



City of Colorado Springs

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

Meeting Minutes - Final City Council

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Tuesday, April 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 Bill Murray, and Councilmember Andy Pico
- Excused:** 1 - Councilmember Tom Strand

2. Invocation and Pledge of Allegiance

The Invocation was led by Father Ken Przybyla, St. Francis of Assisi Catholic Church.

The Pledge of Allegiance was led by Council President Bennett.

3. Changes to Agenda/Postponements

There were no changes to 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
15-00088](#)**

Ordinance No. 16-47 amending the zoning map of the City of Colorado Springs pertaining to 6.055 acres located southwest of North Marksheffel Road and Dublin Boulevard from PUD/AO to PUD/AO. (The Reserve at Indigo Ranch) Quasi-Judicial

Presenter:
Rachel Teixeira, Planner, Land Use Review
Peter Wysocki, Director, Planning and Community Development
Res/Ord Number: 16-47

The ordinance was finally passed on the consent Calendar.

- 4A.B. [CPC V](#)
[16-00012](#) Ordinance No. 16-48 vacating portions of public rights-of-way for Rippy Drive and Emily Loop within The Reserve at Indigo Ranch Filing No. 1 subdivision plat located southwest of North Marksheffel Road and Dublin Boulevard. (The Reserve at Indigo Ranch) - Legislative

Presenter:
Rachel Teixeira, Planner, Land Use Review
Peter Wysocki, Director, Planning and Community Development
Res/Ord Number: 16-48

The ordinance was finally passed on the consent Calendar.

- 4A.C. [CPC V](#)
[16-00014](#) Ordinance No. 16-49 vacating a portion of the North Chestnut Street public right-of-way consisting of 0.12 acres located on the east side of North Chestnut Street at the southeast corner of North Chestnut Street and Elkton Drive. - (Legislative)

Presenter:
Rachel Teixeira, Planner, Land Use Review
Peter Wysocki, Director, Planning and Community Development Department
Res/Ord Number: 16-49

The ordinance was finally passed on the consent Calendar.

4B. First Presentation:

- 4B.A. [16-326](#) City Council Special Session Meeting Minutes April 8, 2016
Presenter: Sarah Johnson, City Clerk

The meeting minutes were approved on the Consent Calendar.

- 4B.B. [16-328](#) City Council Meeting Minutes April 12, 2016
Presenter: Sarah Johnson, City Clerk

The meeting minutes were approved on the Consent Calendar.

- 4B.C. [16-336](#) Appointments to Boards and Commissions

This agenda item was approved on the Consent Calendar.

- 4B.D.** [16-00209](#) A Resolution authorizing the abandonment of the Lodgers and Auto Rental Tax (LART) Pikes Peak Cycling USA Pro Cycling Challenge project in the amount of \$225,000 and the transfer of the LART funds in the amount of \$150,000 to the Pikes Peak Summit House LART project and \$50,000 to the Haute Route cycling event project, with the remaining \$25,000 to be returned to the LART fund balance

Presenter:

Fred Veitch & Jack Damioli, Co-Chairs, LART Citizens Advisory Committee

Councilmembers Tom Strand & Helen Collins

Res/Ord Number: 38-16

The resolution was adopted on the Consent Calendar.

- 4B.E.** [16-242](#) A resolution adopting rules and procedures for the Lodgers and Automobile Rental Tax (LART) Citizens' Advisory Committee

Res/Ord Number: 39-16

The resolution was adopted on the Consent Calendar.

- 4B.F.** [16-244](#) Ordinance No. 16-51 amending Ordinance No. 15-86 (2016 Appropriation Ordinance) for a supplemental appropriation to the Pikes Peak - America's Mountain Fund in the amount of \$150,000 for the Pikes Peak Summit Complex Project

Presenter:

Jack Glavan, Pikes Peak - America's Mountain Manager - Parks, Recreation and Cultural Services Department

Res/Ord Number: 16-51

The ordinance was approved on first reading on the Consent Calendar.

- 4B.G.** [16-279](#) A Resolution Appointing Kirk Olds as a Board Member of the Fountain Valley Authority to Fill the Remainder of the Three-Year (3) Term Vacated by Tyler Allison Effective April 26, 2016 and Ending December 31, 2017

Presenter:

Wayne Vanderschuere, General Manager, Water Services

Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

Res/Ord Number: 40-16

The resolution was adopted on the Consent Calendar.

