



City of Colorado Springs

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

Meeting Minutes - Final Council Work Session

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Monday, November 9, 2015

1:00 PM

Council Chambers

1. Call to Order

Present 9 - Councilmember Larry Bagley, President Merv Bennett, Councilmember Helen Collins, President Pro Tem Jill Gaebler, Councilmember Keith King, Councilmember Don Knight, Councilmember Bill Murray, Councilmember Andy Pico, and Councilmember Tom Strand

2. Changes to Agenda

Eileen Gonzalez, City Council Administrator, stated the Closed Executive Session be held at 3pm.

3. Regular Meeting Comments

Sarah Johnson, City Clerk, stated the Mayor has requested agenda item 11.A. be discussed under Mayor's Business. Consensus of City Council agreed to this proposed change.

Councilmember Knight stated he will pull agenda item 4.B.G. off the Consent Calendar as Council has not seen this item in a work session.

4. Review of Previous Meeting Minutes

4.A. [15-00682](#) City Council Work Session Meeting Minutes October 26, 2015

The meeting minutes were approved as presented.

5. Executive Session

A) Open

There was not an Open Executive Session.

B) Closed

B)A. [15-00643](#) Closed Executive Session

David Andrews, Legislative Counsel, stated the issue to be discussed

involves legal advice and settlement negotiation consultation with the City Attorney regarding threatened litigation.

Council President Bennett polled Council regarding the desire to proceed with the discussion in a Closed Executive session. Consensus of Council agreed to proceed with the discussion in a closed session.

6. Staff and Appointee Reports

6.A. [15-00493](#) Agenda Planner Review

The agenda planner is in the Council packets, there was no discussion on this item.

7. Presentations for General Information

7.A. [15-00590](#) Introduction of the 2015/2016 Ticket to Success Class

Donna Nelson, Spirit of the Springs Program Coordinator, provided an overview of the activities the Ticket to Success students have participated in. Student Na'im Briggs from Fox Meadow Middle School presented a brief summary of his experience with the program.

Mayor Suthers and Council thanked Ms. Nelson for the work she has done with these students and congratulated the students on their achievements.

8. Items for Introduction

8.A. [15-00659](#) A resolution authorizing the City of Colorado Springs, by and through its enterprise, the Colorado Springs Municipal Airport, to accept charitable funds from the Pikes Peak Community Foundation, deposited by private foundations and others for the purpose of lessening the City's burden by way of significantly and tangibly developing, promoting and accommodating air commerce, air travel and air transportation at Colorado Springs Airport.

Res/Ord Number: 115-15

Mayor John Suthers provided an introduction to this proposal to form an aviation enhancement fund to allow the acceptance of donations to incentivize continued commercial growth at the airport by lessening the financial burden to the local government.

Council President Pro Tem Gaebler asked if there is a name for the trust and requested examples of other cities that have similar programs.

Mayor Suthers stated it is called the Aviation Enhancement Fund. Dan Gallagher, Aviation Director, explained how this type of community trust is benefiting airports in small to medium sized communities throughout the country.

Councilmember Knight asked how the funds will be managed. Mr. Gallagher stated the funds will be held by the trust and distributed in ways to lessen the financial burden of the airport on the local government. Councilmember Knight asked how transparency will be maintained. Mr. Gallagher stated funds have to be used in accord with the FAA revenue use policy and expenditures will be reported in the currently established manner. Mayor Suthers explained expenditures will be reported to Council.

Councilmember Strand asked how much money the fund is expected to receive in 2016. Mr. Gallagher stated the amount of money is secondary to the positive aspects of having the foundation established. Mayor Suthers stated they expect the dollar figure to be in the millions.

Councilmember King asked if this fund could help attract more commercial airlines to our city. Mr. Suthers confirmed this and Mr. Gallagher stated the airport could use the funds to establish a revenue guarantee for airlines trying to establish themselves in the Colorado Springs market.

- 8.B.** [15-00660](#) A Resolution approving an Intergovernmental Agreement between the City of Colorado Springs and El Paso County Colorado, for the purpose of snow removal and snow and ice control on roadway segments

Res/Ord Number: 117-15

Corey Farkas, Street Division Manager, explained this long-standing agreement with El Paso County for snow removal on streets.

- 8.C.** [15-00551](#) An ordinance amending Section 202 (Deposit and Expenditure of Revenues) and Section 203 (Biannual Independent Audit) of Part 2 (Deposit and Expenditure of Revenues) of Article 6 (Trails, Open Space and Parks Program) of Chapter 4 (Parks, Recreation and Cultural Services) of the Code of the City of Colorado Springs 2001, as amended, pertaining to expenditure of revenues and independent audit

Res/Ord Number: 15-92

Chris Lieber, Parks Development Manager and TOPS Program Manager, provided an explanation of this proposal to align the audit

process with the intended desires of voters. Mr. Lieber explained there was some confusion between the terms biannually, twice a year, and biennially, every two years, creating the need for this ordinance.

