckle closed the public hearing.

Councilmember Maloney moved to approve Resolution No. 51, Series 2018;  
Councilmember Stolzmann seconded.

Voice vote: All in favor.

**DISCUSSION/DIRECTION – UPDATES TO REGULATIONS FOR MEDICAL AND  
RETAIL MARIJUANA BUSINESSES, AND CULTIVATION, TESTING AND  
MANUFACTURING OF MARIJUANA PRODUCTS UPDATES TO MARIJUANA  
REGULATIONS**

Director Zuccaro stated that based on initial direction from City Council, staff has drafted two versions of an ordinance addressing updated medical and retail marijuana regulations for discussion and direction.

He reviewed current regulations:

- Licensing in Title 5 of the Louisville Municipal Code and Zoning Requirements in Title 17
- Medical Regulations adopted in 2011
- Retail Regulations adopted in 2013
- Limited size, number and location
- Buffer from certain uses
- Manufacturing and Testing allowed but not consistent
- Cultivation not allowed

City Council direction from previous meetings:

- Align with liquor store regulations
- Increase store size to 5,000 square feet
- Remove 4 store limit
- Decrease buffer from 1,320 to 500 ft. and only from primary school and higher
- Require 1,500 ft. between stores
- Align medical and retail testing and manufacturing regulations
- Allow manufacturing in Industrial District
- Provide Ordinance option for cultivation in Industrial District

Director Zuccaro reviewed the current buffer map and the map with proposed buffers which opens up more areas for medical and retail sales.

He reviewed the cultivation option in the industrial district which is mostly in the CTC and noted the draft contains performance standards for gas, vapors, odors, smoke, dust, heat, and glare. The ventilation requirement is no odors.

Director Zuccaro asked for discussion/direction on the following topics:

- Setting the buffer distance to 500 ft. and measuring from to K-12 schools only
- Removal of 4 store limit
- Require buffer of 1,500 ft. between stores
- Increase maximum store size to 5,000 sq. ft.
- Align medical and retail allowances for testing and manufacturing
- Allow manufacturing in Industrial District
- Allow cultivation in Industrial District

Mayor Pro Tem Lipton asked about an excise tax if cultivation is allowed. Director Zuccaro stated staff recommends considering an excise tax; this would require a vote of the people. Councilmember Maloney asked why we would do that. Director Zuccaro stated it would not be a recovery fee but more a revenue source for the City to consider.

#### Public Comments

Nick Broderick, 4730 Table Mesa Dr., Boulder, CO, representing 14er Boulder which is a medical and retail cannabis business, stated they support the allowing of testing, manufacturing, and cultivation. They would like the ability of the industry to continue growth. The company has 40 + employees who have full benefits and noted the industry does support the economy and add value to the community. They work hard to control odors and have reliable technology to control potential noxious odors. They would like to suggest some language for this for the ordinance and it should require redundancies.

Mayor Pro Tem Lipton asked if the excise tax and land uses are contingent on each other. Director Zuccaro stated they are not contingent. Cultivation would be a land use approval; an excise tax would be considered separately. Mayor Pro Tem Lipton would like to know what other communities are doing in the way of excise taxes.

Councilmember Maloney stated he was reticent to link the two together. The land use issue is a separate discussion. We don't make land use decisions based on what if.

*Cultivation:*

Councilmember Stolzmann supports the cultivation and manufacturing in the Industrial district and felt the CTC opposition was not a compelling reason to not allow this.

Councilmember Keany stated he is supportive of the cultivation option. He agreed with Councilmember Stolzmann the owners association of the business park can do what they want regardless of this decision. He stated an excise tax may generate more tax, but the increase in use tax is also significant and may be sufficient and it shouldn't influence this decision.

Councilmember Leh stated he was not supportive of cultivation and manufacturing in the past, but after visiting a facility and seeing the quality of the facility he feels with the right regulations he can support it.

Councilmember Maloney agreed; allowing manufacturing and cultivation makes sense economically and odor issues can be addressed.

Councilmember Loo agreed. She would like more information on the excise tax and what other communities have done.

Mayor Muckle stated he could support cultivation but would like to see tough regulations on odor.

*Buffer Distance*

Mayor Muckle was not in favor of decreasing the buffer to 500 feet.

Councilmember Maloney supported the 500-foot buffer.

Councilmember Leh was not in favor of reducing the buffers. He likes the current rules on the distance and to preschools, etc. and has gotten the same response from his constituents.

Councilmember Stolzmann stated support for keeping the rules for liquor and marijuana similar. Making this change does not open up very many places for sales. It is arbitrary but this way they are similar to liquor stores. Councilmember Loo agreed.

