

***City Council  
Meeting Minutes***

**December 4, 2018  
City Hall, Council Chambers  
749 Main Street  
6:30 PM**

**Call to Order** – Mayor Muckle called the meeting to order at 6:30 p.m.

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

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

**Absent:**                ***Mayor Pro Tem Jeff Lipton***

**Staff Present:**        ***Heather Balsler, City Manager  
Megan Davis, Deputy City Manager  
Kevin Watson, Finance Director  
Emily Hogan, Assistant to the City Manager  
Ember Brignull, Open Space Manager  
Kathy Martin, Recreation Superintendent  
Carol Hanson, Deputy 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 Leh. All in favor.

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

Mark Cathcart, who lives on Sweet Clover Lane, noted for himself and his neighbors, it is easier to travel to Lafayette for dinner instead of downtown Louisville. He felt the proposal for a parking garage downtown was putting the cart before horse. He suggested instead the Council look at managing the parking downtown which could include charging, then validate the need for a parking garage with feedback and solid data, work on last mile solutions, and start by dropping parking minimums for downtown development that is mixed use.

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

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

- A. *Approval of Bills***
- B. *Approval of Minutes: November 13, 2018***
- C. *Approval of Resolution No. 57, Series 2018 – A Resolution Approving the Open Space Advisory Board’s Recommendation to Boulder County Parks and Open Space Regarding 2018 Property and Trail Requests***
- D. *Authorization to Execute Engagement Letter with Eide Bailly, LLC for Auditing Services***
- E. *Authorization to Execute Engagement Letter with Eide Bailly, LLC for Internal Control and Revenue Collection Process Evaluation Services***
- F. *Approval of Additional 2018 On-Call Geographic Information System and Asset Management System Support Services Contract with Invision GIS, LLC***
- G. *Approval of 2019 Legislative Agenda***
- H. *Approval of Purchase with Compass Minerals for Additional Street Deicing Materials***
- I. *Authorization to Execute a Memorandum of Understanding with Boulder County Clerk & Recorder for the Collection and Distribution of Motor Vehicle Sales and Use Taxes***

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

Councilmember Keany encouraged everyone to attend the Parade of Lights and Art Walk this Friday night.

### **CITY MANAGER’S REPORT**

City Manager Balser also invited everyone to attend the Parade of Lights and Art Walk and take some time to enjoy Louisville’s downtown.

### **REGULAR BUSINESS**

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**MUNICIPAL CODE UPDATE REGARDING SOLID WASTE AND HAULER LICENSING & REPORTING – *continued from 11/27/18***

**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 – 2<sup>nd</sup> READING, PUBLIC HEARING (advertised *Daily Camera* 11/11/18)**

**INTERGOVERNMENTAL AGREEMENT WITH BOULDER COUNTY FOR WASTE HAULER LICENSING AND REPORTING**

Mayor Muckle noted the public hearing was held at the last meeting and Council asked staff to bring back some different language for both the ordinance and the Intergovernmental Agreement (IGA).

Emily Hogan, Assistant to the City Manager, noted this ordinance updates Title 8 of the Louisville Municipal Code to include language for current composting requirements and new licensing/reporting requirements for major haulers operating in Louisville. Staff has revised the ordinance and IGA based on Council comments from the last meeting. Staff recommends approval of the revised ordinance and the IGA.

Councilmember Maloney asked whether written notice from HOAs should be codified; is there a problem needing to be solved by doing so. Hogan had not heard of any real issues with HOA's not notifying, but is an effort to formalize the process.

Councilmember Maloney asked about the IGA termination. He thought the comments from the last meeting proposed being able to cancel within 30 days regardless of where in the cycle. Attorney Kelly said according to her notes, it was after the end of the reporting period. Councilmember Maloney felt there is a need for some sort of “out” clause.

Councilmember Keany noted written notice from the HOAs allows the City to be aware of any HOA not providing service which could become part of the City's collection program. He noted this had happened in North End and residents were seeking service on their own and were not aware they could be part of the City's program.

Mark Cathcart, 1763 Sweet Clover Lane, noted he is a director with the North End HOA and they will be switching to the City's hauling in February after their current contract ends.

Councilmember Loo noted if the HOA was only required to notify in January, it would not help if an HOA no longer provides service in April. She wondered if there was

anything in writing currently that spoke to HOAs having to provide waste collection and if adding the written notice clause is then necessary.

Councilmember Keany didn't think it was anywhere in code that HOAs have to provide service. They have an option to provide service or be on the City plan.

Attorney Kelly noted the ordinance states those HOAs providing trash and recycling services are excluded from the service and conversely if they do not then they fall under the City's program for providing waste collection service.

Councilmember Stolzmann felt notification each year might be an unnecessary burden for the HOAs. The question is how you know if service has stopped.

Mayor Muckle felt a notice to the City when service stops by the HOA would be sufficient, making it a one-time notice.

Councilmember Maloney felt the agreement should allow the City a way to exit. Councilmember Stolzmann and Councilmember Loo agreed.

Councilmembers discussed how to make the language in the ordinance clear and agreed to add "If the homeowners' association terminates such services to its residents the homeowners' association shall provide written notice to the city within thirty days."

Members agreed on new language allowing each party to terminate the IGA with 30-days' notice.

Councilmember Stolzmann moved Council approve Ordinance 1766, Series 2018 as amended. Seconded by Councilmember Loo. **Roll Call Vote** 6-0 passed.

Councilmember Maloney moved Council approve the IGA with Boulder County as amended. Seconded by Councilmember Stolzmann. **Voice vote:** All in favor.

