



City of Colorado Springs

City Hall
107 N. Nevada Avenue
Colorado Springs, CO
80903

Meeting Minutes Council Work Session

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Friday, May 22, 2020

10:00 AM

Council Chambers

How to Watch the Meeting

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- CenturyLink Channel 18

1. Call to Order

Present 8 - Councilmember Yolanda Avila, Councilmember David Geislinger, Councilmember Don Knight, Councilmember Bill Murray, Councilmember Andy Pico, President Richard Skorman, President Pro Tem Tom Strand, and Councilmember Wayne Williams

Absent 1 - Councilmember Jill Gaebler

Councilmember Williams arrived at approximately 2:15PM.

2. Changes to Agenda

Sarah B. Johnson, City Clerk, stated item 5.B.A. Closed Executive Session will be moved to the end of the meeting. Consensus of City Council agreed to this change on the agenda.

3. Regular Meeting Comments

There were no Regular Meeting Comments.

4. Review of Previous Meeting Minutes

4.A. [20-218](#) City Council Work Session Meeting Minutes May 11, 2020

Presenter:
Sarah B. Johnson, City Clerk

Attachments: [5-11-20 City Council Work Session Meeting Minutes Final.pdf](#)

The minutes of the May 11, 2020 Work Session meeting were approved by Consensus of City Council.

5. Executive Session

5A. Open

There was no Open Executive Session.

5B. Closed**5B.A. [20-215](#)**

In accord with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(a), (b), and (e), the City Council, in Open Session, is to determine whether it will hold an electronic Closed Executive Session. The issues to be discussed involve: (1) receiving legal advice and consultation with the City Attorney on specific legal questions related to the conduct of quasi-judicial hearings; and (2) legal advice and strategy consultation with the City Attorney regarding a land acquisition matter.

The President of Council shall poll the City Councilmembers, and, upon consent of two-thirds of the members present, may conduct an electronic Closed Executive Session. Each City Councilmember participating in the electronic Closed Executive Session shall affirmatively state for the record that no other member of the public not authorized to participate in the electronic Closed Executive Session is present or able to hear the matters discussed as part of the electronic Closed Executive Session. If consent to the electronic Closed Executive Session is not given, the item may be discussed in Open Session or withdrawn from consideration.

Presenter:

Wynetta Massey, City Attorney

Attachments: [ClosedSessElectronicMtg-05-22-20.docx](#)

Wynetta Massey, City Attorney, stated that in accord with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(b) and (e), the City Council, in Open Session, is to determine whether it will hold an electronic Closed Executive Session. The issue to be discussed involves (1) legal advice and consultation with the City Attorney regarding ex parte communications; and (2) negotiation consultation and strategy discussion regarding an economic development matter; and (3) legal advice and settlement consultation with the City Attorney regarding a pending litigation matter.

President Skorman polled City Council regarding the desire to proceed with an electronic Closed Executive Session. At least two-thirds of City Council agreed to proceed in an electronic Closed Executive Session. Each City Councilmember participating the electronic Closed Executive Session affirmatively stated for the record that no other member of the public not authorized to participate in the electronic Closed Executive Session was present or able to hear the matters discussed as part of the

Closed Executive.

Issue (1) legal advice and consultation with the City Attorney regarding ex parte communications was postponed to a future City Council meeting.

6. Staff and Appointee Reports

6.A. [20-217](#) Agenda Planner Review

Presenter:

Sarah B. Johnson, City Clerk

Attachments: [Agenda Planner Review 5-22-20](#)

Sarah B. Johnson, City Clerk, stated the 2020 Audit Plan and Transit Update will be presented at the June 8, 2020 City Council Work Session meeting.

Councilmember Knight requested information on an alternate emergency egress route out of the neighborhood in the event of a fire in regards to the Kettle Creek land use items 12.A. and 12.B. being presented at the May 26, 2020 City Council meeting.

6.B. [20-222](#) TABOR and the Dynamics of the Ratchet Down

Presenter:

Charae McDaniel, Chief Financial Officer

Attachments: [TABOR and the Ratchet Down 05-22-20](#)

Charae McDaniel, Chief Financial Officer, gave an overview of which revenue sources and funds are included in the Taxpayers' Bill of Rights (TABOR) calculation, how the growth in the revenue base is calculated, how the growth factor is calculated, what excess revenue means, and the ratchet down due to the decline in revenue.

Councilmember Geislinger asked if it would take five years for the City's TABOR limit to get back to where it was prior to the pandemic. Ms. McDaniel confirmed it could.

President Pro Tem Strand asked what the purpose of the TABOR provision of ratchet down is. Ms. McDaniel stated it is to restrict the growth of government.

Councilmember Knight commented that if the City revenue were to exceed the TABOR limit during a recovery, the City could ask citizens to vote for the City to retain the revenue.

7. Presentations for General Information

There were no Presentations for General Information.

