



City of Colorado Springs

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

Meeting Minutes City Council

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Tuesday, September 25, 2018

1:00 PM

Council Chambers

1. Call to Order

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

2. Invocation and Pledge of Allegiance

The Invocation was made by Chaplain Matt Kasper from the Colorado Springs Fire Department.

President Skorman led the Pledge of Allegiance.

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. [18-0283](#)

Ordinance No. 18-92 Amending Ordinance No. 17-116 (2018 Appropriation Ordinance) for a Supplemental Appropriation in the Amount of \$1,100,000 to the Trails, Open Space and Parks Fund for Acquisition of up to 246 Acres of Property for the Purpose of Public Open Space and Trails as an Expansion of the Corral Bluffs Open Space

Presenter:
Karen Palus, Director, Parks, Recreation & Cultural Services
Britt Haley, Design and Development Manager / TOPS Program Manager

Attachments: [Supplemental Approp Ord for TOPS CorralBluffsBishopAcquisition Signed Ordinance 18-92](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.B. [18-0412](#)** Ordinance No. 18-93 authorizing the issuance by the City of Colorado Springs, Colorado, acting by and through its Pikes Peak - America's Mountain Enterprise, of its Pikes Peak - America's Mountain Enterprise revenue bonds, Series 2018 in the aggregate principal amount of not to exceed \$33,000,000 for the purpose of financing a portion of the costs of constructing a new Pikes Peak Summit Complex; providing the form, terms and conditions of said Series 2018 bonds, the manner and terms of their issuance, the manner of their execution, the method of paying them and the security therefor from the net pledged revenues of the system of the Pikes Peak - America's Mountain Enterprise; providing for the sale of said Series 2018 bonds; providing other details concerning said Series 2018 bonds, and providing other matters relating thereto; and approving other documents relating thereto

Presenter:

Charae McDaniel, Chief Financial Officer

Tom Florczak, Deputy City Attorney

Jack Glavan, Pikes Peak - America's Mountain Manager

Attachments: [Colorado Springs - Pikes Peak Enterprise Revenue Bonds Ordinance 2018 - with change on 09-10-18.doc Signed Ordinance 18-93](#)

This Ordinance was finally passed on the Consent Calendar.

4B. First Presentation:

- 4B.A. [18-0476](#)** City Council Regular Meeting Minutes September 11, 2018

Presenter:

Sarah B. Johnson, City Clerk

Attachments: [9-11-2018 City Council Meeting Minutes Final.pdf](#)

The Minutes were approved on the Consent Calendar.

- 4B.B. [18-0384](#)** Ordinance No. 18-96 Amending Ordinance No. 17-116 (2018 Appropriation Ordinance) for a Supplemental Appropriation to the Airport Capital Improvement Program Fund in the Amount of \$2,500,000 for Repairs Related to the April 2018 Fire at the Colorado Springs Airport

Presenter:

Chris Wheeler, City Budget Manager
Greg Phillips, Director of Aviation

Attachments: [Supplemental Approp Ordinance Airport Fire-Sept 2018](#)

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

- 4B.C.** [CPC ZC 18-00074](#) Ordinance No.18-97 changing the zoning of 5.54 acres from PUD/AO (Planned Unit Development: Single-Family Residential, 40 foot maximum building height, and a cumulative density of 7.99 dwelling unit per acre with an Airport Overlay) to PK/AO (Park with an Airport Overlay) located south of Dublin Boulevard and west of Banning Lewis Ranch Parkway within the Village 3 development.

(QUASI-JUDICIAL)

Presenter:
Hannah Van Nimwegen, Senior Planner, Planning and Community Development
Peter Wysocki, Director of Planning and Community Development

Attachments: [ZC ORD - BLR Village 3 Park Exhibit A](#)
[Exhibit B](#)

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

- 4B.D.** [18-0459](#) Ordinance 18-98 amending Ordinance No. 15-83 relating to Utilities System Commercial Paper Notes of the City; ratifying action heretofore taken relating to such Notes; and providing other matters relating thereto

Presenter:
Tamela Monroe, Chief Planning and Finance Officer
Eric Tharp, Acting Chief Executive Officer, Colorado Springs Utilities

Attachments: [10c - Commercial Papr Ordinance.DOCX](#)

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

Approval of the Consent Agenda

Motion by Councilmember Murray, seconded by Councilmember Strand, 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, Bennett, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, and Strand

