



City of Colorado Springs

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

Meeting Minutes - Final Council Work Session

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.

Monday, September 26, 2016

1:00 PM

Council Chambers

1. Call to Order

- Present** 8 - Councilmember Larry Bagley, President Merv Bennett, Councilmember Helen Collins, President Pro Tem Jill Gaebler, Councilmember Keith King, Councilmember Don Knight, Councilmember Andy Pico, and Councilmember Tom Strand
- Excused** 1 - Councilmember Bill Murray

2. Changes to Agenda

Eileen Gonzalez, City Council Administrator, stated there has been a request to move agenda item 9.A. to immediately follow agenda item 6.B. Consensus of Council agreed to this agenda change.

3. Regular Meeting Comments

There were no Regular Meeting Comments.

4. Review of Previous Meeting Minutes

- 4.A. [16-553](#) City Council Work Session Meeting Minutes September 12, 2016

Presenter:
Sarah Johnson, City Clerk

The Meeting Minutes were approved as presented.

5. Executive Session

5A. Open

There was not an Open Executive Session.

5B. Closed

There was not a Closed Executive Session.

6. Staff and Appointee Reports

6.A. [16-00144](#) Financial Report - Memorial Health System Enterprise

Presenter:

Kara Skinner, Chief Financial Officer

Kara Skinner, CFO, presented the Memorial Health System Enterprise financial report. Ms. Skinner informed Council she and the Executive Director of the Colorado Springs Health Foundation have agreed to reduce the amount in the fund management program from \$5 million to \$2.5 million in light of the resolution of the Romstadt case. This decision was previously approved by Council pending settlement of the law suit. Along with this, the \$25 million held in an investment account will be re-invested.

Council President Bennett stated he would like to re-appoint Councilmembers Strand and Gaebler to represent Council on the Memorial Hospital Board. Consensus of Council agreed these appointments.

6.B. [15-00798](#) Agenda Planner Review

Presenter:

Eileen Lynch Gonzalez, City Council Administrator

Eileen Gonzalez, City Council Administrator, stated the agenda planner is included in the Councilmember packets.

Councilmember Knight stated he thought the Public Hearing to consider the Reserve at Northcreek was set for October 25, 2016. Ms. Gonzalez will correct the dates on this item.

7. Presentations for General Information**7.A.** [16-558](#) Comcast Customer Service Update

Presenter:

Arthur Ortegon, Director, Regulatory & Government Affairs, Comcast Cable

Arthur Ortegon, Director, Regulatory & Government Affairs, Comcast Cable, presented a summary of the Customer Service offered by Comcast.

Councilmember Knight expressed concern about the customer service

issues expressed by citizens in Council meetings, asked what citizens can do to resolve issues with Comcast and suggested resolution options be included in the franchise agreement. Mr. Ortegon stated Comcast is trying to streamline the resolution process and offer customers options for resolving complaints and issues.

Councilmember King asked what repair and other services are included in the customer charges as his cable line was damaged by lightning and he was charged for the service call. Mr. Ortegon stated these items are determined through the franchise agreement.

Councilmember Collins suggested Comcast consider the vacant former Sam's Club building on South Academy Boulevard as a potential customer service location.

Councilmember Knight suggested Comcast inclusion in the 811 utility locating service, accidental damage charges and removal of old cable should be addressed in the franchise agreement negotiations.

7.B. [16-538](#)

Pikes Peak Summit Complex Update and Status Update from Pikes Peak Observatory

Presenter:

Jack Glavan, Pikes Peak-America's Mountain Manager

Bob Sallee, Chairman, Board of Directors - National Space Science & Technology Institute

Jack Glavan, Pikes Peak, America's Mountain Manager, provided an update on the Summit Complex and the Pikes Peak Observatory.

Ryan Calhoun, RTA architect, spoke about the design and location of the planned Summit Complex. Jim Hopper with G.E. Johnson, the builders, spoke about the construction process of the Summit Complex.

Council President Pro Tem Gaebler asked if there is any interaction between the complex and the summit of Barr Trail. Mr. Calhoun stated crosswalks will be created to allow hikers access to the building.

Councilmember Strand asked what the biggest challenges to construction of the complex will be and if the old summit house will stay open until the new one is completed. Mr. Hopper stated the health of the workers at this altitude, accessing the summit with construction products and vehicles, timing, and weather seem to be the biggest obstacles at

this time, the old complex will remain open until the new one is completed.

