

City Council Meeting Minutes

**January 2, 2024
City Hall, Council Chambers
749 Main Street
6:00 PM**

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

City Council: *Mayor Chris Leh
Mayor Pro Tem Caleb Dickinson
Councilmember Deborah Fahey
Councilmember Barbara Hamlington
Councilmember Dietrich Hoefner
Councilmember Judi Kern*

Staff Present: *Kurt Kowar, Public Works Director
Cameron Fowlkes, City Engineer
Austin Brown, Interim Economic Vitality Manager
Paulina Bennett, Information Technology Director
Rafael Gutierrez, Police Chief
Meredyth Muth, City Clerk*

Others Present: *Kathleen Kelly, City Attorney*

APPROVAL OF AGENDA

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

Motion: Councilmember Hoefner moved to approve the agenda, seconded by Mayor Pro Tem Dickinson. **Vote:** All in favor.

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

Sherry Sommer, Louisville, would like more detail on what is going to be discussed at the special meetings in January that are mentioned on the consent agenda.

APPROVAL OF THE CONSENT AGENDA

City of Louisville

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

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

- A. Approval of Bills
- B. Approval of Amendment to Public Art Contract
- C. Approval of Addendum #3 to Marshall Fire Site Supervision Contract with Otak, Inc.
- D. Approval of City Council January Meeting Schedule
- E. Approval of 2024 Contract Amendment for FEMA Project Consulting Services
- F. Approval of Designation of Places for Posting Notices for Public Meetings
- G. Approval of Resolution No. 1, Series 2024 – A Resolution Levying General Property Taxes for the Year 2023, to Help Defray the Costs of Government for the City of Louisville, Colorado for the 2024 Budget Year
- H. Distribution of Open Government Pamphlet

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Mayor Leh noted the recent two-year anniversary of the Marshall Fire and the impact it has had on residents.

CITY MANAGER'S REPORT

None.

REGULAR BUSINESS

SWEARING IN OF PRESIDING MUNICIPAL JUDGE AND CITY ATTORNEY

Clerk Muth swore in David Thrower as Municipal Judge and Judge Thrower swore in Kathleen Kelly as City Attorney.

PROCLAMATION – DR. MARTIN LUTHER KING DAY – 2024

Mayor Pro Tem Dickinson read the proclamation.

MOTION: Mayor Pro Tem Dickinson moved to approve the proclamation; seconded by Councilmember Kern.

VOTE: Motion approved by unanimous voice vote.

RESOLUTION NO. 2, SERIES 2024 – A RESOLUTION APPROVING A SECOND AMENDMENT TO THE SALES TAX REVENUE SHARING INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF SUPERIOR REGARDING A TEMPORARY WAIVER OF TAX REVENUES DUE TO THE CITY FOR PURPOSES OF PROVIDING A BUSINESS INCENTIVE

Mayor Leh introduced the item.

Austin Brown, Interim Economic Vitality Manager, stated the City of Louisville and the Town of Superior have a sales tax revenue sharing Intergovernmental Agreement (IGA) for what is known as the South Property, an area that previously had been in the City of Louisville. The IGA provides that Superior will share with Louisville 50% of the sales tax revenue collected in the area (based on a 2.7% sales tax rate).

Bigsby's Folly Winery & Restaurant intends to purchase Block 4 in Downtown Superior and construct a 7,500 square foot event-based restaurant concept. Bigsby's Folly is a family-owned business that has operated successfully in Denver's River North Art District since 2017. The proposed expansion to Superior includes a total capital investment of \$6.7M. It's anticipated that the business will create 45 new jobs with an average pay of \$30-\$65+ per hour.

Block 4 is within the IGA area, meaning Louisville and Superior would receive sales tax revenues of 1.35% from the new business. In June 2023, Superior entered into an incentive agreement with Bigsby's Folly, which will provide a rebate of the Town's 1.35% portion of Sales Tax Revenues collected from the company for the first ten years of operation following the certificate of occupancy, not to exceed \$1,000,000.

Superior has requested Louisville support new development in the revenue sharing area by providing a rebate of up to 100% of the City's 1.35% sales tax rate, similar to Louisville's existing Business Assistance Program (BAP). Per Council direction, staff is proposing a 50% rebate of the City's 1.35% sales tax rate. This is consistent with the 50% rebate that the City typically offers through its BAP.

Under the proposed amendment, the City would temporarily waive 50% of the 1.35% sales tax revenues that it would normally collect. The temporary waiver would be in effect until the City has waived \$500,000 in tax revenues; 10 years from the commencement date; or the total sum of rebates received by the company (from both Louisville and Superior) reaches \$1,000,000, whichever occurs first. The amendment requires that all revenues must be used by Superior to provide rebates to the Company as dictated by its Incentive Agreement. Additionally, the amendment stipulates the project must be completed by December 31, 2026. If the project has not been completed by this date, the agreement becomes void.

