

# ***City Council Meeting Minutes***

**October 17, 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  
Councilmember Barbara Hamlington  
Councilmember Dietrich Hoefner  
Councilmember Judi Kern  
Councilmember Chris Leh (arrived 6:02 pm)*

**Staff Present:** *Jeff Durbin, City Manager  
Samma Fox, Deputy City Manager  
Kurt Kowar, Public Works Director  
Rob Zuccaro, Community Development Director  
Adam Blackmore, Parks, Open Space, & Recreation Director  
Ember Brignull, Open Space Superintendent  
Amelia Brackett Hogstad, Senior Planner  
Ryder Bailey, Finance Director  
Rafael Gutierrez, Police Chief  
Austin Brown, Interim Economic Vitality Manager  
Meredyth Muth, City Clerk*

**Others Present:** *Kathleen Kelly, 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 Hoefner moved to approve the agenda, seconded by Councilmember Dickinson. **Vote:** All in favor.

## **OATH OF OFFICE**

Judge Thrower swore in newly elected councilmember Judi Kern.

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### **City of Louisville**

City Council 749 Main Street Louisville CO 80027  
303.335.4536 (phone) [www.LouisvilleCO.gov](http://www.LouisvilleCO.gov)

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

Alli Garvin, Louisville, expressed her concerns about safety at the crosswalk on Via Appia at Cottonwood Park. She spoke of her experiences with cars not stopping for pedestrians. She asked Council to enhance the crosswalk to prioritize pedestrian safety.

## **APPROVAL OF THE CONSENT AGENDA**

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

- A. ***Approval of Bills***
- B. ***Approval of December Meeting Schedule***
- C. ***Approval of Contract Between the City of Louisville and Aslan Construction, Inc. for Water Treatment Plant Chemical Mixing Equipment Replacement Installation***
- D. ***Approval of Resolution No. 61, Series 2023 – A Resolution Approving an Addendum to Water Tap Expansion Agreement and An Agreement for Lease of Colorado-Big Thompson Water***
- E. ***Approval of Change Order #1 to the Sanitary Sewer Main Replacement Contract***
- F. ***Approval of Resolution No. 62, Series 2023 – A Resolution Approving an Amendment to the Intergovernmental Agreement with Boulder County for Law Enforcement Dispatch Services***
- G. ***Authorization to Execute a Contract with CliftonLarsonAllen LLP for Utility Billing Services***

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

None.

## **CITY MANAGER'S REPORT**

City Manager Jeff Durbin stated Kayla Betzold and Kevin Frey are presenting the City's internal decarbonization at a climate summit this week.

Community Development Director Zuccaro has been appointed to the statewide Wildfire & Resiliency Code Board.

## **REGULAR BUSINESS**

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## **PRESENTATION OF FINDINGS – WILDFIRE HAZARD & RISK ASSESSMENT OF LOUISVILLE PUBLIC LANDS**

Mayor Maloney introduced the item stating this is an informational item; no action will be taken. Director Blackmore stated this project has been in the work for over a year. This was an entire public lands assessment including parks, open space, water treatment plants, and ditches. It was done collaboratively with Public Works, Community Development, and the Fire Department.

Ember Brignull, Open Space Superintendent, stated this is very important work and staff has been implementing fuels mitigation already. In 2023, staff has completed over 400 acres of fuel reduction on Open Space. This has included grazing and mowing. These efforts will continue into 2024 using the results of this assessment. The goal is to find a balance between fuels reduction and Open Space stewardship. Staff is focusing efforts on the areas of higher risk in the community and also looking to see if there are other methods we might want to adopt.

Bill Szafranski, Lynker, reviewed their outreach for the project. He stated the objective is to develop a comprehensive Wildfire Hazard and Risk Assessment, including identification of hazards and risks and development of mitigation opportunities for Louisville's public lands to be more resilient against future events. This project will serve as a foundation for future mitigation efforts.

