

# ***City Council Meeting Minutes***

**September 17, 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**  
                              **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**  
                              **Kurt Kowar, Public Works Director**  
                              **Rob Zuccaro, Planning & Building Safety Director**  
                              **Lisa Ritchie, Senior Planner**  
                              **Felicity Solvoski, Planner I**  
                              **Dave Hayes, Police Chief**  
                              **Meredyth Muth, City Clerk**

**Others Present:**    **Kathleen Kelly, City Attorney**

## **PLEDGE OF ALLEGIANCE**

Scout Troop 69 led everyone in the pledge of allegiance.

## **APPROVAL OF AGENDA**

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Councilmember Stolzmann. All in favor.

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

Chief John Willson stated the Fire District will be asking voters in November for a 3.90 mil levy increase to bring on a second full time engine, update equipment, start a para-medicine service for the community, and recruit/retain employees. He reported October 6-12 is Fire Prevention week and the theme is not everyone can be a hero so plan and practice your escapes.

Mayor Muckle noted the Fire District is an independent entity from the City and does not receive City funding.

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

MOTION: Mayor Muckle moved to approve the consent agenda. Councilmember Loo asked for an amendment to the September 3 minutes. Mayor Muckle moved to approve with that amendment; seconded by Councilmember Maloney. All in favor.

- A. *Approval of Bills***
- B. *Approval of Minutes: August 27, 2019; September 3, 2019***
- C. *Approval of the First Amendment to the Agreement with the Humane Society of Boulder Valley, Inc. for Animal Impoundment Services***
- D. *Approval of Resolution No. 30, Series 2019 – A Resolution Approving the 2019-2020 Contract for Project Edge and Other Mental Health and Elder Services with Community Reach Center***
- E. *Approval of Proclamation for Constitution Week***
- F. *Approval of Resolution No. 31, Series 2019 – A Resolution Approving a Preservation and Restoration Grant for the Harney House Located at 620 Grant Avenue***
- G. *Approval of Changes to the City Council October Meeting Schedule***
- H. *Approval of Purchase of Truck Mounted High Pressure Sewer Cleaner***

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

Mayor Muckle noted there will be a joint meeting with the Superior Board of Trustees concerning airport noise on September 30 at 7:00 pm at the Rec Center.

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

City Manager Balsler asked Director Kowar for some updates. Public Works Director Kowar noted the pier system at Coyote Run Open Space has been installed and the slide has been stabilized. Grading work has been completed to return a more natural look; some additional grading and seeding still coming.

Republic Services is in the third week of taking over the trash service and overall things are going well. Customer service calls have decreased to a level allowing calls to be taken care of as they come in. Collection is going well with a small number of missed pickups as the drivers learn the routes. Saturday was a large item pick up day which was heavily used; some items were missed and had to be picked up after Saturday.

**REGULAR BUSINESS**

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**ORDINANCE NO. 1783, SERIES 2019 – AN ORDINANCE AMENDING CHAPTER 17.68 OF THE LOUISVILLE MUNICIPAL CODE TO REQUIRE OIL AND GAS OPERATOR REGISTRATION – 1<sup>ST</sup> AND FINAL READING – PUBLIC HEARING – Adoption as Emergency Ordinance**

**AN EMERGENCY ORDINANCE AMENDING CHAPTER 17.68 OF THE LOUISVILLE MUNICIPAL CODE TO REQUIRE OIL AND GAS OPERATOR REGISTRATION AND TO PROVIDE FOR A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, OR APPROVAL OF ANY LAND USE APPLICATIONS, OR ISSUANCE OF ANY SPECIAL USE PERMIT, RELATED TO THE USE OF PROPERTY WITHIN THE CITY FOR OIL AND GAS EXPLORATION, EXTRACTION, AND RELATED ACTIVITIES UPON RECEIPT OF AN OPERATOR REGISTRATION**

**OR**

**AN EMERGENCY ORDINANCE AMENDING CHAPTER 17.68 OF THE LOUISVILLE MUNICIPAL CODE TO REQUIRE OIL AND GAS OPERATOR REGISTRATION**

City Attorney Kelly introduced the item by title noting both titles. This is an emergency ordinance that with enough votes can go into effect immediately. She stated Option A adds language so that a moratorium would be triggered immediately by an application.

Mayor Muckle opened the public hearing.

Planner Ritchie stated new State Regulations from Senate Bill 19-181 “Protect Public Welfare Oil and Gas Operations” allows greater local control over oil and gas wells. She stated the Louisville code, last updated in 1995, requires Special Review Use approval for drilling. She noted there is no current drilling or actively producing wells in Louisville and there have been no active permits filed for our jurisdiction since 1999. Given the new rules, many surrounding jurisdictions are developing new regulations for Oil and Gas, and many are under moratoria. City Council discussed this last on July 30.

Staff proposes two options, both include requirements for Oil and Gas Operator Registration. Option A includes language that triggers a six-month moratorium upon the filing of an operator registration. Option B does not. Both include requirements for a good faith estimate on the number of well sites and wells within 5 years; a map showing locations; well estimates; information demonstrating capability to meet requirements; a requirement to update information as necessary; and a requirement to reapply after 5 years if no application has been submitted.

