



City of Colorado Springs

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

Meeting Minutes City Council

City Council meetings are broadcast live on Channel 18. In accordance with the ADA, anyone requiring an auxiliary aid to participate in this meeting should make the request as soon as possible but no later than 48 hours before the scheduled event.

Tuesday, November 12, 2019

10:00 AM

Council Chambers

1. Call to Order

Present: 9 - Councilmember Yolanda Avila, Councilmember Jill Gaebler, Councilmember David Geislinger, Councilmember Bill Murray, Councilmember Don Knight, Councilmember Andy Pico, President Richard Skorman, President Pro Tem Tom Strand, and Councilmember Wayne Williams

2. Invocation and Pledge of Allegiance

The Invocation was made by Reverend Tiffany Keith from First United Methodist Church.

President Skorman led the Pledge of Allegiance.

3. Changes to Agenda/Postponements

Dena Lozano, Deputy City Clerk, stated item 5.A. will be presented at 1:00 PM and staff has requested items 10.A. and 10.B. be postponed to the November 26, 2019 City Council meeting.

Councilmember Knight requested item 4B.F. be removed from the Consent Calendar in order for the Ordinance to be corrected.

Citizen Deborah Stout-Meiningner requested item 4.B.D. be removed from the Consent Calendar.

Councilmember Williams stated he will be supporting item 4B.N at this time and requested a discussion at a Work Session early next year regarding the elimination of the tax levy and tax credit for taxable business personal property.

Consensus of Council agreed to these changes on the agenda.

4. Consent Calendar

These items will be acted upon as a whole, unless a specific item is called for discussion by a Councilmember or a citizen wishing to address the City Council. (Any items called up for separate consideration shall be acted upon following the Mayor's Business.)

4A. Second Presentation:

- 4A.A. [CPC ZC 19-00070](#) Ordinance No. 19-73 amending the zoning map for the City of Colorado Springs pertaining to 12.88 acres from A (Agricultural) to OC (Office Complex).
(Quasi-Judicial)

Related Files: CPC ZC 19-00070, CPC ZC 19-00071, CPC ZC 19-00072, CPC ZC 19-00073, CPC CP 19-00074

Presenter:

Peter Wysocki, Director of Planning and Community Development
Katie Carleo, Principal Planner, Planning & Community Development

Attachments: [ZC ORD CorderaCommercialSouthParcelA](#)
[Exhibit A Legal Description Cordera Commercial South](#)
[Exhibit B Depiction Cordera Commercial South-parcel A](#)
[Contextual Vicinity Map](#)
[Signed Ordinance 19-73.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.B. [CPC ZC 19-00071](#) Ordinance No. 19-74 amending the zoning map of the City of Colorado Springs relating to 7.24 acres located along the eastern side of Powers Boulevard stretching from just south of Old Ranch Road to north of Union Boulevard from A (Agricultural) to PF (Public Facility)

(Quasi-Judicial)

Related Files: CPC ZC 19-00070, CPC ZC 19-00071, CPC ZC 19-00072, CPC ZC 19-00073, CPC CP 19-00074

Presenter:

Peter Wysocki, Director of Planning and Community Development
Katie Carleo, Principal Planner, Planning & Community Development

Attachments: [ZC ORD CorderaCommercialSouthParcelB](#)
[Exhibit A Legal Description Cordera Commercial South-parcel B](#)
[Exhibit B Depiction Cordera Commercial South-parcel B](#)
[Signed Ordinance 19-74.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.C.** [CPC ZC 19-00072](#) Ordinance No. 19-75 amending the zoning map of the City of Colorado Springs relating to 15.86 acres located along the eastern side of Powers Boulevard stretching from just south Old Ranch Road to north of Union Boulevard from A (Agricultural) to OC (Office Complex)

(Quasi-Judicial)

Related Files: CPC ZC 19-00070, CPC ZC 19-00071, CPC ZC 19-00072, CPC ZC 19-00073, CPC CP 19-00074

Presenter:

Peter Wysocki, Director of Planning and Community Development
Katie Carleo, Principal Planner, Planning & Community Development

Attachments: [ZC ORD CorderaCommercialSouthParcelC](#)
[Exhibit A Legal Description Cordera Commercial South-parcel C](#)
[Exhibit B Depiction Cordera Commercial South-parcel C](#)
[Signed Ordinance 19-75.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.D.** [CPC ZC 19-00073](#) Ordinance No. 19-76 amending the zoning map of the City of Colorado Springs from A (Agricultural) to PK (Parkland) zoning district consisting of 29.99 acres.
(Quasi-Judicial)

Related Files: CPC ZC 19-00070, CPC ZC 19-00071, CPC ZC 19-00072, CPC ZC 19-00073, CPC CP 19-00074

Presenter:

Peter Wysocki, Director of Planning and Community Development
Katie Carleo, Principal Planner, Planning & Community Development

Attachments: [ZC ORD CorderaCommercialSouthParcelD](#)
[Exhibit A Legal Description Cordera Commercial South-parcel D](#)
[Exhibit B Depiction Cordera Commercial South-parcel D](#)
[Signed Ordinance 19-76.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.E.** [CPC PUZ 19-00011](#) Ordinance No. 19-77 amending the zoning map of the City of Colorado Springs pertaining to 20.93 acres of land from PUD/AO/SS (Planned Unit Development with Airport and Streamside Overlays) to PUD/SS/AO (Planned Unit Development: Small Lot Single-Family Detached)

Residential, 35-foot maximum building height, and 4.35 dwelling units per acre; with Streamside and Airport Overlays), located northwest of the Marksheffel Road and Woodmen Road intersection.

(QUASI-JUDICIAL)

Related Files: CPC MPA 06-00206-A12MJ19, CPC PUP 07-00100-A2MJ19, CPC PUZ 19-00011, and CPC PUD 19-00013

Presenter:

Peter Wysocki, Director Planning and Community Development
Daniel Sexton, Principal Planner, Planning and Community Development

Attachments: [ZC ORD NookatShilohMesa](#)

[Exhibit A - Legal Description](#)

[Exhibit B - Zone Change](#)

[Vicinity Map](#)

[Signed Ordinance 19-77.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.F.** [19-565](#) Ordinance No. 19-81 certifying delinquent stormwater fees and charges to the El Paso County Treasurer for collection

Presenter:

Richard Mulledy, Stormwater Enterprise Manager

Attachments: [Ordinance StormwaterFees-CertificationOfDelinquency](#)

[Exhibit A Ord to Certify Dlq SW fees for Collection.pdf](#)

[Signed Ordinance 19-81.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.G.** [19-425](#) Ordinance No. 19-82 amending Chapter 7 of the Code of the City of Colorado Springs pertaining to the occupancy of short term rental units

Presenter:

Morgan Hester, Principal Planner
Peter Wysocki, Director of Planning and Community Development

Attachments: [ORD_ShortTermRentalOccupancy](#)

[Signed Ordinance 19-82.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.H.** [CPC PUZ 19-00025](#) Ordinance No. 19-83 amending the zoning map of the City of Colorado Springs pertaining to 66.99 acres from R/HS/SS (Estate Single-Family with Hillside and Streamside Overlay) to PUD/HS/SS (Planned Unit

Development with Hillside and Streamside Overlay) located south of Fillmore Street and west of Centennial Boulevard.

(Quasi-Judicial)

Related Files: CPC MPA 07-00308-A7MJ19, CPC PUZ 19-00025, CPC PUP 19-00026

Presenter:

Lonna Thelen, Principal Planner, Planning & Community Development
Peter Wysocki, Planning & Community Development Director

Attachments: [ZC-ORD FillmoreSouth](#)

[ZC Exhibit A - Legal Description](#)

[ZC Exhibit B - Zone Change](#)

[Vicinity Map](#)

[Signed Ordinance 19-83.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

4A.I. [CPC PUZ 19-00081](#)

Ordinance No. 19-84 amending the zoning map of the City of Colorado Springs pertaining to 18.6 acres from C5/CR, C5/P and PBC to a PUD (Planned Unit Development: commercial, multi-family, and single-family detached, 12-24.99 dwelling units per acre, maximum building height of 45 feet) zone district located between Circle Drive, Hancock Expressway and Delta Drive.