The subject parcel is currently vacant and not generating sales tax revenue. Based on estimates provided by the company, Bigsby's Folly projects \$20,333,333.333 in total

retail sales over its first five years of operation. When accounting for the City's 50% share of the 2.7% sales tax rate, the company would owe approximately \$274,500 in taxes to the City over this time period. Under the proposed IGA amendment, Louisville would collect \$137,250 in retail sales tax while waiving the remaining \$137,250 during this initial 5-year period.

Staff recommends approval of the resolution.

Councilmember Hamlington asked if Superior has a business assistance program. Jill Mendoza, Town of Superior, stated they offer incentives on a case by case basis.

Mayor Leh stated the Superior Board of Trustees had asked the City to rebate more than our BAP program allows. Council gave staff direction to bring this back today at the same level at which BAP assistance is given to Louisville businesses.

Applicant Presentation, Chad and Marla Yetka, owners of Bigsby's Folly, gave the history of the restaurant in Denver and an overview of their expansion plans in Superior. They started working on this project in 2019 and since then both construction and financing costs have gone up significantly.

Public Comments

Sherry Sommer, Louisville, stated the City should not give more in rebates to a business in Superior than it gives to businesses in Louisville.

George Colbert, Louisville, stated he is a regular customer of the RINO location and he supports rebates to help bring people to the area who will stay here and spend money.

Councilmember Kern stated this is the kind of business people here would like to see and it would help to revitalize the McCaslin corridor. She thinks it would be a great addition to the area.

Councilmember Hoefner asked for clarification of the amounts that could be rebated. Brown stated the Louisville program typically rebates 50% of the Louisville sales tax in a BAP. For this project we would rebate 50% of our portion of the sales tax.

Mayor Pro Tem Dickinson stated Superior is saying this is a special tenant which is important to the area. Currently we are getting half of nothing, so giving back half of the sales tax we would get is more than we get now. To him this a very reasonable deal for us and he supports it. He stated he would support a 100% rebate of the Louisville portion as it would still be smaller than the amount we generally rebate for a Louisville business.

Councilmember Hoefner stated he is comfortable with the rebate as presented this evening.

Mayor Leh stated this is a good way to create community with both towns.

MOTION: Councilmember Hoefner moved to approve Resolution No 2; Councilmember Kern seconded the motion.

Mayor Pro Tem Dickinson offered a substitute motion to rebate 100% of the City's portion of sales tax. Motion failed for lack of a second.

VOTE: Motion carried by unanimous roll call vote.

2024-2029 SOLID WASTE COLLECTION REQUEST FOR PROPOSAL CRITERIA AND KEY CONTRACT POINTS

Director Kowar stated this year the City will be going out for proposals for the next five-year contract for solid waste collection. This is Council's chance to understand the process and make any changes it sees fit. He reviewed the process calendar.

This 5-year contract is one of the City's largest at \$7 million. He reviewed the single hauler program's history and goals, noting cost effectiveness is a major component of the contract award. He reviewed the diversion rate trends. He noted the pricing structure and how services are embedded in the costs. He shared the RFP criteria and schedule.

He noted the key contract points staff are looking for include: 5-year term, price increases; costs; communications; fleet type; schedule; and frequency of services.

Councilmember Kern stated she supports limiting the pickup days and having weekly compost pick up.

Councilmember Fahey asked if there is any option for composting other than A1 Organics as they no longer take compostable paper products. Director Kowar stated there are not really any other options at this time but we can look for alternatives.

Councilmember Hoefner stated he would like it clear in the RFP that customer service is very important to the community. He would like to see enhanced customer service and understand how that impacts the price so we understand the cost benefit. It would be good to encourage the inclusion of an alternate for a higher level of customer service.

Mayor Leh stated the greenhouse gas offset is important to this community.

Councilmember Hamlington agreed customer service is a priority. She would like to include in the contract metrics to measure customer service levels.

Public Comments

Sherry Sommer, Louisville, stated this is important and people feel strongly about it. She would like to give the contract to Western. Customer service should be prioritized.

Tamar Krantz, Louisville, likes the alternatives for electric vehicles and using metrics. She would like bidders to explain how they are reducing emissions and waste. She would like the sustainability staff to quantify the impacts on reducing greenhouse gases. She encouraged staff to visit facilities to be sure waste is handled properly.

Josh Cooperman, Louisville, stated compensation of the trash employees should be considered. He would also like bidders to be asked about how materials are recycled and to consider using electric vehicles. He would like to encourage more waste reduction and diversion across the City and education for residents.

