

City Council Meeting Minutes

**February 7, 2023
City Hall, Council Chambers
749 Main Street
6:00 PM**

Call to Order – Mayor Maloney called the meeting to order at 6:00 p.m. **Roll Call** was taken and the following members were present:

City Council: *Mayor Dennis Maloney
Mayor Pro Tem Deborah Fahey
Councilmember Caleb Dickinson (attended remotely)
Councilmember Barbara Hamlington (sworn in)
Councilmember Dietrich Hoefner (sworn in)
Councilmember Chris Leh
Councilmember Maxine Most*

Staff Present: *Jeff Durbin, City Manager
Kurt Kowar, Public Works Director
Cory Peterson, Deputy Director of Utilities
Rob Zuccaro, Planning and Building Safety Director
Ellie Hassan, Planner II
Sharon Nemechek, Cultural Services Director
Erica Schmitt, Arts and Event Manager
Rhonda Henger, Human Resources Director
Meredyth Muth, City Clerk*

Others Present: *Kathleen Kelly, City Attorney*

APPROVAL OF AGENDA

Mayor Maloney asked for the appointments of the new Ward 3 members to be moved to before the consent agenda. He asked for any other changes. Hearing none asked for a motion. **MOTION:** Councilmember Leh moved to approve the agenda as amended, seconded by Mayor Pro Tem Fahey. **VOTE:** All in favor.

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

Grace Gee, Louisville resident, spoke on the Louisville Resiliency Sculpture and her disappointment that Council decided to put the sculpture on hold.

Beth McLennan, Louisville resident, stated that she was a juror for the Louisville Resiliency Sculpture and also expressed her disappointment in Council's action.

Kyle Brown, thanked Council for the opportunity he had to be a councilmember. He stated he is looking forward to working with the Louisville Council in his new capacity as State House Representative. He offered his congratulations to the new Ward 3 councilmembers. He noted his door is always open and he looks forward to continuing his service to this community.

APPOINTMENT OF WARD III COUNCILMEMBERS

Mayor Maloney stated the Council has two vacant Ward 3 seats as a result of Councilmember Brown being selected to serve as State House Representative and Councilmember Maloney being becoming Mayor after Mayor Stolzmann was elected as County Commissioner. The Council conducted seven interviews on January 31. He thanked all of the applicants noting it was a very good pool to choose from with many qualified candidates willing to serve on Council.

Public Comments – None

Mayor Maloney asked for nominations for the first vacancy.

MOTION: Mayor Pro Tem Fahey nominated Dietrich Hoefner, seconded by Mayor Maloney.

Councilmember Most stated she was uncomfortable with this process and feels it fell short in the area of EDI. She would have liked additional discussion about EDI. She felt the process was rushed. As a community she would like to see Council to do better on EDI issues. She worries there are people in the community that are not being served or listened to. She stated this does not take away from those being appointed this evening, just that she wants people to keep this in mind.

Councilmember Leh encouraged everyone to read the applications and also noted the quality of the applicants. He noted the outreach to residents to get a more diverse pool of applicants. He stated this process is a challenge and the answers from the applicants were varied. He stated the process was not perfect but he is pleased with the outcome.

VOTE: Motion carried by unanimous roll call vote.

Mayor Maloney asked for nominations for the second vacancy.

MOTION: Councilmember Most nominated Barbara Hamlington, seconded by Mayor Pro Tem Fahey.

VOTE: Motion carried by unanimous roll call vote.

Councilmembers Hoefner and Hamlington were sworn in by Municipal Judge Thrower.

APPROVAL OF THE CONSENT AGENDA

Mayor Maloney asked for changes to the consent agenda. Councilmember Most asked for Item F to be moved to the regular agenda. **Motion:** Councilmember Leh moved to approve the consent agenda as amended, seconded by Mayor Pro Tem Fahey. **Vote:** All in favor.