Staff recommends approval of Option A with the moratorium.

City Attorney Kelly stated staff took into consideration that the operator registration may be filed at some point but we don't know when, this is a precautionary measure. If Council adopts the ordinance imposing the 30-day moratorium, it would be automatic but could be lifted if Council feels it is not necessary.

Public Comments – None.

Mayor Muckle stated Option A makes sense. Louisville hasn't had an application in 20 years and is not likely to get one; but it makes sense to have it established. This sets up a process for Council if and when a registration occurs. Councilmember Loo agreed.

Public Comments – None

Mayor Muckle closed the public hearing.

Councilmember Loo moved to approve Ordinance No. 1783, Series 2019 - Option A which includes the automatic moratorium. Councilmember Maloney seconded.

Councilmember Stolzmann felt this provides the protection the citizens would hope for and gives Council time to consider how to proceed.

**Unanimous roll call vote, 6-0**

**RESOLUTION NO. 10, SERIES 2019 – A RESOLUTION APPROVING THE PROPERTY TAX INCREMENT REBATE AGREEMENT WITH 712 MAIN LLC AND 722 MAIN LLC PURSUANT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE LOUISVILLE REVITALIZATION COMMISSION AND THE CITY OF LOUISVILLE –  
*continued from 3/19/19 & 6/11/19 – staff recommends continuance to 11/4/19***

Mayor Muckle introduced the item noting the continuation request. Mayor Muckle moved to continue this item to 11/4/19, Councilmember Maloney second. All in favor.

#### **DISCUSSION/DIRECTION – CITY COUNCIL POSITION ON PROPOSITION CC**

Deputy City Manager Davis stated voters in the November election will consider a measure called Proposition CC: Allow State to Retain Excess Revenue for Transportation and Education Measure. The measure, if supported by voters, would allow the state to retain revenue above the state spending cap that it is currently required to be refunded under TABOR (the taxpayers' bill of rights) without raising taxes. Otherwise known as "de-Brucing", the measure would allow the state to retain and split all future tax revenue above the cap equally between transportation, K-12 education, and higher education investments in Colorado. The legislature included a provision in the measure that dedicates 15% of the transportation funding to multi-modal investments.

The Colorado Legislative Council expects refunds in 2020 of \$310 million and in 2021 of \$342 million. If Proposition CC passes, this funding would instead be allocated to transportation and education.

Deputy City Manager Davis stated this aligns with the Council's legislative agenda by supporting a new funding source for transportation, supporting investments in the maintenance and expansion of regional transportation, and the TABOR position.

The Denver Regional Council of Governments (DRCOG), of which Louisville is a member, will discuss the ballot measure at its September 18, 2019 Board meeting. Councilmember Stolzmann serves as the Louisville representative on the DRCOG Board. Deputy City Manager Davis noted Council can take a position or not on the issue to give Councilmember Stolzmann direction for the DRCOG meeting.

Councilmember Stolzmann stated DRCOG discusses transportation regularly and there is a consistent theme of not enough money to fund all the needs. She noted the TABOR spending cap and how this would allow keeping the tax rate. She stated she feels it is important for DRCOG to take a position. She recommended a position of support as it would keep some funding without raising taxes. She noted this does not solve the funding gap, but does keep it from getting worse.

Councilmember Stolzmann noted for DRCOG to take a position it requires a majority vote of the members and to abstain is really an opposition vote.

Councilmember Leh asked Councilmember Stolzmann if she knows which DRCOG regions may be opposed. Councilmember Stolzmann stated some south end metro communities may oppose but she doesn't know for sure.

Public Comments – None.

Councilmember Loo stated she would like the Council to oppose the measure. She stated she prefers the Council not take partisan positions and she feels Proposition CC is purely a Democratic Party move. She would like Louisville to stay out of this issue. Also, she felt Proposition CC does not tell people what the money will be spent on, it is too vague. She also did not support it as there is no sunset on the measure, it goes on indefinitely.

Councilmember Maloney felt this is a question of do we support this being on the ballot. We may not agree on the specifics on this measure as written, but it is worth giving the citizens a vote on it. He stated we should support DRCOG that this be on the ballot.

Councilmember Loo stated she didn't think it appropriate to tell people to vote yes.

Mayor Muckle stated money for transportation funding is a huge problem so he supports this as a way to get more funding without new taxes. It is incumbent on us to find a way to fix transportation. He is confident CDOT would try to fund as many highest priority statewide projects as they can. Also, he supports the funding for education.

Councilmember Loo stated there are so many needs there is no way to know if this funding will help us locally. We likely are not a priority.

Councilmember Stolzmann stated there is information out on how this will be spent. It won't solve everything but is a reasonable thing to do. People were already taxed at this rate and expect that money to be used to solve issues.

Mayor Muckle asked if Council was comfortable authorizing a position of support for Councilmember Stolzmann tomorrow.

Councilmember Leh stated he would prefer individual councilmembers serving on other boards not take a position that the whole or at least a majority of council does not support. He would rather Councilmember Stolzmann not take a position at DRCOG.

