

**RECORD OF PROCEEDINGS  
MINUTES OF THE REGULAR MEETING  
OF THE TOWN COUNCIL OF THE TOWN OF FRISCO  
SEPTEMBER 27, 2022**

Council Member Burley called the meeting to order at 7:00 p.m. Town Clerk Deborah Wohlmuth called the roll.

**Present:**

Andrew Aerenson  
Jessica Burley  
Andy Held  
Lisa Holenko  
Rick Ihnken  
Elizabeth Skrzypczak-Adrian

**Absent:**

Hunter Mortensen

**Public Comments:**

There was no public comment.

**Mayor and Council Comments:**

Council member Skrzypczak-Adrian thanked the Finance Department for their work on the budget.

**Staff Updates:**

**Consent Agenda:**

September 13, 2022 Minutes  
Warrant List  
Purchasing Cards

**MOTION: COUNCIL MEMBER AERENSON MOVED TO APPROVE THE CONSENT AGENDA AS PRESENTED. SECOND, COUNCIL MEMBER HOLENKO.**

<b>AERENSON</b>	<b>YEA</b>	<b>HOLENKO</b>	<b>YEA</b>
<b>BURLEY</b>	<b>YEA</b>	<b>SKRZYPCZAK-ADRIAN</b>	<b>YEA</b>
<b>HELD</b>	<b>YEA</b>	<b>MORTENSEN</b>	<b>ABSENT</b>
<b>IHNKEN</b>	<b>YEA</b>	<b>MOTION CARRIED</b>	

## **New Business:**

Agenda Item #1: *Estimated Start Time 7:05pm* Public Comment, Vote and Resolution to Opt-Out of Colorado FMLI Paid Leave Program 1) MAYOR OPENS PUBLIC HEARING 2) STAFF REPORT 3) PUBLIC COMMENTS 4) MAYOR CLOSES PUBLIC HEARING 5) COUNCIL DISCUSSION 6) MOTION MADE 7) MOTION SECONDED 8) DISCUSSION ON MOTION 9) QUESTION CALLED

Human Resources Director O'Lynda Fette stated this resolution opts out of the Family and Medical Leave Insurance (FMLI) program, a State-run paid insurance program approved by voters in 2020 that provides workers 12-16 weeks of paid leave to care for themselves or a family member in the event of a serious illness or injury. Although all municipalities are included in the program by default, participation is not required for those who opt out by December 31, 2022 through a noticed vote by Council. At the September 13, 2022 Council work session, Town staff and the Town's benefit broker presented to Council the history of FMLI, the current Town employee benefits, the option and reason to opt-out of the State run family and medical leave program in favor of a private plan. Because the Town's participation in the FMLI program would not benefit most Town employees like a private plan would, and the Town's benefits are of similar value to full-time employees as the state's FMLI program, and eligible employees can still participate on their own, Council supported the staff recommendation to opt-out of the FMLI program. Council also supported staff's recommendation to consider further analysis of Town leave benefits and understand where adjustments could be made to better align with the FMLI program benefits. The Town will continue to provide full-time employees a leave program to care for themselves or a family member in the event of a serious illness or injury. While Colorado statute does not require the Town to provide a substitute benefit when opting out, the Town is considering doing so to remain an employer of choice. The Town of Frisco provided prior notice of the vote in the same manner it notices other public business and provided a special notice to all active Town employees on September 14 explaining the history of FMLI, the Town's current leave programs, and the staff recommendation to opt-out of the state-run program in favor of a private plan. The Town also provided an opportunity to submit comments before voting. As of 4:00pm on September 20, no public written comments had been submitted. Council member Burley opened public comment at 7:03 p.m. There being no public comment, Council member Burley closed public comment at 7:04 p.m.