Councilmember King asked how much money needs to be committed before construction begins. Mr. Glavan stated they are still considering the current commitments and the finances required.

Bob Sallee, Chairmen of the Board of Directors - National Space Science & Technology Institute, provided an update about this organizations submission of a special use permit application for a proposed observatory on the summit of Pikes Peak.

7.C. [16-490](#) Renew North Nevada Avenue Project Update

Presenter:

Nina Vetter, Senior Analyst, Finance Department

Nina Vetter, Senior Analyst, provided an update on this project and invited everyone to attend the next public meeting.

8. Items for Introduction

8.A. [16-502](#) A resolution authorizing City Staff to execute an amended and modified deed of conservation easement for the Santa Fe Depot building removing approximately 1.5 acres of parking lot, drive aisle, and landscape area from the easement.

Presenter:

Ryan Tefertiller, Urban Planning Manager

Peter Wysocki, Planning and Community Development Director

Res/Ord Number: 98-16

Ryan Tefertiller, Urban Planning Manager, provided a brief overview of this proposal.

Councilmember Pico asked if this is a conservation easement or a historic preservation easement. Mr. Tefertiller stated he believes those are two names for the same type of easement. Marc Smith with the City Attorney's Office explained there are different types of conservation easements. The intent of this conservation easement is to see that the depot building itself is preserved. This easement can be adjusted without compromising the integrity of that structure.

8.B. [16-554](#) A resolution authorizing a land exchange between the City of Colorado Springs and OGC RE1, LLC

Presenter:

Kathleen Krager, Transportation Manager, Public Works Department

Res/Ord Number: 99-16

Kathleen Krager, Transportation Manager, provided an overview of this proposal relating to the same piece of property discussed in the previous agenda item. Under this proposal, the City would give up remnants of land purchased by the City to improve the Pikes Peak Avenue and Colorado Avenue intersection in the 1980's. This property is primarily the driveway and landscaping of the Catalyst Campus. In exchange, the City would gain the right of way to the Shooks Run drainage area and property to support trail construction along the Shooks Run corridor.

Councilmember Collins asked what the purchase price of this property was when it was purchased by the City in the 1980's. Ms. Krager stated the City bought several parcels of property at the time and a price break-out of these remnants is not available.

8.C. [16-540](#)

Ordinance No. 16-98 amending Ordinance No. 15-86 (2016 Appropriation Ordinance) for a Supplemental Appropriation to the Subdivision Drainage Fund in the amount of \$4,000,000 for the purpose of reimbursements to developers for eligible major drainage improvements, to the Cemetery Enterprise Fund in the amount of \$33,500 for the purchase of capital equipment, to the Cemetery Endowment Fund in the amount of \$33,500 for the purpose of increasing the transfer to the Cemetery Enterprise Fund, and to the Gift Trust Fund in the amount of \$500,000 for the purpose of allowing spending for the remainder of the year

Presenter:

Kara Skinner, Chief Financial Officer

Res/Ord Number: 16-98

Kara Skinner, CFO, explained this is an alignment of planned spending with available funds and provided the details of the proposal.

Councilmember Knight endorsed the planned expenditures, expressed concern about the decreasing Cemetery endowment fund balance and recommended this be reviewed during the budget approval process.

8.D. [CPC CA
16-00050](#)

Ordinance No. 16-100 amending the Regulating Plan for the Downtown Colorado Springs Form-Based Zone pertaining to medical marijuana facilities, including medical marijuana centers, medical marijuana infused products manufacturer, and optional premises cultivation operation.

(Legislative)

Presenter:

Peter Wysocki, Director of Planning and Community Development

Res/Ord Number: 16-100

Peter Wysocki, Director of Planning and Community Development, explained the goal of this proposal is to align the Downtown Form Based Code with the zoning requirements adopted by Council for the rest of the City regarding marijuana cultivation.

Council President Pro Tem Gaebler stated the Form Based Zone is a unique design where the City tries to consider form over function and asked if there are functions within the Form Based Zone that are denied. Mr. Wysocki explained how the zoning decisions for marijuana use were tracked within the Form Based Zone and stated that industrial uses are not permitted in the downtown area.