8. Items for Introduction

- 8.A. [20-220](#) A resolution submitting to the registered qualified electors of the City of Colorado Springs, Colorado, at the coordinated election conducted by mail ballot to be held on Tuesday, November 3, 2020, the question of retaining and spending all revenues received in 2019 and 2020, and resetting the revenue and spending limitations for later years based thereon, as voter approved revenue changes; providing for the form of the ballot title; providing for certain matters with respect to the election; and providing the effective date of this resolution.

Presenter:

Mayor John Suthers

Wynetta Massey, City Attorney

Charae McDaniel, Chief Financial Officer

Attachments: [Resolution referring TABOR Question - DeBruce and Reset Cap-5-14-20pm](#)

Mayor Suthers presented the Resolution submitting to the registered qualified electors of the City of Colorado Springs, Colorado, at the coordinated election conducted by mail ballot to be held on Tuesday, November 3, 2020, the question of retaining and spending all revenues received in 2019 and 2020, and resetting the revenue and spending limitations for later years as voter approved revenue changes; providing for the form of the ballot title; providing for certain matters with respect to the election; and providing the effective date of this resolution. He stated he likes certain aspects of Taxpayers' Bill of Rights (TABOR), but the ratchet down is problematic when there is a significant decline in revenue because it takes so long to get back to the base the City was at before. Mayor Suthers stated that with this proposal the City would retain revenue received in 2019 which would be approximately \$8 refund to each household as well as \$2.M in property tax revenue anticipated to exceed the TABOR limit in 2020. He stated this would greatly improve the TABOR limit for 2021 by keeping it from ratcheting down and be of great help to the City in addressing the COVID-19 impacts..

Councilmember Geislinger stated he supports this item and while this is legally a single-issue, inquired whether the two initiatives should be bifurcated. Mayor Suthers stated the City Attorney's Office is confident this is a single-issue ballot measure and he prefers to go this consolidated route.

Councilmember Knight stated he is not comfortable asking citizens who have lost their jobs to give the City approximately \$3.9M and the CARES Act money would cover salaries for Fire and Police and he would like to wait to see what condition the City is in prior to voting for the property tax item.

Councilmember Knight asked about the time line for referring a ballot measure. Sarah B. Johnson, City Clerk, identified the timeline for the November 3, 2020 Coordinated Election.

Councilmember Pico stated he understands the ratchet down for 2021, but the way it is written it is open ended for spending limitations for later years. Tom Florczak, Deputy City Attorney, stated the reset happens for the 2021 base, but in later years, it returns to Charter requirements which is the new reset base of 2019 plus City growth and inflation. Ms. McDaniel explained how the revenue would be calculated with the floor set at 2019 and that it would not prevent ratcheting down in future years, but not below the 2019 level.

President Skorman stated he supports this initiative and believes the issues with TABOR need to go before the voters.

Councilmember Knight recommended revising the language to make it more clear to citizens that this will not be an open ended and requested additional information on how the reset base will affect TABOR in future years. Ms. McDaniel stated she will provide that information.

Wynetta Massey, City Attorney, asked if this language has been judicially reviewed. Mr. Florczak stated it differs from the State's language, but is similar and defensible.

Councilmember Murray stated he supports this item, but there needs to be a four or five-year platform built in to it rather than only calculating for two years.

8.B. [20-210](#)

A Resolution authorizing the abandonment or partial abandonment of several 2020 Lodgers and Auto Rental Tax (LART) projects and contracts totaling \$3,488,711 and the transfer of LART funds in the amount of \$90,000 to three additional projects and events recommended by the LART Citizen Advisory Committee, with the

remaining \$3,398,711 reserved for expenditure budget reductions necessitated by the projected LART revenue loss due to COVID-19 impacts on the lodging and auto rental industries

Presenter:

Charae McDaniel, Chief Financial Officer

Laurel Prud'homme, LART Citizens Advisory Committee Chair

Attachments: [VERSION 2-Resolution to abandon and transfer 2020 LART Projects-with Ex A](#)
[VERSION 2-Exhibit A for LART item 20-210](#)
[Signed Resolution 39-20.pdf](#)

Charae McDaniel, Chief Financial Officer, presented the Resolution authorizing the abandonment or partial abandonment of several 2020 Lodgers and Auto Rental Tax (LART) projects and contracts necessitated by the projected LART revenue loss of \$4.7M due to COVID-19 impacts on the lodging and auto rental industries. She identified the proposed transfer of \$90,000 in LART funds to three additional projects and events which include the Colorado Springs Sports Authority (C4C Oversight), Colorado Springs Fine Arts Center, and Flying W Ranch (Marketing). She explained the remaining funds will be reserved for expenditure budget reductions.

Councilmember Geislinger asked if there is an opportunity for funding for applications for virtual tourism projects. Laurel Prud'homme, LART Citizens Advisory Committee Chair, confirmed there is, but there will be very little in awards available due to the projected loss in revenue.

