



City of Colorado Springs

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

Meeting Minutes City Council

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Tuesday, November 14, 2023

10:00 AM

Council Chambers

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1. Call to Order and Roll Call

President Helms called the meeting to order at 10:05 AM.

Present: 8 - Councilmember Yolanda Avila, President Pro Tem Lynette Crow-Iverson, Councilmember Dave Donelson, President Randy Helms, Councilmember Nancy Henjum, Councilmember David Leinweber, Councilmember Brian Risley, and Councilmember Michelle Talarico

Excused: 1 - Councilmember Mike O'Malley

Councilmember Avila arrived at approximately 10:15.

2. Invocation and Pledge of Allegiance

The Invocation was made by Chaplain Colonel Mark Thomas from the Peterson Space Force Base.

President Helms led the Pledge of Allegiance.

Following a recess of the Regular City Council meeting, City Council shall reconvene as the Colorado Springs Board of Directors of the Briargate General Improvement District 2021 for action on the following items:

- 2.A. [23-511](#) A Public Hearing on the Budget for the Colorado Springs Briargate General Improvement District 2021, Colorado Springs, Colorado, for the Calendar Year Beginning on the First Day of January 2024 and Ending on the Last Day of December 2024

Presenter:

Charae McDaniel, Chief Financial Officer

Attachments: [2024 Briargate GID 2021 Budget](#)

[Briargate GID 2021 Map](#)

Charae McDaniel, Chief Financial Officer, gave an overview of the Colorado Springs Briargate General Improvement District (GID) 2021 proposed mill levy, budget, appropriation of the funding, and maintenance agreement for 2024.

- 2.B. [23-509](#) A Resolution Fixing and Certifying a 4.409 Mill Levy for the Colorado Springs Briargate General Improvement District 2021, Colorado Springs, Colorado, for the 2024 Budget Year

Presenter:

Charae McDaniel, Chief Financial Officer

Attachments: [01 Res to Fix Mill Levy for Briargate GID 2021 10 23 23](#)

[Signed Resolution No. 173-23.pdf](#)

Please see comments in Agenda item 2.A.

Motion by Councilmember Henjum, seconded by President Pro Tem Crow-Iverson, that the Resolution to fix and certify the 2023 mill levy at 4.409 mills on taxes payable in 2024 for the Colorado Springs Briargate General Improvement District 2021 be adopted. The motion passed by a vote of 7-0-2-0

Aye: 7 - Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 2 - Avila, and O'Malley

- 2.C. [23-510](#) A Resolution Summarizing Expenditures and Revenues, Adopting a Budget, and Appropriating Funds for the Colorado Springs Briargate General Improvement District 2021, Colorado Springs, Colorado, for the Calendar Year Beginning on the First Day of January 2024 and Ending on the Last Day of December 2024

Presenter:

Charae McDaniel, Chief Financial Officer

Attachments: [2024 Briargate GID 2021 Budget](#)

[02_Res to Adopt Budget and Appropriate for Briargate GID 2021_10_23_23](#)
[Signed Resolution No. 174-23.pdf](#)

Please see comments in Agenda item 2.A.

Motion by Councilmember Henjum, seconded by Councilmember Talarico, that the Resolution to adopt the 2024 budget and appropriate funding for the 2024 budget year for the Colorado Springs Briargate General Improvement District 2021 be adopted. The motion passed by a vote of 7-0-2-0

Aye: 7 - Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 2 - Avila, and O'Malley

Following adjournment of the Briargate General Improvement District 2021, City Council shall reconvene as the Colorado Springs Board of Directors of the Market place at Austin Bluffs General Improvement District for action on the following items:

- 2.D.** [23-514](#) A Public Hearing on the Budget 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 2024 and Ending on the Last Day of December 2024

Presenter:

Charae McDaniel, Chief Financial Officer

Attachments: [MAB GID Budget 2024](#)

[MARKETPLACEATAUSTINBLUFFSGID-Tax-Map](#)

Charae McDaniel, Chief Financial Officer, gave an overview of the Colorado Springs Marketplace at Austin Bluffs General Improvement District (GID) proposed mill levy, budget, appropriation of the funding, and maintenance agreement for 2024.

- 2.E.** [23-512](#) A Resolution Fixing and Certifying a 50.00 Mill Levy for the Purpose of Servicing Debt on the General Obligation Bonds of the Colorado Springs Marketplace at Austin Bluffs General Improvement District, Colorado Springs, Colorado, for the 2024 Budget Year

Presenter:

Charae McDaniel, Chief Financial Officer

Attachments: [01_Res to Fix Mill Levy for MAB GID_10_23_23](#)

[Signed Resolution No. 175-23.pdf](#)

Please see comments in Agenda item 2.D.