- 4B.H.** [16-00118](#) A resolution to adopt the 2016 Hazard Mitigation Plan for the City of Colorado Springs

Presenter:

Bart Howard, Deputy Director, Colorado Springs Office of Emergency Management

Res/Ord Number: 41-16

The resolution was adopted on the Consent Calendar.

Approval of the Consent Agenda

Motion 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 8-0-1.

5. Recognitions

- 5.A.** [16-00093](#) A resolution in support of Colorado Springs' Council of Neighbors and Organizations and Neighbor Up! Week in Colorado Springs

Presenter:

Councilmember Jill Gaebler
Nina Vetter, Senior Analyst, Finance

Res/Ord Number: 42-16

Councilmembers expressed appreciation to CONO for their support of neighborhoods in this City.

Dave Munger, President of CONO, thanked Council for their support.

Motion by Councilmember Murray, seconded by Councilmember Bagley, to adopt the resolution as presented. The motion passed by a vote of 8-0-1.

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

Excused: 1 - Strand

- 5.B.** [16-266](#) A presentation of Resolution of Appreciation designating May as Historic Preservation Month.

Presenter:

Hannah Van Nimwegen, Planner II, Land Use Review Division of the Planning & Community Development Department

Res/Ord Number: 43-16

Hannah Van Nimwegen, Planner II, and Susan Fletcher, Historic Preservation Board Chair, presented a summary of Historic Preservation and the importance of this observation to our community and provided a summary of the projects the Historic Preservation Board is working on.

Motion by President Pro Tem Gaebler, seconded by Councilmember Murray, that the Resolution be adopted. The motion passed by a vote of 8-0-1.

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

Excused: 1 - Strand

6. Citizen Discussion

Citizen Charles Barber presented a proposal for a legacy loop surrounding the City.

Citizens John Spengler, Bruce Hamilton, Kristin Flannery, and Walter Lawson spoke in opposition to the proposed Broadmoor-Parks land exchange.

Councilmember Knight commented on the perceived inequality in the amount of time allotted for citizen comments verses Staff and applicant presentations regarding the proposed land exchange. The Town Hall meetings have allowed every citizen wishing to speak unlimited time to express themselves. Councilmember King stated the town hall meeting he hosted allowed the opposition more time to speak than the City staff and proponents. Councilmember Murray stated the unfairness lays in the lack of information provided to the opponents. Council President Bennett noted public comment is not normally allowed during City Council Work Sessions; however, an exception was made to allow Mr. Skorman to speak in opposition to this item.

Citizen David Hopkins spoke about the need to increase City Council salaries.

Citizen G. L. Miller spoke about contamination in Fountain Creek and suggested it may be coming from auto mechanics disposing of products into the ground.

Citizen Janice Moglen spoke about the need for improvements in the public transportation system in our community.

Citizen Deborah Stout-Meiningner spoke in opposition to the proposed

Broadmoor-Parks land exchange and about the impact of fracking and hydro electric wind mills on the fault line in our vicinity.

7. Mayor's Business

There was not any Mayor's Business.

8. Items Called Off Consent Calendar

There were no items called off the Consent Calendar.

9. Utilities Business

There was no Utilities Business.

10. Unfinished Business

- 10.A.** [16-00216](#) Ordinance No. 16-50 amending Ordinance No. 15-86 (2016 Appropriation Ordinance) for a Supplemental Appropriation to the City-Funded CIP Fund in the Amount of \$356,250 for the Construction of Several Traffic Signal Projects

Presenter:

Kathleen Krager, Transportation Manager

Res/Ord Number: 16-50

There were no comments or questions on this agenda item.

Motion by Councilmember Murray, seconded by Councilmember King, to approve the ordinance amending the CIP fund for traffic signal installation. The motion passed by a vote of 7-1-1

Aye: 7 - Bagley, Bennett, Gaebler, King, Knight, Murray, and Pico

No: 1 - Collins

Excused: 1 - Strand

11. New Business

- 11.A.** [16-304](#) A resolution approving and authorizing the Mayor to execute an amendment to an Intergovernmental Agreement with the Colorado Department of Transportation (CDOT) regarding funding for the Woodmen Road Widening Project

Presenter:

Mike Chaves, P.E. Engineering Manager

Res/Ord Number: 44-16

Councilmember Collins stated she will not support this project due to the national debt and the federal grant money included in the project

funding.