Councilmember Murray asked how these cuts will affect the organizations who were relying on LART funding. Ms. Prud'homme stated each of the applications were reviewed thoroughly to reduce the impact to them.

President Pro Tem Strand stated most of the LART revenue is generated from lodging and this year as well as next year will be impacted greatly by the reduction in tourism.

8.C. [CPC CA 20-00006](#)

An ordinance amending Article 2 (Basic Provisions, Definitions, and Land Use Types and Classifications) and Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Accessory Family Suites

(Legislative)

Presenter:

Hannah Van Nimwegen, Senior Planner, Planning and Community Development Department
Peter Wysocki, Director of Planning and Community Development

Attachments: [ORD CodeAmendment AccessoryFamilySuites](#)

[6.9.20 ADUs](#)

[CPC Staff Report - Accessory Dwelling Unit](#)

[Ordinance 1.1 - Accessory Family Suites](#)

[Affidavit - Occupancy total](#)

[Restrictive Covenant - Subdivision](#)

[Council Work Session Minutes - 9.9.19](#)

[Council Work Session Minutes - 01.27.20](#)

[City Planning Commission Minutes 4.30.20](#)

[5.22.20 City Council Work Session Presentation](#)

Hannah Van Nimwegen, Senior Planner, presented the Ordinances amending Chapter 7 (Planning, Development and Building) of City Code defining and establishing standards for accessory dwelling units (ADU) and accessory family suites ADU overlay zone. She went over the background, summary of Ordinances 1.1, 1.2, and 1.3, and presented examples of integrated ADUs. Ms. Van Nimwegen gave an overview of the affidavits, covenants, owner occupancy waiver, enforcement, alternative construction types and staff recommendation.

Councilmember Pico stated an integrated ADU in a single-family zone would make it a duplex and an ADU within an existing duplex in a R2 zone would make it a four-plex unit. Ms. Van Nimwegen stated they drafted it in a way that requires public notice to allow neighbors opportunity to voice opposition and an integrated ADU that has received an approval of conditional use would require a one-hour fire rated assembly between the two units and independent mechanical air and plumbing systems, but the integrated accessory family suite would not require that. She stated a detached ADU would not be allowed in a two-family zone district, but it could be allowed in an R5 zone.

Councilmember Geislinger asked if the ADU overlay district would only apply to new developments and would need to be requested by the developer. Ms. Van Nimwegen stated already established neighborhoods could apply for a rezone it if one hundred percent of the homeowners were in favor of it and it would have to come before City Council.

Councilmember Knight requested the conditional use application require the majority of approval of the surrounding neighbors. Meggan Herington, Assistant Director, Planning and Community Development, stated this item uses the conditional use review criteria as a whole so if this change is

made, the other related section of City Code would have to be changed.

Councilmember Knight asked how a neighborhood is defined. Ms. Van Nimwegen stated it is determined on a case-by-case basis, but they do not support spot zoning.

Councilmember Knight requested language be added to make the ADU overlay zone only for new districts. Ms. Herington stated she will work with the City Attorney's Office regarding that request and may require a minimum acreage as a solution.

Councilmember Knight asked if a single-family home with an integrated ADU could also be a short term rental unit. Ms. Herington stated it could if it was owner occupied. Councilmember Knight asked how will the owner occupied compliance be enforced. Ms. Van Nimwegen stated she will request Code Enforcement to provide that information.

President Pro Tem Strand asked if Ordinance 1.1, the integrated accessory family suite, would require an additional parking space. Ms. Van Nimwegen stated it would, but they would make exceptions if the space was not available and required on-street parking.

Councilmember Pico asked if the ADU overlay Ordinance could be delayed until RetoolCOS is completed. Ms. Herington confirmed it could be. Councilmember Geislinger stated the consultant is anticipating to incorporate City Council's decisions regarding ADUs into RetoolCOS.

Councilmember Williams asked why there needs to be an additional ADU detached five-foot setback if the garage is against an alley. Ms. Van Nimwegen stated it is to remain consistent with City Code and prevent vehicles from blocking the garage or alleyway.

President Skorman polled City Council regarding the desire to proceed with the three proposed Ordinances. Consensus of City Council agreed.

Councilmember Geislinger asked when this item will be coming before City Council for a formal hearing and vote. Ms. Herington stated it will be at the June 9, 2020 City Council meeting.

Councilmember Knight requested the discussed changes to Ordinance 1.3 regarding the ADU overlay come to the June 8, 2020 Work Session. Ms. Herington agreed to Councilmember Knight's request.

9. Items Under Study

There were no Items Under Study.

10. Councilmember Reports and Open Discussion

There were no Councilmember Reports and there was no Open Discussion.

11. Adjourn

Upon completion of the Closed Executive Session, there being no further business to come before City Council, Council adjourned.

Sarah B. Johnson, City Clerk