5. Recognitions

- 5.A. [18-0456](#) October is Arts Month - Cultural Office of the Pikes Peak Region (COPPeR) Update

Presenter: Andy Vick

Andy Vick, Executive Director, Cultural Office of the Pikes Peak Region

Attachments: [Oct. Arts Month Proclamation 2018](#)

Andy Vick, Executive Director, Cultural Office of the Pikes Peak Region (COPPeR), presented the Proclamation recognizing October 2018 as the fifth annual Arts Month in the Pikes Peak Region. He gave a brief history identifying the objective and call to action for everyone to try a new cultural experience during the month. Mr. Vick identified several of the events scheduled for the month, explained the advertising involved, and the financial impact to the community.

President Pro Tem Gaebler read the Proclamation recognizing October 2018 as Arts Month.

6. Citizen Discussion

A Proclamation recognizing October 8, 2018 as Indigenous Peoples' Day

A special Invocation was made by Debbie Hall.

Councilmember Avila expressed her support and appreciation of contributions of the Indigenous people in the community.

President Skorman read the Proclamation recognizing October 8, 2018 as Indigenous Peoples' Day.

Citizens Debbie Howell, Jennifer Lewis, Dwanna McKay, Mateo Parsons, Getty Nuhn, Ruth Markwardt, Melissa Hall, Natalie Avila, Morgan Chavez, Janice Moglen, Anabell Martin, Rachel Kills Small, and Majesti De La Pena, spoke in support of declaring October 8th as Indigenous Peoples' Day.

Citizen Kevin Bright spoke regarding photos of her honeybee posters.

Citizen Charles Barber spoke regarding the miscalculations made during the street improvements on San Miguel Street.

Citizen Gerald Miller spoke about justice and two insurance companies.

Citizens Mark Heismann, and Edward Snyder spoke in opposition of the bicycle lanes on Cascade Avenue.

Citizens Rick Allen and Jerry White, spoke in favor of the bicycle lanes on Cascade Avenue.

Citizen Selanirez Guadalupe Cortez Cinkosky requested housing assistance.

Citizen Deborah Stout-Meiningner stated she has safety concerns with contamination at the site of the America the Beautiful Park.

Citizen Scott Anderson spoke regarding pedestrian right-of-way.

Citizen Monica Hobbs, representing the Near North End Neighborhood Association, requested that they be notified of information regarding the proposed C4C stadium.

7. Mayor's Business

There was no 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.** [CPC A 17-00074](#) Ordinance No. 18-94 annexing into the City of Colorado Springs that area known as the Airport Spectrum Addition No. 1 Annexation consisting of 78.95 acres.

(Legislative)

Related Files: CPC A 17-00074, CPC A 17-00074R, CPC PUZ 17-00146, CPC PUP 17-00147

Presenter:

Catherine Carleo, Principal Planner, Planning and Development
Peter Wysocki, Planning and Community Development Director

Attachments: [ORD AirportSpectrumAnnex](#)
[Exhibit A - Airport Spectrum Annex Legal](#)
[Exhibit B AirportSpectrumAddition No. 1 AnnexationAgreement](#)
[Airport Spectrum EnclaveMap](#)
[Airport Spectrum Ortho-Vicinity](#)
[CPC Staff Report Airport Spectrum Annexation - KAC](#)
[FIGURE 1 Airport Spectrum Project Statement](#)
[FIGURE 2 Airport Spectrum Annexation Petition 8-9-2017](#)
[FIGURE 3 Airport Spectrum Annex Plat](#)
[FIGURE 4 Airport Spectrum City Boundary](#)
[FIGURE 5 Airport Spectrum Addition No. 1 Annexation Agreement](#)
[FIGURE 6 Airport Spectrum FIA](#)
[FIGURE 7 SECWCD Decreed Boundaries 1958](#)
[FIGURE 8 Zone Establishment Exhibit Airport Spectrum](#)
[FIGURE 9 Concept Plan Airport Spectrum](#)
[7.6.203-Annexation Conditions](#)

There were no comments on this item.