Councilmember Keany stated he does not think this makes a huge difference and supported the change. He supported leaving the hours as they are currently.



Mayor Pro Tem Lipton supported the change but doesn't see the need to align it with liquor regulations. He doesn't see the need for the 1500 foot buffer between stores and would prefer a smaller buffer.

Members agreed to the removal of the four store limit.

Councilmember Leh stated he thinks it is a mistake as a policy matter to equate liquor stores and marijuana stores. They are not the same under the state constitution and other regulations. There are good reasons for not doing that. He thinks the community will not like the reductions in the buffers from schools and saw no need to decrease or increase the buffer between stores.

Councilmember Maloney stated he was looking at the liquor regulations as a guide for this discussion. He noted marijuana stores are very secured controlled operations and it is not easy access to the product. He agreed with the 500-foot buffer, the removal of 4 store limit, he felt the 1500 feet between stores was an arbitrary number and should be discussed and also felt the store size was arbitrary. He agreed with the other three discussion items.

Councilmember Loo supported decreasing the buffer, removing the 4 store limit, and keeping 1500 feet between stores. She supported the increase in store size and was in favor of the other three.

Councilmember Keany was hesitant about the 500 ft. buffer, agreed to removing the 4 store limit, he supported a fairly large buffer between stores, the increase in store size was okay, and he was fine with the others.

Members agreed to 500 foot buffer: 4 votes

Members agreed to eliminate the 4 store limit: 7 votes

Members agreed to 1500 feet between stores: 4 votes

Members agreed to the 5000 sf maximum store size; 7 votes

Members agreed to align medical and retail manufacturing and testing rules; 7 votes

Members agreed to manufacturing in Industrial zoned districts; 7 votes

Members agreed to cultivation in Industrial zoned districts; 6 votes

Councilmember Stolzmann would like to allow retail sales in downtown.

Mayor Muckle stated he is not interested in allowing it in downtown.

Councilmember Keany stated allowing it downtown could encourage retail and foot traffic downtown although he has concerns about how it changes the experience of downtown.

Councilmember Loo stated she supports the option for downtown. Councilmember Maloney agreed, perhaps limit to certain sections of downtown.

Mayor Muckle stated he could allow at Pine Street Plaza not on Front and Main Streets.

Councilmember Leh stated he does not support it downtown in general, but would be interested in what the public and business owners think on this.

Mayor Pro Tem Lipton stated he supports a smaller buffer between stores. He suggested 1000 feet. Regarding downtown, it is surrounded by residential so perhaps there is more conversation needed.

Members decided to finalize the buffer with the final ordinance.

### **LOUISVILLE REVITALIZATION COMMISSION ANNUAL BUDGET FOR FISCAL YEAR 2019**

Director DeJong stated the Intergovernmental Agreement (IGA) with the Louisville Revitalization Commission (LRC) requires their annual budget be presented to Council for approval. He reviewed the proposed budget and gave a brief summary of notable line items within the 2019 LRC Budget noting the total estimated costs for 2019 = \$1,868,722.

Steve Fisher, 860 West Centennial Dr., LRC chairperson, stated the commission supports this budget and are confident it works.

Public Comments – None.

Councilmember Stolzmann stated she is pleased with the LRC budget as presented. She feels there is opportunity for a better process between the Council and LRC. She would like to see more capital project coordination and aligning of priorities.

Councilmember Maloney agreed the two groups should work more closely together on this budget process and a better understanding of what the LRC wants and what the expectations are of Council. Mayor Muckle agreed; perhaps the Finance Committee could do an initial look to focus Council discussion.

Councilmember Leh appreciated the LRC's support of some of the City's CIP projects.

Councilmember Leh moved to approve the LRC budget for 2019, Councilmember Loo seconded.

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

**ORDINANCE NO. 1765, SERIES 2018 – AN ORDINANCE APPROVING THE VACATION OF A PORTION OF A 30-FOOT ACCESS EASEMENT LOCATED ON LOTS 3 AND 4, BLOCK 2, THE BUSINESS CENTER AT CTC – 1<sup>ST</sup> READING, SET PUBLIC HEARING 11/27/18**

City Attorney Kelly introduced the ordinance by title on first reading. Mayor Muckle moved to approve Ordinance No. 1765, Series 2018 on first reading, send it out for publication, and set the public hearing and second reading for November 27, 2018; Councilmember Keany seconded.

Voice vote: All in favor.

