

City Council Meeting Minutes

**November 28, 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
Councilmember Caleb Dickinson
Councilmember Deborah Fahey
Councilmember Barbara Hamlington
Councilmember Dietrich Hoefner (attended remotely)
Councilmember Judi Kern (arrived 6:04 pm)
Councilmember Chris Leh*

Staff Present: *Jeff Durbin, City Manager
Rob Zuccaro, Community Development Director
Amelia Brackett Hogstad, Senior Planner
Chad Root, Chief Building Official
Meredyth Muth, City Clerk*

Others Present: *Melinda Culley, City Attorney
David Thrower, Municipal Judge*

APPROVAL OF AGENDA

Mayor Maloney called for changes to the agenda and hearing none asked for a motion.

Motion: Councilmember Leh moved to approve the agenda; seconded by Councilmember Dickinson. **Vote:** All in favor.

MAYOR'S COMMENTS

Mayor Maloney took some time to thank everyone for his time in office. He noted some of the events and changes that have taken place in his eight years on Council. He stated the work plan for Council does not get easier; there is still work to do to benefit the community.

City of Louisville

*City Council 749 Main Street Louisville CO 80027
303.335.4536 (phone) www.LouisvilleCO.gov*

OATH OF OFFICE

Municipal Judge David Thrower swore in the newly elected members Chris Leh, Caleb Dickinson, Deb Fahey, Barbara Hamlington, and Dietrich Hoefner.

Mayor Leh welcomed everyone to Council and stated he looks forward to the collaborative and productive work that is to come.

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

Qian Wu, Louisville, stated the Council should not discuss the Redtail application in December as he believes proper notice was not completed.

Weiyen Chen, Louisville, stated she does not believe the Redtail public notice was sufficient and the December 5 hearing should be postponed.

Louie Delaware, Louisville, asked what the next steps are on restriping Via Appia. He also asked Council to consider extending the use tax rebate for fire rebuilds to permits that might come after the original house permit. He noted that the City's Federal representatives have asked insurance companies to extend funding for ALE and asked the Council to do the same.

Cathern Smith, Louisville, asked that the Redtail public hearing be postponed as the Northwest Parkway has not made a decision on the application yet. She is concerned about the traffic the development will generate; grading displacing animals and plants; and its impact on the small town character.

Yuehua Ji, Louisville, asked that the Redtail hearing be postponed.

Natasha Flyer, Superior, stated traffic on 88th Street is already bad and the proposed development on Redtail will make it worse. She stated she could not find the new application on the website so the December 5 hearing should be postponed.

Tamar Krantz, Louisville, asked the City Council to consider purchasing the property that is for sale on Empire Road for Open Space.

Josh Cooperman, Louisville, stated that last year the Sustainability Advisory Board recommended the Council work on phasing out gasoline powered lawn equipment. While it is on the Council's work plan it has not been acted on. He asked Council to schedule that for discussion.

Sherry Sommer, Louisville, stated running for mayor was a great way to learn what residents like about Louisville. She also learned about people's concerns about economic vitality, affordable housing, fire mitigation, and not losing our character. She

stated the Redtail hearing should be postponed so more people are informed. She stated the application is not complete without Northwest Parkway approvals. She stated it feels rushed.

David Sweedler, Louisville, stated the Redtail hearing should be postponed so residents can review the updated application.

Stephanie Rowe, Louisville, agreed with earlier speakers that the Redtail hearing should be postponed. She stated the application is not complete and should not move forward. She asked that tree and bird surveys be completed before the hearing takes place.

Lisa Hughes, Louisville, asked that the use tax rebate for those rebuilding from the fire be extended to fences and solar panels. She also asked that the road diet for Via Appia be reconsidered.

APPROVAL OF THE CONSENT AGENDA

Mayor Leh asked for changes to the consent agenda; hearing none he asked for a motion. **Motion:** Councilmember Fahey moved to approve the consent agenda, seconded by Councilmember Dickinson. **Vote:** All in favor.

- A. ***Approval of Bills***
- B. ***Authorize Execution of Engagement Letter for Auditing Services with Eide Bailly, LLC***
- C. ***Approval of Contract with Granicus for GovDelivery Email and SMS Communication Platform***

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

None.

CITY MANAGER'S REPORT

City Manager Jeff Durbin stated the Old Town Skating rink has been delayed but will likely be opening later this week.

REGULAR BUSINESS

ELECTION OF MAYOR PRO TEM

Councilmember Fahey nominated Councilmember Dickinson to be Mayor Pro Tem. Councilmember Hoefner seconded the motion.

Motion passed by unanimous voice vote.

