City Council
Meeting Minutes
May 19, 2020
Electronic Meeting
6:00 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 Balser, City Manager
Megan Davis, Deputy City Manager
Nathan Mosely, Parks, Recreation, & Open Space Director
Rob Zuccaro, Planning & Building Safety Director
Sharon Nemechek, Library Director
Dave Hayes, Police Chief
Megan Pierce, Economic Vitality Director
Emily Hogan, Assistant City Manager for Communications & Special Projects
Meredyth Muth, City Clerk

Others Present: Kathleen Kelly, City Attorney

Mayor Stolzmann noted that because of the COVID-19 emergency the meeting is being held electronically. She gave information on how the meeting process will work and directions for those dialing in on how to participate when it is time for public comments.

APPROVAL OF AGENDA

Mayor Stolzmann called for changes to the agenda and hearing none asked for a motion. Councilmember Fahey moved to approve the agenda; seconded by Mayor Pro Tem Maloney. All in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA AND THE CONSENT AGENDA
None.

APPROVAL OF THE CONSENT AGENDA

Mayor Stolzmann called for changes to the consent agenda. Hearing none she asked for a motion to approve the consent agenda; seconded by Councilmember Fahey. All in favor.

A. Approval of Bills
B. Approval of Minutes: April 28, 2020; May 5, 2020; May 12, 2020
C. Approval of May 26 as a Special Meeting
D. Approval of Resolution No. 35, Series 2020 – A Resolution Approving a First Amendment to a Business Assistance Agreement with Fresca Foods, Inc. for an Economic Development Project in the City of Louisville

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Councilmember Leh commented on the recent photo journalism project from Chris Wheeler and Gary Shapiro and hoped everyone gets a chance to see it.

CITY MANAGER’S REPORT

City Manager Balser reminded people to check the City’s website for COVID updates and reopening information. She also reminded people to sign up for the eNotifications to be up to date.

REGULAR BUSINESS


Director Pierce stated this was continued from February 18th. The Agreement is between the City, the Revitalization Commission (LRC), and the Fire Protection District for tax increment financing sharing. In February, there were concerns raised by Council and the agreement went back to the LRC. This agreement was revised prior to review by the LRC. The request from the Fire District is now only for revenue sharing based on 100% of the 3.900 mills of the recent mill levy increase voters approved for the Fire District.
The LRC has reviewed this request in the light of more recent fiscal information showing longer term revenue projections. The LRC supports approval of this agreement.

John Willson, Fire Chief, stated the District listened to the comments from Council and the LRC from the earlier meetings and they feel this new proposal is a good fit for all parties.

Public Comments – None.

Councilmember Lipton moved to approve Resolution No. 15; Councilmember Fahey seconded the motion.

Roll call vote: Unanimous approved

DISCUSSION/DIRECTION/ACTION – REOPENING AND RECOVERY PLANS FOR CITY FACILITIES AND SERVICES, 4TH OF JULY, AND MEMORY SQUARE POOL

City Manager Balser stated the packet included an update for the current plans on the limited reopening of City facilities. Tonight staff is asking specifically for direction on the recommended closing of Memory Square Pool for this summer and the cancellation of the July 4th fireworks. Given current conditions staff is making these recommendations to help avoid large gatherings and meet all current safety guidelines.

Public Comments – None.

Councilmember Brown stated these are sad things to vote on but noted these are the things that need to be done at this time.

Councilmember Dickinson agreed these are not decisions we enjoy making and the only benefit is for public health.

Mayor Pro Tem Maloney noted these recommendations are driven by the principals we have decided on. He stated he agrees with the recommendations as it is the right thing for health and safety reasons.

All members agreed to move forward with the staff recommendations.

DISCUSSION/DIRECTION – POSSIBLE BALLOT MEASURES FOR 2020

Mayor Stolzmann stated this item will cover a number of possible ballot measures about which Council has asked for more information.

Deputy City Manager Davis stated these are six distinct issues that Council was interested in discussing for possible ballot measures for this year’s election. Staff is seeking input and direction to determine if there is interest in moving any of these topics forward for further discussion to put them on the ballot.
Tobacco/Vaping

Deputy City Manager Davis stated that as of July 1, 2019, the State has removed penalties previously imposed on local governments for licensing tobacco retailers, particularly cigarette retailers. The change also permits local municipalities (statutory and home-rule) to impose fees and licenses on cigarette sales without forfeiting their share of the State Cigarette Tax.