They relied on the State of Colorado wildfire behavior model for the risk assessment. He reviewed the burn probability for the City. He also reviewed flame length probability which is a general indicator for fire severity. He noted the areas with a higher probability of higher flame length. He reviewed vulnerable areas and the top 10 highest wildfire risk properties.

Meg Matonis, the Ember Alliance, discussed mitigation recommendations. She stated fuels mitigation is only one part of the process and won't solve all problems. She noted that there are multiple way to reduce risks and some have secondary benefits as well.

The goals of this are to provide strategic recommendations to the City to mitigate wildfire risk on open spaces, parks, and other properties; to describe pros and cons of different mitigation strategies; to provide specific recommendations on where treatments should be implemented (e.g., open space, irrigated parks, public works facilities) and how the treatments should be implemented; and to provide realistic expectations of treatment effectiveness.

Mitigation alternatives include prescribed burning; herbicides; grazing; seeding with native grasses; prairie dogs; broad scale mowing, targeted mowing, tree removal/pruning, defensible space and structure hardening; and irrigation. She noted the report has potential mitigation approaches on different property types in the City.

She highlighted that City staff is already implementing many of these suggested mitigation options.

#### Public Comments

Tawnya Samauroo, Louisville, stated mitigation in open space will have to be done but structure mitigation is also needed. She encouraged the Council to require fire hardening for new building in town, with an opt out for fire survivors that cannot afford it.

Josh Cooperman, Louisville, stated he supports wildfire mitigation with a science based approach and best practices. He encouraged Council to adopt elements of the building codes to require fire hardening in buildings. He expressed his hope to spend time on mitigating climate change as a way to also mitigate fire risk.

Lisa Hughes, Louisville, asked if the Hillside Open Space was reviewed in the report.

Larry Donner, Louisville, appreciated the prairie restoration suggestions to reduce the risk of fire in open space.

Rick Ratajczyk, Louisville, stated he likes the report and hopes the suggestions are fully funded and implemented.

Mayor Maloney asked if the Hillside Open Space was included in the report. Szafranski stated it was included.

Mayor Pro Tem Fahey stated this is a great first step and we need to implement this. She encouraged those rebuilding to use the fire hardening technologies.

Councilmember Dickinson asked if prescribed burns are something we are considering using. Director Blackmore stated it is an option that will be included in the discussion.

Director Blackmore stated the next steps for this include continued grazing contracts and working through the list of mitigation alternatives and putting them in practice.

Councilmember Hoefner stated he was encouraged that much of this work has already started.

Councilmember Kern stated if there is work that can continue this winter we should continue with that. She would like home hardening regulations to come to Council as soon as possible.

Mayor Pro Tem Fahey stated she would like to see a priority list of what staff is going to do and the locations.

Mayor Maloney stated moving this forward is a priority for everyone.

**RESOLUTION NO. 63, SERIES 2023 – A RESOLUTION APPROVING A CONSERVATION EASEMENT FOR THE FRONT FAÇADE AND FIRST TEN (10) FEET OF THE PRIMARY STRUCTURE ON THE PROPERTY LOCATED AT 601 LINCOLN AVENUE IN EXCHANGE FOR A \$30,000 GRANT**

Mayor Maloney introduced the item by title and asked for disclosures. Seeing none, he opened the public hearing.

Amelia Brackett Hogstad, Senior Planner, stated the applicant is requesting approval of a conservation easement for the front façade and first 10 feet of the primary structure at 601 Lincoln Avenue in exchange for \$30,000 towards the cost of restoring and preserving the historic part of the structure.

She stated the conservation easement would limit the owner's ability to change anything on the protected area of the home. The \$30,000 payment was determined as it covers the one-half costs of restoring the protected area, and staff considered the other half as matching funds. She reviewed the code sections that allow this type of exchange.

In 2020, the Historic Preservation Commission voted to recommend approval of the conservation easement and grant. Since that time the applicant completed the restoration work and an addition. The easement contains specific elements that are architecturally significant and the site has social significance.

