

# **City Council Meeting Minutes**

**February 5, 2019  
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 Chris Leh  
Councilmember Susan Loo (arrived 7:28 pm)  
Councilmember Dennis Maloney  
Councilmember Ashley Stolzmann*

**Absent:**                *Councilmember Jay Keany*

**Staff Present:**        *Heather Balsler, City Manager  
Megan Davis, Deputy City Manager  
Aaron DeJong, Economic Development Director  
Kurt Kowar, Public Works Director  
Rob Zuccaro, Planning & Building Safety Director  
Lisa Ritchie, Senior Planner  
Dave Hayes, Police Chief  
Katie Zoss, Cultural Arts & Special Events Coordinator  
Emily Hogan, Assistant City Manager for Communications  
and Special Projects  
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 in favor.

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

Fire Chief Willson stated he was here for a quarterly update. Mayor Muckle asked what the average medical call response time was. Chief Willson stated all calls are at an average of five minutes from dispatch tone to arrival on the scene. He gave a safety tip to recommend people sleep with bedroom doors closed so a fire would not follow a current into a bedroom.

## **APPROVAL OF THE CONSENT AGENDA**

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

- A.** Approval of Bills
- B.** Approval of Minutes: January 15, 2019; January 22, 2019
- C.** Approval of a Sole Source Agreement with Spronk Water Engineers for 2019 Water Rights Administration
- D.** Approval of Agreement with 9557 Paradise Lane for Water Service
- E.** Approval of Sole Source Purchase of Qwiksalt from Compass Mineral
- F.** Approval of Waste Disposal Agreement with Front Range Landfill Services
- G.** Approval of 2019 Fuel Purchase
- H.** Approval of Purchase of 2019 International 7400 Dump Truck
- I.** Approval of 2019 Sole Source On-Call Geographic Information System and Asset Management System Support Services Contract with Invision GIS, LLC
- J.** Approval of Summer Meeting Schedule
- K.** Approval of March 12 as a Special Meeting and Cancellation of March 26 Study Session

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

None.

## **CITY MANAGER'S REPORT**

None.

## **REGULAR BUSINESS**

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## **PROCLAMATION DECLARING FEBRUARY 5, 2019 CINDY DOMENICO DAY**

Mayor Muckle read the proclamation and thanked Commissioner Domenico for her service to Boulder County and Louisville. Domenico thanked everyone for the honor and recognition.

### **LIFE IN LOUISVILLE PHOTOGRAPHY CONTEST AWARDS**

Katie Zoss, Cultural Arts & Special Events Coordinator, stated 38 Front Range residents submitted photographs depicting “Life in Louisville” for the 11<sup>th</sup> annual photography contest. These photos chronicle events and daily life in Louisville from January 1 to December 31, 2018 and will be added to the City’s archives to serve as a cultural reference for future generations. All images are available for public viewing on the City’s website. 30 finalist photos were selected and put on display at the Louisville Rec Center from January 25 to February 1, 2019. The public was invited to view the photos and to vote on the People’s Choice Award winner. Each of the winning photographs document a subject unique to Louisville and represents the history, community, and sense of place that makes Louisville a great place to live.

Council presented certificates to the winners of each category.

### **DISCUSSION/DIRECTION/ACTION – FINAL MCCASLIN PARCEL O DEVELOPMENT STUDY AND RECOMMENDATIONS**

Director DeJong stated this is a final report from the consultants for the McCaslin Boulevard Parcel O. The process began in 2018 with the following goals:

- Understand the McCaslin area’s potential for retail and commercial development and supportive uses that could foster new investment and development,
- Review the rules and regulations upon properties in the area that may be limiting its full potential for redevelopment,
- Understand and incorporate the property owner’s, tenant’s, and public’s input into development and redevelopment options for the area,
- Evaluate various development scenarios, that focus on retail and commercial uses with possible residential development only as a secondary use, that meet market potential and provide exceptional fiscal benefits for the City by meeting or exceeding past tax revenue performance for the area, and
- Provide recommendations for regulatory changes or other actions that could create more certainty for the development community to encourage redevelopment.

The McCaslin Area Development Study process and final recommendations should take into account the following principles of importance to the City:

- Identify emerging markets and retail trends that will result in market supported development scenarios and that ensure the corridor continues to serve as the City’s primary retail sales tax base.

- Identify and evaluate development restrictions and regulatory and policy barriers to redevelopment and investment in the corridor.
- Ensure sustainable long-term fiscal health of the City and economic development of the McCaslin corridor by ensuring new development has an exceptional fiscal benefit to the City.
- Reflect residents' desired community character for the corridor in evaluation of development scenarios and study recommendations.

Dan Guimond, City consultant from EPS, stated the summary of the market analysis shows market conditions of sales tax trends increasing, higher than when Sam's closed in 2010. Accounting for inflation, sales tax generation is about \$150,000 above 2009. 2013 – 2017 show nearly 6 % annual growth; building materials and eating/drinking account for the majority of sales tax revenues. The six hotels in the subarea provide nearly 15 percent of sales tax generated. Convenience and shopper's goods sales are driven by the major stores such as Kohl's and Safeway.

