

# ***City Council Meeting Minutes***

**February 4, 2020  
City Hall, Council Chambers  
749 Main Street  
7:00 PM**

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

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

**City Council:**        ***Mayor Ashley Stolzmann  
Mayor Pro Tem Dennis Maloney  
Councilmember Kyle Brown  
Councilmember J. Caleb Dickinson  
Councilmember Deborah Fahey  
Councilmember Chris Leh  
Councilmember Jeff Lipton***

**Staff Present:**       ***Heather Balsler, City Manager  
Megan Davis, Deputy City Manager  
Kurt Kowar, Public Works Director  
Emily Hogan, Assistant City Manager for Communications  
& Special Projects  
Katie Zoss, Arts & Events Program Manager  
Meredyth Muth, City Clerk***

**Others Present:**    ***Kathleen Kelly, City Attorney  
Colette Cribari, Prosecuting Attorney***

## **PLEDGE OF ALLEGIANCE**

All rose for the pledge of allegiance.

## **APPROVAL OF AGENDA**

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

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

Doug Harper, 1160 South Boulder Road, stated he has heard Alfalfa's is behind on its sales tax and he wants to be sure they are paying their fair share. He stated if they are allowed to be late on payments they are then being subsidized by everyone else. He would like to know how much they owe and how the City will get the money.

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

Mayor Stolzmann noted a change was asked for in the minutes. A copy of the amended section is available on the dais. She called for any other changes to the consent agenda. Hearing none she asked for a motion to approve the consent agenda. Councilmember Lipton moved to approve the agenda; seconded by Mayor Pro Tem Maloney. All in favor.

- A. Approval of Bills
- B. Approval of Minutes: January 21, 2020 – **amended**
- C. Approval of Special Meeting on February 11, 2020

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

None.

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

City Manager Balser stated there is a Transportation Fair scheduled for February 27 from 5 – 6:30 pm at the Kestrel housing development. All community members are invited. The event will cover a range of topics including bus stop improvement projects, the RTD 228 Route, the Highway 42 underpass, and others.

### **REGULAR BUSINESS**

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#### **LIFE IN LOUISVILLE PHOTOGRAPHY CONTEST AWARD PRESENTATION**

Mayor Stolzmann noted this has been a great contest that provides the City with a great snapshot of the last year.

Katie Zoss, Arts and Events Program Manager, stated forty-one photographers submitted entries depicting "Life in Louisville" for the 12th Annual Photography Contest. These photos chronicle events and daily life in Louisville from January 1 to December 31, 2019. They will be added to the City's archives to serve as a cultural reference for future generations. She noted the photos are on display at the Rec Center for everyone to see. The awards were then presented to the winners.

#### **DISCUSSION/DIRECTION/ACTION – AIRPORT NOISE MITIGATION UPDATE & CONSULTANT CONTRACT FOR PHASE II**

Assistant City Manager Emily Hogan stated to begin, this is an update on the project. Phase II has started and it focuses on implementing the consultant's strategies from phase I. They include the following focus areas: Flight Operations, Procedures, and Practices; Community Outreach and Engagement, Industry Outreach and Engagement; Land Use Planning, Zoning and Development; and Regional Collaboration. She noted an update for each area is included in the council communication.

In phase II the consultants will continue to work with the airport's noise task force to advocate for the City's priorities and will continue outreach with industry partners. The community noise roundtable will be led by Jefferson County (JeffCo) and include Louisville, Superior, Broomfield, Boulder County, Westminster, Arvada, and the Rocky Mountain Metropolitan Airport (RMMA).

Hogan stated staff will continue to implement these strategies and give updates to Council throughout the year.

Deputy City Manager Davis stated the State is also working on this topic. She noted three action steps the group is working on: working with CDPHE on noise monitoring and air quality monitoring, as well as working with CDOT to determine opportunities for funding.

Councilmember Lipton stated these steps are positive momentum but we need to keep focused on this.

Mayor Pro Tem Maloney agreed with Councilmember Lipton. He would like to make sure Council continues to get updates so they are ready to make policy decisions if needed.

Public Comments – None

Mayor Pro Tem Maloney moved to approve the Phase II contract; Councilmember Lipton seconded. All in favor.

Mayor Stolzmann asked for two Councilors to volunteer to work in this issue. Councilmember Brown and Councilmember Lipton volunteered. Councilmember Leh moved to approve the committee; Mayor Pro Tem Maloney seconded. All in favor.

**ORDINANCE NO. 1789, SERIES 2020 – AN ORDINANCE AMENDING CHAPTER 3.32 OF THE LOUISVILLE MUNICIPAL CODE CONCERNING ADMINISTRATION OF THE RETAIL MARIJUANA FACILITY TAX AND AMENDING CHAPTER 5.11 OF THE LOUISVILLE MUNICIPAL CODE REGARDING RETAIL MARIJUANA SALES TO NONRESIDENTS OF THE STATE OF COLORADO – 2ND READING, PUBLIC HEARING (advertised *Daily Camera* 1/26/20)**

Mayor Stolzmann introduced the item by title and opened the public hearing. She asked if any members of Council have any disclosures. No disclosures.

