



City of Colorado Springs

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

Meeting Minutes - Final-revised Council Work Session

Monday, April 21, 2014

1:00 PM

Council Chambers

1. Call to Order

Present 8 - President Pro Tem Merv Bennett, Helen Collins, President Keith King, Don Knight, Jan Martin, Joel Miller, Andy Pico, and Val Snider

Excused 1 - Jill Gaebler

2. Changes to Agenda

There were no changes requested.

3. Regular Meeting Comments

There were no Regular Meeting comments.

4. Review of Previous Meeting Minutes

[14-0175](#) April 7, 2014 Work Session Minutes

Consensus of Council approved the Work Session Minutes of April 7, 2014 as presented.

5. Executive Session

A) Open

A.1A. [14-0126](#) David Mazin v. Jeffrey True, in his official and individual capacity, Kristin Genta, in her official and individual capacity, Erin Land, Henry Hasler, Noel Peterson, Barbara Brohi, Laura Harris, and City of Colorado Springs, Colorado; Case No. 14-cv-00654-CBS, U.S. District Court for the District of Colorado

Recommendation of the Civil Action Investigation Committee:
authorize the City to represent Officers True and Genta as required by the Colorado Governmental Immunity Act, C.R.S. § 24-1 0-1 10 and City Code § 1 .4.302. The conduct of which Mr. Mazin complains occurred while they were acting within the course and scope of their employment. As usual, it is recommended that the City reserve the right to not pay any amount of punitive damages.

At the recommendation of the Civil Action Investigation Committee and as required by the Colorado Governmental Immunity Act, C.R.S. § 24-1 0 -1 10 and City Code § 1.4.302, Consensus of Council authorized the City to represent Officers True and Genta

- A.1B.** [14-0173](#) Michael Lee, individually and for Cannabis Therapeutics, LLC v. The City of Colorado Springs, The City of Colorado Springs Police Department, Pete Carey, in his official capacity, Dan May, and Unknown Members of the Colorado Springs Police Department; Case No. 201 4cv030482, District Court, El Paso County, Colorado

Recommendation of the Civil Action Investigation Committee: authorize the City to represent Chief Carey as required by the Colorado Governmental Immunity Act, C.R.S. § 24-1 0-1 10 and City Code § 1 .4.302. The conduct of which Plaintiffs complain occurred while the Chief was acting within the course and scope of his employment. As usual, it is recommended that the City reserve the right to not pay any amount of punitive damages.

At the recommendation of the Civil Action Investigation Committee and as required by the Colorado Governmental Immunity Act, C.R.S. § 24-1 0-1 10 and City Code § 1 .4.302, Consensus of Council authorized the City to represent Chief Carey.

B) Closed

- B.1A.** [14-0174](#) 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 a Closed Executive Session. The issues to be discussed involve: (1) legal advice and negotiation consultation with the City Attorney regarding a pending litigation matter, and (2) legal advice and negotiation consultation with the City Attorney regarding a lease matter.

The President of Council shall poll the City Councilmembers, and, upon consent of two-thirds of the members present, may hold a Closed Executive Session. If consent to the Closed Executive Session is not given, the item may be discussed in Open Session or withdrawn from consideration.

Legislative Counsel Andrews read the request to enter into Closed Executive Session. He stated that an additional item had been added and posted by the Office of the City Clerk last Thursday. A voice vote was taken for each of the three items scheduled.

Councilmember Miller inquired as to the appropriateness for Closed Executive Session on the lease matter. City Attorney Massey responded that we have retained Counsel who advises the City on this particular lease matter which is subject to negotiation and will be seeking Council's direction on negotiating on this matter.

The initial individual votes are tallied below per topic:

- 1) legal advice and negotiation consultation with the City Attorney regarding a pending litigation matter: Vote 7-1-1: Collins - No*
- 2) legal advice and negotiation consultation with the City Attorney regarding a lease matter: Vote 5-3-1: Collins, Knight and Miller - No*
- 3) legal advice and negotiation consultation with the City Attorney regarding a water rights purchase: Vote 7-1-1: Miller - No*

Consensus of Council approved the Closed Executive Session for items 1 and 3. Due to the 2/3rds majority requirement, the request to enter into Closed Executive Session for item 2 failed.