(Quasi-Judicial)

Related Files: CPC MPA 01-00177-A2MJ19, CPC PUZ 19-00081, CPC PUP 19-00082

Presenter:

Lonna Thelen, Principal Planner, Planning & Community Development
Peter Wysocki, Planning & Community Development Director

Attachments: [ZC ORD Hancock&Delta](#)

[ZC Exhibit A - legal description](#)

[ZC Exhibit B - legal description depicted](#)

[Vicinity Map](#)

[Signed Ordinance 19-84.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

4B. First Presentation:

4B.A. [19-679](#) City Council Regular Meeting Minutes October 22, 2019

Presenter:

Sarah B. Johnson, City Clerk

Attachments: [10-22-2019 City Council Meeting Minutes Final.pdf](#)
[2020_D&O_Water-10-25-19-FINAL.docx](#)
[2020_D&O_Wastewater-10-25-19-FINAL.docx](#)
[2020_D&O_Electric-10-25-19-FINAL.docx](#)
[2020_D&O_URR-10-25-19-FINAL.docx](#)

The Minutes were approved on the Consent Calendar.

4B.B. [19-659](#) Appointments to Boards and Commissions

Presenter:

Jacquelyn Puett, Assistant to Council

Attachments: [111219 Boards and Commissions.pdf](#)

This Item was approved on the Consent Calendar.

4B.C. [19-602](#) A Resolution of Support for the City of Colorado Springs' Kettle Creek Property Open Space Grant Application to Great Outdoors Colorado

Presenter:

Karen Palus, Director, Parks, Recreation and Cultural Services

Tilah Larson, Senior Analyst, Parks, Recreation and Cultural Services

Attachments: [10-21-19 - City Council Resolution - Kettle Creek - GOCO Grant](#)
[10-21-19 - GOGO Grant Kettle Creek - Powerpoint](#)
[Signed Resolution 112-19.pdf](#)

This Resolution was adopted on the Consent Calendar.

4B.E. [19-644](#) A Resolution Setting the Street Lighting Service Revenue Requirement for the Period of January 1, 2020 Through December 31, 2020

Presenter:

Scott Shewey, Acting Chief Planning and Finance Officer

Aram Benyamin, Chief Executive Officer

Attachments: [MG 2020 SL Rev Req - Resolution 11-12-19](#)
[Signed Resolution 113-19.pdf](#)

This Resolution was adopted on the Consent Calendar.

4B.G. [19-646](#) A Resolution ratifying certain actions taken by the Colorado Springs Utilities Board of Directors with respect to the Public Authority for

Colorado Energy

Presenter:

Eric Tharp, Chief Energy Services Officer

Aram Benyamin, Chief Executive Officer

Attachments: [Resolution of the City Council Ratifying Utilities Board \(PACE\), 4814-4098-1673 2](#)
[Signed Resolution 114-19.pdf](#)

This Resolution was adopted on the Consent Calendar.

- 4B.H. [19-601](#)** A Resolution of Support for the City of Colorado Springs' Jimmy Camp Creek Property Open Space Grant Application to Great Outdoors Colorado

Presenter:

Karen Palus, Director, Parks, Recreation and Cultural Services

Tilah Larson, Senior Analyst, Parks, Recreation and Cultural Services

Attachments: [10-21-19 - City Council Resolution - Jimmy Camp Creek - GOCO Grant](#)
[10-21-19 - GOGO Grant - Jimmy Camp Creek - Powerpoint](#)
[Signed Resolution 115-19.pdf](#)

This Resolution was adopted on the Consent Calendar.

- 4B.I. [19-630](#)** Resolution of Support for the City of Colorado Springs Sponsorship of the School Yard Initiative Grant to Great Outdoors Colorado on Behalf of Atlas Preparatory School

Presenter:

Karen Palus, Director, Parks, Recreation and Cultural Services

Tilah Larson, Senior Analyst, Parks, Recreation and Cultural Services

Attachments: [10-21-19 - Atlas Prep Sponsorship Support RES](#)
[10-21-19 - Atlas GOCO IGA](#)
[10-21-19 - 2019 GOCO School Yard Grant - Powerpoint](#)

This Resolution was adopted on the Consent Calendar.

- 4B.J. [19-631](#)** Resolution of Support for the City of Colorado Springs Sponsorship of the School Yard Initiative Grant to Great Outdoors Colorado on Behalf of Skyway Elementary School

Presenter:

Karen Palus, Director, Parks, Recreation and Cultural Services

Tilah Larson, Senior Analyst, Parks, Recreation and Cultural Services

Attachments: [10-21-19 - Skyway Sponsorship Support RES](#)
[10-21-19 - IGA -Skyway](#)
[10-21-19 - 2019 GOCO School Yard Grant - Powerpoint](#)

This Resolution was adopted on the Consent Calendar.

- 4B.K. [19-492](#)** A Resolution Approving the 2020 Budget for Pikes Peak Regional Building Department
- Presenter:
Charae McDaniel, Chief Financial Officer
Roger Lovell, Building Official, Pikes Peak Regional Building Department
Ryan Johanson, CPA, Finance Director, Pikes Peak Regional Building Department

Attachments: [2020 Budget_final](#)
[2020 PPRBD Budget Resolution-11.12.19](#)
[2020 RBD Budget - CS Work Session](#)
[Signed Resolution 118-19.pdf](#)

This Resolution was adopted on the Consent Calendar.

- 4B.L. [19-672](#)** A resolution authorizing the acquisition of properties pursuant to the Federal Emergency Management Agency's Hazard Mitigation Grant Program
- Presenter:
Gordon Brenner, City Recovery Coordinator
Darlene Kennedy, City Real Estate Services Manager
Jennifer Vance, City Grants Manager

Attachments: [DRAFT Resolution for Acquisition 2013-2015 FEMA Landslides_gjb_20191112](#)
[Exhibit A_906 Zodiac](#)
[Signed Resolution 119-19.pdf](#)

This Resolution was adopted on the Consent Calendar.

- 4B.M. [19-491](#)** An Ordinance Repealing Ordinance No. 18-116 and Adopting the City of Colorado Springs - 2020 Salary Structure for Civilian and Sworn Municipal Employees
- Presenter:
Mike Sullivan, Human Resources Director
Charae McDaniel, Chief Financial Officer

Attachments: [11-12-19 - Ordinance - 2020 Salary Schedule](#)
[Final 2020 Salary Schedule rev 10242019](#)

This Ordinance was approved on first reading on the Consent Calendar.

- 4B.N. [19-489](#)** An Ordinance Making and Certifying the 2019 Tax Levy for Taxes Payable in 2020 at 4.279 Mills Upon Each Dollar of Assessed Valuation of All Taxable Property and a Tax Credit of 4.279 Mills Upon Each Dollar of Assessed Valuation of All Taxable Business Personal Property Within the Corporate Limits of the City of Colorado Springs

Presenter:
Charae McDaniel, Chief Financial Officer

Attachments: [TaxLevy2020-BPPT CreditORD](#)

This Ordinance was approved on first reading on the Consent Calendar.

- 4B.O. [19-490](#)** Annual Appropriation Ordinance Adopting the Annual Budget and Appropriating Funds for the Several Purposes Named in Said Budget for the Year Ending December 31, 2020

Presenter:
Charae McDaniel, Chief Financial Officer

Attachments: [2020 Budget Ordinance with Attachments A and B](#)
[Attachment C - Corrected All Funds Summary pages-Ballfield Fund 10-30-19](#)

This Ordinance was approved on first reading on the Consent Calendar.