Motion by Councilmember Bagley, seconded by Councilmember Murray, that the Resolution be adopted. The motion passed by a vote of 7-1-1.

Aye: 7 - Bagley, Bennett, Gaebler, King, Knight, Murray, and Pico

No: 1 - Collins

Excused: 1 - Strand

- 11.B. [16-322](#)** Issuance of formal ethics charges or dismissal of ethics complaint pursuant to Independent Ethics Commission case 2015-02

Presenter:

Eileen Lynch Gonzalez, City Council Administrator

Councilmember Knight stated he will reluctantly support this, he expressed concern about the Independent Ethics Commission becoming a political tool and he feels the complaints against Ms. Collins were politically motivated.

Councilmember Collins stated she and Douglas Bruce filed ethics complaints against the City Councilmembers and the City used a policy memo to say charges had to be dropped. She has concerns centered on using lower level law to trump higher law. Ms. Collins also stated a packet of information initiating a recall attempt of her based on ethical issues was anonymously circulated and timed with the 2015 election. The City spent over \$80,000 of tax money investigating these cases.

Wynetta Massey, City Attorney, stated she has no problem releasing the information. The report was accepted and released to the public.

Councilmember Collins also stated she has no problem with the reports being released.

Motion by Councilmember Bagley, seconded by Councilmember Murray, to dismiss complaints relating to City Attorney Wynetta Massey, Council President Merv Bennett, Council President Pro Tem Jill Gaebler, and Councilmembers King, Bagley, Knight, Pico, Strand, and Murray in Independent Ethics Commission case 2015-02, and to release the confidential reports issued by the IEC in case 2015-02. The motion passed by a vote of 7-1-1.

Aye: 7 - Bagley, Bennett, Gaebler, King, Knight, Murray, and Pico

No: 1 - Collins

Excused: 1 - Strand

- 11.C. [16-277](#)** Ordinance No. 16-52 amending Section 105 (Additional Standards

For Specific Land Uses Allowed In Residential Zones) of Part 1 (Residential Districts) of Article 3 (Land Use Zoning Districts) Of Chapter 7 (Planning, Development And Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Personal Cultivation of Marijuana and Medical Marijuana.

Presenter:

Peter Wysocki, Director of Planning and Community Development

Res/Ord Number: 16-52

Peter Wysocki, Director of Planning and Community Development, provided an update on items 11.C through 11.E., stating the Planning Commission considered the three proposals and expressed support for items 11. D. and 11.E.

Councilmember Knight asked if the request by Planning Commissioner Gibson, that Council discuss requiring separation from mental health facilities, had been honored. Mr. Wysocki stated mental health facilities can be located in a number of identified zones and it will be difficult isolate these facilities through zoning requirements. Councilmember Knight requested this discussion be initiated if the moratorium moves forward.

Citizens Robert Koelbl, Pamela Bennett, Marcia Fields, Stephen Lucks, Susanne Burkle and Pat DeJong spoke in support of the proposal.

Citizens Chelsea Puig, Pamela Bailey, Eugene Maes, Jennifer Taylor, Teddi Roberts and Georgia Alexander spoke in opposition to the proposal.

Councilmember Murray stated the purpose of this legislation is to balance the equities. The marijuana industry has not shown the ability to regulate itself; therefore, he will protect citizen rights and privacy by supporting this legislation to rebalance the process.

Councilmember King asked what the penalties for violation of this ordinance will be.

Commander Sean Mandel, Metro Vice, Narcotics and Intelligence, CSPD, presented a summary of the enforcement efforts and associated penalties relating to the marijuana industry. The goal of the enforcement team is to gain compliance. Police response is currently based on citizen complaints and criminal nexuses are countered using criminal charges.

Michael Curran, Division Chief Prosecution, City Attorney's Office, discussed the enforcement action taken by CSPD for violations. Mr. Curran explained the violations and the associated penalties which can include time in jail, fines and or probation. This legislation allows for enforcement through violation of zoning code.

Councilmember Murray asked if the police have the right to enter a home based on an odor complaint. Commander Mandel stated the police can request permission to enter the home or if probable cause is established, a search warrant can be obtained.

Council President Pro Tem Gaebler stated she is a proponent of marijuana and a proponent of neighborhoods. She cannot support cultivation of marijuana for commercial use in neighborhoods. Ms. Gaebler addressed concerns about a property in her district, growing marijuana, within the legal limits and stated she supports this proposed legislation in order to provide guidelines to protect neighborhoods.