Motion by Councilmember Bennett, seconded by Councilmember Murray, that the Ordinance approving Airport Spectrum Addition No. 1 Annexation based upon the findings that the annexation complies with all of the Conditions for Annexation Criteria set forth in City Code Section 7.6.203 be finally passed. The motion passed by a vote of 6-3-0-0

Aye: 6 - Bennett, Geislinger, Murray, Pico, Skorman, and Strand

No: 3 - Avila, Gaebler, and Knight

- 10.B.** [CPC PUZ 17-00146](#) Ordinance No. 18-95 amending the Zoning Map of the City of Colorado Springs relating to 60.21 acres located southwest of the intersection of Powers Boulevard and Milton E Proby Parkway establishing the PUD/SS/AO, Planned Unit Development (Community Commercial to allow permitted uses in the Planned Business Center and Office Commercial zone districts, maximum building height of 45-feet) with Streamside and Airport Overlay zone district.

(Legislative)

Related Files: CPC A 17-00074, CPC A 17-00074R, CPC PUZ 17-00146, CPC PUP 17-00147

Presenter:

Catherine Carleo, Principal Planner, Planning and Development
Peter Wysocki, Planning and Community Development Director

Attachments: [ZC ORD AirportSpectrum](#)
[Exhibit A - Airport Spectrum Zoning Legal](#)
[Exhibit B - Airport Spectrum Zoning Exhibit](#)
[FIGURE 8 Zone Establishment Exhibit Airport Spectrum](#)
[7.5.603 Findings - ZC req CA](#)
[7.3.603 Establishment & Development of a PUD Zone](#)
[Signed Ordinance 18-95](#)

There were no comments on this item.

Motion by Councilmember Strand, seconded by Councilmember Murray, that the Ordinance for the establishment of the PUD/SS/AO (Planned Unit Development; community commercial to allow permitted uses in the Planned Business Center and Office Commercial zone districts with Streamside and Airport Overlay, with maximum building height of 45-feet) 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 complies with City Code Section 7.3.603 for establishment of a PUD zone district be finally passed. The motion passed by a vote of 6-3-0-0

Aye: 6 - Bennett, Geislinger, Murray, Pico, Skorman, and Strand

No: 3 - Avila, Gaebler, and Knight

11. New Business

- 11.A.** [18-0327](#) A Resolution authorizing issuance of debt by the Powers Metropolitan District in the form of general obligation limited tax bonds in the estimated aggregate principal amount of \$3,380,000.

(Legislative Item)

Presenter:

Carl Schueler, Comprehensive Planning Manager, Planning and Community Development

Attachments: [Resolution_PowerMD_DebtIssuance](#)
[Correspondence re PowersMetroDistrict 2018 Bonds](#)
[Figure 1z - Powers MD 2018 Indenture](#)
[Figure 1a - Bond Term Sheet](#)
[Figure 2 - SVWPC Opinion PowersMetroDistrict 2018 Bond](#)
[Figure 3 - Debt and Development Projection](#)
[Figure 4a - Cost Certification Letter - Carefree and Powers SW, Inc](#)
[Figure 4b - Cost Certification - Carefree and Powers SW, Inc.](#)
[Figure 4c - Cost Certification Letter - TSG Colorado Springs, LLC](#)
[Figure 4d - Cost Certification - TSG Colorado Springs, LLC](#)
[Figure 5a - Boundary Map](#)
[Figure 5b - Powers Pointe Shopping Center - Tenant Map](#)
[Figure 6 - Distribution List](#)
[PowerPoint_PowersMD_Debt_Issuance](#)
[Signed Resolution 104-18](#)

Carl Schueler, Comprehensive Planning Manager, Planning and Community Development, presented the request for issuance of debt for the Powers Metropolitan District and said there have been no changes since the presentation at the September 10, 2018 Work Session meeting.

There were no comments on this item.

Motion by Councilmember Murray, seconded by Councilmember Strand, that the Resolution authorizing issuance of debt by the Powers Metropolitan District in the form of general obligation limited tax bonds, Series 2018 in the estimated aggregate principal amount of \$3,380,000 be adopted. The motion passed by a vote of 9-0-0

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

11.B. [18-0366](#) A Resolution to increase drainage basin fees for the Cottonwood Creek drainage basin to \$16,100 per acre

(Legislative)

Presenter:

Richard Muledy, P.E., Stormwater Enterprise Manager

Brian Kelley, P.E., Stormwater Capital Programs Manager

Attachments: [ResDrainageFeeIncrease2018Cottonwood](#)
[StaffMemoCottonwoodFeeIncreaseExhibitA](#)
[StaffMemoCottonwoodFeeIncreaseExhibitB](#)
[StaffMemoCottonwoodFeeIncreaseExhibitC](#)

There were no comments on this item.