Attorney Kelly noted voters approved an excise tax on marijuana cultivation at the November election. The excise tax has been in effect since January but there are no facilities currently open. The Finance Department has identified some additional provisions from the City's sale and use tax code that it desires be added to the administrative procedures for the excise tax. These address record keeping, the confidential nature of tax information, the City's costs of collection, procedures for tax disputes, taxpayer appeals, and unlawful acts. The goal is to keep these rules the same as the existing sales and use tax rules so it is consistent in the code.

Additionally, this ordinance removes section 5.11.210.A.5 which currently prohibits retail marijuana stores from selling more than a quarter of an ounce of marijuana or more than a quarter of an ounce equivalent of retail marijuana product during a single transaction to a nonresident of the State. This change aligns the City's regulations with State rules.

Public Comments – None.

Councilmember Lipton asked what the tax rate would be. Attorney Kelly noted the tax rate was set in the original ordinance at 5% and ballot authorization allows it to go up to 10%.

Mayor Pro Tem Maloney asked if the rules requiring books and records to be preserved are new. City Attorney Kelly stated these would align the rules with the code for sales and use tax licensees.

Councilmember Dickinson asked if the change to a full ounce brought any negative issues in the surrounding communities. Muth stated she has not heard from the neighboring licensing clerks that it created any issues.

Public Comments – None.

Councilmember Lipton moved to approved Ordinance No. 1789; Councilmember Fahey seconded the motion.

Mayor Stolzmann stated she is in favor of the update to the tax code to have consistent rules in the code and the amendment to change to one ounce to standardize things with our neighboring communities.

Councilmember Dickinson stated he understood the original ¼ ounce rule made sense at the time but the change does make sense now to align us with our neighbors.

Mayor Stolzmann closed the public hearing.

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

**ORDINANCE NO. 1790, SERIES 2020 – AN ORDINANCE AMENDING LOUISVILLE MUNICIPAL CODE TITLE 9 REGARDING OFFENSES AGAINST PUBLIC PEACE – 2ND READING, PUBLIC HEARING (advertised *Daily Camera* 1/26/20)**

Mayor Stolzmann introduced the item by title and opened the public hearing. She asked if any members of Council have any disclosures. No disclosures.

Colette Cribari, City Prosecutor, noted she is proposing changes to bring the code into line with the State laws specifically the section on disorderly conduct and harassment. She wanted to make sure the code is not in violation of the First Amendment also, and when police charge people with harassment these changes more closely follow State law.

Public Comments – None.

Mayor Pro Tem Maloney asked about the changes to disturbances and why that was included. Cribari stated this would exempt City employees from these rules if it is in the execution of their job. She noted for example a staff person mowing the golf course early in the morning so that the mowing can be complete prior to opening would be exempt from the rules.

Councilmember Leh moved to approve the ordinance with amended language he presented tonight. Councilmember Brown seconded.

Councilmember Leh went through his suggested changes. These include making this align with State statute and other changes for grammar and clarity.

Councilmember Brown stated his request to update the language related to gender and non-binary was met with the changes presented tonight.

Public Comments – None.

Councilmember Dickinson and Councilmember Leh both noted they agree with Councilmember Brown on the need for inclusive and gender neutral language in the code.

Mayor Stolzmann stated she supports the ordinance as amended to keep the code in compliance with state and federal law. She stated she understands the early mowing at the golf course can be loud, but it is customary hours for golf courses. She hoped we can find quieter mowers in the future.

Mayor Stolzmann closed the public hearing.

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

**ORDINANCE NO. 1791, SERIES 2020 – AN ORDINANCE AMENDING VARIOUS PROVISIONS OF THE LOUISVILLE MUNICIPAL CODE REGARDING WATER AND**

**SEWER TAP FEES – 2ND READING, PUBLIC HEARING (advertised Daily Camera  
1/26/20)**

Mayor Stolzmann introduced the item by title and opened the public hearing. She asked if any members of Council have any disclosures. No disclosures.

Director Kowar stated this ordinance provides language that allows staff to consider water rights consideration in lieu of water tap fees. Council requested staff find ways a developer could bring water rights to the table rather than pay the fee.

Mayor Pro Tem Maloney asked if the only source the City will accept would be Colorado Big Thompson (CBT). Director Kowar stated staff would consider all water options including those from FRICO, but CBT is the preferred target. Mayor Pro Tem Maloney asked for that to be more clear in the language.

Councilmember Lipton asked if the developer should take on the legal processes for getting FRICO water available for municipal use or if the City would pay for it and get reimbursed. Director Kowar stated it would depend on what the exact water right is, there are many factors affecting this, so the City wants to leave that open as an option.