- A. ***Approval of Bills***
- B. ***Approval of Minutes: September 20, 2022***
- C. ***Approval of Resolution No. 4, Series 2023 – A Resolution Authorizing Changes to the Approved Signers for the City’s Banking and Financial Accounts***
- D. ***Approval of Request for Proposals for 10-Year Comprehensive Plan Update Consultant Services***
- E. ***Approval of 2023 On Call Geographic Information System and Asset Management System Support Services Contract with Invision GIS, LLC***
- F. ***Approval of Appointments to Cultural Council, Revitalization Commission, and Planning Commission **moved to regular agenda*****
- G. ***Approval of Sole Source Agreement with Spronk Water Engineers for 2022 Water Rights Administration***
- H. ***Approval of Resolution No. 5, Series 2023 – A Resolution Authorizing Funding of Foundation Removal and Fire Debris Clean Up Following the Marshall Fire for 130 Cherrywood Lane***
- I. ***Approval of Sole Source Agreement with RESPEC for 2023 Environmental Compliance Consulting Services***
- J. ***Approval of Contract Between the City of Louisville and Municipal Treatment Equipment for Water Treatment Plant Chemical Mixing Equipment Replacement***
- K. ***Approval of Second Amended Employment Contract for City Manager Jeff Durbin***

APPROVAL OF APPOINTMENTS TO CULTURAL COUNCIL, REVITALIZATION COMMISSION, AND PLANNING COMMISSION MOVED FROM CONSENT AGENDA

Councilmember Most stated the Planning Commission is such an important position and it warrants more consideration than putting the recommendation on the Consent Agenda.

Mayor Maloney noted the established process was followed. That process can be reviewed with the discussion on Boards and Commissions scheduled next month.

MOTION: Councilmember Dickinson moved to approve the appointments; seconded by Councilmember Leh. **VOTE:** Motion passed 6-1; Most voting no.

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Mayor Pro Tem Fahey asked everyone to extend sympathies to the earthquake victims in Turkey and Syria.

Mayor Maloney noted it is Black History Month. There are many resources at the library and the History Museum on Black History.

CITY MANAGER'S REPORT

None.

REGULAR BUSINESS

NORTH END BLOCK 11 – 1501 EAST SOUTH BOULDER ROAD

ORDINANCE NO. 1846, SERIES 2022 – AN ORDINANCE APPROVING A FOURTH AMENDMENT TO THE NORTH END GENERAL DEVELOPMENT PLAN TO AMEND ALLOWED RESIDENTIAL USES ON PLANNING AREA 1 AND STANDARDS FOR ROOF OVERHANG ENCROACHMENTS WITHIN SETBACKS AND EASEMENTS FOR BLOCK 11 – 2nd READING, PUBLIC HEARING (advertised *Daily Camera* 1/08/23)

ORDINANCE NO. 1847, SERIES 2022 – AN ORDINANCE APPROVING A PARTIAL VACATION OF SIX PORTIONS OF AN EXCLUSIVE CITY UTILITY EASEMENT ON BLOCK 11 OF THE NORTH END, BLOCK 11 – REPLAT OF NORTH END PARCEL 1, OUTLOT H & OUTLOT K REPLAT SUBDIVISION – 2nd READING, PUBLIC HEARING (advertised *Daily Camera* 1/08/23)

RESOLUTION NO. 6, SERIES 2023 – A RESOLUTION APPROVING A PLANNED UNIT DEVELOPMENT AMENDMENT AND A FINAL PLAT WITH AMENDED SUBDIVISION AGREEMENT FOR A MIXED-USE DEVELOPMENT CONSISTING OF 38 RESIDENTIAL UNITS AND 40,562 SQUARE FEET OF COMMERCIAL DEVELOPMENT AT BLOCK 11 OF NORTH END (1501 SOUTH BOULDER ROAD)

Mayor Maloney introduced the items and asked for disclosures. Councilmember Hoefner stated he heard and acted on the application in his capacity as a Planning Commissioner, but he will make his decision on the evidence presented at this City Council hearing. He added he does not believe his participation as a Planning

Commission member will affect his ability to hear and act on the application as a Councilmember in a fair and impartial manner.

Mayor Maloney opened the public hearing.