Approval of the Consent Agenda

Motion by President Pro Tem Strand, seconded by Councilmember Gaebler, that all matters on the Consent Calendar be passed, adopted, and approved by unanimous consent of the members present. The motion passed by a vote of 9-0-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

5. Recognitions

- 5.A. [19-594](#)** Introduction of the 2019/2020 Ticket to Success Class

Presenter:
Karen Palus, Director of Parks, Recreation and Cultural Services
Donna Nelson, Spirit of the Springs Program Coordinator

Donna Nelson, Spirit of the Springs Program Coordinator, said 7th and 8th grade students from six local middle schools participated in the Ticket to

Success class. Students Erica Williams, Althea Geddis, Sidney Tony, and Essa Nay presented their group's ideas for the repurposing of an area off North Nevada Avenue they had submitted to the Planning and Community Development Department.

Several councilmembers expressed appreciation for the program and work submitted by the students.

6. Citizen Discussion For Items Not On Today's Agenda

Citizen Tony Heinz stated the Gazette is reporting inaccurate information about the Gold Hill Mesa neighborhood.

Citizen Deborah Stout-Meiningner spoke about developments built on unstable properties.

Citizen Jaymen Johnson read a quote from author C.S. Lewis.

Citizen Ross Clinger spoke about the need for sidewalks on Cowpoke Road.

7. Mayor's Business

There were no Mayor's Business.

8. Items Called Off Consent Calendar

- 4B.D.** [19-637](#) An ordinance amending Ordinance No. 18-118 (2019 Appropriation Ordinance) for a supplemental appropriation to the 2C-Road Repair, Maintenance and Improvement Fund in the amount of \$3,000,000 for additional capital expenditures identified for 2019

Presenter:

Charae McDaniel, Chief Financial Officer

Travis Easton, P.E., Public Works Director

Corey Farkas, Manager of Operations and Maintenance Division of Public Works

Attachments: [Supplemental Approp Ord - 2C Fund #2 Oct 2019](#)

Citizen Deborah Stout-Meiningner asked what new construction will the \$3M 2C-Road Repair, Maintenance and Improvement Fund be used for.

Travis Easton, Director, Public Works, stated it will be used to purchase concrete to pave roads in 2020.

Motion by Councilmember Williams, seconded by Councilmember Geislinger, that the Ordinance for the supplemental appropriation to the 2C Road Repair, Maintenance and Improvement Fund in the amount of \$3,000,000 for additional capital expenditures identified for 2019 be approved on first reading. The motion passed by a vote of 9-0-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

4B.F. [19-611](#)

An Ordinance of the City of Colorado Springs, Colorado authorizing the termination by the City of existing Interest Rate Exchange Agreements delegating to the Utilities Chief Executive Officer or the Utilities Chief Planning and Financial Officer (or the Acting Chief Planning and Financial Officer, as applicable) the authority to determine the financial terms of transactions terminating such agreements; ratifying action heretofore taken and relating to such agreements; and providing other matters relating thereto

Presenter:

Scott Shewey, Acting Chief Planning and Finance Officer, Colorado Springs Utilities

Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities

Attachments: [Swap Termination Ordinance 2019 4848-8831-7352_3](#)

Councilmember Knight stated any bonding activity should come through the Budget Committee, but that language is not included in the Ordinance. Scott Shewey, Acting Chief Planning and Finance Officer, Colorado Springs Utilities stated they will revise the Ordinance to be considered by City Council at the November 26, 2019 City Council meeting.

Motion by Councilmember Knight, seconded by Councilmember Williams, that the Ordinance of the City of Colorado Springs, Colorado authorizing the termination by the City of existing Interest Rate Exchange Agreements delegating to the Utilities Chief Executive Officer or the Utilities Chief Planning and Financial Officer (or the Acting Chief Planning and Financial Officer, as applicable) the authority to determine the financial terms of transactions terminating such agreements; ratifying action heretofore taken and relating to such agreements; and providing other matters relating thereto be postponed to the November 26, 2019 City Council meeting. The motion passed by a vote of 9-0-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

9. Utilities Business

9.A. [19-514](#)

Ordinance No. 19-78 Approving the Annual Budget for Colorado Springs Utilities and Appropriating Monies for the Several Purposes Named in the Annual Colorado Springs Utilities Budget for the Year Ending December 31, 2020 Budget Submission

Presenter:

Scott Shewey, Acting Chief Planning and Finance Officer
Aram Benyamin, Chief Executive Officer

Attachments: [2020 Annual Budget Formal Ord](#)
[10-22-2019 CC 2020 Budget for Mtg](#)
[Signed Ordinance 19-78.pdf](#)

Scott Shewey, Acting Chief Planning and Finance Officer, presented the Ordinance approving the annual budget for Colorado Springs Utilities for 2020.

There were no comments on this item.

Motion by Councilmember Gaebler, seconded by Councilmember Murray, that the Ordinance approving the annual budget for Colorado Springs Utilities and appropriating monies for the several purposes named in the annual Colorado Springs Utilities budget for the year ending December 31, 2020 budget submission be finally passed. The motion passed by a vote of 7-2-0-0

Aye: 7 - Avila, Gaebler, Geislinger, Murray, Skorman, Strand, and Williams

No: 2 - Knight, and Pico

- 9.B.** [19-666](#) Ordinance No. 19-79 Identifying and Accepting the Annual Sources of Funds for Colorado Springs Utilities for the Year Ending December 31, 2020

Presenter:

Scott Shewey, Acting Chief Planning and Finance Officer
Aram Benyamin, Chief Executive Officer

Attachments: [2020 Annual Source Funds Ord](#)
[Signed Ordinance 19-79.pdf](#)

There were no comments on this item.

Motion by Councilmember Williams, seconded by President Pro Tem Strand, that the Ordinance identifying and accepting the annual sources of funds for Colorado Springs Utilities for the year ending December 31, 2020 be finally passed. The motion passed by a vote of 7-2-0-0

Aye: 7 - Avila, Gaebler, Geislinger, Murray, Skorman, Strand, and Williams

No: 2 - Knight, and Pico

- 9.C.** [19-693](#) Consideration of a Resolution Setting Water Rates within the Service Area of Colorado Springs Utilities

Presenter:

Chris Bidlack, City Attorney's Office, Utilities Division

Attachments: [2020 DO Water-10-25-19-FINAL](#)
[11-12-2019 DO - Water Resol Tariff](#)
[Signed Resolution 120-19.pdf](#)

There were no comments on this item.

Motion by President Pro Tem Strand, seconded by Councilmember Williams, that the Resolution setting water rates within the service area of Colorado Springs Utilities be adopted. The motion passed by a vote of 7-2-0-0

Aye: 7 - Avila, Gaebler, Geislinger, Murray, Skorman, Strand, and Williams

No: 2 - Knight, and Pico

9.D. [19-695](#) Consideration of a Resolution Setting Wastewater Rates within the Service Area of Colorado Springs Utilities

Presenter:

Chris Bidlack, City Attorney's Office, Utilities Division

Attachments: [11-12-2019 D&O - Wastewater Resol & Tariff.pdf](#)
[2020 D&O Wastewater-10-25-19-FINAL.pdf](#)
[Signed Resolution 121-19.pdf](#)

There were no comments on this item.

Motion by President Pro Tem Strand, seconded by Councilmember Murray, that the Resolution setting wastewater rates within the service area of Colorado Springs Utilities be adopted. The motion passed by a vote of 7-2-0-0

Aye: 7 - Avila, Gaebler, Geislinger, Murray, Skorman, Strand, and Williams

No: 2 - Knight, and Pico

9.E. [19-696](#) Consideration of a Resolution Regarding Certain Changes to the Electric Rate Schedules of Colorado Springs Utilities

Presenter:

Chris Bidlack, City Attorney's Office, Utilities Division

Attachments: [11-12-2019 D&O - Electric Resol & Tariff.pdf](#)
[2020 D&O Electric-10-25-19-FINAL.pdf](#)
[Signed Resolution 122-19.pdf](#)

There were no comments on this item.

