



City of Colorado Springs

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

Meeting Minutes - Draft Council Work Session

Monday, July 7, 2014

1:00 PM

Council Chambers

1. Call to Order

- Present** 8 - President Pro Tem Merv Bennett, Councilmember Helen Collins, Councilmember Jill Gaebler, President Keith King, Councilmember Don Knight, Councilmember Jan Martin, Councilmember Joel Miller, and Councilmember Andy Pico
- Absent** 1 - Councilmember Val Snider

2. Changes to Agenda

Per request of the applicant, the public hearing item on the agenda for the regular Council meeting July 8, 2014 may be postponed to a date certain, August 26, 2014.

3. Regular Meeting Comments

There were no Regular Meeting comments.

4. Review of Previous Meeting Minutes

4.A. 14-0381 June 23, 2014 Work Session Minutes

Consensus of Council approved the Work Session Minutes of June 23, 2014.

5. Executive Session

A) Open

There were no items presented for Open Executive Session.

B) Closed

Councilmember King stated the purpose of the Closed Executive Session was an update on the PERA litigation.

President King polled Council. The individual votes are tallied: Vote 6-2-1. Councilmembers Collins and Miller voted no. Councilmember Snider was excused.

Consensus of Council approved the Closed Executive Session.

- B)A. 14-0382** In accord with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(b), and (e), the City Council, in Open Session, is to determine whether it will hold a Closed Executive Session. The issue to be discussed involves legal advice and negotiation consultation with the City Attorney regarding a pending litigation matter.

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 If consent to the Closed Executive Session is not given, the item may be discussed in Open Session or withdrawn from consideration.

6. Staff and Appointee Reports

6.A. 14-0100 Agenda Planner Review

The draft agenda planner was inadvertently included in the Council packets. The final version of the agenda planner was sent to all members of Council via email earlier today.

Councilmember Knight informed Council that the CSU financial committee will be presenting three ordinances regarding bonds for review in August. He requested a pre-briefing from CSU.

6.B. 14-0372 City for Champions Update

Bob Cope, City for Champions Project Manager, gave a high level overview of the resolution progress and mandatory project components. Per OEDIT staff, the goal of this resolution is to successfully complete all four projects. As an incentive for project completion, the State has included some additional flexible funding to be awarded upon completion of all four projects. The committee is trying to include language in the agreement to accommodate mandatory project components and still allow some flexibility with the designs. The goal is to have the final draft of the agreement presented to the EDC on August 14, 2014. The next public meeting will be in August from 5-7 pm.

Discussion between Council and Mr. Cope clarified the use of funds.

Councilmember Miller commented that the current language of the resolution draft does not make the AFA Visitor Center a required project, and he has prepared a spreadsheet outlining his understanding of the flex and allocation funds. He questioned various portions of the draft resolution that were amended from the previous draft.

Councilmember Knight shared concerns the USAFA has about lack of defined funds. Mr. Cope assured him they would continue to work on the language in

the agreement in effort to reach a compromise.

President King addressed concerns he has about the length of the bond repayment schedule, requested clarification on allocation of AFA Visitor Center funding, and general bond issue allocations.

Mr. Cope stated they are re-drafting the agreement and will include Council's feedback in the new version. The new draft will go to the City Attorney's office for review and approval.

6.C. 14-0375 Office of the City Attorney Legal Ethics Guidelines

City Attorney Wynetta Massey presented an update on the new Office of the City Attorney Legal Ethics Guidelines, including the review and memorandum from Richard Westfall, a partner in Hale Westfall, LLP, on the Guidelines.

Mr. Westfall discussed the Guidelines, including the recent City Charter and City Code changes, and various sources of law and professional rules of conduct. These guidelines will effectively balance and properly apply prospective decisions.

President King requested clarification on the difference between attorney client privilege and the City as a whole being the client with regard to the Council's ability to gain confidential advice.

Mr. Westfall explained that while the City as a whole is the client, privileged communications to the individual city constituent requestor is on a case by case need to know basis, with the Office of the City Attorney providing consistent advice representing the interests of the City as a whole.

Councilmember Knight expressed the desire to identify the difference between advocacy and advice.

Mr. Westfall outlined that advocacy extends to litigation with the City as a whole with the advice to the constituent being on the duties of the office. The guidelines provide proper guidance for the City Attorney to provide the best legal advice on the interpretation of the Code and Charter to address legal questions.

