

City Council Meeting Minutes

**August 16, 2016
City Hall, Council Chambers
749 Main Street**

6:00 PM

SPECIAL MEETING – EXECUTIVE SESSION

Call to Order – Mayor Pro Tem Lipton called the meeting to order at 6:00 p.m.

Roll Call was taken and the following members were present:

City Council: *Mayor Robert Muckle, Mayor Pro Tem Lipton; City Councilmembers Jay Keany, Chris Leh (arrived 6:07 pm), Sue Loo, Dennis Maloney, Ashley Stolzmann*

Roll Call Present: *Mayor Muckle, Mayor Pro Tem Lipton, Council Member Stolzmann, Council Member Maloney, Council Member Keany, Council Member Loo.*

Absent: *None*

Staff Present: *Malcolm Fleming, City Manager
Meredyth Muth, City Clerk
Aaron DeJong, Economic Development Director
Sam Light, City Attorney*

EXECUTIVE SESSION

REAL PROPERTY ACQUISITION AND DISPOSITION

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

The City Manager is Requesting the City Council Convene an Executive Session for the Purpose of Consideration of Potential Real Property Acquisition and Disposition Concerning Property in Louisville

City Clerk Muth read Section 2.90.050, the public statement from the Louisville Municipal Code, governing the topics that may be discussed in an executive session.

City Attorney Light stated the authority for conducting an Executive Session is the Louisville Code of Ethics, Section 5-2(b), CRS 24-6-402(4)(a) - Authorized Topics. City Manager is Requesting the City Council Convene an Executive Session for the Purpose of Consideration of Potential Real Property Acquisitions and Dispositions Concerning Property in Louisville.

MOTION: Mayor Muckle moved the City Council convene an executive session for the purpose of consideration of potential real property acquisition and disposition concerning property in Louisville and the executive session include members of the City Council, City Manager, the Economic Development Director, and the City Attorney, seconded by Council member Keany. All in favor. The Council adjourned to executive session at 6:03 p.m. The special meeting was reconvened at 7:07 p.m.

REPORT – DISCUSSION/DIRECTION/ACTION – REAL PROPERTY ACQUISITION AND DISPOSITION

City Attorney Light reported on the executive session, the City Council discussed real property acquisition and disposition. Council discussed strategy with the City Attorney and staff on how to proceed. If the negotiations result in a contract, it will be brought back for Council consideration at a future public meeting.

Adjourned to Regular Meeting 7:09 PM

REGULAR MEETING

Call to Order – Mayor Muckle called the meeting to order at 7:09 p.m.

Roll Call was taken and the following members were present:

City Council: *Mayor Robert Muckle, Mayor Pro Tem Lipton; City Councilmembers Jay Keany, Chris Leh, Sue Loo, Dennis Maloney, Ashley Stolzmann*

Staff Present: *Malcolm Fleming, City Manager
Heather Balsler, Deputy City Manager
Kevin Watson, Finance Director
Aaron DeJong, Economic Development Director
Robert Zuccaro, Planning & Building Safety Director
Lauren Trice, Planner I
Scott Robinson, Planner II
Kurt Kowar, Public Works Director*

Meredyth Muth, City Clerk

Others Present: Sam Light, 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 Loo. All were in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Jason Douglass, 922A Main Street, race director of the Lucky Pie Criterium came to tell Council about the upcoming bike race on August 21st. He thanked the City for the permitting process. He stated he understands it is an inconvenience for those affected by the race, but he hopes everyone comes out and enjoys the event. He invited everyone to attend the race on the 21st.

Councilmember Leh noted the Tapestry Theater has upcoming performances. The group is for kids with cognitive disabilities and they do a great job with their productions. He invited everyone to attend.

APPROVAL OF THE CONSENT AGENDA

Councilmember Stolzmann asked for the US 36 MCC item to be moved to the end of the agenda for discussion. With that change Mayor Muckle moved to approve the consent agenda. Seconded by Councilmember Loo. All were in favor.

A. Approval of Bills

B. Approve August 2, 2016 minutes

C. Approve 6 PM Start Time for August 23 City Council Study Session

D. Approve Resolution No. 39, Series 2016 – A Resolution Approving an Intergovernmental Agreement By and Between the City of Louisville and the Boulder County Clerk and Recorder for the Conduct and Administration of the 2016 General Election to be Held November, 8, 2016

E. Approve Resolution No. 40, Series 2016 – A Resolution Establishing Refuse, Recyclables and Compostables Collection and Disposal Fees Effective September 1, 2016 for the City of Louisville, Colorado

F. Approval of US 36 Mayors and Commissioners Coalition and 36 Commuting Solutions Policy Agenda – moved to regular agenda

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

None.