The bill authorizes a county or city to adopt its own special sales tax upon all sales of cigarettes, tobacco products, or nicotine products, provided any such proposal is referred to and approved by the voters in such municipality. If the local electorate approves a special tax, the municipality would forfeit its share of the State Cigarette Tax. If the City were to impose a special tax on cigarettes, tobacco products and nicotine products, additional sales tax revenue could be generated.

In December, 2019 the City Council imposed a local ordinance prohibiting the sale of tobacco, e-cigarettes, vaporizers and similar products to persons under the age of twenty-one.

Some other counties and municipalities have moved forward with a tax. Most are charging up to $4 tax on a pack of cigarettes and 40% tax on other tobacco products.

If the Council is interested in moving forward with this issue on the ballot staff would need details on the level of taxation, any product exemptions, if you want a sales or excise tax, and what to do with the revenue.

Mayor Pro Tem Maloney asked what the definition of “Other Tobacco Products” includes. Deputy City Manager Davis stated it includes cigars, vape devices, pipe tobacco, etc.

Councilmember Dickinson stated he strongly supports this be put on the ballot. We have a serious vaping problem in the community and he feels this will have a lot of support. He would like to curb youth vaping, not the adult cigar and pipe users. He stated he would support an exemption for cigar shops. He stated reducing youth cigarette use and vaping is the goal.

Councilmember Fahey stated she supports the measure to address tobacco use by youth specifically, but she does not necessarily want to address general tobacco products.

Councilmember Leh agreed with Councilmember Dickinson’s comments. This tax should target youth vaping and cigarettes.

Councilmember Brown disagreed stating he didn’t support a carve out for cigars. He noted many cigars are designed to be attractive to youth. He stated that around the country these carve outs often specifically allow for specialized cigars targeted at youth.
He reviewed tobacco use statistics in Colorado. He feels addressing the price point of cigars should be included in a ballot measure. He would like this to be a broad taxation on all products.

Public Comments

Chris McComb, 238 Monarch Street, is concerned about the fiscal impact of losing the share back from the state. He noted other cities around us don’t have this tax and people may just go shop there lowering Louisville’s revenue. He stated implementing a new tax in a time of economic crisis makes no sense. He added he does not feel it is the role of local government to be social engineers to keep people from using tobacco.

Max Juhl, 1124 West Dillon Road, manager of Havana Cigar shop, stated their store does not cater to youth. He stated they don’t sell the cigars targeted at children but only sell premium cigars to adults. He supports a carve out for such purchases. He doesn’t think the store would survive this new tax as customers will buy from other locations.

Tyler Krietz, 2102 Graydon, Superior, stated he is also an employee at Havana Manor and feels any new tax would put them out of business. He agreed they don’t sell to youth and it never has.

Todd Reidler, Arvada resident, stated he shops at Havana Manor and noted that many people from outside Louisville shop there and then spend money at neighboring stores bringing sales tax to Louisville.

Mayor Pro Tem Maloney stated he feels this is a health and safety issue and he supports about a 40% tax.

Councilmember Fahey agreed and noted she would like to focus on the vaping and ecigarettes. She would like to continue moving this towards the ballot.

Councilmember Dickinson stated he would prefer this to be handled regionally, but as that has not happened he feels the City will need to act.

Councilmember Lipton would like to have the ballot language include a tax on chewing tobacco and a carve out for premium cigars.

Councilmember Brown noted the creativity of the tobacco industry to get youth addicted. He stated he is concerned carve outs could be exploited by the industry and consumer demand. If we have a carve out he would want a very tight definition of a premium cigar. He noted that youth in particular are affected by price and we should consider all of the products they might use.
Mayor Stolzmann summed up the comments noting the Council would like to bring this back for further discussion for a ballot measure with a carve out for premium cigars. Members agreed to look at a 40% tax level.

Councilmember Leh and Councilmember Dickinson both prefer an excise tax to a sales tax.

*Museum Expansion*

Deputy City Manager Davis stated the City had planned to complete the initial design on a proposed museum expansion in 2020 to better understand the project cost and get community input. A contractor had been hired for this project but due to COVID-19 the contract has been cancelled and the project postponed at this time. Staff recommends not moving forward with a ballot issue at this time.

Public Comments - None

Councilmember Lipton asked if the citizen survey results came in before or after the COVID crisis started. Assistant City Manager Hogan stated the survey was submitted by residents from mid-March to mid-April.