*Mr. Andrews requested a repolling for clarification of the voting on item 2, the lease matter: Repoll Vote 5-3-1: Collins, Knight, and Miller - No
Counsensus of Council disapproved the Closed Executive Session on item 2, the lease matter.*

City Attorney Massey responded that due to the sensitivity of the lease matter, the item will be withdrawn from discussion. They will meet specifically with Councilmember Bennett who is familiar with the lease and the issue that is coming forward. She explained they had hoped to have the matter discussed in Closed Executive Session to keep with a timeline but they are not comfortable discussing the item in Open Session at this time.

Councilmembers Miller and Knight wanted to know what aspects require the lease topic to be discussed in Closed Session and would like to have received more information ahead of time. Ms. Massey explained the City Attorney's office did not receive the presentation until late morning prior to the Work Session meeting. The retained Counsel brought it with him. She, Deputy City Attorney Florczak, and Kara Skinner reviewed it upon his arrival and stated she could only confirm at that time that it was related to Memorial Hospital.

Councilmember Bennett asked if, since the outside Counsel came in from out of state, they could reconsider the vote. Councilmember Knight stated he would reconsider, under protest, and would change his vote to allow the Closed Executive Session presentation.

A repoll of Council on Item 2, the lease matter, was conducted: Repoll Vote 6-2-1: Collins and Miller - No

Council entered into Closed Executive Session for all items, 1, 2, and 3.

Closed Executive Session adjourned. Council reconvened the Regular Council meeting.

6. Staff and Appointee Reports

- 6.A.** [14-0024](#) Memorial Hospital System Enterprise Financial Report - Kara Skinner, Chief Financial Officer

There were no questions on the report.

- 6.B.** [14-0095](#) Agenda Planner Review - Eileen Lynch Gonzalez, City Council Administrator

Council Administrator Gonzalez described that Agenda Item 13A, Appeal of Cumbre Vista Development Plan 2013 Amendment, scheduled for the Regular Council meeting was withdrawn; the developer pulled the development application.

Councilmember Knight referred to the Bike Tax funding update he previously requested. CFO Kara Skinner responded that the item was postponed to the May 13th meeting at which time the presentation will include the details for the information he requested.

7. Presentations for General Information

7.A. [14-0058](#) City Wildfire Preparedness Report - Christopher P. Riley, Fire Chief

Fire Chief Riley provided a presentation on the 2014 Wildfire Preparedness Report, reviewing the wildfire outlook for the region and on-going mitigation efforts. He stated we are a "fire-wise," NFPA Certified Wildland community, and that other states are looking to us as an example of best practices. The report included additional details relative to CSFD apparatus, personnel, response times, shared resources/mutual aid, lessons learned from the Waldo Canyon fire addressing the ingress/egress issues, with subsequent evacuation drills. Bret Waters, Director, Office of Emergency Management, acknowledged the need for preparedness, regional partnerships, and the value of the volunteer efforts.

6.C. [14-0124](#) City for Champions Project Update

Bob Cope, Senior Business Climate Specialist, reported on the status of the "City For Champions" project and progress made by the project partners. Mr. Cope explained, in response to President King's inquiry on the timeframe for hearing and signing of the Resolution submitted to the OEDIT, that it appears it may be heard in early May or June. He stated that it appears the first draft was well accepted with possibly a few minor areas for clarification. Councilmember Miller asked about the formation of a working group that was referenced in Mr. Cope's description and reiterated his request for attendance figures for the stadium. Mr. Cope described his efforts to obtain the information that Councilmember Miller requested. He stated that he would continue to try to obtain the information but understood that Councilmember Miller had also contacted Tom Binnings of Summitt Economics, the organization that provided the underlying data.

7.B. [14-0031](#) Preliminary 2013 Financial Update, 2015 Budget Outlook, and Emergency Grant Status Update

CFO Kara Skinner presented a big picture review of the 2013 Preliminary, Unaudited End of Year Financial Update. She also provided a brief on forecasts for 2015. She then reviewed the three Public Assistance Grants funding and the use and balance of those funds for addressing the residual effects from the Waldo Canyon and Black Forest fires.

In response to President King's question relative to the accounting method used, cash or accrual, Ms. Skinner answered that governmental funds follow a modified accrual basis, which does not accrue on a monthly basis, rather the accrual calculations are performed at the end of each year.