1045 FRONT STREET HISTORIC LANDMARK AND PRESERVATION GRANT

RESOLUTION NO. 72, SERIES 2023 – A RESOLUTION APPROVING A LANDMARK DESIGNATION FOR A HISTORICAL RESIDENTIAL PROPERTY LOCATED AT 1045 FRONT STREET

RESOLUTION NO. 73, SERIES 2023 – A RESOLUTION APPROVING A PRESERVATION AND RESTORATION GRANT FOR THE DESANTIS HOUSE AT 1045 FRONT STREET

Mayor Leh introduced the item and asked for disclosures; seeing none he opened the public hearing.

Senior Planner Brackett Hogstad stated this is a request for landmarking and a preservation grant. Staff finds the home meets the criteria for landmarking both architecturally and socially and it is eligible for landmarking. Staff recommends a grant in the amount of \$132,000. This is above the normal maximum amount but staff finds the request meets extraordinary circumstances due to the condition of the building and the restoration of architectural details.

The Historic Preservation Commission reviewed the requests and recommends approval on both resolutions and there are letters of support from neighbors in the packet.

Public Comments – None.

Applicant presentation – Jessica Bronson stated their goal is to save the property and contribute to the neighborhood.

Mayor Pro Tem Dickinson asked if this is the largest residential grant request we have had. Brackett Hogstad stated it is one of the largest. Mayor Pro Tem Dickinson asked how the grant process works. Brackett Hogstad stated it is paid by reimbursement only for detailed and itemized receipts and requires matching funds from the applicant.

Mayor Pro Tem Dickinson asked the applicant if they were aware of the tax implications of the grant and that there are tax credits available for the work. Bronson stated they are aware of these issues.

Councilmember Hamlington thanked the applicant for preserving this home. And noted the female ownership history of the property.

MOTION: Mayor Pro Tem Dickinson moved to approve Resolution No. 72; seconded by Councilmember Kern.

Mayor Leh closed the public hearing.

VOTE: Motion carried by unanimous roll call vote

MOTION: Councilmember Fahey moved to approve Resolution No. 73; seconded by Mayor Pro Tem Dickinson

VOTE: Motion carried by unanimous roll call vote.

**RESOLUTION NO. 74, SERIES 2023 – A RESOLUTION APPROVING A
PRESERVATION AND RESTORATION GRANT FOR THE ADKINS HOUSE AT 816
MCKINLEY AVENUE**

Mayor Leh introduced the item and asked for disclosures; seeing none he opened the public hearing.

Planner Bracket Hogstad stated this is a request for a historic preservation grant. This home was landmarked in 2011. It is not eligible for additional grants except under extraordinary circumstances. She reviewed the request and the work identified for preservation, restoration, and rehabilitation. Staff finds the project eligible for an extraordinary circumstances grant and recommends approval.

Andy Johnson, representing the applicant, reviewed the structure and the work they are proposing.

Applicants Kevin and Jenny Eld stated they hope to preserve the home in a way to pay tribute to its modest beginnings.

Councilmember Hamlington thanked the applicant for preserving the home.

Mayor Pro Tem Dickinson stated the ability of homes already landmarked to come back for grants is a good way to help preserve homes.

Public Comments – none.

Councilmember Fahey thanked the applicant for preserving the home and maintaining the character of the City.

Mayor Leh closed the public hearing.

MOTION: Mayor Pro Tem Dickinson moved to approve the resolution, seconded by Councilmember Fahey

Vote: Motion carried by unanimous roll call vote.

RESOLUTION NO. 75, SERIES 2023 – A RESOLUTION APPROVING A PRELIMINARY SUBDIVISION PLAT AND PRELIMINARY PLANNED UNIT DEVELOPMENT FOR 15 SINGLE FAMILY AND 21 TOWNHOME UNITS ON A 3.6-ACRE PARCEL LOCATED AT 421, 533, AND 565 EAST STREET

Mayor Leh introduced the item and asked for disclosures; seeing none he opened the public hearing.

Community Development Director Zuccaro stated this is a request for a preliminary PUD and plat. He reviewed the site noting it spans about 3.6 acres along two existing unplatted properties that are accessed along East Street. He noted the zoning here would allow for a large apartment building but they are asking for waivers to allow for buildings much more in character with downtown.

The applicants propose to create a subdivision of 36 lots and 8 outlots. The lots range from about 1,800 to 3,700 square-feet. The outlots are established for private roads and alleyways, parking, common open space, utilities, and drainage. Staff supports their request for fee in lieu of a public land dedication.

Director Zuccaro noted the applicant requests subdivision modifications for block length and lot depth and frontage as part of this plat in order to accommodate the proposed residential units. He reviewed the dedications and easements.

The preliminary PUD proposes a mix of 15 single-family detached units and 21 townhome units, totaling 36 residential dwelling units. He reviewed the proposed architecture designs for the units, the proposed landscaping, and common open spaces.