Councilmember Hoefner asked if this same easement would be available to other homeowners. Brackett Hogstad stated another applicant would have to request an easement. Director Zuccaro stated staff would recommend that if Council wants a similar program to this it should be codified that through the Old Town Overlay update.

Andy Johnson, DAJ Design, on behalf of the applicant, reviewed the structure and the project.

Roger Green, applicant, stated this has been a challenging project and they are happy to have maintained the façade.

Public Comments – None

Councilmember Hamlington stated this project has preserved and maintained the character of this home and she supports this solution.

**MOTION:** Councilmember Dickinson moved to approve the resolution, Councilmember Hamlington seconded the motion.

Councilmember Dickinson stated this is a great project and he thanked the applicants for the preservation. Councilmember Kern agreed.

Mayor Maloney stated this program was created for these kinds of projects and it is a good use of these funds.

Mayor Maloney closed the public hearing.

**VOTE:** Motion passed by unanimous roll call vote.

**RESOLUTION NO. 64, SERIES 2023 – A RESOLUTION APPROVING AN AMENDMENT TO THE DELO PLAZA PLANNED UNIT DEVELOPMENT TO ALLOW AN OUTDOOR EATING AND SERVING AREA ON LOT 1, DELO PLAZA SUBDIVISION**

Mayor Maloney introduced the item by title and asked for disclosures; seeing none, he opened the public hearing.

Community Development Director Zuccaro noted that about a year ago the Council approved a temporary use permit for this site. This is now the formal PUD amendment for the site. He reviewed the site and the application. This would create a permanent site plan that includes a 10,000 sq. ft. area enclosed by 3.5' tall metal fence and planters; shade structures, gazebo, stage, storage, game areas and decorative lighting; compact crushed granite and artificial turf (requires a waiver); and it would defer construction of 11 parking stalls. This site would be for Rocky Mountain Tap and Garden to use as a beer garden for "to go drinks."

Staff reviewed for compliance with the MUDDSG. One waiver is requested to allow for compact crushed granite and artificial turf rather than concrete. Staff recommends support of the waiver and the request to defer the parking spaces.

Planning Commission recommended approval with eight conditions. All conditions have been met. Staff is recommending approval this evening.

Councilmember Hamlington asked if there was discussion of blocking off the section of the parking lot from traffic. Director Zuccaro stated it is access to the traffic signal for the businesses so it was not reviewed.

Garrett Nicodemus, applicant, state the beer garden is critical to the success of their business and he hopes it will be approved.

**Public Comments**

Josh Cooperman, Louisville, stated he supports the application as an amenity rather than a parking lot.

Councilmember Dickinson stated this is a good use of the space and much better than a parking lot or drive thru.

**MOTION:** Councilmember Hoefner moved to approve the resolution; seconded by Councilmember Leh seconded the motion.

Councilmember Hoefner stated this is a great model of what to do with unnecessary parking spaces.

Mayor Maloney closed the public hearing.

**VOTE:** Motion passed by unanimous roll call vote.

**ORDINANCE NO. 1864, SERIES 2023 – AN ORDINANCE APPROVING A REZONING OF LOT 10, BLOCK 1 AND OUTLOT 1 OF DELO LOFTS FINAL SUBDIVISION PLAT FROM COMMERCIAL COMMUNITY (CC) TO MIXED-USE RESIDENTIAL (MU-R) AND APPROVING AN AMENDMENT TO EXHIBIT A, LAND USE PLAN EXHIBIT, REFERENCED IN LOUISVILLE MUNICIPAL CODE CHAPTER 17.14 – MIXED USE ZONE DISTRICTS – 2<sup>nd</sup> READING – PUBLIC HEARING  
(advertised *Daily Camera* 10/12/23)**

Mayor Maloney introduced the item by title and asked for disclosures. Seeing none, he opened the public hearing.