Councilmember Lipton asked what level of support is usually needed to get a ballot measure passed. City Manager Balser stated staff usually looks for at least 60% support to get something passed. Deputy City Manager Davis added that even 55% can be considered not strong enough to move forward.

Members agreed with the staff recommendation to not move it forward this year.

*Single Use Bags*

Assistant City Manager Hogan stated the City’s Sustainability Action Plan identifies several strategies aimed at “achieving zero waste and managing resources responsibly and effectively” including promoting recyclable substitutes/replacements for single-use, throw-away items, such as plastic bags.

To address replacements for single-use, throw-away items like plastic bags, staff partnered with the Colorado School of Public Health (CSPH) to analyze potential policy options to reduce single-use bags within the city. As part of a course on environmental health policy, staff worked with several graduate students to explore local initiatives. The options include a ban, fee, tax, or a combination of these. These options would require approval by voters and could be included in the 2020 ballot.

Hogan reviewed the various options:
<table>
<thead>
<tr>
<th>Option</th>
<th>Benefits</th>
<th>Costs</th>
<th>Policy Considerations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Ban on plastic and paper single-use bags</td>
<td>Total reduction in waste – 4.7 million bags</td>
<td>Marketing/training, education/outreach, reusable bag program - $90,000</td>
<td>Preemption – local governments are currently prohibited from requiring or prohibiting use or sale of types of plastic materials or restricting or mandating containers, packaging or labeling for any consumer products. Plastic bag manufacturers – large interest in protecting unregulated marketplace. Impact on low-income populations. Impact on businesses – costs for updating bag infrastructure and training staff.</td>
</tr>
<tr>
<td>2) Fee on plastic and paper single-use bags</td>
<td>Reduction in waste varies according to rate of behavior change – 3-3.5 million bags</td>
<td>Marketing/training, education/outreach, reusable bag program - $95,000</td>
<td>Revenue generated must be used for costs related to ordinance. Plastic bag manufacturers. Impact on businesses.</td>
</tr>
<tr>
<td>3) Ban on plastic single-use bags and fee on paper single-use bags</td>
<td>Reduction in waste varies according to rate of behavior change – 4 million bags</td>
<td>Marketing/training, education/outreach, reusable bag program - $95,000</td>
<td>Revenue generated must be used for costs related to ordinance.</td>
</tr>
</tbody>
</table>
Revenue generated varies according to rate of behavior change - $70,000 for $0.10 fee on paper

Program generates some revenue and is moderately restrictive

Plastic bag manufacturers
Impact on businesses

### 4) Tax on plastic and paper single-use bags

| Reduction in waste varies according to rate of behavior change – 3-3.5 million bags |
| Marketing/training, education/outreach, reusable bag program - $95,000 |
| Program generates most revenue and is least restrictive |
| New tax must go before voters |
| Revenue generated has unrestricted use |
| Plastic bag manufacturers |
| Impact on low-income populations |
| Impact on businesses |

Hogan noted the 2020 citizen survey results show strong support for a charge for these bags. She added that during the COVID-19 pandemic many stores are not permitting personal reusable bags and are only allowing plastic/paper bags. Some communities have suspended the plastic bag fees, recognizing that patrons are not able to utilize personal reusable bags.

**Public Comments - None**

Councilmember Fahey stated that if these were normal times she would support option number 4 but not at this time because of the current restrictions and the financial burden. This is not the time to put this on the ballot.

Mayor Pro Tem Maloney agreed this would have Council support in normal times, but at this time he stated he would hate to pass something that would need to be suspended in current conditions. He stated he would support this for 2021.

Mayor Stolzmann stated she would like to put this on the ballot. This will be a short ballot and a large turn out with a presidential election. If it needed to be suspended in the pandemic we can do that but we should go ahead on the ballot for this year.

Councilmember Lipton stated this could go on the ballot and be written so it goes into effect at a later date if needed. He stated he has not been anywhere in the world that does not have a ban on these or a heavy tax. He would like to move this forward and there is community support.
Councilmember Dickinson agreed. There is great citizen support for this. He would support a ban as some other cities have done.

Councilmember Brown stated he supports this and he wants to ask voters if they support a tax. He would hope this would eventually lead to a ban.

Councilmember Fahey stated she would support the ban as her first choice and the tax as her second choice. Councilmember Leh stated he prefers a tax over the ban or fee.