Retail findings:

- Demand for retail from new growth over the next 10 years is 150,000 square feet
  - McCaslin Subarea has historically captured 20% of new growth
  - Estimated demand is 30,000 square feet
- Role as regional destination is diminishing
  - Limited inflow of sales other than to a few big boxes
  - New stores to the north and east are shrinking trade area
- Opportunity to attract more neighborhood/community retail stores
  - The subarea captures a relatively small amount of sales for everyday retail goods
  - Examples include additional grocery, specialty foods, beer/wine stores
- Opportunity for uses that attract more visitors to drive demand
  - Entertainment and hospitality uses will attract most visitors
  - Place-making is an essential element for attracting visitors
  - Multifamily and office uses will generate demand but to a lesser degree

Non retail findings

- Residential
  - Strong demand continues as employment growth outpaces housing growth
  - Product type and density are related to supportable rents/prices
- Office
  - Rental rates in the subarea and larger trade area have been growing steadily since 2010
  - Average rental rates in the subarea are reaching point where new development is supportable
  - Parcel O office demand likely limited to medical and community services
- Hotel
  - Limited hotel construction in past decade in the trade area

- New project in Superior indicates renewed demand
- Additional hotel supportable in next 5 years

Danica Powell, City consultant from Trestle, summarized the regulatory framework. She reviewed the regulations, both private and public, including the Comprehensive Plan, the McCaslin Boulevard Small Area Plan, the General Development Plan from 1984 with amendments over the years, the Planned Community Zone District (PCZD) zoning designation, the private covenants that require unanimous agreement from all of the owners, and additional agreements between some lot owners and some warranty deeds which prevent certain uses.

She noted permitted uses by zoning and covenants, those that might be allowed, limited uses, and those prohibited uses per the covenants.

Powell reviewed the public engagement process including meetings with various community groups, pop up stands at shops in the area and use of online platforms. They shared information about the limited uses and why along with what is changing in the market. What they heard from the community was a need for mixed-income housing, continued support for big box stores, need for more community spaces, desire for unique food and beverage venues, and make the McCaslin area more walkable and connected.

They also got comments from NextDoor which was a broader area than the immediate neighborhood. Retail, restaurants and shopping were the highest requests. They tracked the neighborhoods submitting answers.

When asked what you would like to see given the limitations and market trends, the answers included hospitality, food beverage, clothing and book store, entertainment, gym/spa, service shops, residential, office and hotel. Experience based retail, service retail, and unique opportunities with a complement to downtown or complement to other facilities. There was a lot of alignment among the groups.

Matt Prosser, EPS, presented the Alternatives Analysis in response to the market analysis and the public input. Parcel O is 44.6 acres with three large lots. He noted the criteria based on the project goals include market reality/development feasibility, community values, and strong fiscal performance. He noted the existing benchmarks include market value currently and fiscal impact of Parcel O.

He reviewed the three alternatives for the site:

- Alternative 1 – Re-Tenant, repurpose and re-tenant the big boxes, will likely need to repurpose the sites to smaller uses. Types of opportunities would be retail: liquor, sporting goods, furniture, and non-retail: fitness, entertainment, medical office uses.
- Alternative 2 – Partial Redevelopment: redevelopment of one or more larger lots with some reuse of existing buildings. Combination of parcels could be involved.

Remainder redeveloped/repurposed for some retail, small hotel, small retail, and 245 multifamily housing units on 7 acres.

- Alternative 3 - Major Redevelopment: Comprehensive redevelopment of Parcel O into mixed use development with existing retailer and businesses integrated. Assumptions of some retail space, some entertainment or fitness use, small hotel, office space and 525 multifamily housing units on 15 acres.

Councilmember Maloney asked if the land value has gone up from the 2014 price and noted it is currently on the market for much more than that. Prosser stated it might represent what the value would be under redevelopment versus just a retail scenario.

Councilmember Stolzmann asked what is inducing the demand for retail in the scenarios and how does development in Superior affect these options.

Prosser reviewed the summary table of the different alternatives. He reviewed the market support and challenges in each alternative:

- Alternative 1 – demand for larger regional retailers is limited, buildings not conducive to retail requirements, covenants do not support some uses.
- Alternative 2 – mix and amount of uses supportable, substantial demand for hotel and multifamily uses, General Development Plan (GDP) and private covenants need to be changed.
- Alternative 3 – mix and amount of uses supportable over a longer 5-10 year period, allows for better orientation of McCaslin Boulevard, assembly of all properties presents a major challenge and GDP and covenants need to be changed.

Financial Feasibility:

- Alternative 1 - residual land value = \$7.40 per sf, leasing vacant spaces may take longer than desired; ask price for Lot 2 limits redevelopment feasibility.
- Alternative 2 – most financially feasible, residual land value = \$10.94 per sf, hotel and multifamily provide highest land value, mix of uses increases attractiveness and value.
- Alternative 3 – residual land value = \$10.12 per sf, hotel and multifamily provide highest residual land value, office produces the lowest residual land value, assembling the parcels could be challenging and cost may make such a project infeasible.

Fiscal Impacts:

- Alternative 1 produced \$17.9 million over 20 years or \$895,000 per year.
- Alternative 2 produced \$18.5 million over 20 years or \$925,000 per year, strongest fiscal benefit.
- Alternative 3 produced \$14.8 million over 20 years or \$740,000 per year, model shows residential uses trigger marginal cost demand to city services.