Motion by Councilmember Williams, seconded by Councilmember Murray, that the Resolution regarding certain changes to the electric rate schedules of Colorado Springs Utilities be adopted. The motion passed by a vote of 9-0-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

- 9.F. [19-690](#) Consideration of a Resolution Regarding Changes to the Utilities Rules and Regulations of Colorado Springs Utilities

Presenter:

Chris Bidlack, City Attorney's Office, Utilities Division

Attachments: [11-12-2019 DO - URR Resol Tariff](#)
[2020 DO URR-10-25-19-FINAL](#)
[Signed Resolution 123-19.pdf](#)

Councilmember Pico stated he supports a majority of the proposed changes to the Utilities Rules and Regulations of Colorado Springs Utilities, but feels the proposed changes regarding the wastewater out-of-service area undermines the issue of regionalization and therefore will be voting against this item.

Motion by President Pro Tem Strand, seconded by Councilmember Murray, that the Resolution regarding changes to the Utilities Rules and Regulations of Colorado Springs Utilities be adopted. The motion passed by a vote of 7-2-0-0

Aye: 7 - Avila, Gaebler, Geislinger, Murray, Skorman, Strand, and Williams

No: 2 - Knight, and Pico

- 9.G. [19-660](#) An Ordinance amending Ordinance No. 18-109 (Colorado Springs Utilities Annual Budget) for a supplemental appropriation to Colorado Springs Utilities' budget in the amount of \$9,800,000

Presenter:

Scott Shewey, Acting Chief Planning and Finance Officer
Aram Benyamin, Chief Executive Officer

Attachments: [CSU-Supplemental Appropriation ORD-2019-11-12 CAU](#)
[supplemental appropriation 9+3 update](#)

Scott Shewey, Acting Chief Planning and Finance Officer, presented the Ordinance a supplemental appropriation to 2019 Colorado Springs Utilities' budget in the amount of \$9.8M and said it would be used for fuel and developer driven projects.

There were no comments on this item.

Motion by Councilmember Williams, seconded by President Pro Tem Strand, that the Ordinance amending Ordinance No. 18-109 (Colorado Springs Utilities Annual Budget) for a supplemental appropriation to Colorado Springs Utilities' budget in the amount of \$9,800,000 be approved on first reading. The motion passed by a vote of 9-0-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

- 9.H. [19-428](#) Ordinance No. 19-80 amending Sections 107 (Authorities, Powers and Duties of Utilities Chief Executive Officer), 112 (User Charges for Utility Service), and 120 (Residential Stormwater Service Fee Billing) of Article 1 (General Provisions) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, pertaining to changes related to Stormwater billing

Presenter:

Christopher Bidlack, Senior Attorney, City Attorney's Office-Utilities Division

Aram Benyamin, Chief Executive Officer

Attachments: [CSU-StormwaterBillingCh12ORD-2019-07-18](#)

[Signed Ordinance 19-80.pdf](#)

There were no comments on this item.

Motion by Councilmember Williams, seconded by President Pro Tem Strand, that the Ordinance No. 19-80 amending Sections 107 (Authorities, Powers and Duties of Utilities Chief Executive Officer), 112 (User Charges for Utility Service), and 120 (Residential Stormwater Service Fee Billing) of Article 1 (General Provisions) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, pertaining to changes related to Stormwater billing be approved on first reading. The motion passed by a vote of 8-1-0-0

Aye: 8 - Avila, Gaebler, Geislinger, Murray, Pico, Skorman, Strand, and Williams

No: 1 - Knight

- 9.I. [19-566](#) A Resolution Authorizing the Transfer of Control of Real Property Acquired for the Jimmy Camp Creek Reservoir from Colorado Springs Utilities to the City of Colorado Springs Parks, Recreation, and Cultural Services Department

Presenter:

Jessica Davis, Principal Land Resources Specialist, Colorado Springs Utilities

Britt Haley, Parks Design and Development Manager / TOPS Program Manager, City of Colorado Springs Parks, Recreation, and Cultural Services

Aram Benyamin, Chief Executive Officer, Colorado Springs Utilities

Attachments: [JCC Transfer Resolution Final](#)

[Signed Resolution 124-19.pdf](#)

Jessica Davis, Principal Land Resources Specialist, Colorado Springs Utilities, presented the Resolution authorizing the transfer of control of real property acquired for the Jimmy Camp Creek Reservoir from Colorado Springs Utilities to the Parks, Recreation, and Cultural Services

Department. She gave a brief background of the site, rights of first refusal, intra-city transfer to parks, and staff recommendation.

Britt Haley, TOPS Manager, gave an overview of the future benefits for the proposed open space.

President Pro Tem Strand asked if there will be a transfer of funds from Parks, Recreation, and Cultural Services to Colorado Springs Utilities. Ms. Haley confirmed there would be a supplemental appropriation process for the \$3,360,100.

Motion by Councilmember Geislinger, seconded by President Pro Tem Strand, that the Resolution authorizing the transfer of control of real property acquired for the Jimmy Camp Creek Reservoir from Colorado Springs Utilities to the City of Colorado Springs Parks, Recreation, and Cultural Services Department be adopted. The motion passed by a vote of 9-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

10. Unfinished Business

- 10.A.** [19-418](#) The Proposed 2020 Operating Plan and Budget for the Creekwalk Marketplace Business Improvement District

Presenter:

Carl Schueler, Comprehensive Planning Manager

Attachments: [Revised 2020 Operating Plan and Budget - Creekwalk Marketplace BID](#)
[Letter from Spencer Fane re 2019 bond issuance](#)

This item was postponed to the November 26, 2019 City Council meeting.

Motion by Councilmember Geislinger, seconded by Councilmember Williams, that the proposed 2020 Operating Plan and Budget for the Creekwalk Marketplace Business Improvement District be postponed to the November 26, 2019 City Council meeting. The motion passed by a vote of 9-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

- 10.B.** [CPC CA 19-00137](#) An ordinance amending Chapter 7 (Planning, Development and Building) of City Code establishing density standards for non-owner occupied short term rental units

(Legislative)

Presenter:

Morgan Hester, Principal Planner

Attachments: [CPC Staff Report STR](#)[FIGURE 1 - 5 Lot Separation Scenario](#)[Plan Dev-STR-5 LotSpacesAND SingleFamilyORD-2019-11-15v2](#)[Plan Dev-STR-5 LotSpacesONLY_ORD-2019-11-15v2](#)[CPC Presentation - STR 11-21-19](#)

Councilmember Knight stated he does not support the request for a postponement to the November 26, 2019 City Council meeting because the longer they wait, the more opportunity short term rental (STR) unit owners who have not been in compliance with the law will have to obtain a permit with no penalty. He stated staff is waiting for direction from City Council regarding whether the density requirement will be one per five hundred feet or one per five lots and his preference is the density option which includes the five lots in the definition be voted on today.

Councilmember Murray stated he does not support regulation on density with a business enterprise and these businesses should not be in R1 (residential) zones.

Councilmember Gaebler stated there are many citizens who were under the impression this item would be postponed.

Councilmember Williams asked if City Council voted to prohibit non-owner occupied STRs in residential areas if the currently permitted STRs would be allowed to continue business. Marc Smith, Corporate Division Chief, Office of the City Attorney, stated they would fall under the operation requirements of the current City Code.

Councilmember Murray asked if a non-owner occupied STR could be determined a commercial enterprise and be taxed as such. Ben Bolinger, Attorney, City Attorney's Office, stated there is case law where it could be defined either way as a commercial use or residential use, but taxes would have to be determined by the El Paso County Assessor's Office.

Councilmember Knight stated his preference is STRs be owner-occupied for at least six months of the year with a one in five lot density requirement.

President Pro Tem Strand stated he is concerned with the number of new STR permits being obtained due to a delay and supports the owner-occupied requirement in residential zones with a one in five lot

density requirement.

Councilmember Williams requested non-owner occupied STRs be determined a conditional use in residential zones instead as a permitted use. Mr. Smith stated there would have to be a hearing process if that provision moves forward.