Mayor Stolzmann stated she supports the tax as the City doesn't have local authority to do a ban at this time due to the state preemption. She recommended giving staff direction to bring back for further discussion a tax for all bags regardless of the venue at a price equivalent or greater than Boulder’s.

Councilmember Dickinson stated he supports the ban even though legally it is the most problematic. The ban would have the biggest impact environmentally. He feels it is worth taking the legal risk.

Councilmember Leh stated he appreciates Councilmember Dickinson’s commitment to this issue, but he feels the legal risk is too high for the City to take on and the cost would be more than we can afford to defend. He would support a tax now and then instituting a ban at a later date if the State preemption is changed.

Councilmember Lipton stated he supports the tax. It is not ideal but we need to do something now. He feels most business would prefer the tax as well. He would support it starting in 2022.

Mayor Pro Tem Maloney noted he has been to communities with a ban and they haven’t been sued by the State so far. He supports the ban but given the risk the tax seems reasonable at this time.

Councilmember Dickinson stated Aspen has won a lawsuit regarding such a ban and he would support moving forward with that. He will support a tax at a minimum but would strongly encourage a ban.

Mayor Stolzmann stated she supports the tax but not postponing implementation until 2022.

City Attorney Kelly stated that while there has not been a legal challenge to the ban in other cities, the law is still clear cities don’t have the authority to enact one even with voter approval. She feels implementing a ban at this point would be a risk.

Mayor Pro Tem Maloney would like more information on what court actions have occurred in other cities.
Staff will bring back further information on ballot language and legal implications of a ban for further Council discussion.

City-Wide Renewable Energy

Assistant City Manager Hogan stated that in 2019, City Council adopted renewable energy and carbon emission reduction goals for municipal operations and the larger community. One of these was to generate 75% of Louisville’s residential and commercial/industrial electric needs from carbon-free sources by 2030. Currently only 24% of Louisville’s residential and commercial/industrial electric needs come from carbon-free sources. In an effort to make progress on this the City has partnered with Xcel Energy to explore innovative solutions for community-wide renewable energy.

Potential scenarios include a climate action tax, which would need to be approved by voters, or a fee applied to customers’ bills to be used on a bulk purchasing project until the time that Xcel can reach its own 100% carbon free goal. Xcel’s initial estimate is $621,000 per year to purchase renewable energy credits to bring the City’s use to 100% renewable.

Preliminary results from the 2020 Citizen Survey show strong support for such a ballot initiative.

Mayor Stolzmann stated Xcel has been a good partner and is working on options for us. She stated she thinks this cost at full retail price would be much more expensive if individuals wanted to buy these credits. It is much more efficient for the community to do this as a whole. This would address a huge carbon source and make a real difference. She supports moving this forward.

Mayor Pro Tem Maloney noted this is a tax of roughly $80 per year per household and he supports continuing to look into this and is excited about this concept.

Public Comments – None

Members were very supportive of this initiative. Staff will bring something back more information for consideration for the 2020 ballot.

Minimum Wage

Deputy City Manager Davis stated that beginning in January 2020, local governments have the authority to raise the minimum wage within their local communities. This can be done by ordinance and does not require a ballot issue. Local minimum wages may exceed the state and federal minimum wages but must provide a tip offset of no more than $3.02 per hour for employees of any business that prepares and offers for sale food or beverages for consumption on or off premises. The Colorado minimum wage increased
to $12 January 1, 2020, and represents the last in a series of increases voters approved in 2016.

Such an effort would be best achieved at a regional level, and with the involvement of all local municipalities and the business community in order to ensure continuity across jurisdictions, reduce competition and employee turnover, and for greatest regional impact. To achieve this goal, the bill requires any local government planning to raise its minimum wage to consult with surrounding local governments and various stakeholders.

The Boulder County Consortium of Cities has been working on this and has initiated a local stakeholders group but this work in now on hold due to COVID 19. Given the need to have agreements by January it is unlikely this could move forward quickly enough this year. Staff recommends the City stay involved in these discussions and move forward with this when that happens regionally.

Councilmember Dickinson stated as much as he supports this he does not feel this is the right time to bring this forward. The minimum wage needs to be addressed; you can’t support a family on the minimum wage. He supports doing this regionally next year as it is incredibly important to address.

Public Comments – None

Councilmember Brown agreed this is better as a regional initiative but Louisville shouldn’t wait too long if the region doesn’t move forward.