Councilmember Stolzmann asked why alternative 2 would not support a marketplace concept. Prosser stated it might work but would be more challenging to try to come up with uses that would produce more revenue than cost. These are generally organically driven and it is a potential space for something like that but need an active property owner to work with and driven by either developer or property owner. It would be a challenge to produce the returns to take the financial risk.

Councilmember Stolzmann asked in Alternative 2 what the limitations are on a hotel there today. If it is allowed why has no one built one here. Prosser stated perhaps the owner doesn't want to take on redevelopment of the remaining part of the site. Director Zuccaro stated the current height limit is 35 feet in the design guidelines and might affect that use. Zoning allows hotels, but there is a financial feasibility issue and height issue.

Councilmember Stolzmann asked if there has been any interest with the current owners with any of these alternatives. Prosser stated there is some interest but they are interested in community input and more flexibility for some different alternatives.

Councilmember Maloney noted the current hotels are flattening in their taxes and asked if it is at saturation. Prosser stated from their data, hotels are growing and contributing to the sales tax collection in the area. Hotel growth is cyclical and there is some renewed demand for hotels.

Councilmember Loo asked if we have the population that is needed to make a marketplace type use work. Prosser stated there seems to be the community support for it, there is demand, but not sure about the density needed for a marketplace. These take a lot of risk. There needs to be an owner or developer passionate about this type of project. The City may need to incentivize such a use.

Ms. Powell noted the owners have said they want predictability in the process. She added marketplace ideas are getting smaller and will likely need to be part of a larger environment.

Powell reviewed the Community Support sections.

- Alternative 1 – showed limited community support for additional big boxes, does not achieve desired pedestrian friendly, walkable environment; lacks local, unique retail environment and experiences.
- Alternative 2 – entertainment and retail supported; limited support for big boxes, some community amenities can be added but remains auto-oriented; does not fully support desired environment.
- Alternative 3 – meets desire for entertainment and experience based uses, major site design can incorporate desired community amenities and connections; supports a diverse range of uses.

Councilmember Leh asked what the community support was for residential development in Parcel O. Powell stated residential did come up in a mixed use setting, particularly

senior housing, downsizing housing, affordable housing. Not much support for large standalone apartment complexes.

Mayor Pro Tem Lipton asked what is the role of housing in making this redevelopment successful. He asked how the number of units was determined for the overall success of the redevelopment. Prosser stated there is no perfect answer how much is needed to support the retail. Dwelling units in the redevelopment drive the financial feasibility; adds vitality to the area at times not currently being seen. Residential creates demand at later hours, throughout the day, on weekends, and diversifies the demand times.

Mayor Pro Tem Lipton asked given the fact Superior and Broomfield are adding housing units, how does this small number make this work. Prosser stated it is the integration with other uses that makes it financially feasibility; it is a desired use that supports other uses and vitality. Finding ways to diversify the users in the area can help make the site more attractive to retailers.

Mr. Guimond added the residential use is at a minimal increment for a developer to get it to operate at a reasonable level.

Guimond summarized the alternatives and next steps. He felt the big boxes would have been filled by now if it were not for the GDP and the covenants. He summarized the Alternative Analysis:

- Private covenants are likely a barrier in all scenarios and need to be addressed
- Re-tenanting may be achievable but does not support community desire
- Partial re-development is the most market supportable and a fiscal performer if the GDP and covenants are addressed but does not fully support community desires
- Major redevelopment meets the community desires but would occur over time

Recommended Implementation Steps:

- Modify the GDP and development agreement to allow for greater variety of uses, multifamily housing and greater density on site as incentive for retail development
- Provide an additional density allowance and greater allowance for non-sales tax generating uses within redevelopment projects that provide community amenities or enhance connectivity
- Modify focus on supporting and growing retail base to include focus on community-oriented uses
- Work with Parcel O property owners to modify the CCRs to allow for an expanded mix of retail and non-retail uses
- Invest in public improvements and amenities that allow Parcel O to succeed in an evolving commercial market

Public Comments



Ryan Atkin, lives in Superior and works for Real Capital Solutions on McCaslin Boulevard, stated the marketplace concept is cool, but the challenge here is unique because there is not the density of those locations. Within one mile of Stanley Marketplace there are 30,000 people but here it would be 7,600 and going further out there is still the density issue. He stated housing projects would work well but should consider condos or townhomes which would be desirable. This would give people the chance to get on the housing ladder and would be less expensive than Boulder. This is a great place to live, housing would be a good use at this location. We need a comprehensive solution.

Jeff Sheets, Koelbel and Company, 5291 E. Yale Avenue, stated the market is not filling the location so we need to consider the retail market is dynamic and is changing. This area is no longer a regional draw as it was 15 years ago; there is too much competition. We are left with community retail which is not the size and scale of what we have here. Carving up the boxes will be a challenge. His company will actively market the Kohl's store but trying to get a large store will be difficult. Alternative 1 is status quo, Alternative 3 is not likely achievable. That leaves Alternative 2. Louisville needs to take the lead in the GDP amendment, not the developers. The owners will take the lead on the private covenants because they are outdated.