CITY MANAGER'S REPORT

City Manager Fleming reported staff is compiling a factual summary for the upcoming City ballot issues regarding the possible Recreation/Senior Center expansion. The summary will be available on the City's web site and in City facilities.

REGULAR BUSINESS

725 LINCOLN AVENUE LANDMARKING AND PRESERVATION GRANT

**RESOLUTION NO. 41, SERIES 2016 – A RESOLUTION DESIGNATING THE BLACK
FAMILY HOUSE LOCATED AT 725 LINCOLN AVENUE A HISTORIC LANDMARK**

**RESOLUTION NO. 42, SERIES 2016 – A RESOLUTION APPROVING A
PRESERVATION AND RESTORATION GRANT FOR SEWER REPAIR AT THE
BLACK FAMILY HOUSE LOCATED AT 725 LINCOLN AVENUE**

Planner I Trice gave the staff presentation noting this is a request for landmarking and a historic preservation grant for 725 Lincoln Avenue. She noted the structure has unique gables and has maintained its historic integrity over the years. The house is associated with the Black Family in Louisville's history. The grant request is for sewer line work and an electrical upgrade both of which are eligible for the grant, although they are limited to \$5000. The applicant requests the \$5000 go towards the sewer work as it is a higher priority at this time.

Planner Trice stated the Historic Preservation Commission recommended approval of both the landmarking and the \$5000 for the historic preservation grant and an alteration certificate for a small addition on the rear of the building. Staff also recommends the City Council approve a Historic Preservation Fund grant for the Black Family House by approving Resolution No. 42, Series 2016.

Dave Clabots, 725 Lincoln Avenue, representing the applicant, stated the request is because the current sewer line is in poor condition and in need of repair.

Mayor Muckle asked staff why the improvements are not eligible for additional funds. Planner Trice stated that this is a requirement in the Resolution creating the preservation fund which limits "rehabilitation" items to \$5000. The applicant could come back later for additional grants for different types of work.

Mayor Muckle moved to approve Resolution No. 41, Series 2016. The motion was seconded by Councilmember Keany. All in favor.

Mayor Muckle moved approve Resolution No. 42, Series 2016. The motion was seconded by Councilmember Stolzmann. All in favor.

RESOLUTION NO. 43, SERIES 2016 – A RESOLUTION APPROVING A FINAL PLANNED UNIT DEVELOPMENT (PUD) AND SPECIAL REVIEW USE (SRU) TO ALLOW FOR THE CONSTRUCTION OF A NEW BUILDING WITH 5,700 SF OF COMMERCIAL SPACE, THE REMODEL OF THE EXISTING HOUSE, AND OUTDOOR SALES AT 824 SOUTH STREET, LOT 1, BLOCK 5, LOUISVILLE OLD TOWN

Planner Robinson gave the staff presentation. Currently the site has a house on the west side of the property. The proposal would keep the house, remove the existing garage, and build a new commercial structure on the eastern portion of the lot. The proposal complies with the zoning standards and meets the yard and bulk standards for downtown in the Commercial Community zone district except for the parking requirements. The applicant is proposing five spaces at the back of the building but is required to provide 12 spaces. In addition, the proposed ADA parking space uses the sidewalk for loading and unloading. Staff has concerns about using this public space for private benefit and also it conflicts with other pedestrians using the sidewalk.

Planner Robinson stated the Planning Commission recommended approval of the ADA use of the sidewalk, but with the condition that if it becomes a problem the ADA space will be moved so as not to conflict with the sidewalk.

Planner Robinson noted the proposal is seven spaces short of the requirement. The applicant is proposing paying a fee-in-lieu of the parking spaces. That fee-in-lieu payment for the seven spaces short equals about \$21,000.

Planner Robinson reviewed the architectural elements of the proposed building.

Robinson added the request includes a Special Review Use (SRU) for the site for a potential restaurant for the first floor of the building. Staff found that the application meets the five criteria for a SRU. Staff recommended approval of the resolution and the SRU with the one condition listed in the resolution.