Planner Ellie Hassan stated this property is a four and one-half acre parcel currently zoned community commercial and residential located in the North End development. The proposed amendments would change the housing types along with some site design. The applicant is also requesting amendments to the General Development Plan (GDP). The application reflects a mix of multi-family and commercial development with the elimination of single-family and townhome duplex housing.

The applicant is also requesting a plat amendment to accommodate the multi-family and the commercial development. The plat will establish the new easements and includes four commercial building and 38 dwelling units. The commercial buildings will vary in height from one story to three story. The residential buildings will include duplex, triplex and fourplex designs.

This application is subject to the Inclusionary Housing ordinance and the applicants are seeking the fee in lieu option. The applicant is also requesting a waiver for building height for four of the buildings to over 40 feet.

Mayor Pro Tem Fahey asked where money for fee in lieu would go. Community Development Director Rob Zuccaro stated that it will need to be held in a dedicated fund for use on affordable housing. The housing study will hopefully give some strategies on how to use the fees that are received.

Councilmember Most asked for clarification on Council's ability to grant or not grant the fee in lieu. Director Zuccaro acknowledged that Council is not required to grant the fee in lieu. Councilmember Most expressed her concern that four affordable units would be able to be built at another site with that amount of money. Director Zuccaro clarified that the money is not equal to the price of a unit, just the difference.

Mayor Maloney expressed a concern about concurrency of building commercial and residential. He stated he almost wants to require a certificate of occupancy for commercial prior to residential being built. He recalled a situation where the residential was built and the commercial property was never started. He asked if it was advisable that the Council takes a deeper step to ensure it gets done. Director Zuccaro said that a condition could be added by Council.

Sam Coutts of Ripley Designs made the applicant presentation on behalf of Markel Homes. He gave a brief overview of Markel Homes, spoke regarding the fee in lieu option, and noted the request to build multi-family units rather than single-family.

Councilmember Most stated that when she thinks of affordable housing she thinks about location to services, schools, transportation, etc. She would like more data on the fiscal impact to the other units in the development if the fee in lieu was not granted. Jason Markel said they might have to explore creative ways to lower rents or subsidized units in the commercial spaces. Affordable units in the residential section would compound that and he is confident that they are not going to high rents for the commercial properties.

Councilmember Hamlington asked why the single-family and duplex types were removed from the plan. Mr. Markel said there was an island of single family homes and it didn't seem to fit being next to commercial and other multi-family. It makes much more sense to go with higher density.

Public Comments:

Mark Cathcart, Louisville, stated the HOA and neighbors do want this built as the vacant lot is an eyesore. He is concerned that once replatted the applicant could then sell the properties and never build.

Jeff Gaillard, Louisville, said that the previous statement is echoed by the community. This project needs to be built and he's worried that they are going to get some more residential units and foundations with weeds forever.

Councilmember Hoefner wanted clarification from the applicant regarding phasing. Mr. Markel answered that the next phase of residential can't be started without phase two commercial being under construction. It's possible to be finishing up the first commercial building and residential phase, but another residential building permit could not be pulled without putting a foundation in the ground for the next commercial building.

Councilmember Dickinson stated he likes the lighting and landscaping plans and is happy to see the EV parking. He likes the concurrency plan of building commercial with residential and thanked staff for a balanced approach of being flexible but holding the developer to building all the structures. He stated the height waivers are minimal, not an additional story. He is happy to see the fee for affordable housing that the City can use towards more affordable housing in a way that makes sense. He stated this appears to be a good product that he can support.

Councilmember Most asked if Council approved subdividing was there anything that would prevent the applicant from selling it off. Mr. Markel stated they could sell it but that is not their intent. Councilmember Most stated she is concerned that there will be a request at a later date to not complete the commercial area. She asked what sizes of commercial they are envisioning on this site. Mr. Markel stated the commercial buildings would be designed to be flexible so they could take many different sizes of businesses. They are also talking about co-working spaces.

Mayor Maloney stated he supports the fee in lieu as a way to have the funds to buy property for partnering on new areas for affordable housing. The concurrency plan was put in place to assure the City that the commercial gets built. He supports the change in the types of units as it brings more workforce housing to town. The height waivers are very minor, and he supports the application.

Public Comments – None.