Motion by Councilmember Strand, seconded by Councilmember Murray, that the item be referred back to the Colorado Springs/El Paso County Drainage Board for consideration and a recommendation to City Council. The motion passed by a vote of 9-0-0-0

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

- 11.C. [18-0453](#)** Ordinance No. 18-99 amending Section 111 (Camping Within Public Stream/Public Stream Riparian Zone Prohibited) of Part 1 (General Offenses) of Article 6 (Offenses Affecting Property) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to camping within public stream riparian zones, and providing penalties for the violation thereof

Presenter:

Marc Smith, Corporate Division Chief, Office of the City Attorney
David Geislinger, City Councilmember

Attachments: [StreamRiparianWaste AmendmentORD-2018-09-18.docx](#)

Marc Smith, Corporate Division Chief, Office of the City Attorney, stated the staff report has been updated to include a penalty provision in the form of community service as a condition of probation explained the difference between fines for littering in general and fines for littering within the riparian zone, and said subsection D has been updated to mirror the language from the general littering violation in regards to trash receptacles.

Councilmember Geislinger stated the focus of this is not just for campers, it is for anyone littering within the riparian zone.

Motion by Councilmember Bennett, seconded by Councilmember Murray, that the Ordinance amending Section 111 (Camping Within Public Stream/Public Stream Riparian Zone Prohibited) of Part 1 (General Offenses) of Article 6 (Offenses Affecting Property) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to camping within public stream riparian zones, and providing penalties for the violation thereof be approved on first reading. The motion passed by a vote of 8-1-0-0

Aye: 8 - Bennett, Gaebler, Geislinger, Knight, Murray, Pico, Skorman, and Strand

No: 1 - Avila

- 11.D. [18-0478](#)** Decision Regarding Ethics Complaint 2018-01

President Skorman recused himself from discussion and voting on this item.

Tracy Lessig, Employment Division Chief, Office of the City Attorney, stated pursuant to City Code § 1.3.106(C)(4), after receipt of the

Independent Ethics Commission's (IEC) recommendation to City Council containing its investigative findings, City Council makes a decision regarding how to proceed with ethics complaint 2018-01.

President Pro Tem Gaebler asked each Councilmember to address any issues of bias or impartiality. President Pro Tem Gaebler, Councilmembers Avila, Knight, Pico, Murray, Strand, and Geislinger stated their relationships with President Skorman, William Schmidt, Chair of the IEC, and Glenn Schlabs, President Skorman's Attorney who composed the documents included in the complaint, or Steve Helling, Attorney and IEC member, who wrote the concurring opinion, would not impact their ability to be fair and impartial in their decision.

President Pro Tem Gaebler stated a decision needs to be made whether or not to release the report of the IEC's recommendation of ethics complaint 2018-01.

Motion by Councilmember Murray, seconded by Councilmember Strand, to waive the attorney-client privilege and release the report of the Independent Ethics Commission and any other investigative material regarding Ethics Complaint 2018-01. The motion passed by a vote of 6-2-1-0

Aye: 6 - Gaebler, Geislinger, Knight, Murray, Pico, and Strand

No: 2 - Avila, and Bennett

Recused: 1 - Skorman

President Pro Tem Gaebler stated a decision needs to be made regarding the complaint itself.

Motion by Councilmember Murray, seconded by Councilmember Avila, that based on the preponderance of evidence, to dismiss Ethics Complaint 2018-01 due to insufficient evidence to proceed with the allegation of a violation of the City Code of Ethics, as there is no substantial likelihood of success on the merits through an adversarial hearing, and in the interest of justice. After further discussion, the motion was later withdrawn by Councilmember Murray.

Councilmember Strand requested Councilmember Murray's motion be amended to refer the complaint back to the IEC for further investigation because there was information collected by the IEC that does not relate to some of the information concerning the victim of the automobile accident. Marc Smith, Corporate Division Chief, Office of the City Attorney, stated that what Councilmember Strand proposed would not be an amendment to Councilmember Murray's motion, but a new motion, and that there are now two main motions that need to be acted upon.