Councilmember Avila stated she is in favor of owner-occupied in R1, but not the conditional use option.

Councilmember Pico and Councilmember Gaebler stated they feel this is a violation of private property rights and are opposed to making it a conditional use and the density requirements.

Councilmember Gaebler asked how a STR owner will be grandfathered. Morgan Hester, Principal Planner, Planning and Community Development, stated they would need to continually renew their permit prior to the expiration date to remain grandfathered.

Councilmember Williams gave direction to staff to prepare Ordinances which reflect the definition of six month non-owner occupied STRs, disallow non-owner occupied STRs in R1, and a one in five lot in any direction density. He also requested staff explain the difference between the variance process and the conditional use process.

Councilmember Geislinger requested the five lot area be discussed with the Planning Commission as an alternative.

Citizen Jaymen Johnson stated new Ordinances should not be enacted when the City is still figuring out how the current Ordinance can be enforced.

Citizen Ross Clinger stated he has concerns as to where STR renters will park.

Motion by Councilmember Williams, seconded by Councilmember Knight, that the Ordinance amending Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the density of non-owner occupied short term rental units be postponed to the November 26, 2019 City Council meeting at 1:00 PM. The motion passed by a vote of 8-1-0-0

Aye: 8 - Avila, Gaebler, Geislinger, Murray, Knight, Skorman, Strand, and Williams

No: 1 - Pico

11. New Business

11.A. [19-636](#) A Resolution creating the Trolley District Entertainment District

Presenter:

Jill Gaebler, City Council Member, District 5

Lee McRae, License Enforcement Officer, City Clerk Office

Joseph Niebur, Trolley District Sponsor

Attachments: [Trolley District - Exhibit A](#)

[Trolley District - Exhibit B](#)

[Trolley District 2019-10-21-Agenda Packet](#)

[Trolley District - Neighborhood Overview.pdf](#)

[Trolley District Resolution \(2019-10-21 FINAL\).docx](#)

[Signed Resolution 125-19.pdf](#)

Councilmember Geislinger recused himself due to being a close friend with the applicant.

Councilmember Gaebler, City Council Sponsor for Entertainment District, stated the Trolley District Entertainment District will add vitality to the core of the City.

Lee McRae, License Enforcement Officer, City Clerk's Office, presented the Resolution creating the Trolley District Entertainment District and provided an overview of the proposed Entertainment District boundaries and hours of operation.

Councilmember Knight stated he will not be supporting this item because he believes the outdoor common consumption area should be shut down at 10:00 PM instead of 11:00 PM.

Motion by Councilmember Murray, seconded by Councilmember Gaebler, that the Resolution creating the Trolley District Entertainment District be adopted. The motion passed by a vote of 7-1-1-0

Aye: 7 - Avila, Gaebler, Murray, Pico, Skorman, Strand, and Williams

No: 1 - Knight

Recused: 1 - Geislinger

11.B. [19-687](#) A Resolution Approving an Economic Development Agreement Between the City of Colorado Springs and Project Beach.

Presenter:

Bob Cope, Economic Development Officer

Chelsea Gaylord, Senior Economic Development Specialist

Attachments: [Project Beach City Council Work Session Presentation](#)

[Project Beach Economic Development Agreement](#)

[Project Beach Resolution](#)

Chelsea Gaylord, Senior Economic Development Specialist, presented the Resolution approving an Economic Development Agreement for Project Beach.

Councilmember Williams asked why a code name is used for the project. Ms. Gaylord stated this is typically done when a project is being considered for incentives at a state level as well.

President Skorman asked what the amount of the tax revenue incentive from the City would be. Ms. Gaylord stated it is estimated at \$14,310 over a four year period.

Motion by Councilmember Murray, seconded by Councilmember Knight, that the Resolution approving an economic development agreement between the City of Colorado Springs and Project Beach be adopted. The motion passed by a vote of 9-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

12. Public Hearing

12.A. [CPC CU
19-00102](#)

A Form-Based Zone Conditional Use Development Plan for the Downtown Stadium project on 4.9 acres of FBZ-CEN (Form-Based Zone - Central Sector) zoned land located at 520 Sahwatch Street.

(QUASI-JUDICIAL)

Related File: CPC V 19-00103

Presenter:

Peter Wysocki, Director, Planning and Community Development
Department

Ryan Tefertiller, Manager, Urban Planning Division

Attachments: [Downtown Stadium DRB Staff Report](#)
[Figure 1 - Downtown Stadium CU DP](#)
[Figure 2 - Downtown Stadium Project Statement](#)
[Figure 3 - Stakeholder Input](#)
[Figure 4 - 2005 Site Aerial Photo](#)
[Figure 5 - Downtown Stadium Parking Traffic Study](#)
[Figure 6 - Downtown Stadium vacation plat](#)
[DRB Minutes Stadium draft](#)
[7.5.704 Conditional Use Review](#)

Ryan Tefertiller, Manager, Urban Planning Division, Planning and Community Development Department, gave a brief background on the Downtown Stadium project site, applications, stakeholder process, application details, and plan details. He gave an overview of the analysis of the Form-Based Zone (FBZ) standards, parking, traffic, conditional use criteria, vacation criteria, modifications, and staff recommendations.

Bob Cope, Economic Development Manager, gave a brief overview of the City for Champions project, consistency with the Downtown Master Plan, the mixed use venue, the downtown vision, revitalization, and identified the partners involved in the project.

Councilmember Williams asked how many parking spaces will need to be vacated. Mr. Tefertiller stated the applicant will provide that information.

Councilmember Knight stated no City tax dollars were to go to a C4C project so why will the City be giving the right-of-way to the developer. Mr. Tefertiller stated it is illegal for the City to receive payment for right-of-ways.

Laura Newman, Weidner Apartment Homes, and Nick Regan, President, Switchbacks representing the applicant, gave an overview of the priorities and responsibilities of the project.

Lisa Bachman, Bachman PR, identified the public engagement process.

Chris Lieber, NES, Inc., went over how the stadium fits into the surrounding neighborhoods and businesses, the downtown adjacency diagram, its consistency with planning goals, the site plan, right-of-way vacation He gave an overview of the types of events, stadium programming, management, parking, conditional use criteria, vacation criteria, and

resolved technical comments.

Christopher Kleingartner, Perkins and Will, presented renderings of the entrance and stadium architecture.

Councilmember Williams asked how attendees will be prevented from parking in the Mill Street neighborhood. Mr. Lieber stated the neighborhood may have to apply to obtain a residential private parking permits.

Councilmember Williams asked how pedestrian safety along the I-25/Cimarron interchange will be implemented. Mr. Lieber stated there is a trail system available and a pedestrian bridge to provide safe pedestrian access.

Councilmember Murray commented that there will be an overlay of parking from the Olympic Museum which is only a block and a half away. Councilmember Geislinger and Councilmember Pico stated the parking study also does not have the overlap of parking for potential event conflicts at the Pikes Peak Center and Robson Arena. Mr. Lieber stated there will only be a small number of events in which the stadium will reach full capacity and believe there is capacity in the area for everything to coexist.

Councilmember Gaebler stated she believes other multimodal transportation options will be utilized to accommodate guests and parking will figure itself out.

Scott Lee, Parking Enterprise Director, stated the City never builds parking structures based on one-time events, but they are evaluating the parking needs for the comprehensive downtown area.

Councilmember Williams asked regarding the proposed private parking lots located adjacent to the stadium. Mr. Lieber stated those vacant lots are anticipated to serve ADA parking.

Citizen Tim O'Donnell, Chair Council of Neighbors and Organizations (CONO), stated the public process was very thorough and comprehensive.

Citizens Len Kendall, Downtown Partnership of Colorado Springs, Tammy Fields, Chamber and EDC, Neil Davis, Karen Hess, Mill Street

Neighborhood Association, Stephanie Fortune, Amy Long, Visit Colorado Springs, Annie Coffman, Trailheads Supporter Group, Eric Wyatt, spoke in support of the project.