Mayor Pro Tem Dickinson stated the RFP should align with the City's priorities. There is a cost to changing vendors and that needs to be understood as well. People do care deeply about this and we need to make a good choice as we are choosing for everyone.

Director Kowar noted that our recycling goes to Boulder County recycling as we have an agreement with them; there is no alternative there. The City also sponsors electronic recycling events each year and we do education for our residents. Those are paid for by a surcharge on additional trash cans people get.

Staff will get the RFP out and bring back the results to Council at a later meeting.

RESOLUTION NO. 3, SERIES 2024 – A RESOLUTION APPROVING A REVOCABLE LICENSE AGREEMENT FOR THE INSTALLATION OF FIBER OPTIC CABLES AND CONDUIT WITHIN CITY RIGHTS-OF-WAY IN CONNECTION WITH THE INTREPID FIBER NETWORK

Cameron Fowlkes, City Engineer, stated City staff was contacted by Intrepid Fiber in October of 2022 to explore the possibility of building a fiber-to-the-home network within Louisville. Staff met with Intrepid over the last year to go over details of the installation and finalize an agreement for Council consideration.

Staff requested Intrepid provide strands of dark fiber to several locations previously identified for future buildout. Intrepid will provide six strands of dark fiber for exclusive use by the City and will provide 2" conduit between the Library and the North End Lift Station for exclusive use by the City. This infrastructure would advance the City's goal of completing a redundant fiber ring network and lay the groundwork for the City to provide additional connectivity in the future.

Staff recommends approval of the agreement.

Shane Peverill, Intrepid Fiber Networks, gave an overview of the company, their history, and projects around the country.

Eric Voss, Intrepid Fiber Networks, reviewed their plan to build fiber to 7000 homes in Louisville, with 12% aerial and 88% underground. He reviewed their installation methods and map for Louisville installation. He reviewed their network plan and the areas that include City network access.

Peverill reviewed the community notification plan so people can understand what construction is happening in their neighborhoods as well as their process to address neighborhood issues and how they restore areas they disrupt.

Councilmember Hoefner asked if they would be doing work in rights-of-way on private property. Peverill stated yes, and they restore it to the same condition if they do. Councilmember Hoefner asked if they will have open boring or holes. Peverill stated they try to avoid that but if they do open cut pavement it done with an 8-10 inch core they remove and replace.

Councilmember Hoefner asked if this install was being done at the request of the City or if the contractor came to us. Fowlkes stated the company came to the City as they are expanding their services in the entire region. No other providers have come to the City with such a proposal.

City Attorney Kelly stated the revocable licensing agreement is necessary for the company to put their infrastructure in the City's rights-of-way and easements. It is not a service the City is contracting for but rather the business wants to offer its services to end users so they need our permission to use the right-of-way.

Councilmember Hamlington asked if the installation could start in the Marshall Fire areas as there is already active construction in those areas and it would be less disruptive than coming back later. Fowlkes stated the phasing plan was created by the company moving east to west as they are building out from Lafayette, but we can discuss it with them.

Councilmember Hamlington stated she is unsure this should happen without the City doing an RFP to pick the best vendor for such a service.

Mayor Leh asked if an RFP for this service is required. City Attorney Kelly stated it is not required as the City is not procuring a service, the vendor came to the City independently. She added that this is not an exclusive agreement and if another vendor wanted to install such a network they would be able to negotiate a similar agreement.

Mayor Leh asked if there are any fees identified for this agreement. Director Kowar stated there are standard fees for installation in the rights-of-way. Additionally in this

case, the City is asking the company for the additional fiber connections and conduit to enhance the City's network.

Councilmember Hoefner asked if the City has the ability to deny a telecommunications company access to the City's rights-of-way. City Attorney Kelly stated the City cannot require them to get a franchise and she could do some additional research to determine what the City can and can't do with a request to install in the rights-of-way.

Councilmember Hoefner stated he supports this agreement but would like more information on what the trade-offs are and what the City can require. Mayor Leh agreed.

Peverill noted their company does not provide internet services but rather provides the fiber to allow other companies to then offer their services and they are open to all providers, currently TMobile will use their fiber, but others could come in the future.

Councilmember Fahey agreed installing in the burn areas first makes sense as they are already under construction.

Public Comments – None.

Members asked to continue the item to January 16 to get additional information and staff can add language to address tonight's comments from Council.

CITY ATTORNEY'S REPORT

None.

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

None.

ADJOURN

Members adjourned at 8:56 pm.

Christopher M. Leh, Mayor

Meredyth Muth, City Clerk