Community Development Director Zuccaro stated the applicant, Live Forward Development, requests rezoning of a 2.47-acre property from the CC-MU (Commercial Community – Mixed Use) to MU-R (Residential Mixed Use) zoning district. The CC-MU district limits development of the property to commercial, office, and institutional land uses that are intended to orient to the adjoining State Highway 42. The requested MU-R zone district allows a range of residential uses, such as townhomes, condos and apartments, up to a gross density of 20 dwellings per acre.

Director Zuccaro reviewed the history of Highway 42 Revitalization Area noting this is a unique zoning area in town. Zoning and redevelopment in this area was centered around the anticipated train station for FasTracks leading to the current mixed use zoning. This is an urban renewal area and the goal was to have appropriate land uses to promote the development the City was looking for in this area.

He noted the City is still planning for a train station at this location. There is no time frame but RTD is evaluating peak service trains on this corridor and, CDOT is looking at Front Range passenger rail on this corridor. These could lead to a Louisville station.

He reviewed a concept plan that could be built under the new zoning. It includes apartments and townhomes as well as retail space. He reviewed the traffic and market

analyses for the new zoning noting there is currently a market for residential but low demand for retail development in the area. He stated the change in market conditions in the area may warrant this rezoning.

He reviewed some of the criteria for rezoning noting that Policy No. 2 states “the area for which rezoning is requested has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area.” The fiscal analysis noted weak market conditions for commercial development on this parcel on Highway 42 and lack of adequate vehicular access to support highway-oriented commercial uses.

He reviewed the fiscal analysis stating mixed-use residential development often has a negative balance in the model, however we need to take market feasibility into consideration. If the property is zoned in a way that is outside of market feasibility it can negatively impact urban renewal goals. He added the fiscal model does not capture the broader economic vitality of supporting the surrounding commercial areas. He also noted that online sales tax is changing the City’s fiscal balance.

He stated the Planning Commission reviewed the application and recommends approval. Staff also recommends approval.

Councilmember Leh asked what broader economic vitality impacts this might have. Director Zuccaro stated bringing more people has the possibility of activating the areas around it and bringing shoppers to area businesses including downtown.

Councilmember Dickinson asked if it is accurate that if we change the zoning it would bring in less revenue than if the site developed with the current zoning. However, there does not appear to be a market to develop under the current zoning so currently we are getting almost nothing from the site. Director Zuccaro stated that is correct.

Hunter Floyd, LiveForward Development, Applicant Presentation, stated when they initially looked at this site they were considering more commercial but after viewing the site and listening to what the neighbors want they feel this new approach would be much more successful. They hope to build a quality project that will have a positive impact on the local businesses.

He stated they have done a great deal of public outreach with the surrounding neighbors and business community to understand the vision people have for this site. People asked for more green space; dog areas; retail viability on the site; traffic safety; affordable housing; and amenities. They feel they have addressed all of these issues in their proposal and they have good support from the neighbors. They believe this proposal is in support of the City’s vision for this area.

Councilmember Leh thanked the applicant for meeting with the community and incorporating their feedback into their plan.



## Public Comments

Josh Cooperman, Louisville, stated he supports this rezoning to add more sustainable housing with density and walkability. Homes here would support businesses on Hwy 42 and in Downtown and bring them employees. He supports the potential to provide affordable housing. He encouraged this type of rezoning in other locations.

Mike Deborski, Louisville, stated he supports this rezoning as commercial is no longer viable in the area. The fiscal model is a tool, but the cost to benefit information needs to be considered. He stated the applicant has engaged with the community and figured out what will be a good fit here. He encouraged approval.

Sherry Sommer, Louisville, stated the fiscal model needs to be taken into consideration. She supports affordable housing in the area. She is concerned about increased traffic. She wants to see commercial spaces that are walkable from these homes.

Councilmember Hoefner stated Policy #2 is clearly met, the circumstances of the site have changed dramatically. He stated we do need housing as a community. He noted the existing vacancies for office and retail spaces in town mean it is unlikely we will get commercial development on this site.

Public Comments – None.