Councilmember Bagley commented on the work of the task force and the goal of this proposal to protect neighborhoods.

Motion by Councilmember Bagley, seconded by Councilmember King, that the Ordinance amending Section 105 (Additional Standards For Specific Land Uses Allowed In Residential Zones) of Part 1 (Residential Districts) of Article 3 (Land Use Zoning Districts) Of Chapter 7 (Planning, Development And Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Personal Cultivation of Marijuana and Medical Marijuana as amended to remove the word "substantially" from Section 1.7.3.105(P)(6) be approved on first reading. The motion passed by a vote of 8-0-1.

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

Excused: 1 - Strand

11.D. [16-291](#)

Ordinance No. 16-53 amending Section 302 (Definitions Of Use Types) of Part 3 (Land Use Types And Classifications) of Article 2 (Basic Provisions, Definitions And Land Use Types And Classifications) and Sections 203 (Permitted, Conditional And Accessory Uses) and 205 (Additional Standards For Specific Land Uses) of Part 2 (Commercial Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development And Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Medical Marijuana Facilities.

Presenter:

Peter Wysocki, Director of Planning and Community Development

Res/Ord Number: 16-53

Citizen Pat DeJong support spoke in support of the proposal.

Citizens Jaymen Johnson, Bridgette Seritt, Joseph Carslon, spoke in opposition to the proposal.

There were no Councilmember questions or comments on this agenda item.

Motion by Councilmember Bagley, seconded by Councilmember King, that the ordinance amending Section 302 (Definitions Of Use Types) of Part 3 (Land Use Types And Classifications) of Article 2 (Basic Provisions, Definitions And Land Use Types And Classifications) and Sections 203 (Permitted, Conditional And Accessory Uses) and 205 (Additional Standards For Specific Land Uses) of Part 2 (Commercial Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development And Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Medical Marijuana Facilities be approved on first reading. The motion passed by a vote of 8-0-1.

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

Excused: 1 - Strand

11.E. [16-275](#)

Ordinance No. 16-54 amending Section 205 (Additional Standards For Specific Land Uses) of Part 2 (Commercial Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development And Building) of the Code of the City Of Colorado Springs 2001, as amended, pertaining to Medical Marijuana Centers.

Presenter:

Peter Wysocki, Director of Planning and Community Development

Res/Ord Number: 16-54

Citizen Ron Smits spoke in support of the proposal. Councilmember Knight responded to Mr. Smits' concerns about the odors from the marijuana consumption club located next to his business, stating previously passed legislation deals with consumption clubs.

Councilmember Bagley stated the task force did include input from caregivers, patients, physicians and business owners.

Councilmember Murray asked if it is legal to smoke marijuana on a residential back porch. Mr. Curran stated the ordinances being discussed strictly deal with cultivation of marijuana.

Citizen Jaymen Johnson, Robert Wiley and Georgia Alexander spoke in

opposition to the proposal.

Motion by Councilmember Bagley, seconded by Councilmember King, that the ordinance amending Section 205 (Additional Standards For Specific Land Uses) of Part 2 (Commercial Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development And Building) of the Code of the City Of Colorado Springs 2001, as amended, pertaining to Medical Marijuana Centers as amended to remove the word "substantially" from Section 1.7.3.105(L)(4). The motion passed by a vote of 8-0-1.

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

Excused: 1 - Strand

- 11.F. [16-276](#)** Ordinance No. 16-55 creating a new Section 210 (Personal Cultivation of Medical Marijuana) of Part 2 (Other Dangerous Weapons and Substances) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to personal cultivation of medical marijuana

Presenter:

Larry Bagley, Council Member

Res/Ord Number: 16-55

Mr. Wysocki explained this ordinance establishes the criminal action associated with violation of the marijuana related legislation.

Please see agenda item 11.C. for the presentation regarding enforcement.

Motion by Councilmember Bagley, seconded by Councilmember King, that the ordinance creating a new Section 210 (Personal Cultivation of Medical Marijuana) of Part 2 (Other Dangerous Weapons and Substances) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to personal cultivation of medical marijuana be approved on first reading. The motion passed by a vote of 8-0-1.