Councilmember Maloney asked if the proposed outdoor dining areas are on public property. Robinson stated the proposed areas are all on private property. If they wanted to expand beyond that a licensing agreement would be needed for use of public space.

Councilmember Stolzmann asked if the proposal meets the City's definition of live/work unit. Planner Robinson stated it could meet that definition but it doesn't affect the current application.

Councilmember Stolzmann asked if the proposal is for a two-story building. Planner Robinson said yes. Councilmember Stolzmann asked how leasing sidewalk space for restaurant seating is different than leasing sidewalk space for loading and unloading of an ADA parking space. Planner Robinson stated staff's concern that the loading space takes up the entire sidewalk so no one can pass. This design also does not meet the intent of the ADA requirements by forcing a handicapped user to use the sidewalk rather than the regular parking lot.

Erik Hartronft, 950 Spruce Street, representative for the applicant, gave a presentation. He noted this is a gateway property and is a transition space from the neighborhood to downtown. The goal of the proposal is to provide a good pedestrian experience and provide new office space and retail or restaurant space in downtown. He stated the applicant felt keeping the house on the site was a better option than demolishing it for additional parking. He stated the proposed building relates well in bulk and scale to the rest of downtown. He added that while the parking requirement is not met, the applicant feels this design maximizes parking as much as possible. He stated the design's use of the sidewalk for the ADA space is a bit different, but it is a way to get one additional accessible parking space in downtown. If it becomes a problem, the space can be moved into the existing lot at the expense of one parking space.

Councilmember Maloney asked if the amended resolution presented this evening meets the needs of the applicant. Attorney Light noted the language in the amended resolution includes the condition from the staff report. Hartronft stated the applicant is fine with the amendments.

Mayor Muckle asked for public comments. There were none.

Councilmember Stolzmann asked if the SRU applies to the upstairs patio. Planner Robinson stated yes it includes both the ground level and the patio. He stated staff would make a note on the SRU sheet to make it clear. She asked the City Attorney if there are any issues with allowing the City's sidewalk to be used for the handicap access to the parking space.

Attorney Light stated the City can give a license to a private owner to use the space on the sidewalk. He stated it will require a licensing agreement with the City so it is clear the City still owns the sidewalk and that there is no exclusive use for the property owner. There is no legal reason to prohibit such use, but a licensing agreement will be needed to memorialize the conditions of the use.

Councilmember Keany asked if music sound levels need to be addressed.

Councilmember Maloney stated his concern that this project adds to the parking problem downtown although he supports the project.

Mayor Muckle stated his support for the project. He stated he would support trying the parking as presented and change it later if needed.

Director Zuccaro stated music would not be allowed without a change to the SRU and asked if the applicant has an interest in having music at the site. Hartronft stated the applicant will meet whatever the noise/music regulations are currently and in the future if they changed. He stated they did not want to change the SRU to specifically allow music.

Mayor Muckle stated he was fine not including music in the SRU at this time, adding the space may not even be a restaurant or something that may want music. It may be a retail or commercial establishment. Councilmember Keany agreed.

Mayor Muckle made a motion to approve Resolution No. 43, Series 2016, Councilmember Maloney seconded the motion. All in favor.

ORDINANCE NO. 1726, SERIES 2016 – AN ORDINANCE OF THE CITY OF LOUISVILLE, COLORADO AUTHORIZING AND APPROVING A LEASE PURCHASE FINANCING FOR SOLAR PANELS WITH ALPINE BANK AND, IN CONNECTION THEREWITH, CERTAIN RELATED DOCUMENTS AND TRANSACTIONS – 2nd Reading – Public Hearing

Mayor Muckle called for a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1726, Series 2016.

Mayor Muckle opened the public hearing and called for a staff presentation.

City Manager Fleming noted this is the second half of the proposal initially discussed with a resolution approved two weeks ago. This ordinance approves a lease-purchase agreement for 199 kW of electrical production capacity from the Clean Energy Collective's (CEC) Boulder #2 array. Staff was able to secure the lower 4.75% interest rate from Alpine Bank for the first five years of the agreement. There is the possibility of it being reduced to 3.75% in the tax financing portion of the agreement. The City is assuming we could do that or buy out the panels at the end of the five years. This is consistent with the agreement approved at the August 2 meeting. The City estimates this will save the City \$280,000 over a twenty-year period when combined with the capacity purchase agreement. This would more than double the City's use of renewable resources to generate the power we use.