Councilmember Dickinson stated we do need housing and that is likely to be built on this site if it is rezoned. He hopes to see some affordable housing on this site.

Mayor Maloney stated this rezoning may get us something we all want. This looks like a good use of the site and he supports this.

**MOTION:** Councilmember Leh moved to approve the ordinance, seconded by Councilmember Hoefner.

Mayor Maloney closed the public hearing.

**VOTE:** Motion passed by unanimous roll call vote.

**RECOMMENDED BUDGET FOR 2024, INCLUDING UPDATED CAPITAL IMPROVEMENTS PLAN FOR 2023-2028 & UPDATED LONG-TERM FINANCIAL PLAN FOR 2023-2028 – PUBLIC HEARING (advertised *Daily Camera* 10/8/23)**

Mayor Maloney introduced the item by title and opened the public hearing.

City Manager Durbin stated this is the public hearing for the 2024 Budget. Adoption will be in November. That will be followed by work on the mill levy finalization and a budget amendment depending on the outcome of the opens space and parks ballot issue.

Finance Director Ryder Bailey stated this version of the budget incorporates feedback from the previous four budget meetings. He reviewed the priorities used in this year's budget: Marshall Fire recovery; Open Space and Parks ballot measure; sustainability; economic vitality; and personnel expenditures.

He reviewed the changes made for this version including IT enhancements, the Police co-responder program; the Comprehensive Plan Update; the Parks & Open Space Master Plan; and Open Space mitigation. He reviewed personnel expansions.

Director Bailey reviewed the proposed budget by program. He reviewed the changes that have been made from the last meeting to make this budget structurally balanced. He reviewed the cost of salaries and benefits and noted the revenue projections have been increased. He noted the interfund transfers that are included.

He reviewed the long-term forecast for each fund. He noted the Parks & Open Space fund has not be updated for this but will be amended after the results of the November ballot issue.

Public Comments – None

Councilmember Dickinson stated the budget reflects the Council priorities and he supports it. Councilmember Hoefner agreed.

Mayor Maloney stated the changes in here reflect the requests from Council. He noted much of this could be impacted by the results of the ballot issue.

Mayor Maloney closed the public hearing.

The budget will come back in November for approvals.

**ORDINANCE NO. 1865, SERIES 2023 – AN ORDINANCE AMENDING CHAPTER 3.24 OF THE LOUISVILLE MUNICIPAL CODE REGARDING THE CITY'S TAX AND FEE BUSINESS ASSISTANCE PROGRAM – 2nd READING – PUBLIC HEARING  
(advertised *Daily Camera* 10/12/23)**

Mayor Maloney introduced the item by title and opened the public hearing.

Interim Economic Vitality Manager Austin Brown stated this amendment to the Business Assistance Program (BAP) would codify the City's practice of rebating consumer use taxes. He reviewed the history of the BAP program. This proposed ordinance would add a definition of 'consumer use tax' to the code; expand the definition of 'fees' to include the amount of consumer use taxes collected; and require businesses remain open for 10 years following the issuance of a certificate of occupancy, or pay back 10% of assistance for each year out of the 10 that the business fails to remain open.

Staff recommends approval of the ordinance.

Councilmember Dickinson asked if the 10% per year claw back is new to the program. Brown stated it is not new, but it was not codified.

Public Comments – None.

Public Comments – None.

**MOTION:** Councilmember Hoefner moved to approve the ordinance; seconded by Councilmember Leh.

Mayor Maloney closed the public hearing.

**VOTE:** Motion passed by unanimous roll call vote.

#### **AMENDMENT #1 TO THE 2023 PAVEMENT MARKING CONTRACT**

Maloney introduced the item. Mayor Maloney asked the Council if the information in the packet was sufficient or if a presentation was needed. The Council agreed no presentation was needed.

Director Kowar shared a video explaining advisory bike lanes like those are planned for Polk Avenue.