Citizen Deborah Stout-Meininger spoke in opposition of the project.

Councilmember Avila stated she is supportive of the project, but is concerned with the parking issues and recommends a commitment be made to add a circulator from both the north and south and from the east and west.

Councilmember Williams stated he also has concerns with parking, but the legal standards state no parking is specifically required and he supports this project.

Councilmember Geislinger stated he supports this project, but the City need to look at downtown in its entirety with this project in conjunction with the other proposed projects.

Jeff Greene, Chief of Staff, stated there is a commitment from Administration to work very closely with the Transit Enterprise and Parking Enterprise to address the parking needs of the downtown area as well as reimplementaion of a downtown circulator.

President Pro Tem Strand stated he supports this change and they will continue to focus on safety, security, parking and traffic.

Councilmember Williams requested a future presentation how the City plans to coordinate these projects with all the other entities involved.

President Skorman expressed appreciation for what the project will bring to the City.

Councilmember Knight stated the application did not prove the criteria required for the vacation of public right-of-way for W. Moreno Ave. and Sahwatch St.

Motion by Councilmember Murray, seconded by Councilmember Geislinger, to approve the Conditional Use Development Plan based on the findings that the Conditional Use criteria found in Section 7.5.704 of the City Code will be met once the following technical modifications are addressed: Technical modifications to the Conditional Use plan: 1. Finalize approval of the project's

drainage report. 2. Confirm street addresses for the building and add them to the plan. 3. Document the percent glazing for the west building elevation. 4. Add the proposed legal description to sheet 1 of the plan. 5. Clarify proposed streetscape details including curb type, phasing, pedestrian ramp locations, and what elements are by the developer versus by others. 6. Modify the plan to illustrate an adequate and comfortable pedestrian way along the Sierra Madre side of the site. 7. Clarify presence of existing easements confirming where easement vacations are underway. 8. Update the landscape sheet to document the location and detail of structural soil to ensure tree health. 9. Revise the plan to ensure that all public space improvements are fully ADA compliant. The motion passed by a vote of 9-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

- 12.B.** [CPC V 19-00103](#) An ordinance vacating public right-of-way described as W. Moreno Ave. between S. Sierra Madre St. and Sahwatch St. and a 30 foot wide portion of Sahwatch St. between W. Cimarron St. and W. Moreno Ave. within Addition #1 to the Town of Colorado Springs consisting of 0.87 acres.

(LEGISLATIVE)

CPC CU 19-00102

Presenter:

Peter Wysocki, Director, Planning and Community Development Department
Ryan Tefertiller, Manager, Urban Planning Division

Attachments: [ORD_VROW_DowntownStadium](#)
[Exhibit A_LegalDescriptionWeidner Stadium](#)
[Exhibit B - Vacation Plat](#)
[Figure 6 - Downtown Stadium vacation plat](#)
[7.7.402.C Vacation Procedures](#)

Please see comments in Agenda item 12.A.

Motion by Councilmember Geislinger, seconded by Councilmember Williams, that the Ordinance approving the right-of-way vacation based on the findings that the vacation criteria found in Section 7.7.402.C. of the City Code will be met once the following technical modifications are addressed: Technical modifications to the vacation application: 1. Document that the easements retained as part of the Sahwatch vacation are adequate for the existing public stormwater infrastructure in the area be approved on first reading. The motion passed by a vote of 7-2-0-0

Aye: 7 - Avila, Gaebler, Geislinger, Pico, Skorman, Strand, and Williams

No: 2 - Murray, and Knight

- 12.C.** [CPC PUZ 19-00053](#) An ordinance amending the zoning map of the City of Colorado Springs pertaining to 19.26 acres from PIP-1/AO/SS (Planning Industrial

Park/Airport Overlay/Streamside Overlay Zone) to PUD/AO/SS (Planned Unit Development/Airport Overlay/Streamside Overlay; single-family residential, 4.67 DU/AC, 30-foot maximum building height) zone district located at the southeastern corner of Galley Road and Babcock Road.

(Quasi-Judicial)

Presenter:

Peter Wysocki, Director Planning and Community Development
Morgan Hester, Principal Planner, Planning and Community Development

Attachments: [ZC ORD RidgeatSandCreek](#)
[Exhibit A - Legal Description](#)
[Exhibit B - Zone Change](#)
[CPC Staff Report_Ridge at Sand Creek](#)
[Vicinity Map](#)
[CC The Ridge at Sand Creek](#)
[FIGURE 1_Ridge at Sand Creek DP Site Plan.ltr](#)
[FIGURE 2_Ridge at Sand Creek Project Statement](#)
[FIGURE 3_Resident Concerns](#)
[FIGURE 4_PUD Zone Exhibit](#)
[FIGURE 5_Aerial Overlay](#)
[FIGURE 6_AAC Meeting Minutes](#)
[FIGURE 7_APZ & Runway Map](#)
[FIGURE 8_PlanCOS Vibrant Neighborhoods Framework](#)
[7.5.603.B Findings - ZC](#)
[7.3.603 Establishment & Development of a PUD Zone](#)

Morgan Hester, Principal Planner, Planning and Community Development, presented a vicinity map of the property for The Ridge at Sand Creek and gave a brief overview of the site details, applications, access, open space, and neighborhood notification process. She presented the traffic study, Airport overlay, and staff recommendation.

Councilmember Knight requested additional information on how Planned Unit Development (PUD) single-family residential zoning will be affected by any regulation which may be enacted on short term rental units. Ms. Hester agreed to provide that information.

Jeff Mark, Love in Action, representing the applicant, stated one-third of the property has been donated to Habitat for Humanity and gave an overview of Love in Action Foundation and the site.

Chris Medina, Executive Director, CEO, Habitat for Humanity, stated the thirty Habitat for Humanity homes will be priced less than \$200,000 or twenty-eight percent of the members in the program's gross income.

Jim Houk, Thomas and Thomas, went over how this development is compatible with the City's comprehensive plan and the improvements proposed for Galley Road.

Councilmember Geislinger asked if the school district has had any concerns regarding this development. Ms. Hester stated School District 11 has requested fees in lieu of land dedication.

Councilmember Avila asked if the Airport Commission had determined this project to be outside of the Airport's Accident Potential Zone (APZ). Councilmember Pico confirmed it was, but it was in the Airport's noise impact overlay zone.

Councilmember Avila asked how much the homes which are not part of the Habitat for Humanity program will cost. Mr. Mark stated they anticipate they will be in the \$300,000 to \$350,000 range.

Councilmember Avila requested additional information regarding park land dedication. Mr. Mark went over the proposed open space and trail system for the area.

President Skorman, Councilmember Williams and President Pro Tem Strand spoke in support of the proposed development.

Motion by Councilmember Williams, seconded by Councilmember Murray, that the Ordinance amending the zoning map of the City of Colorado Springs rezone from PIP-1/AO/SS (Planning Industrial Park/Airport Overlay/Streamside Overlay Zone) to PUD/AO/SS (Planned Unit Development/Airport Overlay/Streamside Overlay; single-family residential, 4.67 DU/AC, 30-foot maximum building height) zone district, based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603(B) and the criteria for the establishment and development of a PUD zone as set forth in City Code Section 7.3.603 be approved on first reading. The motion passed by a vote of 9-0-0

12.D. [CPC PUD
19-00054](#)

The Ridge at Sand Creek Development Plan for development of 19.26 acres for 90 lots of single-family residential development located at the southeastern corner of Galley Road and Babcock Road.

(Quasi-Judicial)

CPC PUZ 19-00053, CPC PUD 19-00054

Presenter:

Peter Wysocki, Director Planning and Community Development
Morgan Hester, Principal Planner, Planning and Community
Development

Attachments: [FIGURE 1 Ridge at Sand Creek DP Site Plan.ltr](#)
[7.3.606 PUD Development Plan](#)
[7.5.502.E Development Plan Review](#)

Please see comments in Agenda item 12.C.