Councilmember Geislinger said the issue to be discussed is the applicability to the City's Code of Conduct and to determine whether or not

President Skorman requested special consideration, treatment, or advantage. He stated the IEC never followed up with Ms. or Mr. Sutherland as to whether or not there was a special request. Councilmember Geislinger stated he does not believe it is an ethical violation, but there needs to be a statement of the findings of fact from the IEC as to what the special request was.

President Pro Tem Gaebler said because President Skorman was not present during that conversation, she does not feel it is relevant, and it does not change her opinion because their purview is the City's Code of Conduct.

Councilmember Bennett stated he agrees with President Pro Tem Gaebler as his rationale for dismissal.

Councilmember Pico said he would like clarification on what the IEC is identifying as the special request.

Councilmember Knight said if a Councilmember is requesting additional time for additional information, he supports it.

Motion by Councilmember Knight, seconded by Councilmember Strand, that after further discussion, the Decision Regarding Ethics Complaint 2018-01 be postponed to the October 23, 2018 City Council meeting. The motion was later withdrawn by Councilmember Knight.

Councilmember Knight asked if anything would prohibit a Councilmember from asking the IEC a question. Ms. Lessig stated because this a quasi-judicial issue, any conclusion would be subject for review in district court and independent investigation conducted outside the materials that were given would be improper.

Councilmember Knight asked how long it would take to come back to City Council if it is referred back to the IEC. Ms. Lessig explained the difficulty of an additional investigation and the number of meetings that would be required. She said the IEC has been working on this case since March 2018.

Councilmember Murray stated President Skorman did not request any special benefit, he only identified himself.

Councilmember Avila and President Pro Tem Gaebler said they do not believe this item should be pushed back to the IEC and they have all the information they need to make a decision.

Councilmember Strand said he needs additional information to do due diligence for the community and stated City Councilmembers received the information in late September 2018.

Councilmember Pico said he is uncertain that what will be asked of the IEC will add any value to what they already have.

Councilmember Geislinger stated he did not realize this case has been pending since March 2018 and will not support an extension of time for the process.

Councilmember Bennett stated he also does not support the motion to delay this item and that President Skorman was simply identifying himself.

Motion by Councilmember Strand, seconded by Councilmember Knight, that the Decision Regarding Ethics Complaint 2018-01 be referred back to the Independent Ethics Commission for further investigation. The motion failed by a vote of 2-6-1-0.

Aye: 2 - Knight, and Strand

No: 6 - Avila, Bennett, Gaebler, Geislinger, Murray, and Pico

Recused: 1 - Skorman

Councilmember Pico stated he will not support the motion to dismiss due to the unanimous decision of the IEC.

Councilmember Geislinger said he was focused on the relevant provisions of the sections of City Code because President Skorman's identification of the woman involved does not identify a special request and that as the interest of justice there should be clear and convincing evidence to justify the expenditure of resources.

Councilmember Avila said she supports this motion because she does not believe there was a violation of the ethics code or that there was a special request.

Councilmember Knight said the violation was President's Skorman's request to exchange information and let her go and will not be supporting the motion because all five members of the IEC said there was a violation.

Councilmember Strand said this matter should go to an administrative law judge, which requires clear and convincing evidence, to allow President Skorman to be vindicated.

Councilmember Murray stated the issue is not about protecting their own colleagues, it is looking at the facts and making a determination based on the preponderance of evidence that these charges are not correct.

Councilmember Geislinger stated that if President Skorman had presented the information in a different way, there would not have been a Code of

Ethics violation and believes the City's Code of Conduct needs to be reviewed.

President Pro Tem Gaebler stated she does not believe President Skorman violated the Code of Ethics and will be supporting the motion.

Councilmember Geislinger said he suspects the vote will be a 4-4 tie, and that he believes something needs to happen.

Motion by Councilmember Murray, seconded by Councilmember Avila, to dismiss Ethics Complaint 2018-01, based on the preponderance of evidence, due to insufficient evidence to proceed with the allegation of a violation of the City Code of Ethics, no substantial likelihood of success on the merits through an adversarial hearing, and in the interest of justice. The motion passed by a vote of 5-3-1-0

Aye: 5 - Avila, Bennett, Gaebler, Geislinger, and Murray

No: 3 - Knight, Pico, and Strand

Recused: 1 - Skorman

12. Public Hearing

There was no Public Hearing.

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