Councilmember Stolzmann stated DRCOG is trying to be collaborative and fund transportation. It would be wildly outside the majority of DRCOG and of the near communities to vote against this. It would be a big deal if we say no, particularly as this seems a very moderate step.

Councilmember Leh stated that was helpful information and enough for him to say he can support this. We need transportation and it is worthwhile.

Mayor Muckle moved to authorize a position of support on CC at DRCOG, Councilmember Stolzmann seconded.

Councilmember Keany stated he doesn't support the Council taking a position on ballot issues in general. He would ask Councilmember Stolzmann abstain with a statement that Louisville doesn't take positions on ballot issues.

Councilmember Leh stated transportation in Louisville is not a partisan issue; virtually everyone would say we need a better share of transportation dollars. The money is going to help pay for what the City has resoundingly said it needs.

Councilmember Loo asked what portion of the funds would be spent in Louisville. Deputy City Manager Davis said there would be some funding directly to municipalities although she did not have an amount. Councilmember Stolzmann noted it would depend if there is excess revenue and an amount to be refunded.

Councilmembers talked about the party split on this issue. Councilmember Stolzmann said she would address the need to be more bipartisan and collaborative. There needs to be further discussion on the formula and on transportation.

Councilmember Loo stated in Louisville this would mean not getting refunds that over three years would total \$350. For some people that is a big concern.

Mayor Muckle restated the motion: to authorize Councilmember Stolzmann to take a position of support on Proposition CC in her role as Director at the DRCOG meeting.

**Roll call vote passed 4-2; Councilmembers Loo and Keany voting no.**

**DISCUSSION/DIRECTION/ACTION – CONTRACT BETWEEN THE CITY OF LOUISVILLE AND GLACIER CONSTRUCTION CO., INC. FOR THE CONSTRUCTION OF AND THE APPROVAL OF CONSTRUCTION MANAGEMENT SERVICE ADDENDUM FOR THE SID COPELAND WATER TREATMENT PLANT ON-SITE CHLORINE GENERATION IMPROVEMENTS PROJECT**

Public Works Director Kowar stated this a discretionary project to modernize the water disinfection system in the water treatment plant. New plants do not use this process. The treatment facility does not have chlorine gas scrubbing systems for the chlorine gas systems which is a current Colorado Department of Public Health and Environment (CDPHE) design guideline and CDPHE is likely to require chlorine gas scrubbing improvements in the next five years. These improvements are estimated to cost as much or more than converting now. Sodium hypochlorite is safer to use than chlorine gas for employees and the surrounding area and sodium hypochlorite is cheaper than chlorine gas. There is not initial cost savings but it is cheaper operationally. He noted the City already made this upgrade at one treatment plant. This is a long term improvement.

Staff recommends approval of the contract with Glacier Construction Co. in the amount of \$682,300 for an onsite chlorine generation system at the Sid Copeland Treatment Plant. In addition, staff recommends approval of a contract addendum with Mott MacDonald for construction management services for this project. This requires a \$450,000 budget amendment which does almost double the cost from the original estimate. Staff recommends approval.

Director Kowar noted the Utility Committee reviewed this project and recommends approval. Councilmember Stolzmann, Chair of the Committee, stated this is a safety improvement for residents and staff, it doesn't require an expansion of the building with some good engineering, and it does fall in the budgeted level of the fund balance for the fund.

Councilmember Maloney added the Utility Committee noted this has a very small effect on utility rates.

Mayor Muckle stated the current system has not been without some safety issues so this is a good project.

Public Comments – None.

Councilmember Stolzmann moved to approve the contract with Glacier Construction and an addendum for construction management services with Mott MacDonald; Councilmember Loo seconded the motion.

**Unanimous roll call vote 6-0**

**ORDINANCE NO. 1784, SERIES 2019 – AN ORDINANCE AMENDING CHAPTER 2.08 OF THE LOUISVILLE MUNICIPAL CODE REGARDING THE MAYOR'S SALARY – 1st READING, SET PUBLIC HEARING 10/1/19**

City Attorney Kelly introduced the ordinance by title. Mayor Muckle moved to approve this on first reading and set the public hearing for 10/1/19; seconded by Councilmember Keany.

**Voice vote**, all in favor.

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

City Attorney Kelly reported the City prevailed on all issues at a hearing at the Public Utilities Commission regarding the Quiet Zones which included additional orders to get the project moving. BNSF has the opportunity to object but they have not yet. There is now a construction time line and deadline.

Mayor Muckle noted this is the last crossing needing approval.

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

Councilmember Loo asked if the Council would like to endorse the Rec Tax on the ballot. City Attorney Kelly stated the Council may adopt a resolution if it so desires. Consensus was to add that to the October 1 agenda for consideration.

Councilmember Keany stated the Sustainability Board is meeting tomorrow at 6:30 pm if anyone is interested in attending.

### **ADJOURN**

Members adjourned at 8:24 pm.

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Robert P. Muckle, Mayor

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Meredyth Muth, City Clerk