Councilmember Leh asked what kinds of uses Sheets would like to see. Sheets stated a residential component would be integrated. That is what business parks are all doing. We need to make it a community draw. Other uses could be medical, a hotel, or variety of other uses. It will take the City and the private land owners to make this work. We don't have the density to do a large food hall; maybe a smaller one could make sense.

Cindy Bedell, 662 West Willow Street, stated she attended many Small Area Plan meetings and wondered why Council is considering scenarios that weren't considered in the Small Area Plan when the area is now producing sales tax. High density residential was taken out of the Small Area Plan because there was no community support. Livable small town feel does not support taller buildings. She asked what the occupancy rate is of other apartments as she had heard it is low.

John Pino, lives in Superior and works at Real Capital Solutions, stated retail is not dying it is just changing. He stated it is clear what existed there no longer functions. He also agreed challenges are low density, competition, poor access and visibility. He stated Superior is already challenged to fill its new retail because of the lack of density. A marketplace would be great but it would need to be smaller. A mix between Alternatives 2 and 3 is more viable with a strong residential component. There needs to be a good mixed use environment but retail there will be smaller than what it is currently as the numbers don't pencil out. There are a lot of these types of underused areas across the country.

Councilmember Maloney stated Sam's has been gone for 9 years, Kohl's is leaving, and this corridor is important for our long-term economic sustainability. It is time to do something as a Council. Council asked for this study and the goals have been met.

Councilmember Maloney recommended moving ahead with a discussion of Alternative 2. It is not the first choice to have residential, but we have unmet needs for senior housing and multi-income housing. We can address the GDP but will need the property owners to help with the covenants. There are a number of things in the fiscal analysis that need to be clarified and refined to clearly understand the fiscal impacts.

Mayor Muckle stated what we have been doing is not working. He wanted to be clear we have tried very hard to re-tenant the Sam's club; have talked to many tenants and developers. There is no evidence this is going to work as we have been doing it. We need to take a new tack on this. He stated he was not a huge fan of additional residential, but it is quite clear we likely need some residential to get this moving. We need to look at the GDP to give better options for a developer to get this moving. Supported a GDP amendment during the next few months.

Councilmember Stolzmann asked if a GDP amendment would require an ordinance. Director Zuccaro stated yes.

Councilmember Stolzmann stated we have a lot of input from the community for the Small Area Plan that is not in line with some of these alternatives. She stated her concern is moving forward with a GDP amendment does not solve the issue of the asking price and the ability to tenant it with something that would perform; she would like to do something to meet expectations of both the owner and the City. She thinks many of the problems with re-tenanting is due to the covenants. She would not like to throw out Alternative 1, but would like to keep 1 and 2, perhaps a hybrid. She would like the Finance Committee to explore fiscal options. She is concerned the path forward does not address the covenants and the imbalance between what the market will bear and the sales price. She would like to explore some of the barriers to re-tenanting such as outdoor sales limits.

Councilmember Leh stated we are trying to find the intersection of permitted uses, market analysis, and public input. The community doesn't want high density housing, perhaps senior or patio home uses would work. There is community concern there is nothing to help activate that area. The market analysis is sobering to fully understand we are not a regional draw and our density is never going to allow for that. City Hall and the Council don't drive the development, these are larger market forces and the covenants are a real impediment. We have to take some action here to help get something to happen; we can't wait for the market. We have to find something fiscally sustainable for the long haul. This corridor supports City services and we can't pretend we don't need it. Alternative 2 is a path or part of the path.

Mayor Muckle moved to direct staff to initiate a GDP amendment to allow for community supported uses allowed for in Alternative 1 or 2 and working with property owners on the covenants. Councilmember Loo seconded.

Mayor Pro Tem Lipton stated Parcel O has been an issue since 1984. Things are different now than in 1984 and those aspirations have changed. The market reality is much different than the planning that got us here. What we do here sends a message to the whole corridor which is critical to our long-term success. What we have been doing isn't working; he would like to remove Alternatives 1 and 3. We need to find something that works in the next 2-3 years. He suggested Alternative 2 or something very close to it to give us a roadmap to understand what actions we need to make get it moving. Alternative 2 or something similar is the only practical option.

Mayor Muckle stated he agreed. The only part of Alternative 1 that might work is an option for re-tenanting that might work with the removal of some covenants or changes to the GDP. Mayor Pro Tem Lipton felt working with Alternative 2 might allow for some of that as well.

Mayor Muckle repeated the motion: staff to initiate a GDP amendment to allow for the market and community supported uses shown in Alternative 2 leaving Alternative 1 as an option. Mayor Pro Tem Lipton offered friendly amendment to direct staff to initiate a GDP amendment to allow for the market and community supported uses shown in Alternative 2. Mayor Muckle noted the motion would also include directing staff to begin working with the owners on the covenants. Councilmember Loo agreed with amendment.

Councilmember Stolzmann would like to include tenanting not currently allowed in the GDP. Why not explore those options and not take Alternative 1 off the table.

Mayor Muckle restated the motion to direct staff to initiate a GDP amendment to allow for the market and community supported uses shown in Alternative 2 and to work with the property owners to modify private covenants.