Councilmember Murray asked why an audit would only be done every two years, instead of annually. Mr. Lieber explained the audit every two years is what was approved by the voters. Denny Nester, City Auditor, explained the TOPS fund is audited annually by an outside firm and thoroughly audited every two years by the City.

- 8.D.** [15-00467](#) A resolution setting and certifying the 2015 tax levy for taxes payable in 2016 at 5.000 mills for the Colorado Springs Downtown Development Authority in Colorado Springs, Colorado

Res/Ord Number: 128-15

Kara Skinner, CFO, explained the next eight agenda items are very similar, setting the mill levy and budget for special improvement districts.

- 8.E.** [15-00468](#) A resolution appropriating sums of money to the various funds in the amounts, and for the purposes set forth below for the Colorado Springs Downtown Development Authority in Colorado Springs Colorado, for the 2016 budget year

Res/Ord Number: 129-15

Please see comments in agenda item 8.D.

- 8.F.** [15-00470](#) A Resolution levying general property taxes to help defray the cost of debt service on the Limited Tax General Obligation Bonds Series 2014 of the Colorado Springs Briargate General Improvement District, Colorado Springs, Colorado, for the 2016 budget year

Res/Ord Number: 130-15

Please see comments in agenda item 8.D.

Councilmember Knight requested an explanation of the increasing budget amount of this district and the lack of funds going to pay down the debt. Ms. Skinner explained the bonds were refunded in 2014 and the district is in the process of replenishing the funds in the surplus accounts. Ms. Skinner also stated the mill levy will continue until the debt is paid off.

- 8.G.** [15-00471](#) A Resolution summarizing expenditures and revenues, adopting a budget, and appropriating monies for the Colorado Springs Briargate General Improvement District, Colorado Springs, Colorado, for the calendar year beginning on the first day of

January 2016 and ending on the last day of December 2016

Res/Ord Number: 131-15

Please see comments in agenda item 8.D.

- 8.H. [15-00473](#) A Resolution levying general property taxes to help defray the cost of debt service on the General Obligation Bonds of the Colorado Springs Marketplace at Austin Bluffs General Improvement District, Colorado Springs, Colorado, for the 2016 budget year

Res/Ord Number: 132-15

Please see comments in agenda item 8.D.

- 8.I. [15-00474](#) A Resolution summarizing expenditures and revenues, adopting a budget, and appropriating monies for the Colorado Springs Marketplace at Austin Bluffs General Improvement District, Colorado Springs, Colorado, for the calendar year beginning on the first day of January 2016 and ending on the last day of December 2016

Res/Ord Number: 133-15

Please see comments in agenda item 8.D.

- 8.J. [15-00476](#) A Resolution levying general property taxes to help defray the cost of debt service on the General Obligation Refunding Bonds, Series 2005 of the Colorado Springs Spring Creek General Improvement District, Colorado Springs, Colorado, for the 2016 budget year

Res/Ord Number: 134-15

Please see comments in agenda item 8.D.

- 8.K. [15-00477](#) A Resolution summarizing expenditures and revenues, adopting a budget, and appropriating monies for the Colorado Springs Spring Creek General Improvement District, Colorado Springs, Colorado, for the calendar year beginning on the first day of January 2016 and ending on the last day of December 2016

Res/Ord Number: 135-15

Please see comments in agenda item 8.D.

- 8.L. [15-00693](#) An Ordinance Repealing Ordinance No. 14-105 and Adopting the City of Colorado Springs - 2016 Salary Structure for Civilian and Sworn Municipal Employees

Res/Ord Number: 15-88

Kara Skinner, CFO, explained this is an annual process to approve City employee salaries, adding changes this year are minimal, and only include the addition and elimination of positions.

Councilmember Knight requested a list of the created and eliminated positions. Ms. Skinner will provide this information.

Councilmember King asked if the pay ranges have changed. Ms. Skinner stated that they have not changed.

- 8.M.** [15-00701](#) An Ordinance Adding a New Part 11 (Road Repair, Maintenance and Improvements Sales and Use Tax Fund) to Article 6 (City Funds) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended, to Establish the Road Repair, Maintenance and Improvements Sales and Use Tax Fund

Res/Ord Number: 15-96

Kara Skinner, CFO, explained this item and the next are related to the voter approved tax increase dedicated to road repair, maintenance and improvements, and reviewed the proposed changes to City Code as a result of this ballot measure.

Councilmember Pico asked if there will be a citizen advisory committee formed to oversee this dedicated fund. Jeff Greene, Chief of Staff, stated the Mayor has requested an oversight committee be formed and provided a detailed list of entities to be included on the committee. Council President Bennett added the establishment of a citizen oversight committee was not part of the ballot initiative and the Mayor has specified his desires for an oversight committee.