Councilmember Maloney asked where the assumptions for the interest rates come from. City Manager Fleming noted there are conditions in the agreement for transitioning to the lower 3.75% interest rate after the initial term of the agreement. The agreement contains the conditions under which the transition to the lower rate can take

place. City Attorney Light stated the interest can convert if the CEC can get an opinion that the interest that will remain can qualify as tax exempt.

Mike Malone from the CEC stated that in five years after installation that the tax equity portion of the investment will have expired allowing for the change. This assumes no major tax laws change before then.

Mayor Muckle asked for public comment, seeing none he closed the public hearing.

MOTION: Councilmember Stolzmann moved to approve Ordinance 1726, Series 2016. Councilmember Loo seconded the motion. Roll call vote. All in favor.

**ORDINANCE NO. 1727, SERIES 2016 – AN ORDINANCE AMENDING SECTIONS
13.08.040 AND 13.08.180 AND SECTION 13.12.020 OF THE LOUISVILLE
MUNICIPAL CODE REGARDING WATER SERVICE REGULATIONS AND WATER
TAP FEES – 2nd Reading – Public Hearing**

Mayor Muckle called for a City Attorney introduction.

City Attorney Light introduced Ordinance No. 1727, Series 2016.

Mayor Muckle opened the public hearing and called for a staff presentation.

Public Works Director Kowar stated the ordinance modifies three provisions of the Louisville Municipal Code amending Section's 13.08.040, Section 13.08.180 and Section 13.12.020.A regarding water service regulations and tap fees generally. The three revisions do the following:

- Clean up the Code to clarify the City maintains service lines in the street to the curb stop and the customer maintains everything from the curb stop or the meter on to their property.
- Gives some flexibility when approving where cross connections/backflow devices are installed so they are installed in the correct configuration and coincide with how the system is managed.
- Updates how the City handles the installation of service lines placing more burden on developers at the time of construction.

Director Kowar recommended the City Council approve Ordinance No. 1727, Series 2016.

Mayor Muckle asked for public comment, seeing none he closed the public hearing.

MOTION: Councilmember Keany moved to approve Ordinance No. 1727, Series 2016, seconded by Councilmember Loo. All in favor.

DISCUSSION/DIRECTION/ACTION – NINTH AMENDED EMPLOYMENT AGREEMENT (CITY MANAGER MALCOLM FLEMING)

Mayor Muckle stated the City Council met in executive session two weeks earlier to discuss the performance of City Manager Fleming. Mayor Muckle stated he and City Manager Fleming met to discuss the results of the evaluation.

City Attorney Light stated that with each annual review period the City Council provides an evaluation as required by the City Charter. This is followed by an annual contract with the City Manager. Following the review, the Council arrives at a proposed new contract for the next year. This year's agreement proposes a base salary increase of 3% with no other changes to the document.

Mayor Muckle asked for public comment. There was no public comment.

Mayor Muckle moved to approve the Ninth Amended Employment Contract. Councilmember Maloney seconded the motion.

Councilmember Leh stated the Citizen Survey this year showed that our residents are very happy and that reflects City Manager Fleming's management of the City.

Roll call vote, all in favor.

City Manager Fleming thanked the Council and staff as well as the residents and businesses for their confidence in him. He noted in Louisville people really do work together to build a tremendous community.

US 36 MAYORS AND COMMISSIONERS COALITION AND 36 COMMUTING SOLUTIONS POLICY AGENDA – *MOVED FROM CONSENT AGENDA*

Mayor Muckle noted the US 36 Mayors and Commission Coalition (MCC) has worked collaboratively over the years on US 36 upgrades and is now expanding to a broader geographic area with the Northwest Area Mobility Study. He stated the MCC previously was focused on federal issues, but is focusing more on the local and state roads that need attention. This proposed policy agenda reflects those needs and is designed to give the MCC state lobbyist direction during the legislative session. He stated there has been a great deal of work and compromise on this document among the various entities along the US 36 Corridor.

Councilmember Stolzmann asked what approving this means for the City. Mayor Muckle stated all MCC members are being asked to approve this so it is clear that everyone in the coalition is in support of the goals. The hope is these policy statements are broad enough for all the communities to get behind. Councilmember Stolzmann asked if this replaces or changes the City's own legislative agenda. Mayor Muckle stated it does not.