*Countywide Ballot Measures Update*

Deputy City Manager Davis gave an update on County ballot measures. She stated Boulder County has actively been discussing the possibility of a transportation and housing ballot issue with local municipalities. The idea for the measure was raised after the failure of several statewide transportation measures. Understanding there doesn’t appear to be an appetite for a statewide transportation revenue generating ballot measure, local governments began discussions around the possibility of a local or regional measure. The City was involved in these discussions, along with all other municipalities within the County.

The discussions centered on the possibility of a Boulder County-wide measure that would generate funding for regional transportation and housing investments, with the split between the two areas to be determined. There was no final decision regarding the taxing approach (property tax/mill levy or sales tax) for a potential measure.

Polling was planned for March, but with the COVID-19 pandemic the project is now in a holding pattern. County and regional staff continue to complete technical analysis around a potential ballot measure, but outreach and polling have been put on hold at this time.
The City expects to hear more about the effort this summer, but given the economic impacts of the coronavirus it’s unlikely that anything will move forward for 2020.

Deputy City Manager Davis noted the Council may want to consider a local transportation tax. The 2020 Citizen Survey includes a policy question on the topic of funding for local transportation projects and preliminary results are favorable.

Mayor Pro Tem Maloney stated this is a tough time to ask for a tax increase but he would consider one next year as there is no way to fund our transportation needs without it.

Councilmember Dickinson stated he supports this to go forward this year, but understands others may want to wait a year.

Councilmember Brown stated he would support this for this year given the importance of good transportation infrastructure.

Public Comments - None

Deputy City Manager Davis stated staff would need to come up with a very specific detailed list of projects and costs for this to move forward and that would be very difficult to get done in the next two months.

Mayor Stolzmann agreed many people want these items but practically we would need to start now to be prepared to do this in 2021. There is a great deal of information that is needed to do this and it can’t likely happen for this year’s ballot. If we want to bring a really good proposal to the voters we should do it in 2021.

Councilmember Lipton agreed this needs more time to craft a good list of projects and get really good resident engagement and support. We should continue with the small projects we can do easily. He added he is concerned about putting a large tax burden on residents with multiple items. There will be tax questions from many entities, not just ours and the cumulative effect could be great. Not everyone can afford this.

Members agreed to have staff begin work on a project list for this to be on the 2021 ballot.

Staff will bring all of the items for this year back for further discussion in June.

CITY ATTORNEY’S REPORT

None.

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

ECONOMIC VITALITY COMMITTEE – meeting Friday.
FINANCE COMMITTEE – met today and reviewed revenue information and they are planning a work session in June regarding budget reductions.

LEGAL REVIEW COMMITTEE – meeting tomorrow and will be discussing rules related to quasi-judicial matters for electronic meetings.

UTILITY COMMITTEE – met last week and discussed the importance of developing the utility CIP to align with cash flow; also looking to review the rate structure.

COLORADO COMMUNITIES FOR CLIMATE ACTION – working on updating their policy statement; looking to see what legislature does now back in session.

COMMUTING SOLUTIONS – no report

CONSORTIUM OF CITIES – no report

DOWNTOWN BUSINESS ASSOCIATION STREET FAIRE – met today; very disappointed had to cancel this year and in the process of figuring out contractual issues. DBA now looking to find other ways to support downtown businesses during this crisis.

DENVER REGIONAL COUNCIL OF GOVERNMENTS – discussing Vision Zero plan and a start date; also discussing the freight plan for the region.

JOINT INTEREST COMMITTEES (SUPERIOR & LAFAYETTE) – no report

MAYORS & COMMISSIONERS COALITION – met with the RTD interim director and advocated that the FasTracks funding saved for this region should not be used to cover current shortages.

2:48

METRO MAYORS CAUCUS – asking governor for more information on restaurants reopening and what can be expected.

REVITALIZATION COMMISSION – met recently and discussed the small grant program and projects to help with economic recovery.

XCEL ENERGY FUTURES – waiting for costs from Xcel on the citywide renewable program.

ADVANCED AGENDA
Councilmember Dickinson reported on a request for a National Gun Violence Awareness proclamation on June 2. He will work on that with Councilmember Leh to bring forward June 2.

Councilmember Dickinson asked for the distance dining program to be discussed on May 26.

**ADJOURN**

Members adjourned at 8:55 pm.