Councilmember Knight asked about the end date for the tax and the defined time-frame to complete the spending. Tom Florczak with the City Attorney's Office will correct the ordinance language to reflect the ability of the City to continue expending the tax money for the defined purpose until the fund balance is expended.

Councilmember Strand requested the dates in the ordinance language be changed to reflect the five year period approved by voters. Mr Florczak will make this correction.

Councilmember Collins requested the RFP process focus on using local businesses to perform the work.

- 8.N.** [15-00702](#) An Ordinance Amending Article 7 (Sales and Use Tax) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended,

Pertaining to a Change to the Sales and Use Tax Rate from Two and Five-Tenths Percent (2.5%) to Three and Twelve One-Hundredths Percent (3.12%)

Res/Ord Number: 15-97

Kara Skinner, CFO, reviewed the changes to City Code for this voter approved tax rate changed.

Please see additional comments in agenda item 8.M.

Councilmember Knight suggested the ordinance be amended to eliminate the tax percentage calculation tables and allow point of sale systems to calculate the tax rounding percentages. Mr. Florczak stated the voters authorized a temporary tax increase for the purpose of road repairs and the City Attorney's Office has decided to handle this through minimal changes to City Code in order to avoid the appearance of changing the City Tax Code. Councilmember Knight requested the minimal taxable amount to be changed to .15 cents as indicated by the increased tax percentage. Ms. Skinner will make this change to the tax calculation table.

- 8.O. [15-00647](#) An ordinance creating a new Article 14 (Construction Defect Claims in Common Interest Communities) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, pertaining to required homeowner consent for construction defect claims related to common interest communities, builder rights to repair construction defects in common interest communities, and the effect of the City Building Code in construction defect claims related to common interest communities.

Res/Ord Number: 15-93

Mayor Suthers requested Council seriously consider this in conjunction with similar legislation from the city of Denver to encourage the State to change laws governing common interest communities.

Council President Pro Tem Gaebler presented an overview of this initiative to encourage development of townhomes/condominiums as an important aspect of infill and redevelopment in our community. This is in response to State legislation that has basically halted production of this type of dwelling due to insurance issues. Several communities are collaborating to pass local construction defect legislation to make a statement about this issue. Councilmember Pico added protection for

homeowners is included in this legislation to create balance.

Councilmember Murray asked if there will be a public forum prior to Council approval of this item. Ms. Gaebler stated public comment will be taken at the City Council meeting November 24, 2015. Ms. Gaebler provided detailed information about the provisions of this proposed ordinance.

Scott Hente, Vice President, Robert Scott General Contractor Inc., provided information about the construction process and insurance issues associated with these types of dwellings.

Councilmember Strand asked what standards govern the construction of these units and if this ordinance will remove requirements. Mr. Hente stated the standards are established through Building Codes, City inspections, Fire Codes and marketplace competition.

Councilmember Murray asked what the difference is between code compliant construction and construction completed in a good workmanship like manner. Mr. Andrews explained City Code is not all-inclusive, meaning some construction defects may not be included in Code. The definition of a construction defect, per this proposal, requires the defect to cause harm or have the potential to cause harm.

Councilmember Knight asked how homebuyers would reconcile poor workmanship if this is approved. Mr. Hente stated homeowners have the ability to negotiate with homebuilders or file a court case.

Matt Coleman, local insurance agent, spoke about the pros and cons of this proposal from an insurance industry stand-point.

David Andrews, Legislative Counsel, summarized the proposed ordinances and responded to Councilmember questions about the legal repercussions of this action.

Council President Pro Tem Gaebler stated the ordinance language includes the minimum information a homeowner should know prior to entering into litigation. This proposal has been endorsed by the Housing and Building Association, the Regional Business Alliance, and the Council of Neighbors and Organizations.

Councilmember Murray requested an annual review clause be included in the ordinance. Mr. Andrews stated Council should consider inclusion of this language on construction plats.

- 8.P.** [15-00646](#) An ordinance modifying Section 303 (Final Plat Requirements) of Part 3 (Final Platting Procedures) 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 the reference to declarations of common interest communities

This item will be referred to the Planning Commission.

Please comments in agenda item 8.O.

- 8.Q.** [15-00685](#) South Nevada Avenue Area Urban Renewal Plan
(Legislative Matter)

Res/Ord Number: 120-15

Peter Wysocki, Director Planning and Development, provided a brief overview of the proposed urban renewal plan for the South Nevada Avenue area. This plan will include the area south of Interstate 25.

Councilmember Murray requested clarification about the planned sales tax increment financing for this project. Mr. Wysocki stated they are not prepared to discuss that today as the approval of the renewal plan allows that discussion to take place in a future meeting.