Councilmember Stolzmann offered a friendly amendment to say within the alternatives. Mayor Pro Tem Lipton seconded for purposes of discussion.

Mayor Pro Tem Lipton asked Mayor Muckle to reframe the motion to somehow not eliminate the uses under Alternative 1.

Mayor Muckle made a motion to change it to include within the alternatives.

**Vote:** Motion failed 1 -5; Council Member Stolzmann voting yes

Members voted on the original motion with Mayor Muckle adding without precluding re-tenanting. Councilmember Loo accepted the change.

**Vote:** Motion passed 5-1; Councilmember Stolzmann voting no.

**ORDINANCE NO. 1769, SERIES 2019 – AN ORDINANCE AMENDING TITLES 5 AND 17 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING MEDICAL AND RETAIL**

**MARIJUANA BUSINESSES – 2<sup>ND</sup> READING, PUBLIC HEARING (advertised *Daily Camera* 1/13/19)**

Mayor Muckle introduced the item and opened the public hearing.

Director Zuccaro stated this is to update both the medical and retail marijuana regulations. It amends Title 5 (Licensing) and Title 17 (Zoning), amends the Medical Regulations First Adopted in 2011 and Retail Regulations First Adopted in 2013. He reviewed the current regulations.

The proposed regulations would allow medical and retail sales in certain zone districts, create a 500-foot buffer from designated uses; and allow for a store up to 5,000 sf. It would allow for manufacturing in certain zone districts and require ventilation and odor control requirements. It would allow testing in certain zone districts with ventilation and odor control requirements. It would allow cultivation only in the I zone also with ventilation and odor control requirements.

Director Zuccaro reported the Planning Commission reviewed the ordinance and recommended approval with the following conditions:

1. Limit the number of stores to 8.
2. Remove the requirement for 1,500-foot spacing between stores.
3. Maintain the current buffer distance of 1,320 feet and maintain the current buffer requirements between stores and public or private preschools, elementary, middle, junior high, or high school; public playground or outdoor pool; an outdoor education facility serving children; an alcohol or drug treatment facility; the principal campus of a college, university, or seminary; or a residential childcare facility.
4. Require a Special Review Use (SRU) for retail and medical manufacturing the C-B zone district.

Director Zuccaro stated staff recommends approval with the following changes:

1. Limit total cultivation within the City to 150,000 sq. ft. of building area.
  - Ensure adequate staff resources to oversee licensing, odor mitigation, and any potential code enforcement.
  - Helps to ensure diversity of uses in industrially zoned areas.
  - Limit could be modified in future if there is demand and staff capacity.
2. Place cultivation excise tax on ballot in November.
  - Tax would help provide funding for indirect administrative, enforcement and public safety costs.

Councilmember Loo asked if the 150,000 sf limit for cultivation could be in one single facility. Director Zuccaro stated it could be one user or multiple smaller users.

Councilmember Maloney asked if the citizens vote for an excise tax would solve the first issue, would then have more resources to cover requirements. Director Zuccaro stated

staff doesn't know how much an excise would get us, and it would likely be used to supplement staffing and education.

Director Zuccaro suggested the following discussion items:

1. Increase to allow store size to 5,000 square feet
2. Align allowed districts for testing and manufacturing
  - Allow manufacturing in I district
  - Require SRU for manufacturing in C-B instead of use by right
3. Change limits and buffers for sales
  - Limit on number of stores and/or spacing between stores (no limit with 1,500 but spacing; or no spacing with 8 store limit)
  - Preferred buffer distance (1,320; 1,000; or 500 feet)
  - Buffer from currently designated list of uses or a modified list of uses
4. Allow manufacturing in I district
  - Limit total cultivation in City to 150,000 sq. ft. of building area
  - Direct staff to draft excise tax measure for November ballot

#### Public Comments

Virginia Caranci, 1101 Main Street, stated she can't believe Council would consider more marijuana shops. The current ordinance is working. She feels 8-14 more shops is the wrong way to go. People move here to have safe, happy town to raise children. She doesn't want shops close to the things that involve our children.

Pattie Ross, 3361 West Monmouth, Englewood, stated most people are fine with what we have, but don't want more shops. She understands people want parity with alcohol but felt it is really about sales tax. There is mounting evidence that for every dollar brought in we spend more on marijuana related issues. Cultivation has environmental issues including emissions and water usage. High potency marijuana is more addictive and newer products are higher in THC. It is dangerous stuff. There are additional public health and social problems. Young people are affected by this. You can't be family friendly and allow this. She doesn't want these shops by our kids.

Dale Ferguson, on behalf of Dave Ferguson, stated he uses CBD oil and it is a great help for arthritis. However we only need a couple outlets to supply what we need in Louisville.

Richard Mackay, 884 W. Tamarisk Street, stated he is opposed to regulation changes. He objects to staff saying uniformity is needed in the code. He is aware residents voted for it but many did not and their views are not being considered. He referred to past minutes saying it does not represent our community and lacked well thought out debates. He urged Council to reconsider.

Sharon Reese, 765 Pinehurst Court, stated his opposition. A 500-foot buffer to schools is ridiculous. Many teens have serious issues with pot some after just one use. She read a note from a friend about the effects on youth. Ms. Reese was mortified about signs at

McCaslin advertising marijuana. Should be keeping it away from kids with developing brains. She noted marijuana can lead to psychosis in youth.