Director Zuccaro reviewed the results of the traffic study saying that overall, the report found that the proposed units in East Street Village will have minimal impact to the nearby intersections.

The applicant is proposing the fee in lieu option to satisfy requirements in the Inclusionary Housing chapter of the Municipal Code. The applicant is also requesting zoning waivers related to lot coverage and area; setbacks; and heights. He stated that in exchange for these waivers there will be more common open space and private roads and alleys. He reviewed the modification criteria.

Director Zuccaro stated staff finds the preliminary plat is in conformance with the Municipal Code with the requested modifications and waivers. The proposal is consistent with policies in the Comprehensive Plan. The applicant is asking to pay the fee in lieu of the affordable housing requirement. Staff believes collecting the fee in lieu gives the City more options to build a larger affordable housing project and leverage other financing options.

Director Zuccaro noted there are 10 houses on the property now that would need to be demolished for this project. The Historic Preservation Commission released demolition permits for all 10 homes.

Councilmember Kern asked if the development would be subject to the net zero building code. Director Zuccaro stated it would be.

Councilmember Kern expressed her concern for those residents currently living in these homes that are probably renters.

Andy Johnson, DAJ Design, applicant presentation, reviewed the application. He stated the old zoning districts in Old Town don't match the new market demand for housing in this core district. This application asks for waivers to get a better product for this area rather than a large apartment building which would be allowed.

He reviewed the site and its detention requirements as well as the community outreach they have done to date. He noted the City's housing plan shows the need for additional housing in town. He added that a project of this small size would have a hard time building the inclusionary housing on site and they would prefer to pay the fee in lieu.

Paul Norquist, Design Practice, reviewed the architectural designs for the single-family homes and townhomes in the plan.

Jessie Truman, owner, stated they are a small development group and hope to contribute to the community with this development. He stated of the 10 homes currently on the site four are uninhabited and six are rented out. He noted there is a chance for ADUs in the new community for affordable housing. He stated the fee in lieu of the affordable units is really the only option for a small development such as this.

Mayor Pro Tem Dickinson asked why the 12% inclusionary units is not doable on this site. Truman stated for this project the costs and fees for building and the size of the site likely make the final costs too high to meet that 12% on site without losing money.

Councilmember Hamlington stated it sounds like the fee in lieu can be used in the future to build affordable housing and this new project can revitalize this area now.

Public Comments

Josh Cooperman, Louisville, recommended the project use fire hardened materials as it is across from Open Space. He stated that revising zoning is needed on parcels like this to get the types of housing that we really want to see.

Sherry Sommer, Louisville, stated this site would be good for affordable housing. She stated there are many waivers on this project and asked what the City gets in return for

these. She stated more rooftops does not necessarily bring more foot traffic to downtown. She doesn't think the added density is a benefit to town.

Cathern Smith, Louisville, stated that paying the fee in lieu is deferring the issue. We need actual affordable housing to be built. She urged the Council to keep working on the housing policies.

Mayor Leh reminded everyone the criteria from the Code must be applied to the application. He noted staff has reviewed the application against the criteria and listed what complies with the code or does not. Mayor Leh asked councilmembers if they have any concerns that the criteria not related to the waivers were met. Members agreed they were met. Members reviewed the requested waivers.

Mayor Pro Tem Dickinson stated the waivers make sense in this location so that we get a larger number of smaller units rather than a few large homes which is one of the things we are hoping to accomplish. Smaller homes is keeping with the Comp Plan for this area.

He feels the fee-in-lieu for open space makes sense and the fee-in-lieu for affordable housing gives the City money to find affordable housing later. He would prefer the affordable housing on this site, but this is a reasonable compromise.

Councilmember Kern stated the height waiver exceeds 10 percent which is what is being offered to those currently rebuilding from the Marshall Fire. She does however support the waiver so that ADUs might be added in the basements of the townhomes. She would like to see the Inclusionary Housing ordinance updated soon to address the issues brought up this evening.

Councilmember Hamlington stated the waivers make sense in this location.

Mayor Leh finds the criteria are met and the waivers are appropriate in this location.

Mayor Leh closed the public hearing.

MOTION: Councilmember Fahey moved to approve the resolution; seconded by Councilmember Hoefner.

VOTE: Motion carried by unanimous roll call vote.

**ORDINANCE NO. 1866, SERIES 2023 – AN ORDINANCE ADOPTING BY
REFERENCE THE 2023 NATIONAL ELECTRIC CODE – 2nd READING – PUBLIC
HEARING (advertised *Daily Camera* 11/12/23, 11/19/23)**

Mayor Leh introduced the item and opened the public hearing.