Director Kowar noted that if a developer wanted to move quickly, CBT is what is readily available and can be used now.

Councilmember Leh stated he would like the language cleaned up before voting on this. He would like the City's water attorney to review this more closely.

Mayor Stolzmann stated this gives the City the flexibility to charge a tap fee or allow water rights in lieu if it benefits the City and can be reviewed on a case-by-case basis. However, if we need to make it more clear we can take more time.

Mayor Pro Tem Maloney suggested amended language to be clear the costs will be borne by the applicant either way.

Mayor Stolzmann noted the market can change and the City cannot always respond quickly but a developer might be able to and this allows the developer some flexibility.

Councilmember Lipton stated water from FRICO is difficult to get changed from agriculture to municipal use, so as a matter of practicality we may not want to encourage water outside the CBT system. He suggested only allowing CBT.

Director Kowar stated there are scenarios the City can't imagine and he would not recommend limiting the options. The City never knows what someone could propose that might help maximize our water portfolio; he wouldn't want to rule anything out.

Councilmember Lipton suggested removing the reimbursement option and requiring the developer to pay all costs up front.

Councilmember Leh would like the water attorney to look at it again and staff take more time to work on the language. He would like more clarity on how the City Manager may or may not apply criteria. He feels the requirements are not clear and it will be hard to administer and understand.

Public Comments – None.

Attorney Kelly clarified the ordinance includes criteria on how water rights are administered, it does not include criteria on if the water rights are determined to be beneficial to the City.

Mayor Stolzmann stated the goal is to allow people to bring water rights in certain circumstances and that the City Manager has some discretion on what is accepted. If this ordinance does not meet that need we can change it before approval.

Councilmember Lipton stated perhaps the intent can be clarified and perhaps it only needs minor changes. He suggested changes in Section 1 and in Section 2 and removing Section 3.

Councilmember Dickinson stated he is fine with the ordinance as presented as it gives the City the discretion it needs; the intent is clear.

Mayor Stolzmann stated she supports a two-week delay to allow more work.

Mayor Pro Tem Maloney stated this is a good framework. The goal is that the City Manager needs to make a good business deal and he is fine with allowing the City Manager to negotiate that. He stated he would be reticent to put in criteria that limits the ability of the City Manager to negotiate a deal. He likes the amendment to make the developer cover any and all costs.

Public Comments – None.

Councilmember Leh agreed the framework is good; however he would like the language cleaned up.

Councilmember Leh moved to continue the ordinance to February 18 to allow time to amend the language; seconded by Councilmember Lipton.

All in favor.

## **CITY ATTORNEY'S REPORT**

None.

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

ECONOMIC VITALITY COMMITTEE – Councilmember Dickinson stated they are meeting tomorrow.

FINANCE COMMITTEE – Mayor Pro Tem Maloney stated they are meeting February 18.

LEGAL REVIEW COMMITTEE – Councilmember Leh no report.

UTILITY COMMITTEE – Councilmember Lipton no report

COLORADO COMMUNITIES FOR CLIMATE ACTION – Councilmember Fahey stated they are meeting this week to discuss support for State bills related to single use plastic and polystyrene containers.

COMMUTING SOLUTIONS – Councilmember Leh no report.

CONSORTIUM OF CITIES – Councilmember Dickinson stated there is a meeting tomorrow.

DOWNTOWN BUSINESS ASSOCIATION STREET FAIRE – Councilmember Lipton stated the committee is working on booking bands and the announcement will be made April 1.

DENVER REGIONAL COUNCIL OF GOVERNMENTS – Mayor Stolzmann stated they are modeling scenarios for various policies to see how it might impact quality of life factors. They will be having a vote on whether to support state changes that would allow metropolitan planning organizations to be taxing entities which has many pros and cons and there is much to consider.

JOINT INTEREST COMMITTEES (SUPERIOR & LAFAYETTE) – Councilmember Dickinson stated meetings are being scheduled.

MAYORS & COMMISSIONERS COALITION – Mayor Stolzmann stated they are working on legislation and peak service rail possibilities and discussions with BNSF.

METRO MAYORS CAUCUS – Mayor Stolzmann stated they are looking at construction defects litigation.

REVITALIZATION COMMISSION – Councilmember Lipton no report.

XCEL ENERGY FUTURES – Mayor Pro Tem Maloney stated they met last week and noted the upcoming Green Business program and some new communication goals to advertise what we have done already.

Mayor Stolzmann noted the County is asking the governor to change the County's rating to reclassifying the area as serious to severe for ozone nonattainment to get more work on this sooner.

Mayor Stolzmann stated she is writing a letter to the editor about single-use plastic and polystyrene and how the State bills align with our Sustainability Plan. Councilmember Fahey stated the State bills would save us a lot of work.

### **ADJOURN**

Members adjourned at 9:00 pm.

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Ashley Stolzmann, Mayor

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Meredyth Muth, City Clerk