Don Ringle, 994 Arapahoe Circle, stated his opposition. Don't change what is not broken. We don't need to change what we currently have in place, vote no on changes. Find another way to generate revenue. Marijuana can lead to higher forms of abuse and addiction. Doesn't make sense to make to add to the current regulations.

Cindy Thomas, 1245 Grant Avenue and owner at CTC with Etkin Johnson, also president of CTC board. Stated CTC is a class A business park today with many national companies. If changes are made to allow for cultivation, testing and manufacturing of marijuana, it will degrade the value of the buildings already there and impact the value from a debt and equity perspective since it is still federally illegal. The owners association feels the covenants allow them to deny the use in the park.

Deanna Marx, 933 St. Andrews Lane, stated her opposition. She is raising grand children in Louisville and agreed to raise them because they would be safe here and she wants it to remain that way.

Marianne Kranker, 680 W. Hickory St., on behalf of her extended family asking for a no vote. Since 2009 Louisville has been voted a great place to live and has invested in many amenities; a vote for this would tarnish the reputation of the community.

Eric Fowles, has lived here 20 years with 6 kids, picked Louisville for the family friendly atmosphere and as a marketer and brand consultant he thinks this will affect the town. Allowing more pot will reduce the brand we have tried to build. Why not ask residents what they want. He has not heard any reasons why this would be good for the community; keep it as it is.

Evan Anderson, 4730 Table Mesa, Boulder, stated he was 10 years as a business owner. Doesn't hear opposition to hemp or CBD. Need to acknowledge the history of hemp. Ten years in this industry and invested in this community. He noted the industry exists and operates with the most restrictive regulations and they want to be here.

Dan Waldrip, 1172 Grove Ct., said this deserves the same study as the McCaslin Boulevard study. Represent the people; this is a small town and quality of life is everything. He has found no one who wants change. People want small town activities with their kids not a pot-centered economy. Money is not more important than safety and quality of life.

Bradley Spiedell, chief sales officer of the Green Solution, stated they have 17 dispensaries in Colorado. It is Important to know people who sell this are responsible vendors. If licenses are available, they should go to responsible vendors; those who do proper ID checks. He noted his company is a responsible member of the community.

Education is important as is parental responsibility. He wanted to note there are people doing this the right way.

Donna Hammond, a Louisville native, noted she loves this town. She noted she is a caregiver and has bought medical products for clients. She wonders how the businesses operate in just cash and how the City gets taxes.

Cindy Bedell, 662 West Willow Street stated she was recently approached by a panhandler and noted he took cash to go to the pot store. She stated she recently saw a man sitting in his car on Main Street smoking from a bong. She would like marijuana kept away from kids and not closer to schools. She is concerned about odor from manufacturing facilities.

Christopher Tew, 2395 Evans Ave., stated he is concerned about underage access to marijuana. The best way to keep away from youth is to responsibly regulate.

Ted McDonald, 851 W. Mulberry St., has seen enough marijuana use to see a negative impact. It seems to lead to negative impacts. Driving under the influence is a huge problem. It can lead to a lot of destruction.

Michael Deborski, 601 Pine Street, felt those opposed to the changes are preserving values, those in support want to make a buck. This does not preserve our town values. The ordinance would forever change Louisville. He urged Council to preserve our community.

Jean Morgan, 1131 Spruce Street, in a world of rising addiction the City should not allow up to 15 stores. A buffer zone reduction is irresponsible and should keep pool, daycares, etc. She wants to be sure odor is regulated from cultivations. There are not long lines from current stores. She read a comment from Angela Headley asking to think about the kids, more crime, impaired driving. Don't allow near parks.

Laura Wolton, 1112 Hillside Lane, doesn't agree with the ordinance and met with neighbors who agreed. The neighborhood doesn't want pot shops closer to their street, they are worried about property values, don't reduce buffer or have unlimited number of stores. There is no reason for it to be sold next to schools, daycares, or parks. Alcohol is legal in all 50 states, pot is not. Existing stores are enough. Please vote no.

Teresa Peck, 1316 Franklin Avenue, asked why Council wants to decrease buffers, why allow bigger stores and cultivation. Is it being driven by money? What is the purpose of such an expansion?

Timothy Hjelstrom, St. Louis pastor, felt this is the wrong message for our young people. He has seen destruction from this and gets the calls from families that need help. It can change the nature of the town and community. This ordinance seems to undermine the good and invites other vices into the community. He encouraged Council to say no.

Councilmember Stolzmann stated there are a variety of outlooks on this topic. She has spoken to many people. Most who are against it don't want marijuana at all or have had problems with their kids. She had a hard time drawing a parallel between stores and problems with youth. She noted she never used it and voted against legalization of marijuana, but people voting for said they want it regulated like alcohol. It is here and we do need to regulate it. There are still problems in cities that have banned it. She sees a lot of logic aligning with liquor regulations. She is supportive of the changes as written.

Councilmember Loo stated she thinks the buffers should be 1000 feet to align with Federal rules. She would support limiting the number of stores from 6-8. She is in favor of cultivation; if done right there is no smell. She would like to see some limitations on the size of grow operations. She would support an excise tax ballot question.