Tracy Lessig from the City Attorney's Office detailed some examples of litigation advocacy, and remedy for conflict.

Councilmember Miller expressed concerns about the guidelines' ability to address the fundamental problems between branches of government this City has faced. Mr. Westfall explained how all the constituent agencies of the government have the same legal responsibilities and that the city attorney

representing all of those entities should not encounter a conflict of interest.

7. Presentations for General Information

There were no Presentations for General Information.

8. Items for Introduction

- 8.A. 14-0329** A resolution approving the Intergovernmental Agreement between the City of Colorado Springs and the City of Fountain to provide for the processing of defined police records.

Police Chief Pete Carey outlined the history of the regional records management and processing, and noted that this resolution will formalize the existing agreement between the Colorado Springs Police Department and the Fountain Police Department to share records.

Councilmember Knight expressed support of this agreement and suggested some changes to the agreement allowing for potential future financial requirements. Councilmember King suggested language changes to accommodate this. Chief Carey stated he will make the suggested changes prior to the next meeting.

- 8.B. 14-0344** Ordinance No. 14-50 of the City of Colorado Springs, Colorado Approving and Authorizing the Execution and Delivery of the Standby Bond Purchase Agreements Among the City of Colorado Springs, Colorado, Wells Fargo Bank, National Association, as Tender Agent, and Certain Banking Organizations, the Fee Agreements Between the City of Colorado Springs, Colorado and Such Banking Organizations, and the Official Statements for the Utilities System Revenue Bonds Previously Issued by the City to Which the Agreements Relate; Ratifying Certain Action Heretofore Taken

Dede Jones, General Manager, Financial Services, outlined the renewal and replacement of various expiring CSU bond purchase agreements, provided general information on portfolio liquidity facilities, outlined the 2014 new money bond issue timeline, and discussed the need for replacement of the remarketing agent.

Councilmember Miller explained the backup standby bonds and related long term bond rates. Ms. Jones confirmed these comments.

Councilmember Bennett noted the recommendation of the Finance Committee as presented.

Discussion between Council and Ms. Jones regarding the financial plan and details of the Bonds followed.

- 8.C. 14-0356** An ordinance amending Ordinance No. 13-77 (2014 Appropriation Ordinance) for a supplemental appropriation to the Development Review Enterprise in the amount of \$119,665 for the purpose of adding two additional full-time Fire Inspector positions

Peter Wysocki, Planning and Development Director, gave a brief presentation for adding two additional full-time Fire Inspector positions for the Development Review Enterprise (DRE).

Councilmember Knight asked for clarification regarding the language of the ordinance providing a de-facto fee increase in 2016 and if it would be better to limit the staffing increase to just one for now. Mr. Wysocki explained the process for determining the appropriate amount of projected funds and agreed the DRE should be financially independent. Mr. Wysocki also stated the City is currently below the recommended staffing level for Fire Inspectors.

Councilmember Miller asked for clarification on the accounting method for the enterprise. Mr. Wysocki explained this is defined by City Code.

Kara Skinner, Chief Financial Officer, stated that all services provided by general fund employees are reimbursed by the enterprise. Councilmember Miller questioned the advisability of a DRE. Mr. Wysocki explained the pros and cons of operating the DRE in conjunction with the Planning department. Councilmember Collins requested clarification on the sharing of personnel between Planning and the DRE. Kara Skinner, CFO, responded to her question, explaining how finances are divided between the two entities.

Councilmember Knight expressed appreciation for all the work done by CSFD.

- 8.D. 14-0365** A resolution repealing Resolution No. 190-08 and establishing fees and charges for the Parks, Recreation and Cultural Services Golf Division for 2015

Dal Lockwood, Golf Division Manager, outlined the process and resolution regarding golf fee increases at the two City owned golf courses, including the existing fees and maintenance requirement to cover costs. He pointed out that golf fees have not increased since 2009.

Councilmember Collins requested Mr. Lockwood explain the "Short Course" concept discussed in the public sessions. Mr. Lockwood explained this current industry trend of allowing golfers to play three or four holes on a pay-per-hole basis, and the potential benefits of this concept.

Councilmember Knight expressed that he will not support this because he does not believe increasing fees will increase the number of people playing golf or revenue.