**MOTION: COUNCIL MEMBER BURLEY MOVED TO APPROVE RESOLUTION 22-29, A RESOLUTION DECLINING FULL PARTICIPATION IN THE COLORADO STATE-RUN PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM. SECOND, COUNCIL MEMBER AERENSON.**

<b>AERENSON</b>	<b>YEA</b>	<b>HOLENKO</b>	<b>YEA</b>
<b>BURLEY</b>	<b>YEA</b>	<b>SKRZYPCZAK-ADRIAN</b>	<b>YEA</b>
<b>HELD</b>	<b>YEA</b>	<b>MORTENSEN</b>	<b>ABSENT</b>
<b>IHNKEN</b>	<b>YEA</b>	<b>MOTION CARRIED</b>	

Agenda Item #2: *Estimated Start Time 7:20pm* First Reading Ordinance 22-10, an Ordinance Amending the Code of Ordinances of the Town of Frisco, Colorado, by Amending Chapter 110, Concerning the Licensing of Business, at Sections 110-38, Concerning the Requirement for a Short Term Rental License; and 110-39, Concerning Short-Term Rental License Application, Term, Renewal and Non-Transferability; all in Order to Establish a Limit on the Total Number of Short-Term Rental Licenses Issued by the Town. 1) MAYOR OPENS PUBLIC HEARING 2)

STAFF REPORT 3) PUBLIC COMMENTS 4) MAYOR CLOSES PUBLIC HEARING 5) COUNCIL DISCUSSION 6) MOTION MADE 7) MOTION SECONDED 8) DISCUSSION ON MOTION 9) QUESTION CALLED

Community Development Director Don Reimer stated that this ordinance establishes a short-term rental (STR) license cap at 25% of the residential housing stock, allowing a maximum of 900 licenses currently. As of September 26, 2022, the Town had issued 805 licenses. If adopted, the ordinance will go into effect on October 17, 2022. The ordinance includes an exemption for properties that are under construction or under contract prior to October 11, 2022, and includes exemptions to allow an active STR license to transfer under certain circumstances. At the September 13, 2022 Council meeting, Council decided to table the first reading of an ordinance that that would have capped the maximum number of short-term rental licenses at 22% of the residential housing stock and exempt local property owners who utilize their STR as a primary residence from the license cap. While reviewing the draft ordinance, the Town attorney discovered a recent decision issued by the United States Court of Appeals for the Fifth Circuit that determined that an STR regulation exemption for primary residence homeowners violated the dormant Commerce Clause by discriminating against out-of-state property owners. The Town attorney therefore recommended that Council not move forward with an ordinance that would have exempted local property owners from the STR cap. Council member Burley opened public comment at 7:06 p.m. Steve Fisher, Karen Mathis, Mary Waldman, David Rolling, Stephani Pastorini, Margaret Zeeker, Kate Warren, Laura Karden, and Michell Hart spoke regarding higher caps, inclusion of new construction and properties under contract, enforcement, local contacts, continued review of case law. There being no further public comment, Council member Burley closed public comment at 7:33 p.m.

**MOTION: COUNCIL MEMBER AERENSON MOVED TO APPROVE ON FIRST READING ORDINANCE 22-10, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FRISCO, COLORADO, BY AMENDING CHAPTER 110, CONCERNING THE LICENSING OF BUSINESS, AT SECTIONS 110-38, CONCERNING THE REQUIREMENT FOR A SHORT-TERM RENTAL LICENSE; AND 110-39, CONCERNING SHORT-TERM RENTAL LICENSE APPLICATION, TERM, RENEWAL AND NON-TRANSFERABILITY; ALL IN ORDER TO ESTABLISH A LIMIT ON THE TOTAL NUMBER OF SHORT-TERM RENTAL LICENSES ISSUED BY THE TOWN. SECOND, COUNCIL MEMBER HOLENKO.**

<b>AERENSON</b>	<b>YEA</b>	<b>HOLENKO</b>	<b>YEA</b>
<b>BURLEY</b>	<b>YEA</b>	<b>SKRZYPCZAK-ADRIAN</b>	<b>YEA</b>
<b>HELD</b>	<b>NO</b>	<b>MORTENSEN</b>	<b>ABSENT</b>
<b>IHNKEN</b>	<b>YEA</b>	<b>MOTION CARRIED</b>	