Mayor Muckle stated the testimony is significant. He doesn't support substantial changes to what we have now.

Councilmember Maloney stated he heard a lot about public safety and asked Chief Hayes if there are concerns with what we have or an expansion. Hayes stated from the two establishments we have; there have been maybe two calls to the stores. The business seems to run without law enforcement intervention; at the same time we have seen higher use and an increase in driving under the influence.

Mayor Pro Tem Lipton stated it is unfortunate this has demonized those who use it legally and appropriately. It is the same set of issues as alcohol use if it is over used. He is not sure why we are singling out this industry. He represents those who don't use or support it and those who do; but we overwhelming voted to legalize. We have no violations and it is not available to those who shouldn't have it. We don't need wholesale changes, but there is some sentiment for a few more stores. He likes the 1000-foot buffer. He has concerns about spacing between stores so there is no concentration of stores in one area. He supports allowing manufacturing and testing. He supports the excise tax measure in part to pay for costs and funding other related things. He doesn't support an unlimited number of stores, fewer can maintain character; but more flexibility than what we have today would be good.

Councilmember Leh asked Director DeJong what Business Retention & Development Committee had to say on this topic. Director DeJong stated the committee's recommendation were a ¼ mile buffer from existing land uses, 1500 buffer between stores, and no cap on the number as the buffers will take care of that. Regarding cultivation the committee was tied on that.

Councilmember Leh stated it is legal in Colorado; our regulatory efforts to date are working; the industry does adhere to the regulations and keep minors from accessing the stores; there is no appreciable rise in crime based on the stores. Now we have to decide what is right for our town. The public reaction to the draft ordinance has been great and



what resonates the most is “if it ain’t broke don’t fix it.” It makes sense to reevaluate it but it makes sense to take the temperature of the community. He has heard significant changes to the current regulations are not supported.

Councilmember Leh was not supportive of increasing store size, supports aligning testing and manufacturing, not sure we are ready for cultivation and manufacturing, and suggested some polling on an excise tax. A buffer consistent with federal law is appropriate and he does not want to further limit designated list of uses for the buffers. He heard loudly that people don’t want much if any increase in the number of stores we allow. He felt we should listen to the community that doesn’t want large changes.

### Public Comments

Jessica Toberman, works at Ajoya Dispensary, addressed the increase in store size. Stating Ajoya would like to increase space only to build out for office use and storage, not retail sales space.

Cyndi Thomas, 1245 Grant, noted people shouldn’t mix and match hemp and marijuana. Hemp is legal federally.

Elizabeth Stahr, 549 Lincoln, noted she would know what was in a beer she might drink but was not sure the ingredients in a marijuana edible would be identified. She was concerned about the psychosis and other things possibly caused by marijuana.

Jody Ringle, 994 Arapahoe Circle, the comment it is here to stay doesn’t mean it is right. She worried about the message we are sending to our children.

Pattie Ross, asked why those in support of this have not shown up tonight. Municipalities get to decide what they want to do. The crime rate around the City seems to be going up and asked if it is related to marijuana. The advertising is what makes youth interested, we must pay attention to that.

Ted McDonald, 851 W. Mulberry Street, was concerned about the public safety and driving under the influence of both alcohol and marijuana.

Brad Speidell, the Green Solution, noted their stores always try to follow the rules and he commended the research that had been done on the subject.

Michael Deborski, 601 Pine Street, felt many would never approve Amendment 64 again knowing what we do now. He encouraged Council to listen those who have spoken out.

Abeer Tarazi, 2791 Whitetail Circle, Lafayette, wondered why the rush to allow more stores when the four allowed are all not operating. She noted the licensing regulations for marijuana allow someone to own more than one.

Michele Logan, 816 West Mulberry, mom of three, noted she was not opposed to marijuana or demonizing store operators. She said even voters who approved this initially may not want it expanded. She asked if data might show the impact of more and larger shops will increase unlawful use by youth. She advised caution and moving slowly.

Tyler Vines, Westminster, noted she works in the industry and has not felt unsafe. The industry is heavily regulated and operates very safely. The State does compliance checks on a regular basis.

Sharon Reese, 765 Pinehurst Court, expressed concern about the edibles and marijuana and what might happen when it leaves the shop. She was also concerned marijuana could be the gateway to other things.

Dan Waldrip, 1172 Grove Court, asked Council not to dismiss the people who have spoken in opposition. He wanted more public engagement.

Mayor Muckle closed the public hearing.

Councilmember Stolzmann moved to approve Ordinance No. 1769, Series 2019 amending the spacing to the 1000-foot buffer; Councilmember Loo seconded.

Members reviewed each item individually:

- Increase store size – Councilmember Leh opposed
- Aligning medical and retail zone testing and medical – no opposition
- Changing buffers to 1000 feet – no opposition
- Leave current ¼ mile buffer regulations including parks, etc., the more expansive list – two in favor

Mayor Pro Tem Lipton asked about the practical consequence; he would like more information. Do we have preschools in commercial areas that create a large buffer?

Mayor Muckle thought this list and a good buffer would go a long way to making the community happier; alternatively we can limit the number of stores.