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

Excused: 1 - Strand

- 11.G. [16-278](#)** Ordinance No. 16-56 amending Section 107 (Application Investigation; Decision), Section 108 (Suspension or Revocation; Hearings; Decision), and Section 109 (Unlawful Acts) of Part 1 (Medical Marijuana License Code) of Article 2 (Marijuana) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the code of the City of Colorado Springs 2001, as amended, pertaining to Medical Marijuana License Code

Presenter:

Councilmember Larry Bagley
City Clerk Sarah Johnson

Res/Ord Number: 16-56

Sarah Johnson, City Clerk, provided a summary of the licensing changes associated with this ordinance.

Council President Pro Tem Gaebler asked if there are planned advertising prohibitions similar to those recently enacted by El Paso County Commissioners. Ms. Johnson stated there are no plans other than to prohibit advertising that may appeal to minors.

Citizen Jaymen Johnson spoke in support of this proposal.

Motion by Councilmember Bagley, seconded by Councilmember King, that the ordinance to amend the Medical Marijuana License Code, as amended to remove the word, "substantially" from Section 4 2.2.109(A)(21) be approved on first reading. The motion passed by a vote of 8-0-1.

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

Excused: 1 - Strand

11.H. [16-329](#)

Ordinance No. 16-57 creating a twelve (12) month moratorium on the processing of any land use approval or licensing application for a new medical marijuana facility or the change of location of a currently operating medical marijuana facility within the City limits

Presenter:

Councilmember Larry Bagley

Res/Ord Number: 16-57

Councilmember Bagley stated the medical marijuana task force recommended this moratorium to allow time for the City to develop legislation to regulate identified concerns associated with medical marijuana industry.

Councilmember Murray spoke in opposition to the moratorium stating it will inflate prices and not solve the problems.

Councilmember Collins stated she does not support the moratorium in keeping with her conservative approach to government and opposition to regulation and home rule.

Council President Pro Tem Gaebler asked how many medical marijuana dispensaries are currently licensed in the City. Councilmember Bagley stated there are currently 135 licensed medical marijuana dispensaries.

Ms. Gaebler stated she feels that is an adequate number of dispensaries to serve the community and she supports home rule and would like to give the community time to regulate the industry through this proposed moratorium.

Councilmember Pico stated the number of dispensaries seems disproportionately high compared to other municipalities in the State, noting Denver recently passed legislation capping the number of marijuana related business allowed to be licensed in their City. He would like to know why a year and not another six month moratorium is being proposed. Bret Waters, Deputy Chief of Staff, stated the task force specifically stated they need 12 months to address the concerns identified over the past six months and to properly research the items.

Mr. Wysocki stated the Planning Department is working on multiple projects and needs the additional time to properly research and develop a good plan to deal with this complex issue.

Councilmember Knight stated he initially supported the moratorium to regulate new industries entering the marijuana market such as the Gas and Grass concept. He now sees the extended moratorium as essential to allow time for the City to address all of the issues identified through the task force and properly regulate this industry.

Councilmember Bagley stated he believes the time is needed to consider the options and increase the stakeholder outreach.

Councilmember King expressed concern about the new moratorium not clearly defining the individuals that will be assigned to the group. Council President Bennett stated he would recommend Council designate the chair person and allow the chair to select the other team members. Council agreed this group should be a well-balanced representation of the stakeholders and kept to a manageable size.

Citizens Jaymen Johnson, John Curtain, Daniel Real, Clifton Black, Caitlin Hecht, and Tonya Gardino spoke in opposition of the proposed moratorium

Dale Hecht, member of the marijuana task force, spoke in opposition of continuing the moratorium and encouraged council to form a working group or task force to continue the work that has been started.

Citizen Pamela Bennett spoke in support of the proposed moratorium.

Motion by Councilmember Knight, seconded by Councilmember Pico, to postpone this item to a date certain, the May 1, 2016 City Council meeting. The motion failed by a vote of 4-4-1.

Aye: 4 - Bennett, Gaebler, Knight, and Pico

No: 4 - Bagley, Collins, King, and Murray

Excused: 1 - Strand

Res/Ord Number: 16-57

Motion by Councilmember Bagley, seconded by Councilmember Knight, that the ordinance be approved on first reading. The motion passed by a vote of 5-3-1.

Aye: 5 - Bagley, Bennett, Gaebler, Knight, and Pico

No: 3 - Collins, King, and Murray

Excused: 1 - Strand

12. Public Hearing

There was not a Public Hearing.

13. Added Item Agenda

There were no added agenda items.

14. Executive Session

There was not an Executive Session.

15. Adjourn

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

Sarah Johnson, City Clerk