**MUNICIPAL CODE UPDATE REGARDING SOLID WASTE AND HAULER LICENSING & REPORTING**

**ORDINANCE NO. 1766, SERIES 2018 – AN ORDINANCE AMENDING CHAPTER 8.64 OF THE LOUISVILLE MUNICIPAL CODE, ENTITLED “RESIDENTIAL REFUSE AND RECYCLING COLLECTION,” TO AMEND AND ADD PROVISIONS REGARDING COLLECTION OF COMPOSTABLE MATERIALS, TO ADD HAULER LICENSING AND REPORTING REQUIREMENTS, AND TO MAKE OTHER AMENDMENTS TO SAID CHAPTER 8.64 – 1<sup>ST</sup> READING, SET PUBLIC HEARING 11/27/18**

**INTERGOVERNMENTAL AGREEMENT WITH BOULDER COUNTY FOR WASTE HAULER LICENSING AND REPORTING – *continue to 11/27/18***

City Attorney Kelly introduced the ordinance by title on first reading.

Mayor Muckle moved to approve Ordinance No. 1766, Series 2018 on first reading, send it out for publication, and set the public hearing and second reading for November 27, 2018; Councilmember Keany seconded.

Mayor Pro Tem Lipton asked how waste haulers are defined and if the intention was to include contractors who might be doing small renovations and landscapers or only the larger waste haulers.

Director Kowar stated the thresholds can be amended. It defines some activities, but it does not include landscaping. It can be more specific on what we want to meet.

Mayor Pro Tem Lipton asked if the intent is to get roofers or handymen repairing a deck for example. If the requirement is for very small businesses to adhere to this it may make it harder to get contractors for work. It might include homeowners doing their own repair or landscaping work.

Director Kowar stated the intent was to capture statistics through ReTrac. Larger companies doing many roofs or a landscaper doing a large subdivision produce solid waste that adds up. The Council will need to decide what the threshold should be.

Mayor Pro Tem Lipton remembered the County statistics showing the solid waste production was only about 3% and he doesn't want this to cause more problems for our residents. He wants more information on what the goals are and what the intent is. It seems we are doing something much more expansive.

Director Kowar stated it could eliminate the inclusion of construction, demolition, and landscaping and only do commercial, multi-family, and industrial type haulers.

Mayor Pro Tem Lipton would prefer that but would also like more information on the goals of the program.

Councilmember Maloney stated he likes the idea of using ReTrac but he wonders what the actionable outcome of this is. How will we use this information; it probably won't change any behavior. As written, this may make it impossible for small companies to do business in the city. He asked if the Utility Committee had seen this.

Councilmember Keany stated this initially came from the Sustainability Board; this will give us a better idea of how we are doing as a community of diverting from the landfill by getting us good information from the large haulers. He supports this as it lets us get the information citywide on how our materials are being handled and where it ends up.

Mayor Muckle said the Utility Committee did talk about this. He stated capturing data from the major haulers seems a reasonable start.

Councilmember Stolzmann would like to see some options when the ordinance comes back for second reading.

Voice vote: 6-1, Councilmember Maloney voting no.

City Attorney Kelly confirmed staff will simplify and set different thresholds focused around the language defining the waste hauler to not include small contractors doing

remodeling or landscaping unless they do enough work in the city to create a significant impact. The changes will be considered on second reading.

Director Kowar will make changes for the definition of hauler, change the thresholds, and identify exceptions by customer for consideration on second reading.

The IGA was continued to November 27, 2018 to be considered with the ordinance.

**ORDINANCE NO. 1767, SERIES 2018 – AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CHAPTER 3.18 OF THE LOUISVILLE MUNICIPAL CODE AND ADOPTING AN UPDATED SCHEDULE OF DEVELOPMENT IMPACT FEES IMPACT FEE ORDINANCE UPDATE – 1<sup>ST</sup> READING, SET PUBLIC HEARING 11/27/18**

City Attorney Kelly introduced the ordinance by title on first reading. Mayor Muckle moved to approve Ordinance No. 1767, Series 2018 on first reading, send it out for publication, and set the public hearing and second reading for November 27, 2018, 2018; Councilmember Keany seconded.

Voice vote: All in favor.

**CITY ATTORNEY'S REPORT**

None.

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

Councilmember Loo invited everyone to the sustainability lecture on November 14 about local food production.

Councilmember Stolzmann stated she attended a CDOT Region 4 meeting and learned the priority list has no nexus with the Proposition 110 list of projects. She noted the rural areas have a large say in how the transportation funds are designated. She learned the funding formula can be adjusted in each region.

**ADJOURN**

Members adjourned at 9: 15 pm.

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Robert P. Muckle, Mayor

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Meredyth Muth, City Clerk