8.E. [16-474](#)

Ordinance No. 16-101 amending Ordinance No. 15-86 (2016 Appropriation Ordinance) for a Supplemental Appropriation to the Conservation Trust Fund in the Amount of \$100,000 for the Purpose of Supplementing the Parks, Recreation and Cultural Services 2016 Water Budget

Presenter:

Karen Palus, Director - Parks, Recreation and Cultural Services
Kurt Schroeder, Park Operations and Development Manager - Parks, Recreation and Cultural Services

Res/Ord Number: 16-101

Kurt Schroeder, Parks Operations and Development Manager, introduced the Parks comprehensive irrigation water management strategy and presented the need for additional funding to meet the financial needs of this program for 2016. This item was also presented at a Colorado Springs Utilities Board meeting.

Bill Cherrier, CFO, CSU, presented a summary of how the City Parks Department might benefit from a budgeted billing program.

Councilmember Pico endorsed the idea of going to a budget billing system with the Parks Department but expressed concern about how the budget will allow for this expenditure change. Mr. Waters will follow-up on where the funds will come from.

Councilmember Knight stated the problem is a 2016 budget shortfall. The options are to find a way to cover the 2016 shortage or carry that amount in 2017. Council, Mr. Schroeder and Mr. Cherrier continued to discuss possible funding sources. This item will return to the City Council Work Session on October 10, 2016 for further discussion and the October 11, 2016 City Council meeting for a decision.

8.F. [16-561](#)

Ordinance No. 16-102 amending Article 1 (General Municipal Elections) of Chapter 5 (Elections) of the Code of the City of Colorado Springs 2001, as amended, pertaining to elections

Presenter:

Sarah B. Johnson, City Clerk

Britt Haley, City Attorney's Office

Res/Ord Number: 16-102

Sarah Johnson, City Clerk, provided an in-depth overview of the proposed changes to City Code, aligning City Code with State law and re-aligning City Code to follow the election process. This will be achieved by adding new language, changing language and moving selected sections of Code.

Councilmember Pico commented on the short time-frame for candidates to submit their candidate petitions with signatures. Ms. Johnson explained the time-lines were shortened to accommodate the new State law requiring military and over-seas citizen ballots be in the mail 45 days prior to the election and reiterated the steps required to prepare the ballots. Councilmember Collins also expressed concern about the shorter time to collect signatures and the inability of candidates to solicit signatures on private property such as retail stores.

Councilmember Knight asked if candidates have the opportunity to collect additional signatures if needed. Ms. Johnson stated there is not a long cure period; the City Clerk's Office makes every effort to provide a timely review of the submitted signatures on the day the petition is submitted.

Councilmember Knight requested a redline copy of the ordinance with all of the changes and suggested Ms. Johnson shorten the ordinance by removing unnecessary language such as detailed information about the color, size and type of election documents. Ms. Johnson stated the requirements detailing this information are included in Title 31 of

Municipal Election Code and in Title 1 for County elections. She will review the requirements and consider what, if any changes can be made, she will also provide the requested redline copy of the ordinance.

Councilmember Knight received a complaint about voters being required to appear in person to request a replacement ballot. Ms. Johnson explained replacement ballots can be requested and mailed to the voter up to seven days prior to the election, however; requesting a replacement ballot less than seven days prior to the election does not allow enough time for the ballot to be mailed to the recipient and returned prior to the election deadline.

Councilmember Knight suggested the language prohibiting a family member to the second degree being permitted to be a "watcher" be changed to align with the Independent Ethics Commission definition of a family member to the third degree. Ms. Johnson will research regulations and consider this change.

Councilmember Knight addressed concerns about the appointment of the hearing officer to hear petition protests potentially creating a conflict of interest. Ms. Johnson stated the protest addressed in this document is based on the signatures submitted, not on the content of the petition or on the ballot question.

Councilmember Knight asked about the balance of non-expended campaign funds, a positive fund balance can be carried forward to the next campaign, but debt cannot be carried forward. He believes balances and debts of campaign funds should be treated in the same manner. Ms. Johnson stated she will research this.

8.G. [16-562](#)

Ordinance No. 16-103 amending Part 2 (Fair Campaign Practices; Candidate and Committee Funds and Disclosures) of Article 2 (Campaign Disclosures) of Chapter 5 (Elections) of the Code of the City of Colorado Springs 2001, as amended, pertaining to campaign practices

Presenter:
Sarah B. Johnson, City Clerk

Britt Haley, City Attorney's Office

Res/Ord Number: 16-103

Sarah Johnson, City Clerk, explained this change involves removing the actual form from Code and including specific information about what the form shall include. This will allow for future revisions to the form format based on user feedback and aid in building an increased online filing system.