Motion by Councilmember Williams, seconded by Councilmember Pico, that the PUD Development Plan for The Ridge at Sand Creek, based upon the findings that the development plan meets the review criteria for PUD development plans as set forth in City Code Section 7.3.605, and the development plan review criteria as set forth in Section 7.5.502E be approved. The motion passed by a vote of 9-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

- 12.E.** [CPC A 19-00067R](#) A resolution adopting findings of fact and conclusions of law based thereon and determining the eligibility for annexation of property known as the Tutt Boulevard Addition No. 1 Annexation.
(Legislative)

Related Files: CPC A 19-00067R, CPC A 19-00067, CPC ZC 19-00121

Presenter:

Katie Carleo, Principal Planner, Planning & Community Development
Peter Wysocki, Director of Planning and Community Development

Attachments: [RES Findings TuttBlvd](#)
[Exhibit A - Tutt Boulevard Annex_Annex Legal](#)
[Figure 1 Planner Affidavit Tutt Annexation - signed](#)
[Figure 2 Surveyor Affidavit Tutt Annexation - signed](#)
[Signed Resolution 127-19.pdf](#)

Katie Carleo, Principal Planner, Planning and Community Development, presented the proposed Tutt Boulevard Addition No. 1 annexation. She presented maps of the site location and gave a brief background of the property, proposed annexation, project summary, property acquisition, pond constructions, and staff recommendations.

There were no comments on this item.

Motion by Councilmember Williams, seconded by Councilmember Murray, that the Resolution adopting findings of fact and conclusions of law based thereon and determining the eligibility for annexation of property known as the Tutt

Boulevard Addition No. 1 Annexation be adopted. The motion passed by a vote of 9-0-0-0

Aye: 9 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, Strand, and Williams

- 12.F.** [CPC A 19-00067](#) An ordinance annexing into the City of Colorado Springs that area known as the Tutt Boulevard Addition No. 1 Annexation consisting of 1.74 acres.
(Legislative)

Presenter:

Peter Wysocki, Director of Planning and Community Development
Katie Carleo, Principal Planner, Planning & Community Development

Attachments: [Tutt Blvd Addition No. 1 ANX_ORD](#)
[Exhibit A - Tutt Boulevard Annex Legal](#)
[STAFF PP Tutt Annexation 11-12-19](#)
[CPC Staff Report Tutt Annexation KAC](#)
[FIGURE 1 Project Statement Letter for Planning](#)
[FIGURE 2 Tutt Boulevard Addition No.1 Annexation-DWG](#)
[CPC Minutes TuttBlvdAnnex draft](#)
[7.6.203-Annexation Conditions](#)

Please see comments in Agenda item 12.E.

Motion by Councilmember Williams, seconded by President Pro Tem Strand, that the Ordinance for annexation of the Tutt Boulevard Addition No.1 Annexation based upon the findings that the annexation complies with all of the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203 be approved on first reading. The motion passed by a vote of 9-0-0-0

- 12.G.** [CPC ZC 19-00121](#) An ordinance amending the Zoning Map of the City of Colorado Springs relating to 1.28 acres located northwest of Tutt Boulevard and Cowpoke Road establishing the PF (Public Facility) zone district.
(Legislative)

Related Files: CPC A 19-00067R, CPC A 19-00067, CPC ZC 19-00121

Presenter:

Peter Wysocki, Director of Planning and Community Development
Katie Carleo, Principal Planner, Planning & Community Development

Attachments: [ORD_ZC TuttBlvdAnnexation](#)
[Exhibit A - Tutt Boulevard Annex Zoning Legal](#)
[Exhibit B - Tutt Boulevard Addition No. 1 Annexation Zone Change](#)
[7.5.603.B Findings - ZC](#)

Please see comments in Agenda item 12.E.

Motion by Councilmember Williams, seconded by President Pro Tem Strand, that the Ordinance amending the Zoning Map of the City of Colorado Springs relating to 1.28 acres located northwest of Tutt Boulevard and Cowpoke Road establishing the PF (Public Facility) zone district, based upon the findings that the change of zoning complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603(B) be approved on first reading. The motion passed by a vote of 9-0-0

**12.H. [AR CM2
19-00124](#)**

An appeal of City Planning Commission's denial of the Maizeland & Murray CMRS development plan to allow modification of an existing 99'-3" monopole tower located northeast of Constitution Avenue and Avondale Circle, and addressed as 2499 Avondale Drive.

(Quasi-Judicial)

Related Files: AR CM2 19-00124

Presenter:

Meggan Herington, Assistant Director, Planning and Community Development

Peter Wysocki, Director Planning and Community Development

Attachments: [Powerpoint for CMRS - COL02266 Maizeland & Murray Appeal](#)
[EXHIBIT 1 Appeal Request Vertical Bridge](#)
[EXHIBIT 2 FCC-14-153 - Sections on 6409](#)
[EXHIBIT 3 Vertical Bridge DP letter](#)
[Response to the October 24th Kimley Horn Exhibit related to the Homestead Trail Cell Tower Development Plan](#)
[CC PowerPoint Maddocks](#)
[CC Maddocks Federal Law under the Spectrum Act and how it relates to the Homestead Trail Cell Tower](#)
[CONTINUANCE REQUEST](#)
[CPC Staff Report CMRS APPEAL MAIZELAND & MURRAY](#)
[FIGURE 1 SITE PLAN](#)
[FIGURE 2 APPEAL LETTER](#)
[FIGURE 3 PROJECT STATEMENT](#)
[FIGURE 4 LAND USES](#)
[FIGURE 5 NEIGHBORHOOD COMMENTS](#)
[FIGURE 6 RESPONSE LETTER TO NEIGHBORHOOD](#)
[FIGURE 7 REVISED PROJECT STATEMENT](#)
[FIGURE 8 FCC Radio Emission Safety Guide](#)
[FIGURE 9 FCC Radio Frequency and Human Exposure](#)
[FIGURE 10 NEIR LETTER](#)
[FIGURE 11 PHOTO SIMULATIONS](#)
[FIGURE 12 STRUCTURAL DOCUMENTS](#)
[FIGURE 13 ADDITION NEIGHBORHOOD COMMENTS](#)
[Figure 13a - Additional Neighborhood Comments Received](#)
[FIGURE 14 TAX ASSESSOR](#)
[FIGURE 15 VILLA LOMA FILING NO. 1 PLAT](#)
[FIGURE 16 VILLA LOMA DRAINAGE REPORT](#)
[FIGURE 17 2006 CMRS PROJECT](#)
[FIGURE 18 NONCONFORMING SECTION](#)
[FIGURE 19a - 47 USC 332 Mobile services](#)
[FIGURE 20 47 USC 1455 Wireless Facilities Deployment](#)
[FIGURE 21 47 CFR 1.6100 Wireless Facility Modifications](#)
[FIGURE 22 FCC 14-153](#)
[FIGURE 23 City Code 7.4.609 DISCONTINUANCE](#)
[7.5.906 \(A\)\(4\) Administrative Appeal](#)
[7.5.502.E Development Plan Review](#)
[7.4.607 Site Selection and Collocation req](#)
[7.4.608 Design Criteria & construction standards](#)

[Appellant - Summary of Appeal to Cell Tower Development Project
COL02266
Vicinity Map](#)

[Appellant - Petition Information](#)

[Appellant - Deny the Tower Final Presentation](#)

[Response to Appeal Letter to CSP Planning Commission](#)

[Vertical Bridge PowerPoint 2019-09-13 meeting](#)

Meggan Herington, Assistant Director, Planning and Community Development, presented the appeal of City Planning Commission's denial of the Maizeland and Murray commercial mobile radio service (CMRS) development plan to allow modification of an existing 99'-3" monopole tower located at 2499 Avondale Drive. She presented a vicinity map and gave an overview of the application background, administrative approval, and existing tower. Ms. Herington went over the Planning Commission's findings, and outstanding questions.

Councilmember Knight asked when this property was rezoned to R1-6000. Ms. Herington stated it would have been in the 1960's which was prior to when the tower was built, but there were no records found as to the exact date the structure was built.