Jim Rees, Director, Colorado Springs Urban Renewal Authority, provided additional information about the plan for this area.

Councilmember Collins asked if they have changed the wording on the use of eminent domain since the previous discussion. Mr. Rees explained the Urban Renewal Authority will allow the use of eminent domain only with the approval of City Council.

Councilmember Pico expressed concern about the flood plain and requested additional information about this in the next presentation. Mr. Rees stated they will have experts here to address those issues.

Councilmember Knight requested clarification of the area to be included in this proposal and questioned the inclusion of the Bustang Parking area and the land along Cheyenne Boulevard. Mr. Rees explained the

boundaries and the logic behind the areas included in the renewal area. Councilmember Knight reiterated the importance of the limited use of eminent domain and expressed his views on the sales/use tax for the area.

Councilmember Murray asked if the developer can move forward without a TIF. Mr. Rees stated that is not feasible. Councilmember Murray requested information on how the TIF will apply to schools in the area and that the project be delayed until 2016 to allow the new board to consider the project. Mr. Rees stated the intent is to gain approval of this project before the end of 2015.

Anne Ricker with Ricker Cunningham, the consultant, provided additional details of the proposal. Councilmembers Bennett and Knight stressed the importance of notifying Council prior to using eminent domain for this area. Ms. Ricker acknowledged this request.

In response to Councilmember Knight's inquiries, Ms. Ricker provided additional information about how the boundaries of the area were defined and how the Urban Renewal Authority can advance project funding by using TIF funds to complete projects and then be reimbursed for them by CDOT.

Councilmember Murray asked about the value of the property. Ms. Ricker stated the value of property is what someone is willing to pay for it. Mr. Rees explained the planned tax increment financing will not cover the cost of the property.

Councilmember Pico requested clarification of the exact boundaries of the area. Ms. Ricker referred to the map in her presentation and explained there has been some confusion of the northern boundary being the highway or the river. The legal definition of the property is the one indicated on the map, and additional information about this will be provided to Council.

Councilmember Knight asked if there are different restrictions on the use of property tax and sales tax. Mr. Rees stated both taxes can be used for the same purpose. Councilmember Knight requested a copy of the allowable tax uses.

Councilmember King asked if they are planning to use bonds. Danny

Mientka with The Equity Group provided additional information about the financial aspects of the development and stated they are planning to use private capital initially.

Jim Haut with Thomas and Thomas provided information about the planned layout and improvements for the streets, sidewalks and trails in the area.

Mr. Rees gathered questions from Councilmembers and will prepare responses prior to the next meeting. Councilmember Murray requested a list of the properties that need to be purchased to complete this development. Councilmember King asked when Council will receive a comprehensive report of the financial projections of the plan. Mr. Rees stated additional information will be provided in the work session on November 23.

Council President Pro Tem Gaebler was excused

9. Items Under Study

There were no items under study.

10. Councilmember Reports and Open Discussion

Council President Bennett read an email from Mayor Suthers about his intent to implement an advisory committee to oversee the road projects included in the tax increase ballot item 2.C.

Council President Bennett announced Larry Bagley will be the Chairman of the marijuana moratorium task force and provided a list of potential committee members. Staff will meet on Monday, November 16, 2015 to formalize the intentions of the committee and make the final selection of committee members. Councilmember Knight suggested a member of Colorado Springs Utilities be included on the committee.

Councilmember Knight stated he received a call from a constituent seeking to buy City owned property. Mr. Wysocki outlined the process that needs to be followed and provided appropriate information to be conveyed to the potential buyer.

Councilmember Strand asked if the marijuana task force will also consider the marijuana consumption clubs. Council President Bennett stated this task force will deal strictly with the changes to the medical

marijuana industry. Mr. Wysocki stated the Planning Department has a draft marijuana consumption club ordinance almost ready to present to the Planning Commission for approval. The ordinance will be presented to the Planning Commission, the Planning Commission will hold a public hearing regarding the ordinance, then the ordinance will be presented to Council, which will also provide a public comment opportunity before final action is taken.

Councilmember Strand asked if the marijuana task force will consider additional members. Council President Bennett stated the number of individuals on the committee will be kept to a minimum, however, individuals not selected to serve on the task force can still be a resource to the task force.

Councilmember Strand, the Mayor and several others attended a Cyber Security conference last week. Cyber Security is very important to this area with the strong military presence.

Councilmember Murray requested a stakeholder process be developed for the marijuana consumption club item for the sake of consistency. Council President Bennett stated this was not done because it was not included in the ordinance. Councilmember Knight stated there will be a natural interface between the medical marijuana item and the consumption club item as the industry is very closely intertwined.

11. Adjourn

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

Sarah Johnson
City Clerk