Mayor Pro Tem Lipton noted there is a concern about buffering from schools and he supported increasing that.

Councilmember Stolzmann stated the Federal 1,000-foot buffer is reasonable and addresses many of the comments.

Director Zuccaro noted the Federal buffer list includes:

- Within 1,000 feet of:
  - a public or private elementary, vocational, or secondary school
  - a public or private college, junior college, or university,

- a playground, or housing facility owned by a public housing authority,
- Within 100 feet of:
  - a public or private youth center,
  - public swimming pool, or
  - video arcade facility

Councilmember Maloney stated the Federal rules seem more reasonable. Mayor Muckle asked if that would be acceptable to Councilmember Stolzmann.

Councilmember Stolzmann stated she supports 1000 feet from schools.

Mayor Pro Tem Lipton asked what other communities are doing. City Clerk Muth noted it varies by community.

Mayor Muckle made an intervening motion that Council use the controlled substances act list (federal list) for the 1000-foot buffer; Councilmember Maloney seconded.

Councilmember Stolzmann spoke against the intervening motion stating the list is excessive. She supports 1000 feet from schools only.

Councilmember Maloney prefers a definition for the buffer from other stores and schools but not preschools and kindergartens.

Voice vote on intervening motion: Councilmember Leh and Mayor Muckle in favor, motion dies.

- Spacing between stores versus limit on number. Director Zuccaro stated a 1500 buffer between stores would mean no single shopping center would have more than one, versus a simple limit on the number which might create a district.

Mayor Muckle supported 1500 feet spacing and limit of 6 stores. Councilmember Loo and Councilmember Maloney agreed.

Council supported a limit of 6 stores and 1500 foot spacing.

- Cultivation

Councilmember Leh moved to go to the voters on cultivation and the excise tax, including a note that the City would not move forward with cultivation without the excise tax. Mayor Muckle seconded.

Councilmember Maloney agreed.

Councilmember Stolzmann clarified staff would remove cultivation from the proposed ordinance and draft language for a vote in the fall.

Vote: All in favor.

City Manager Balsler reviewed the motion as amended to approve an increase in store size to 5000 square feet, align the testing and manufacturing rules, include buffers from schools at 1000 feet, include 1500 feet between stores, and a limitation of 6 stores. The cultivation and excise tax will not be included in this ordinance and staff will draft language for the November ballot concerning those.

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

Councilmember Leh moved to reconsider. Councilmember Stolzmann seconded. Councilmember Leh withdrew the motion.

Councilmember Loo left the meeting at 12:05 am.

**ORDINANCE NO. 1770, SERIES 2019 – AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE REGARDING LOT COVERAGE STANDARDS FOR THE RESIDENTIAL ESTATE ZONE DISTRICT – 2<sup>ND</sup> READING, PUBLIC HEARING (advertised *Daily Camera* 1/13/19)**

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

Planner Ritchie stated the 2018 City Council Work Plan included a review of Residential Estate (RE) Zone District standards related to lot coverage with the intent to reduce the significant number of nonconformities. This affects approximately 1,750 residential properties, roughly 53% exceed the maximum allowed lot coverage of 20%, properties over 20% cannot expand without a variance, and 53 homeowners have sought a variance and many more regularly inquire.

The RE Zone District standards require a minimum lot size of 12,000 square feet and a maximum lot coverage of 20%, along with other standards such as setbacks and height. The RE Zone District has been in place with the same yard and bulk standards since at least 1976. Ordinance 1147, Series 1994 also prohibits the City from rezoning properties to RE when the City updated its residential zone district standards.

There are 27 subdivisions, along with a handful of replats and smaller subdivisions, with properties zoned RE. The City platted these areas between 1959 (Scenic Heights) and 1995 (Centennial II). There are three platted subdivisions that do not have accompanying PUDs, including Louisville North, Ridgeview, and Continental Estates. These three subdivisions generally meet the minimum lot size standard. However, as the City approved newer subdivisions with accompanying PUDs, the City also approved plats with smaller lot sizes than is supported by the underlying zoning. When analyzing existing conditions for lot size and lot coverage, a substantial portion of RE properties do not comply. Ritchie reviewed the public outreach.

The proposed ordinance does the following:

- For a lot having a lot area of less than 5,000 square feet: 35 percent
- For a lot having a lot area of 5,000 to 9,000 square feet: 30 percent, or 1,750 sf whichever is greater
- For a lot having a lot area of 9,001 to 12,000 square feet: 25 percent, or 2,700 sf whichever is greater
- For a lot having a lot area of 12,000 square feet or greater: 20 percent, or 3,000 sf whichever is greater (the 20% lot coverage max gets applied at a 15,000 sf lot)

Staff recommends approval of the ordinance.

Public Comments – None.

Mayor Muckle closed the public hearing.

Councilmember Stolzmann moved to approve Ordinance No. 1770, Series 2019, Mayor Pro Tem Lipton seconded.

Mayor Muckle asked if staff thinks we'll see significant changes to the neighborhoods. Ritchie said no, staff does not expect significant changes.

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

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

None.

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

None.

#### **ADJOURN**

Members adjourned at 12:13 am.

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Robert P. Muckle, Mayor

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Meredyth Muth, City Clerk