Agenda Item #3: *Estimated Start Time 7:50pm* First Reading Ordinance 22-11, an Ordinance Amending the Code of Ordinances of the Town of Frisco, Colorado, by Amending Chapter 13, Concerning Cemetery Management, at Sections 13-6, Concerning Records and the Issuance of Permits, 13-9, Concerning Rules and Regulations; 13-10, Concerning Ownership and Management, and 13- 21, Concerning Winter Burials 1) MAYOR OPENS PUBLIC HEARING 2) STAFF REPORT 3) PUBLIC COMMENTS 4) MAYOR CLOSES PUBLIC HEARING 5) COUNCIL DISCUSSION 6) MOTION MADE 7) MOTION SECONDED 8) DISCUSSION ON MOTION 9) QUESTION CALLED

Town Clerk Deborah Wohlmuth stated that this ordinance changes Town code language to designate the Cemetery Superintendent as the Frisco Cemetery Manager rather than the Town Clerk in order to streamline the cemetery management process. This ordinance also changes

code language to only permit winter burials (November 1 through May 15) by exception and direction of the Cemetery Superintendent, due to the difficult soil conditions that make winter digging challenging. Council member Burley opened public comment at 8:06 p.m. Frisco resident David Rolling spoke regarding winter burials. There being no further public comment, Council member Burley closed public comment at 8:07 p.m.

**MOTION: COUNCIL MEMBER AERENSON MOVED TO APPROVE ON FIRST READING ORDINANCE 22-11, AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF FRISCO, COLORADO, BY AMENDING CHAPTER 13, CONCERNING CEMETERY MANAGEMENT, AT SECTIONS 13-6, CONCERNING RECORDS AND THE ISSUANCE OF PERMITS, 13-9, CONCERNING RULES AND REGULATIONS; 13-10, CONCERNING OWNERSHIP AND MANAGEMENT, AND 13- 21, CONCERNING WINTER BURIALS. SECOND, COUNCIL MEMBER HELD.**

<b>AERENSON</b>	<b>YEA</b>	<b>HOLENKO</b>	<b>YEA</b>
<b>BURLEY</b>	<b>YEA</b>	<b>SKRZYPCZAK-ADRIAN</b>	<b>YEA</b>
<b>HELD</b>	<b>YEA</b>	<b>MORTENSEN</b>	<b>ABSENT</b>
<b>IHNKEN</b>	<b>YEA</b>	<b>MOTION CARRIED</b>	

Agenda Item #4: *Estimated Start Time 8:00pm* Contract for Purchase of Property Known as 602 Galena 1) MAYOR OPENS PUBLIC HEARING 2) STAFF REPORT 3) PUBLIC COMMENTS 4) MAYOR CLOSSES PUBLIC HEARING 5) COUNCIL DISCUSSION 6) MOTION MADE 7) MOTION SECONDED 8) DISCUSSION ON MOTION 9) QUESTION CALLED

Community Development Director Don Reimer stated that this contract approves a purchase agreement between the Town and the Colorado Division of Labor and Employment (CDLE) for the State of Colorado owned property at 602 Galena Street. Since August 2021, staff from the Town of Frisco, Summit County, and the CDLE, have been discussing the potential redevelopment of the property for workforce housing. The .72-acre property, has served as the Colorado Workforce Center since 1984. Over the past several months, Town and State staff have negotiated terms of the sale agreement, which include property purchase, lease back to CDLE during project development design, CDLE temporary office space during construction, and permanent CDLE office space in a new space that will be part of the development. The contract includes a final purchase price of \$2,491,080.71. In August 2022, Summit County entered into an intergovernmental agreement (IGA) with the Town of Frisco to provide \$1.5 million towards the cost of this purchase. In order to facilitate this project, CDLE requires assistance from the Town and County to find temporary office space for the Workforce Center employees, and inclusion of permanent office space in the new development on the property. Staff estimates that up to 40 dwelling units can potentially be constructed on the .72-acre property by utilizing bonus density provisions. The purchase contract includes provisions that deed-restrict the availability of future units to individuals or households whose gross annual household income does not exceed 125% of the area median income (AMI) for Summit County. The closing on this purchase is scheduled for October 28, 2022. Council member Burley opened public comment at 8:16 p.m. There being no public comment, Council member Burley closed public comment at 8:17 p.m.