Public Comments

Josh Cooperman, Louisville, urged approval of the restriping on Polk/Dahlia and on Via Appia to prioritize the safety of bikers and pedestrians without affecting vehicular traffic. This advances the goals of the Transportation Master Plan to provide more buffered bike lanes and developing safer routes for all users. He asked for better signage at the crossings on Via Appia.

Griffen Cook, Louisville, stated the core of town does not have any large roads so it is much easier to walk and bike around town, the exception is Via Appia. He supports the changes to Via Appia to make it safer for pedestrians and cyclists.

Sherry Sommer, Louisville, stated Via Appia is a traffic hot spot and people are concerned about crossing the street safely. She supports the changes.

Councilmember Hoefner stated this is a good response to the requests we have gotten for more safety for pedestrians.

Councilmember Hamlington stated there will be the need for education for people using Polk with this new striping.

Councilmember Leh stated he would like to reevaluate this after it has been in use for a while to make sure it is working as intended.

**MOTION:** Councilmember Dickinson moved to approve the contract amendment; seconded by Councilmember Hoefner.

Councilmember Dickinson stated he supports these changes. He agreed the Polk striping will require education for people.

Mayor Pro Tem Fahey stated younger drivers in particular will need education.

Councilmember Kern stated she has concerns that on Via Appia there are times of day that have enough traffic to warrant both lanes. She is worried the intent is to be safer but it might create more difficulty seeing cyclists and pedestrians. She agreed education will be key. We should see if it is working and if it is not working reevaluate it.

Director Kowar stated education materials will be put out broadly including a video and staff presence. This is a pilot project and if it doesn't work we can change it back. He noted Via Appia is designed for about 35,000 cars per day, one lane in each direction could handle about 22,000 cars per day and currently the traffic volume is between 4,000-7,000 cars per day. This plan prioritizes bikes and pedestrians.

Mayor Maloney stated these changes will make it safer for cyclists with only one lane to cross. He supports the changes.

**VOTE:** Motion passed by unanimous voice vote.

## **EXECUTIVE SESSION**

### **PERFORMANCE REVIEW OF OFFICIALS APPOINTED BY THE CITY COUNCIL (Home Rule Charter Section 5-2(b), CRS 24-6-402(4)(f))**

Mayor Maloney introduced the executive session.

City Attorney Kelly stated the Mayor has requested the executive session for the purpose of discussion of annual performance evaluations of the City Attorney, Water Attorney, and Municipal Judge.

City Clerk Muth read Section 2.90.050 of the Louisville Municipal Code, which outlines the topics permitted for discussion in an executive session.

City Attorney Kelly stated that authority for the executive session is given in Section 5-2(b) of the Home Rule Charter which authorizes an executive session for the purpose of reviewing the performance of employees directly appointed by the City Council. An executive session for this purpose is also authorized by the Open Meetings Law, Section 24-6-402(4)(f) of the Colorado Revised Statutes. The request involves evaluations for the City Attorney, Water Attorney, and Municipal Judge, who are all employees directly appointed by the City Council.

**MOTION:** Mayor Maloney moved to go into executive session for the purpose of discussing personnel matters involving employees directly appointed by the City Council, and that the executive session include the City Attorney except that Ms. Kelly will leave the executive session when the City Council discusses the City Attorney evaluation. Seconded by Councilmember Dickinson

**VOTE:** Motion passed by unanimous roll call vote.

Council adjourned to executive session at 10:13 pm. The Council meeting reconvened at 10:40 pm.

### **REPORT – DISCUSSION/DIRECTION/ACTION – ANNUAL EVALUATIONS OF MUNICIPAL JUDGE, WATER ATTORNEY, AND CITY ATTORNEY**

City Attorney Kelly stated that while in executive session the Council discussed evaluations of the municipal judge, water attorney, and city attorney. No further action is needed this evening.

### **CITY ATTORNEY’S REPORT**

None.

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

None.

### **ADJOURN**

Members adjourned at 10:43 pm.

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Dennis Maloney, Mayor

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Meredyth Muth, City Clerk