Chief Building Official Chad Root stated the State of Colorado adopts the newest version of the National Electrical Code (NEC) every 3 years. State law requires all jurisdictions to adopt the latest electrical code as adopted by the State of Colorado within one year of the state adopting the electrical code.

Staff recommends City Council adopt the 2023 National Electrical Code effective January 5, 2024 which would be 5 months after the State of Colorado's adoption of the 2023 NEC. This ensures the City is consistent with the State's adoption on the required electrical code.

Public Comments – None.

Mayor Pro Tem Dickinson asked if this would affect current permits. Root stated this will only apply to permits submitted after January 5.

Public Comments – None.

Mayor Leh closed the public hearing.

MOTION: Councilmember Fahey moved to approve the ordinance; seconded by Mayor Leh.

VOTE: Motion carried by unanimous roll call vote

DISCUSSION/DIRECTION/ACTION – PROCESS TO FILL CITY COUNCIL WARD I VACANCY

Mayor Leh introduced the item.

Clerk Muth stated that with the election of Councilmember Leh to the position of Mayor, the City Council now has a vacant Ward I seat. Per the City Charter, the City Council, by a majority vote, shall appoint a person who meets the qualifications to hold the office. That appointee will hold the office until the November 2024 election.

She added that the City Charter does not give a specific timeline to fill the vacancy. Given the holiday season, staff suggests the Council consider advertising for the vacancy as soon as possible and closing it in mid-January to allow applicants time to gauge their interest and complete the application.

Public Comment – None.

Mayor Leh stated he feels there is some urgency in filling the position but with the holidays it is hard.

Councilmember Hoefner stated it makes sense to take applications into January to give everyone an opportunity to apply.

Councilmember Hamlington agreed the timeline should go into the New Year to get a fair and equitable process. It is not reasonable to have a submission deadline before the end of the year.

Mayor Pro Tem Dickinson agreed with the timing. He would like Council to discuss the appointment criteria and make sure it is a transparent process.

Members appointed Councilmembers Kern and Fahey to write the questions for the application. Members also agreed on a mid-January deadline.

CITY COUNCIL COMMITTEE ASSIGNMENTS

Mayor Leh announced the following committee assignments:

City Council Economic Vitality Committee – Dickinson, Fahey, Ward I
City Council Finance Committee – Hoefner, Hamlington, Kern
Colorado Communities for Climate Action (CC4CA) – Fahey, Ward 1 alternate
Commuting Solutions – Ward 1
Consortium of Cities – Fahey
DBA Street Faire Committee – Hamlington
Denver Regional Council of Governments – Kern, Hoefner alternate
Joint Issues Committees (Superior and Lafayette) – Hamlington
Revitalization Commission Member – Leh
RMMA Round Table Councilmember – Fahey, Hamlington alternate

USE TAX EXEMPTION FOR HOMES DAMAGED IN THE MARSHALL FIRE – 1st READING

ORDINANCE NO. 1867, SERIES 2023 – AN ORDINANCE EXEMPTING CONSTRUCTION MATERIALS FROM THE CITY’S USE TAX FOR BUILDING PERMITS ISSUED FOR RECONSTRUCTION OF HOMES DAMAGED OR DESTROYED IN THE MARSHALL FIRE BURN AREA – 1st READING, SET PUBLIC HEARING 12/19/23

Mayor Leh introduced Ordinance No. 1867 by title.

MOTION: Mayor Pro Tem Dickinson moved to approve the ordinance on first reading and set the public hearing for December 19, 2023; seconded by Councilmember Fahey.

VOTE: Motion passed by unanimous voice vote.

ORDINANCE NO. 1868, SERIES 2023 – AN ORDINANCE ADOPTING BY REFERENCE THE 2018 INTERNATIONAL ENERGY CONSERVATION CODE AS AN ALTERNATIVE FOR THE REPAIR AND REBUILDING OF HOMES THAT

**SUSTAINED SMOKE, HEAT, WATER, ASH OR OTHER DAMAGE AS A RESULT OF
THE MARSHALL FIRE – 1st READING AND SET PUBLIC HEARING 12/19/23**

Mayor Leh introduced Ordinance No. 1868 by title.

MOTION: Mayor Leh moved to approve the ordinance on first reading and set the public hearing for December 19, 2023; seconded by Councilmember Fahey.

VOTE: Motion passed by unanimous voice vote.

CITY ATTORNEY’S REPORT

None.

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

Councilmember Fahey asked for a future agenda item to discuss safety related to e-Bikes and Scooters. Mayor Pro Tem Dickinson agreed.

ADJOURN

Members adjourned at 10:28 pm.

Christopher M. Leh, Mayor

Meredyth Muth, City Clerk