Councilmember Stolzmann asked if this requires a further commitment from our staff. Mayor Muckle stated this should not be a larger commitment from us as a practical matter.

Councilmember Stolzmann stated the City recently passed a resolution regarding completion of the Northwest Rail to Boulder County, and parts of this document appear to be counter to that. It doesn't seem to support Northwest Rail. She added it doesn't seem to her that the document supports HOV3 in the manner we want. She noted the MCC meetings are not open to the public and she doesn't feel that is consistent with our goals.

Councilmember Leh stated his appreciation for Councilmember Stolzmann's comments and noted the MCC does do a great deal of work. He stated he would hate to support the MCC in a way that would get in the way of the City's goals. He asked if this document would specifically help the MCC. Mayor Muckle noted it would help direct the MCC's lobbyist and staff during the legislative session when items move through the legislature quickly before the MCC can react as a group. Councilmember Leh asked how the Mayor would respond if the MCC took a position at odds with the City. Mayor Muckle stated the MCC works as a consensus group, so if Louisville is against something the MCC as a group would likely not lobby on it or the group as a whole would have to change the policy to reach consensus. Mayor Muckle stated there are not likely to be any issues the MCC decides to pursue that the City doesn't support.

Mayor Muckle noted the language regarding HOV3 was meant as a push back to the state regarding the automatic switch to HOV3 next year regardless of the traffic levels, not that there was not support for it. The MCC simply doesn't want the change to occur until the capacity requires it. He added his reading of the language regarding rail appears to fully support completion of the Northwest Rail.

Councilmember Loo stated we have been very successful on the US36 corridor and in transportation generally because of the MCC and we should not end support of the MCC now.

Councilmember Leh stated his faith that the Mayor will represent the needs of Louisville with the MCC and noted the group has been critical in getting work done. He stated he would like to find a way to clarify how the Council controls statements made on its behalf; there should be a process and some working principals to use when that happens.

Mayor Muckle stated he will try to make more consistent reports on what the MCC is doing, however it is hard to do that in a timely manner given the meeting schedule. This item is really about giving the MCC lobbyist the direction they need to work with legislators not so much that each of these items is an absolute priority

Councilmember Leh stated a number of the Councilmembers do intergovernmental work and anyone of them can get out too far out on an issue without getting full input from the entire Council and there should be a process to handle that.

Councilmember Stolzmann stated she would like a way for more public participation at the MCC and would like the meetings to be noticed for the public to be able to attend and participate as these policies have implications for Louisville residents.

Deputy City Manager Balsler noted the MCC is about building consensus and speaking with one voice. US36 would not have gotten the support it had and have been built if Broomfield and Boulder had not decided they had a unified vision for the corridor 16 years ago. The MCC has created a vision and agreed to work as a group to move these issues forward. This legislative agenda is an attempt to continue to build that consensus and be productive moving forward.

Mayor Muckle stated he will work harder to bring MCC issues to the Council earlier for discussion.

Mayor Pro Tem Lipton asked if these policy topics could be included in the discussion of the City's legislative agenda each year as that discussion is all done in public meetings and includes public input. He asked the Council look at regional legislative agendas each year to better understand how Louisville's agenda fits in.

Mayor Muckle moved for approval of the MCC Policy Agenda, Councilmember Loo seconded the motion. All in favor.

CITY ATTORNEY'S REPORT

No report.

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

Mayor Pro Tem Lipton asked if future landmarking items could be on the consent agenda as long as they are recommended for approval by the Historic Preservation Commission.

Mayor Pro Tem Lipton stated he would like to schedule a larger conversation about boards and commissions and Council committees and the possibility of sun setting some groups before we start advertising for 2017 vacancies.

Mayor Pro Tem Lipton stated the Open Space Board would like the underpass at Highway 42 and Hecla Drive to be discussed when the Council discusses the Open Space Funding for the Capital Improvement Plan.

Councilmember Keany would like an update on mosquito control and West Nile virus from staff. City Manager Fleming stated monitoring is ongoing and spraying occurs when it is warranted as defined by the guidelines of the Boulder County Health Department. Councilmember Keany also asked for a future update on the algae problem at Lake Park.

ADJOURN

MOTION: Mayor Muckle moved for adjournment, seconded by Councilmember Leh. All were in favor. The meeting was adjourned at 8:56 p.m.

Robert P. Muckle, Mayor

Meredyth Muth, City Clerk