Mayor Maloney closed the public hearing

Councilmember Leh noted the importance of this property and the need to finish the subdivision. He stated he thinks the criteria are met for the application and the fee in lieu for housing makes sense.

MOTION: Councilmember Leh moved to approve Ord No. 1846; seconded by Mayor Pro Tem Fahey.

VOTE: Motion carried by unanimous roll call vote.

MOTION: Councilmember Leh moved to approve Ordinance No. 1847; seconded by Councilmember Hoefner.

VOTE: Motion carried by unanimous roll call vote.

MOTION: Councilmember Dickinson moved to approve Resolution No. 6; seconded by Councilmember Leh.

VOTE: Motion carried by unanimous roll call vote.

DISCUSSION/DIRECTION – OPTIONS FOR 2023 INDEPENDENCE DAY CELEBRATION

Arts and Events Program Manager Erica Schmitt outlined four options for consideration for an Independence Day celebration. One, the traditional fireworks, a concert band and gathering at the golf course. Two, have the fireworks shot from a higher elevation so they can be enjoyed from around the city. Third, have a drone light show and a concert band at the golf course. The fourth option is an afternoon celebration providing entertainment for all ages, interactive games, and more. Regardless of the option chosen booking vendors needs to be done as soon as possible.

Councilmember Leh asked if any outreach had been done to fire survivors. City Manager Jeff Durbin stated there is a lot of anecdotal information about people who really want fireworks and those who don't feel it is appropriate. No formal surveying has been done.

Mayor Maloney asked when a decision has to be made to move forward. Manager Schmitt stated staff will need to know about buying fireworks by March.

Mayor Maloney asked Fire Chief Willson about the risk of the fireworks. Chief Willson stated the Fire District is neutral, but they have a very good track record. Picking a good vendor is key. There are conditions that have to be met that night such as drought level, and wind, plus the golf course waters really well prior to the event.

Councilmember Most stated she would like to see the fireworks continue. It is tough to make this decision with just anecdotal information.

Mayor Pro Tem Fahey favors adding an event to Community Park but she stated she wouldn't want to make a decision without knowing more of what residents want.

Councilmember Leh agrees with the idea of having a daytime event, if the funds are available.

Public Comments

Cindy Bedell, Louisville, asked if any fires have been caused by the fireworks and Chief Willson responded no. She looks forward to the hot dogs.

Sherry Sommer, Louisville, asked to consider having the traditional festivities, except replace the fireworks with drones.

Councilmember Dickinson stated there is no way to make everyone happy and he doesn't think there is enough time to do a survey. He would lean towards keeping the fireworks. He would like to add the daytime event if possible.

Councilmember Hoefner is also skeptical that a survey could be done quickly enough and with enough participants. He is leaning in favor of the history and tradition of the fireworks while recognizing some that don't like them though. He would also like to add a daytime event.

Mayor Maloney likes the drone idea but the cost seems excessive for a short event. He would like to see the daytime event added for 2024 and keep the fireworks for 2023.

Councilmember Most asked if the daytime event could be added this year if budget allows. City Manager Jeff Durbin stated it is unlikely we could do that this year given staff resources but it could be planned for 2024.

The consensus was for staff to move forward with fireworks for this year and look at other options that could be added for 2024.

Councilmember Dickinson asked if the Mayor could write something about this decision to be sent to the public to people understand the decision.

RESOLUTION NO. 7, SERIES 2023 – A RESOLUTION SETTING CERTAIN WATER, WASTEWATER, STORMWATER AND OTHER FEES, RATES, AND CHARGES FOR THE CITY OF LOUISVILLE, COLORADO

Deputy Director of Utilities Cory Peterson stated staff is recommending an 8% increase in wastewater rates, a 9% increase for stormwater rates, and no increase for water. He noted this will be about a \$4.00 increase on average for residents. He reviewed the process staff uses to smooth the increases over the years so resident don't get large increase all at once. This decision does not affect water tap fees, only monthly utility charges.

Mayor Pro Tem Fahey asked if the loss of revenue from homes lost to the fire affect the numbers. Deputy Director Peterson, stated yes, but replacement of those homes in the next few years is included in the projections.

