



City of Colorado Springs

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

Meeting Minutes - Draft City Council

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Wednesday, April 20, 2016

1:00 PM

121 S. Tejon, 5th floor

1. Call to Order

Present: 9 - Councilmember Larry Bagley, President Merv Bennett, Councilmember Helen Collins, President Pro Tem Jill Gaebler, Councilmember Keith King, Councilmember Don Knight, Councilmember Bill Murray, Councilmember Andy Pico, and Councilmember Tom Strand

2. New Business

2.A. [16-309](#)

A resolution approving an Intergovernmental Agreement between Pueblo County, Colorado and the City of Colorado Springs, Colorado pertaining to expenditure of funds for stormwater capital improvement programs, and authorizing execution of such intergovernmental agreement

Presenter:
Mayor John Suthers

Mark Pifher, CSU Attorney, reviewed the key provisions of the IGA regarding stormwater control between Pueblo County and the City of Colorado Springs and highlighted modifications made to the agreement in the last couple of days at the request of Pueblo County. City Council received a revised version of the agreement including these changes.

Councilmember Knight asked if the \$10,000 for outside engineering consultants is over and above the project amounts. Mr. Pifher stated the \$10,000 referred to is in addition to the other specified fund amounts and the amounts are included in different parts of the agreement, inferring they are two separate amounts.

Councilmember Knight asked if funds included in the original payment from Colorado Springs, provided to Pueblo County, can be used by the City of Pueblo as matching funds included as a contingency in the agreement. Mr. Pifher stated they have negotiated the use of these funds as part of the agreement. Councilmember Pico confirmed Pueblo

is planning to use funds provided by Colorado Springs as a portion of their required matching funds and this was discussed during negotiations.

Councilmember Murray asked if this agreement will protect the City from future issues involving the Southern Delivery System. Mr. Pifher stated this agreement will provide insulation from provisions included in the 1041 Permit and addresses stormwater but does not prevent future issues with the 1041 program there are many provisions included in that document.

David Robbins, Outside Counsel retained by Colorado Springs, provided a summary of the key legal implications of this agreement and stated this is separate from the MS4 program. Mr. Robbins also stated Mayor Suthers has provided significant support through this process. The \$10,000 provision, included in the agreement, to cover the cost of engineering consultants is a separate payment that will come out of the Utilities budget each year to cover expenses associated with the engineers. This agreement will ensure a levee system is in place to protect the citizens of Pueblo. Mr. Robbins provided additional information about the financial arrangements included in the agreement. Mr. Robbins pointed out the agreement includes consideration of a dam, does not require a dam be built.

Councilmember Strand mentioned that citizens attending the public meeting in Pueblo were very concerned and focused on a dam as a solution to the problem.

Rick Hoover, President of CONO, Dirk Draper, CEO, Regional Business Alliance, and citizen Kevin Walker spoke in support of the agreement.

Larry Small, representing the Fountain Creek Watershed, Flood Control And Greenway District, spoke in support of the agreement and provided additional information about the consideration of projects to be included in the agreement.

Councilmember Knight asked about the source of the sediment in Fountain Creek, adding all of the sediment cannot be attributed to run-off from the City of Colorado Springs as there are miles of stream between Colorado Springs and Pueblo. Mr. Small explained the bulk of the sediment is from erosion of the creek banks. Planned studies will

show the source of sediment and assist with strategies to alleviate this problem.

Citizens Walter Lawson and Deborah Stout-Meininger spoke in opposition to the agreement.

Councilmember King stated he believes infrastructure improvements should come out of the general fund and expressed concern about the last sentence on page six of the agreement identifying sources of funds possibly puts citizens at risk of rate increases. Council needs to be diligent in monitoring the agreement and allocation of funds to ensure this does not have an adverse effect on our citizens.

Councilmember Pico stated the sharing of funds will be decided by the City and Utilities.

Motion by Councilmember Pico, seconded by Councilmember Strand, that the resolution be adopted. The motion passed by a vote of 8-1-0.

Aye: 8 - Bagley, Bennett, Gaebler, King, Knight, Murray, Pico, and Strand

No: 1 - Collins

2.B. [16-330](#)

A resolution of support for an Executive Agreement between the municipal government of the City of Colorado Springs and Colorado Springs Utilities pertaining to the expenditure of funds for a stormwater control program

Presenter:
Mayor John Suthers

Daniel Higgins, Chief Water Services Officer for CSU, reflected on the history leading to this agreement and expressed appreciation for all the efforts in reaching this point. Mr. Higgins also responded to Council concerns about the financial arrangements between the City and Utilities.

Councilmember Knight expressed concern about the procedural aspect of approving this agreement as City Council versus the Utilities Board and the financial implications of this agreement to the City and Utilities. Councilmember Knight also asked if the agreement is binding if a new Utility Board is established. Councilmember Knight suggested the decision to approve this agreement be delayed until these concerns can be resolved.

Wynetta Massey, City Attorney, stated Executive Agreements are

generally designed to allow the head of a municipal enterprise to work out administrative details with the head of the municipal government and Council is usually not involved in Executive agreements. The reason Utilities wanted Council to endorse the agreement is because it does relate to matters that Council handles such as the surplus, the budget and appropriations. The CEO of CSU has the authority to enter into an executive agreement with municipal government, Council is voting to support this agreement today merely as a show of support for the agreement.

Councilmember Knight suggested Council agree to move forward with this today with the understanding the City and Utilities staff will reconvene in 60 days for additional discussion regarding this agreement.

Council President Pro Tem Gaebler asked if Council has the authority to move into this agreement as she has many of the same concerns as Councilmember Knight. Ms. Massey stated Council is not signing the agreement; today, Council is being asked to acknowledge and express support for the executive agreement. Any payment by Utilities to the City needed to comply with the IGA will require an appropriation ordinance to be approved by Council, and if that happens, the governing bodies would, at that time, also devise a plan with respect to reimbursement of the funds.

Council President Pro Tem Gaebler asked if Council can obligate the City to pay back funds. Ms. Massey stated that any obligation to repay funds will be handled through an appropriation of funds at that time.

Councilmember Collins stated her issue with this is that it seems the City, through this agreement, is using Utilities as a funding source and this has the potential to raise utility rates. She also has concerns about the lack of accountability for stormwater management on behalf of other municipalities.

Councilmember Pico stated this agreement protects utilities and their customers by identifying funding sources.

Motion by Councilmember Pico, seconded by Councilmember Strand, that the resolution be adopted with the understanding that a meeting between City and Utilities Staff will take place in 60 days for further discussion of the agreement. The motion passed by a vote of 8-1-0.

Aye: 8 - Bagley, Bennett, Gaebler, King, Knight, Murray, Pico, and Strand

No: 1 - Collins

3. Adjourn

There being no further business to come before City Council, Council adjourned.

Sarah Johnson, City Clerk