Councilmember Miller asked about the voter approved maintenance use of TOPS funds for any city parks, whether we have gotten to the 20% limit? Ms. Skinner stated that she believed they budgeted for the acquisition, development and maintenance in that 20%; but she could not say how much was for maintenance. The Parks Department will be able to provide that breakdown.

Councilmember Miller stated that the 2014 Budget had an appropriation for two new park rangers and asked if we were getting them this summer? Deputy Chief of Staff Bret Waters confirmed the park rangers are in the process of being hired.

Councilmember Knight asked that Ms. Skinner include a list of the 2014 draws in her future reports.

- 7.C. [14-0057](#) Comprehensive Plan Status Update- Proposed Strategic Redevelopment Planning Initiative - Peter Wysocki, Planning & Development Director and Carl Schueler, Planning Manger - Comprehensive Planning

Peter Wysocki, Director, Planning and Development, provided a status update on the Comprehensive Plan. He described the initial request was for \$150K to include the public outreach, initial review of existing documents, plans, white papers, community meetings, and the preparatory work for actually crafting the document. However, he described the funding to complete the project may not be available in fiscal years 2015, 2016, or 2017; therefore, he proposed a refocus of the \$150K for temporary staff to address the ideas recommended for redevelopment, infill policies, and code scrubs to make the development review process more efficient.

Councilmembers Bennett, Martin, Knight, Miller, Pico and Snider asked questions and expressed concerns about the impact if the City did not move forward with the Comprehensive Plan. Overall, Council was uncomfortable with abandoning the update of the Comprehensive Plan entirely at this point and requested staff reconsider the possible options available to allow for coordinated planning for future development and growth. They identified and discussed the immediate need to review the Master Plan for Banning Lewis Ranch. Council requested Mr. Wysocki take their concerns to staff and bring back alternative options for their consideration.

Additionally, Councilmember Knight asked about the expiration of the quotes received on the initial bids for the Comprehensive Plan work. Mr. Wysocki stated they had received bids through the RFP process previously issued for the Comp Plan with a March 21st deadline, but described the procurement policy requires that the proposals are to remain sealed if the project is not going to be pursued. Councilmember Knight stated if there were time restrictions applied to the submitted proposals it would be good to know when those costs expire. Mr. Wysocki will check on that and get back to Council with the information.

Mr. Wysocki indicated he would do as Council requested and bring the item back to Council during a Work Session in the near future; no

specific date was identified.

7.D. [14-0122](#) A Resolution establishing 2014 Drainage Basin Fees, Bridge Fees, and Detention Pond Facility and Land Fees

Dave Lethbridge, Director, Public Works, explained the 2014 Basin Fee Adjustment request. He described that the City Engineering department is to perform an annual study of drainage facility construction costs. He confirmed that a statement of approval had been received from the HBA for the increase of 4.3%.

Tom Bonifas, Engineering Specialist, provided explanation for the collection and distribution of the fees. The drainage, bridge and detention pond fees are paid by developers and are used to reimburse other developers who construct drainage improvements that cost more than their fee obligation.

Mr. Lethbridge responded to questions by President King and Councilmember Miller to help them understand the basis for the fees.

This Resolution was received.

7.E. [14-0162](#) Ordinance No. 14-29 modifying Section 502 (Claims Reserve Fund) and 503 (Compromise or Settlement of Claims) of Part 5 (Claims Management) and Section 602 (Worker's Compensation Claim Reserve Fund) of Part 6 (Workers' Compensation) of Chapter 1 (Finance Management Procedures) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the requirements for the frequency of certain audits.

Denny Nester, City Auditor, explained the requested code change would allow scheduling flexibility for audits of the Liability Claims Reserve Fund and Workers' Compensation Fund changing to an every-four year schedule from the every-two-years as it is currently scheduled.

Councilmember Martin added that the Audit Committee has looked at this and it is more standard to allow the every four year schedule. Councilmember Bennett explained the expectation is that this will not preclude Council from requesting an audit when necessary; but that it would have to be done every four years.

8. Items for Introduction

There were no Items for Introduction.

9. Items Under Study

There were no Items Under Study.

10. Councilmember Reports and Open Discussion

There were no Councilmember Reports and Open Discussion.

11. Adjourn