Britt Haley with the City Attorney's Office stated this ordinance proposes to update the regulation of issue committees to comply with the March 2, 2016 decision in the case of Coalition for Secular Government v. Wayne Williams, a decision of the United States Court of Appeals for the Tenth Circuit that invalidated, as unconstitutional, certain State of Colorado statutes requiring financial disclosures by issue committees. Because the City Code of Colorado Springs regulated issue committees in a similar manner, the City Code also needs to be updated to comply with the ruling. The following changes reflect the requirements that the State of Colorado's General Assembly adopted during its most recent legislative session to respond to the ruling.

Issue committees that raise or expend less than two hundred dollars (\$200.00) have no financial disclosure or reporting requirements. Small scale issue committees are defined as those issue committees that collect or expend funds in excess of two hundred dollars (\$200.00) but not more than five thousand dollars (\$5,000.00). A small scale issue committee is required to report to the City Clerk certain identifying information and the name of the financial institution in which it has a bank account for contributions. Issue committees are redefined to be those issue committees that collect or expend funds in excess of five thousand dollars (\$5,000.00). Issue committees, as redefined are required to disclose all contributions and expenditures. Once a small scale issue committee collects or expends more than five thousand dollars (\$5,000.00), it converts to an issue committee and has fifteen (15) days to report the conversion to the City Clerk and to file its required disclosures.

Councilmember Knight asked if the City is in compliance with the Federal Reporting requirements of issue committees. Ms. Haley stated she will research this issue and report back to Council.

Ms. Johnson will schedule meetings with individual Councilmembers to review the election code updates.

Please also see comments in agenda item 8.F.

8.H. [16-510](#)

Resolution approving a service plan allowing for the creation of the Silver Hawk Metropolitan District.

Presenter:

Carl Schueler, Planning Manager- Comprehensive Planning, Planning & Development Department

Res/Ord Number: 103-16

Carl Schueler, Planning Manager - Comprehensive Planning, stated there are no changes to these two proposals since they were presented at the work session. Additional information about the developments, in response to Councilmember questions, will be provided to Council prior to the next meeting.

Councilmember Pico stated an infill project does not justify creation of a metropolitan district. Mr. Schueler stated staff wanted to make Council aware the proposed Silver Hawk District is an infill project and was not trying to connect the infill with the need for a special district.

David O'Leary with the law firm of Spencer Fane, representing the petitioner for both the Silver Hawk and the Mountain Valley metropolitan districts, provided additional information about the proposed developments, including projected budgets for the districts.

Councilmember Knight stated, in order to justify the formation of a special district, the developer needs to convince Council that the existing service in the area is not adequate for the present or projected needs of the development and asked what additional services will be provided by these developments over and above the basic service provisions included in other developments.

Jeff Mark, the applicant, explained developers cover the costs of development by including them in the price of the homes, through Home Owner Association dues or special improvement district fees. By creating an improvement district, this developer is allowing individuals to purchase homes at a lower cost. Councilmember Knight disagreed with this statement, stating mortgage companies include taxes when considering the qualifications of a mortgage applicant. Mr. Mark and Councilmember Knight continued to discuss HOA and development costs and fees.

Councilmember Pico stated he wants the developer to provide an explanation of why this development warrants a special tax district, what encumbrances or services the higher tax burden will provide to the

homeowners in this development. The developer will provide this information in the next meeting. Mr. O'Leary explained if the development costs are included in the initial price of the house, the first homebuyer bears the cost of the development, whereas; a 30 year tax on the property spreads the cost of the development to subsequent property owners.

Councilmember King questioned the total debt amount in relation to the total assessed value of the development and reviewed the budget for the development, suggesting the homeowners be allowed to set the mill levy once the development is established. Mr. Mark stated the budget is estimated and the landscaping and other improvements will be completed within the first year due to City requirements. Councilmember King and Mr. Mark discussed the development finances in depth.

Mr. Mark stated they will continue to keep Council updated on plans for these developments.

- 8.I.** [16-511](#) Resolution approving a service plan allowing for the creation of the Mountain Valley Metropolitan District.

(Legislative)

Presenter:

Carl Schueler, Planning Manager- Comprehensive Planning, Planning & Development Department

Res/Ord Number: 104-16

Please see comments in agenda item 8.H.