**MOTION: COUNCIL MEMBER HELD MOVED TO APPROVE THE CONTRACT FOR PURCHASE OF PROPERTY KNOWN AS 602 GALENA. SECOND, COUNCIL MEMBER HOLENKO.**

<b>AERENSON</b>	<b>YEA</b>	<b>HOLENKO</b>	<b>YEA</b>
<b>BURLEY</b>	<b>YEA</b>	<b>SKRZYPCZAK-ADRIAN</b>	<b>YEA</b>

**HELD  
IHNKEN**

**YEA  
YEA**

**MORTENSEN  
MOTION CARRIED**

**ABSENT**

Agenda Item #5: *Estimated Start Time 8:15pm* Density Bonus Incentive 1) MAYOR OPENS PUBLIC HEARING 2) STAFF REPORT 3) PUBLIC COMMENTS 4) MAYOR CLOSSES PUBLIC HEARING 5) COUNCIL DISCUSSION 6) MOTION MADE 7) MOTION SECONDED 8) DISCUSSION ON MOTION 9) QUESTION CALLED

At the July 12, 2022 Town Council work session, staff presented an overview of the Town of Frisco's density bonus incentive, which permits a developer to exceed the maximum allowable density on a project in exchange for building workforce housing units. Housing Manager Danelle Cook stated that there are currently two options for new development in the CC, GW, and MU Zone Districts allowed through the density bonus incentive: Option 1: provide on-site workforce housing in exchange for exceeding maximum density; and Option 2: provide off-site workforce housing in exchange for exceeding maximum density. At that meeting staff proposed two additional options to be added to the density bonus incentive; Option 3 would allow a developer to exceed the maximum density if 100% of the bonus units are deed-restricted with the covenant that the Town is currently utilizing under the Housing Helps program, which requires occupants to work a minimum of 30 hours per week in Summit County, but has no AMI requirement and no appreciation limit. This would create an option that is financially feasible for a developer, doubles the number of deed-restricted units created, and would require no subsidy from the Town; and Option 4 would allow a developer to combine the density bonus incentive with LIHTC. LIHTC projects require that the units are deed-restricted to average 60% AMI, but do not allow restrictions on where the occupants work. With this proposed option, the development would be allowed to exceed the maximum density, provided that a minimum of 50 percent of the total number of bonus units are deed restricted to LIHTC requirements but omitting the requirement that the occupant work in Summit County for 30 hours per week. Council supported the addition of these two options to help address a variety of different housing needs and directed staff to research options for expanding the radius of off-site workforce housing provided by developers to meet the density bonus requirements, as well as revisiting parking requirements of new developments as they relate to workforce housing and density bonus units. Following Council's direction, staff presented the proposed code revisions at the August 18, 2022 Planning Commission meeting. The Planning Commission discussed the appropriate distance for off-site workforce housing in Option 2 and recommended leaving the radius as it is currently written in the code. The Planning Commission was supportive of the LIHTC option (Option 4) but recommended that the bonus units in Option 3 have both an appreciation cap and a 160% Area Median Income (AMI) requirement. Staff and Planning Commission also discussed parking requirements and recommended not to reduce the current requirements without providing more robust public transportation options. Council directed staff to proceed with drafting modifications to the density bonus proposal based on Council discussion of the Planning Commission recommendations. Specifically, Council directed staff to bring back information on background and analysis of appreciation cap recommended by the Planning Commission and to continue looking at opportunities to reduce parking requirements.

### **Adjourn:**

There being no further business, the meeting adjourned at 9:00 p.m.

Respectfully Submitted,

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Deborah Wohlmuth, CMC  
Town Clerk