Councilmember Gaebler expressed support and stated she believes the small amount of the increase will not prohibit people from enjoying the golfing experience.

8.E. 14-0366 A resolution repealing Resolution No. 272-09 and establishing fees and charges for the Parks, Recreation and Cultural Services Cemetery Division for 2015

Will DeBoer, Cemetery Operations Administrator, spoke about the fee increase request for the City owned cemeteries. Mr. DeBoer pointed out that there has not been a cost increase since 2010; he also explained the industry trends and terms. Mr. DeBoer expressed that the proposed rate increases are very minimal and added that the Park Board approved the proposal.

Councilmember Collins asked about the number of employees and the overtime pay. Mr. DeBoer responded that there are five fulltime employees and the overtime hours are determined by code.

Councilmember Miller questioned how the fee increases were determined; Mr. DeBoer responded that the fee increases are based on his experience in the market.

Councilmembers Miller, Bennett and Pico expressed concerns about the disinterment fees being too high. Mr. DeBoer stated he will address the disinterment fee concerns and return with a modified amount.

Councilmember Collins requested Mr. DeBoer explain the concept of "Green Burials". Mr. DeBoer replied that they have a master plan to provide this service, which is a return to burials without pods, allowing the body to return to the earth.

Councilmember Snider arrived.

8.F. 14-0380 An Ordinance Creating a New Section 1211 (Temporary Exemption From Park Land Dedication and Fees) of Part 12 (Park and School Site Dedications) of Article 7 (Subdivision Regulations) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as Amended, Pertaining to a Park Site Fee Waiver Within the Imagine Downtown Master Plan Area.

Deputy Chief of Staff, Bret Waters presented information on a proposal for a temporary five year exemption from certain fees in the downtown area to incentivize residential development.

Councilmembers Collins, Miller, and Knight noted their opposition to the idea which appears to be in conflict with the administrations' opposition to waiving business license fees, appears to pick winners and losers in the market, and should be widespread and not targeted to the downtown area.

Councilmember Martin expressed support for this proposal as she sees this as

vital to future development of the City.

Karen Palus, Director of Parks and Recreation, stated the Parks departments' support of the idea for increasing incentives for downtown residential development and stated that any fees collected are separated from the general fund and used specifically for new park development.

Mr. Wysocki indicated that the Imagine Downtown Master Plan is somewhat larger than the existing downtown Form Based Zone, and the temporary exemption of these fees would not effect any DRE fees.

Councilmember Pico expressed concern over the narrow focus of the proposal in relation to the stated opposition of the elimination of business license fees, and in that light cannot support the proposal.

Kara Skinner stated that she can provide requested analysis of citywide fees.

Bob Cope stated that this is a follow up action on previous determination for encouragement of downtown residential infill development, thereby increasing the downtown population and resulting revenue.

Councilmember Snider requested data on research of other cities that have done similar projects. He also reiterated the importance of increasing residential growth to the development of downtown.

Discussion ensued between Council, Mr. Wysocki, Mr. Waters, Mr. Cope and Ms. Palus about development fees, park space, the potential of this market, projected types of projects, available space, repercussions to other areas of the city and schools. Mr. Cope commented on how developing the downtown area has been part of the City development plan for many years. Councilmember Knight requested non-financial incentives be considered as an alternative to this proposal.

Councilmember Gaebler was excused.

- 8.G. 14-0389** An ordinance amending Ordinance No. 13-77 (2014 Appropriations Ordinance) to reduce the appropriation to the General Fund in the amount of \$250,000 as that amount budgeted for elections expense is not required

Councilmember Knight discussed the proposal to reduce the appropriation of unused election funds to compensate for lost revenue upon passage of the proposed ordinances to eliminate business license fees.

9. Items Under Study

There were no items under study to be discussed.

10. Councilmember Reports and Open Discussion

Councilmember Knight reminded the Council of the Pikes Peak or Bust Rodeo Parade Tuesday July 8, 2014 at 6:30 pm.

Council Administrator, Eileen Gonzalez, stated that the Creekside Development discussion on the agenda for the City Council meeting Tuesday July 8, 2014 may be delayed due to on-going discussion between the two parties. Both parties will be represented at the meeting.

11. Adjourn

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

Lee McRae, License Enforcement Officer