- 8.J.** [CPC 080](#) Reconsideration of a resolution approving a service plan prior to the creation of a Tuscan Foothills Village Metropolitan District

Presenter:

Carl Schueler, Planning Manager- Comprehensive Planning, Planning & Development Department

Res/Ord Number: 97-16

Carl Schueler, Planning Manager - Comprehensive Planning, stated this item is scheduled for a decision by Council in the meeting tomorrow and informed Council the applicant has provided an amended operational plan for this development and agreed to reduce their maximum authorized debt amount per Council request.

Councilmember King clarified the mill levy for this development with Larry Dick, the petitioner and requested a corrected version of the proposed budget be provided to Council prior to the meeting tomorrow. Ms. Gonzalez will make sure this is done.

9. Items Under Study

- 9.A.** [16-406](#) Council's Special Marijuana Working Group Recommendations Concerning Regulations to Address Licensing Hardships and Feasibility of a Board Relating to Licensure of Marijuana-Related Businesses

Presenter:

Bret Waters, Chair, Marijuana Working Group
Councilmember Larry Bagley

Councilmember Bagley stated this working group has been meeting twice a month and has developed two items for discussion and decision by Council. The group would like direction from Council on consideration of changes to the moratorium and items Council views as priorities for discussion in future meetings.

Bret Waters, Chair, Marijuana Working Group, provided a summary of the actions of the working group and summarized the industry and administration recommendations regarding possible changes to the hardship portion of the moratorium.

Sarah Johnson, City Clerk, provided an overview of the Marijuana licensing process and the possible formation of a Marijuana Licensing Board, adding administration and the Working Group unanimously agreed not to recommend the formation of a Marijuana Licensing Board.

Three of the Marijuana Working Group members spoke to Council. Bridget Serritt, representing patients, stated the industry is in opposition of limiting the number of dispensaries. Hannah Parsons, local businesses, requested the moratorium be maintained to allow time to regulate the industry. Tom Galivan, representing neighborhoods, spoke in support of continuing the moratorium.

Councilmember Strand spoke about the need to consider some changes to the moratorium in order to address hardships concerning the ability to change locations.

Councilmember Knight requested additional information about the

number of businesses looking for, needing or having the ability to change locations.

Councilmember Pico stated he believes a marijuana business wanting to move out of a residential area and into an appropriately zoned area should not have to wait to relocate until the moratorium ends. Mr. Waters replied the recommendation is to stay the moratorium until the zoning requirements are defined.

Council President Pro Tem Gaebler asked if there is a time-line to finalize the zoning decisions in the North Nevada Avenue Economic Opportunity Zone. Mr. Waters stated he believes this will be done early next year.

Council continued to discuss ways to address hardships created by the moratorium.

Councilmembers Knight and Pico believe a clearer idea of the desires of Council regarding this action needs to be presented prior to drafting any documents. Consensus of Council agreed with this suggestion.

Council President Bennett polled Council in regard to directing staff to draft regulations amending the moratorium to address hardships posed by the moratorium. Four of the Councilmembers present were in support of this action. Council President Bennett polled Council regarding the desire to form a Marijuana Licensing Board. None of the Councilmembers present were in favor of this idea. Council President Bennett will consult with Councilmember Murray regarding his opinion on these matters and instruct staff accordingly.

Mr. Waters reiterated his understanding of the desires of Council and spoke about the possibility of imposing a cap on the number of marijuana licenses issued in the City and a review of current licensing fees.

9.B. [16-332](#)

Overview of 2016 annual Council actions concerning the Downtown Development Authority budget, Business Improvement District (BID) operating plans and budgets, General Improvement District (GID) budgets, Special Improvement Maintenance District (SIMD) budgets, and related matters

Presenter:
Kara Skinner, Chief Financial Officer

Peter Wysocki, Planning and Development Director
Carl Schueler, Planning Manager - Comprehensive Planning

Carl Schueler, Planning Manager - Comprehensive Planning, reminded Council this is an annual process. A background of the developments and the proposed budgets are included in the Council packets. Financial updates and proposed budgets will be provided to Council in as available, they are all due by September 30, 2016.

Councilmember Knight requested the documents be provided to Council as they come in.

10. Councilmember Reports and Open Discussion

Councilmember Strand commented on the recent, "Day of Miracles" radio-athon to benefit the Children's Hospital and the Utilities 25th Anniversary celebration of the xeriscaped garden.

Councilmember Knight spoke about keeping the front desk of the Council Office staffed. Council President Bennett will work with Ms. Gonzalez to address this situation.

Councilmember Knight spoke about the Regional Business Alliance Conference and the perception of our City expressed by attendees.

11. Adjourn

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

Sarah Johnson, City Clerk