Councilmember Williams stated the El Paso County Assessor's Office has a construction date of 1972 for a commercial equipment building.

Jim Grice, with Bryan, Cave, Leighton, Paisner, representing the applicant, Vertical Bridge, gave an overview of federal law pre-emption of state and local law regarding modification of an existing wireless tower, the history of the site, and public policy as it relates to the need for towers, property values, and City Code.

Councilmember Pico asked how many Federal Communications Commission (FCC) licenses are currently in place for the antennas. Mr. Grice stated federal law specifically states there does not have to have a license use in place on the day the application is made which pre-empts that inquiry and is not relevant. Councilmember Pico stated he is trying to determine if the tower has been in active use. Mr. Grice stated the tower is currently being used by CenturyLink and Vertical Bridge is marketing it. He stated he does not think there is a licensed use on the tower, but it is not a prerequisite to the modification application being valid.

Councilmember Knight stated the abandonment part of City Code does make the question relevant and the paragraph which states the tower does not have a permit because it was not in a zoned area when it was built is false because the area was zoned R1 at the time the tower was built which makes that condition no longer applicable. He stated the applicant needs to prove federal pre-emption would still apply. Tim O'Connell with Bryan, Cave, Leighton, Paisner, representing the applicant, Vertical Bridge, stated this criteria language is FCC commentary of the regulation and the actual regulation is more cut and dry which supports their position. He stated the finding by City staff that this is a legal non-conforming use establishes this is an existing tower under federal law. Councilmember Knight stated staff has admitted this was based on incomplete information.

Sally Maddocks, representing the original appellant, gave a brief background of the site, community input, antennas on the pole, proof of cancellation, loss of non-conforming use status, discontinuance of CMRS. She gave an overview of how it is not an existing cell tower, the new tower structural plans, misrepresentation is grounds for denial, and the applicable sections of City Code. Ms. Maddocks stated Planning Commission ruled unanimously to deny this project, the neighborhood does not want this development, the developer included many misrepresentations in development plan, it goes against express language and intent of City Code, and it goes against PlanCOS. She identified how the pole does not comply with the aspects of federal law, clarification of the FCC standards, the only approval on record, and why the tower is not considered existing. Ms. Maddox provided an overview of the height, excavation, deployment, structural hardening, electromagnetic field strength, and stated the City is well within its right to deny the tower.

Councilmember Geislinger asked if the pole is still in use as a tower. Ms. Maddocks stated it is not because the structure is incapable of holding the weight of modern cell equipment and it not holding any utility or service. She stated it does not meet the requirement of existing tower under federal law or City Code.

Councilmember Knight stated he does not believe this is a site expansion because it is still within the CenturyLink property. Ms. Maddox stated even if the site is not expanded the height is unambiguous and the structural hardening exemption does not apply.

Councilmember Pico stated the proposed application is fourteen percent of the radiation limit set by the FCC. Ms. Maddox stated the measure of power density is done at the base station, but in order for it to be more accurate, it should be measured higher up.

Citizens Douglas Rains, Art Brumer, Joe Lilly, Nate Hathaway, Teresa Warniment, Linda Rains, Jeremiah Johnson, Jasmina Moore, John Stefonik, Bill Major, Andrew Gilbert, Jessica Alam, Doug Clark, Barb Reinhard, Nathan Patton, Carmen Maestas, spoke in opposition to the appeal.

Councilmember Knight requested the setback distance required for cell towers. Ben Bolinger, Attorney, City Attorney's Office, stated freestanding CMRS facilities shall comply with the zone district in which they are located or twenty percent of the height of the antennae support structure and associated equipment.

Mr. O'Connell provided City Council a letter of approval from Kimley-Horn and Associates, Inc. in 2006 in regards to the height of the fifty foot tower and stated City Code 7.4.602.b exempts the mandatory tear down of cellular towers in the case of existing utility infrastructure. He stated there is an affidavit of the master services agreement in regards to the description of the land and there is no leased area which allows Vertical Bridge the same rights to the five-acre parcel as CenturyLink. Mr. O'Connell stated the new tower structural plans presented by the opponent was misrepresented and the tower is structurally sound, but the type of equipment which has been requested will require structural hardening.

Councilmember Knight asked if this structure will be hardened or replaced. Mr. O'Connell stated it will be integrated with the existing tower. Mr. Grice stated the two items to be determined is whether it is an existing tower and whether it is a substantial change and the structural hardening is not considered a substantial change by the FCC. He stated they are not building a new tower, they are modifying an existing tower. Councilmember Knight stated the FCC does not define structural hardening.

John Heiberger, Project Manager/Engineer, Kimley-Horn and Associates, Inc, stated this would be a typical structural hardening for a tower of this nature and the plans presented by the opponent were from a preliminary

set of structural drawings which did not depict a higher level of detail and have not been submitted for review.

Councilmember Williams stated there was never a land use approval for a hundred foot tower which would require a substantial change. Mr. O'Donnell stated land use staff and the opponent has deemed it a legal non-conforming use.

Councilmember Murray asked what the obligations were to notify the City once the tower was abandoned. Mr. O'Donnell stated Vertical Bridge signed a master service agreement with CenturyLink in 2016 and he does not believe the applicant had a duty to notify the City or to tear it down because utility infrastructure is exempt from City Code regulations regarding cellular equipment.

Councilmember Gaebler asked if the tower has been used in the past five years. Mr. O'Donnell stated the use has never been abandoned, but they do not know the timeline of the operation of the tower.

Councilmember Geislinger stated gave an overview of the definition of existing and stated the applicant has the burden of proof to meet the standards set by the FCC.

Councilmember Williams asked if federal law pre-empts City Code. Mr. Bolinger, read the federal law and stated there are areas where the pre-exemption gets fuzzy which includes the definition of existing, the condition of approval, and if it is a substantial change.

Councilmember Geislinger asked if staff has determined this tower to be legal non-conforming. Ms. Herington stated this legal non-conforming tower with conditional use was considered under City Code 7.5.1203(h) and there is no documentation in the 2006 development plan regarding a ninety-nine foot tower.

Councilmember Knight asked if since the tower was built in 1973 after the area was zoned in 1968 it is being considered legally non-conforming because it was granted a conditional use in 2006. Ms. Herington stated it is legal non-conforming because the CMRS code that exists did not exist when the tower was built.

Councilmember Williams stated this area is not federal open space, and City Council is barred from considering alleged health issues and loss of property owner rights. He stated this is also not a hearing regarding tearing the tower down, it is a hearing on whether federal law pre-empts City Code. He stated he does not believe it does because it does not meet the condition of existing which would require a prior approval of a reviewing body.

Councilmember Knight stated he concurs with Councilmember Williams and because the zone was in place, the burden of proof was upon the applicant to show prior approval to prove the tower was existing and that burden of proof was not met.

President Pro Tem Strand stated he believes the federal law does pre-empt City Code under these circumstances and the property has not been abandoned.

Councilmember Geislinger stated it is clear from his perspective the FCC intended for this development to be allowed, but under the definition of existing, he does not believe the requirement was met.

Councilmember Pico and President Skorman stated it has not been in use for a long time and the applicant has failed to validate it is an operational site.

Motion by Councilmember Williams, seconded by Councilmember Knight, to deny the appeal and affirm the City Planning Commission's decision to deny the administrative approval of the CMRS development plan for Maizeland & Murray, based upon the findings that the appeal criteria in City Code Section 7.5.906.A.4 were not met, and that the CMRS project does not meet the requirements for an eligible facilities request under 47 CFR 1.6100 et. seq. The motion passed by a vote of 8-1-0-0

Aye: 8 - Avila, Gaebler, Geislinger, Murray, Knight, Pico, Skorman, and Williams

No: 1 - Strand

13. Added Item Agenda

There were no items added to the Agenda.

14. Executive Session

There was no Executive Session.

15. Adjourn

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

Sarah B. Johnson, City Clerk