Councilmember Leh noted this rate increase does effect residents, especially lower income residents. He asked if information is being sent to residents about this process. He noted the City does have funds available to help people with utility bills.

Public Works Director Kurt Kowar stated a mailing will go to all residents in April and it will tell people how to get apply for funding.

Public Comments – None

Councilmember Hoefner stated the rate smoothing model is great to keep people from getting huge changes.

MOTION: Councilmember Hoefner moved to approve Resolution No. 7; seconded by Councilmember Hamlington.

VOTE: Motion carried by unanimous roll call vote.

**ORDINANCE NO. 1848, SERIES 2023 – AN ORDINANCE AMENDING SECTION 2.02.090 OF THE LOUISVILLE MUNICIPAL CODE REGARDING THE MAYOR'S AND MAYOR PRO TEM'S SALARIES – 2ND READING, PUBLIC HEARING
(advertised *Daily Camera* 1/8/23)**

Mayor Maloney introduced the item and opened the public hearing.

Director of Human Resources Rhonda Henger the City's compensation consultant was tasked with comparing the Mayor, Mayor Pro Tem, and councilmember salaries with 27 surrounding municipalities. As a result of the study, adjustments to the Mayor and

Mayor Pro Tem's salaries are being suggested. The Mayor's salary would increase to \$18,604/year and the Mayor Pro Tem's salary will increase to \$11,993/year to align with the market study. There is no request to increase councilmember salaries. These changes would take effect for newly elected councilmembers only.

Councilmember Hamlington appreciates the evaluation to keep those that are serving at market value. She noted that pay can make the difference between encouraging those that may need assistance, such as hiring a baby sitter, in order for a councilmember to attend meetings. This assistance will help with Council's EDI goals.

Public Comments – None.

Mayor Maloney said that when looking at very large cities, leadership in those cities is on a very different scale. He would like to see comparisons with Superior, Lafayette, and Erie. The differential for mayor and mayor pro tem makes sense.

Mayor Pro Tem Fahey agreed with Mayor Maloney's. She suggested accommodations for those that need translators, child care, etc. rather than a salary increase to reach EDI goals.

Councilmember Most stated that requiring people to ask for an accommodation or assistance makes them feel separate. If we want to make it more accessible, make it more possible for people to engage.

Councilmember Leh proposed bringing back data that removes the larger cities and focus more on those immediately surrounding Louisville.

Mayor Maloney stated the basic structure makes sense, but members would like to see a different set of cities to compare to.

The item was continued to May 2 meeting at 6 pm.

ORDINANCE NO. 1849, SERIES 2023 – AN ORDINANCE APPROVING THE VACATION OF FOUR DRAINAGE EASEMENTS LOCATED BETWEEN LOTS 13 AND 14, LOTS 14 AND 15, LOTS 15 AND 16, AND LOTS 16 AND 17 OF BLOCK 1 DEDICATED BY THE REPLAT OF THE ENCLAVE – 1ST READING, SET PUBLIC HEARING 3/7/23

Mayor Maloney introduced Ordinance No. 1849 by title.

MOTION: Mayor Maloney moved to approve the ordinance on first reading and set the public hearing for March 7, 2023; seconded by Pro Tem Fahey.

VOTE: Motion passed by unanimous voice vote.

**ORDINANCE NO. 1850, SERIES 2023 – AN ORDINANCE AMENDING SECTION 3.24
OF THE LOUISVILLE MUNICIPAL CODE REGARDING THE TAX AND FEE
BUSINESS ASSISTANCE PROGRAM – 1ST READING, SET PUBLIC HEARING
2/21/23**

Mayor Maloney introduced Ordinance No. 1849 by title.

MOTION: Mayor Maloney moved to approve the ordinance on first reading and set the public hearing for February 21, 2023; seconded by Councilmember Most.

VOTE: Motion passed by unanimous voice vote.

CITY ATTORNEY’S REPORT

None.

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

Mayor Maloney again welcomed the new members.

ADJOURN

Members adjourned at 9:54 pm.

Dennis Maloney, Mayor

Meredyth Muth, City Clerk