**RESOLUTION NO. 58, SERIES 2018 – A RESOLUTION SETTING CERTAIN FEES, RATES, AND CHARGES FOR THE CITY OF LOUISVILLE, COLORADO**

Emily Hogan, Assistant to the City Manager, stated the City Council adopts a Resolution annually setting certain fees, rates, and charges for the next year. This Resolution for Council consideration sets those fees, rates, and charges for 2019. In addition to those fees approved by Council, the City Manager also sets certain fees, rates, and charges not otherwise set by the City Council. The fees set by the City Manager include such things as fees for development application reviews, recreation fees and others.

During the 2019-2020 budget process Council adopted a new financial policy which included implementation of an annual fee inflator based on the annual increase in the cost of providing services. The proposed inflator has been applied for 2019 at 5%. This

is based on the estimated cost of wages, benefits, supplies and services. The proposed changes were provided in the packet. Staff recommends approval.

Councilmember Maloney noted the Finance Committee has been discussing fees addressing costs better. They decided there should be an annual review as some fees have not been adjusted in many years. Fees should reflect costs over time.

Councilmember Maloney moved Council approve Resolution No. 58, Series 2018; seconded by Councilmember Loo. Roll Call Vote 6-0 passed. Lipton absent.

### **DISCUSSION/DIRECTION/ACTION – CITY MANAGER ONE-YEAR REVIEW EVALUATION TOOL**

Mayor Muckle asked if Council wanted to make changes to the evaluation tool and whether they wanted to use a process that involves the City Attorney and Council or hire a facilitator. He noted Councilmember Maloney had done a lot of work on this.

Councilmember Maloney felt it important to have a tool to evaluate what the Council and the Manager want to see in an evaluation. Several sources were reviewed to write this draft. It includes a tool for each Councilmember to evaluate the Manager and then those are consolidated for review by Council. The other option would be to have a third party facilitator design and implement an evaluation with all Councilmembers taking part.

Councilmember Maloney noted the tool should be reviewed and modified each year as a part of the annual contract with the Manager. He supported a 360 process.

City Manager Balser appreciated being able to work with Councilmember Maloney. She asked if there were additional items the Council would like included in the evaluation form and inquired if Council thought having a facilitator would be helpful.

Councilmember Loo asked City Attorney Kelly if this process would be confidential. The answer was yes the performance review would be conducted in executive session.

Councilmember Stolzmann asked if the individual worksheets filled out by each Councilmember could be part of the public record if the tool was used. City Attorney Kelly didn't think so but asked for time to look into that for a more definitive answer.

Mayor Muckle stated he likes the idea.

Councilmember Maloney liked the idea of picking and using a facilitator. This allows the Mayor to participate more.

Councilmember Stolzmann saw merits to both options. She wanted to talk as a group regardless of the option used. Mayor Muckle agreed.

Councilmember Leh thought a third party was a good idea and felt the past process could be improved.

Councilmember Loo favored going with a facilitator. She felt she and Councilmember Maloney would be a good team to look for a facilitator.

Mayor Muckle asked Councilmember Maloney if he was willing. He stated yes.

Council directed Councilmembers Loo and Maloney to work with HR and Deputy City Manager Davis to find a facilitator.

## **EXECUTIVE SESSION**

### **WATER RIGHTS ACQUISITIONS AND DISPOSITIONS**

(Louisville Charter, Section 5-2(c) – Authorized Topics – Consideration of water rights acquisitions and dispositions, only as to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a))

### **PENDING LITIGATION**

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

City Attorney Kelly introduced the item. The Deputy City Clerk read the statement required by City Code.

Attorney Kelly stated Section 5-2(c) of the home rule charter authorizes an executive session for the purpose of consideration of water rights acquisitions and dispositions but only as to appraisals and other value estimates and strategy for the acquisition or disposition of such rights. An executive session for this purpose is also authorized by C.R.S. Section 24-6-402(4)(a) of the Colorado Open Meetings Law.

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

Mayor Muckle moved to go into executive session for consideration of water rights acquisitions and dispositions and regarding pending litigation. The executive session will include the City Manager, City Attorney, and Water Resources Engineer.

Councilmember Loo seconded the motion. All in favor. Council went into executive session.

## **REPORT – DISCUSSION/DIRECTION/ACTION**

## **WATER RIGHTS ACQUISITIONS AND DISPOSITIONS PENDING LITIGATION**

Council returned from executive session; Mayor Muckle asked City Attorney Kelly to report.

Attorney Kelly noted that while in executive session, Council considered a water rights acquisition and staff asked to initiate a purchase of water rights. Concerning the pending litigation staff appreciates Council's feedback and will keep them advised.

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

No further report.

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

Councilmember Stolzmann noted DRCOG voted on the Transportation Improvement Program (TIP) regional allocation. The Boulder County projects chosen include Hwy. 119 improvements, including bus and Business Access and Turning (BAT) lanes on 28<sup>th</sup> St. Hwy. 52 now has a mile long queue so there will be a mile long bus jump. In Longmont on Kimbark BAT lanes will be added. The other projects chosen include improvements on Highway 7 across many jurisdictions.

Councilmember Stolzmann noted Xcel announced they will be 100% carbon free by 2050 and noted they set a record on Saturday with renewables.

Councilmember Stolzmann noted a meeting this Friday concerning FAA flight paths and she wondered if the Consortium of Cities might discuss this. City Manager Balser will be attending the meeting on Friday.

Councilmember Loo noted she and City Manager Balser attended a sustainability seminar about plastic straws led by 4<sup>th</sup> and 5<sup>th</sup> graders from Louisville Elementary. Councilmember Loo will meet with the City Manager to talk about how to present some of the ideas brought forward.

### **ADJOURN**

Members adjourned at 7:56 pm.

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Robert P. Muckle, Mayor

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Meredyth Muth, City Clerk