Motion by Councilmember Leinweber, seconded by Councilmember Talarico, that the Resolution to fix and certify the 2023 mill levy at 50.000 mills on taxes payable in 2024 for the Colorado Springs Marketplace at Austin Bluffs General Improvement District budget be adopted. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

- 2.F. [23-513](#)** A Resolution Summarizing Expenditures and Revenues, Adopting a Budget, and Appropriating Funds 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 2024 and Ending on the Last Day of December 2024

Presenter:

Charae McDaniel, Chief Financial Officer

Attachments: [MAB GID Budget 2024](#)

[02 Res to Adopt Budget for MAB GID 10 23 23](#)

[Signed Resolution No. 176-23.pdf](#)

Please see comments in Agenda item 2.D.

Motion by Councilmember Donelson, seconded by President Pro Tem Crow-Iverson, that the Resolution to adopt the 2024 budget and appropriate the funding for the 2024 budget year for the Colorado Springs Marketplace at Austin Bluffs General Improvement District be adopted. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

Following adjournment of the Colorado Springs Board of Directors of the Market place at Austin Bluffs General Improvement Distinct, City Council shall reconvene the City Council meeting.

3. Changes to Agenda/Postponements

Councilmember Donelson requested item 4B.F. be removed from the Consent Calendar.

Consensus of Council agreed to this change on 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. [23-550](#) Ordinance No. 23-59 identifying and approving the Colorado Springs Utilities' Annual Sources of Funds for the Year Ending December 31, 2024

Presenter:

Tristan Gearhart, Chief Planning and Finance Officer, Colorado Springs Utilities

Travas Deal, Chief Executive Officer, Colorado Springs Utilities

Attachments: [2024 Annual Budget & Sources of Funds](#)
[10-24-2023 CC 2024 Source of Funds Ordinance.docx](#)
[Signed Ordinance No. 23-59.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.B. [23-549](#) Ordinance No. 23-60 Approving the Annual Budget for Colorado Springs Utilities and Appropriating Monies for the Several Purposes Named in the Colorado Springs Utilities' Annual Budget for the Year Ending December 31, 2024

Presenter:

Travas Deal, Chief Executive Officer, Colorado Springs Utilities

Tristan Gearhart, Chief Planning and Finance Officer, Colorado Springs Utilities

Attachments: [2024 Annual Budget & Sources of Funds](#)
[10-24-2023 CC 2024 Budget Ordinance.docx](#)
[Signed Ordinance No. 23-60.pdf](#)

This Ordinance was finally passed on the Consent Calendar.

4B. First Presentation:

- 4B.A. [23-592](#) City Council Regular Meeting Minutes October 24, 2023

Presenter:

Sarah B. Johnson, City Clerk

Attachments: [10-24-2023 City Council Meeting Minutes Final](#)

The Minutes were approved on the Consent Calendar.

- 4B.B.** [23-351](#) A Resolution to amend the 2020-2024 Consolidated Plan and 2023 Annual Action Plan to enable the City of Colorado Springs to apply for the U.S. Department of Housing and Urban Development's Section 108 Loan Guarantee Program

Presenter:

Paul Morrow, Senior Analyst, Housing and Community Vitality Department

Attachments: [2023 AAP Amdt 1 ConPlan Amdt 3 Council Resolution Attachment A - ConPlan Amendment 3](#)
[Attachment B - 2023 Annual Action Plan Amendment 1](#)
[Council Work Session Presentation 10-10-23](#)
[Signed Resolution No. 177-23.pdf](#)

This Resolution was adopted on the Consent Calendar.

- 4B.C.** [23-559](#) A Resolution Repealing Resolution 50-16 and Dissolving the Council President's Special Marijuana Working Group

Presenter:

Randy Helms, Council President and Councilmember District 2
Charae McDaniel, Chief Financial Officer
Sarah Johnson, City Clerk

Attachments: [A RESOLUTION REPEALING RESOLUTION 50-16 AND DISSOLVING THE COUNCIL PRESIDENT'S SPECIAL MARIJUANA WORKING GROUP](#)
[Resolution 50-16-1](#)
[Signed Resolution No. 178-23.pdf](#)

This Resolution was adopted on the Consent Calendar.

- 4B.D.** [23-588](#) A Resolution Setting the Street Lighting Service Revenue Requirement for the Period of January 1, 2024 Through December 31, 2024

Presenter:

Travas Deal, Chief Executive Officer, Colorado Springs Utilities
Tristan Gearhart, Chief Planning and Finance Officer

Attachments: [11-14-2023 -2024 MG Street Lighting Resolution.docx](#)
[Worksheet 2024 Street Lighting Cost of Service.pdf](#)
[Signed Resolution No. 179-23.pdf](#)

This Resolution was adopted on the Consent Calendar.

- 4B.E.** [23-494](#) A Resolution Regarding Certain Changes to the Natural Gas Service

Boundary across Sterling Ranch.

Presenter:

Travas Deal, Chief Executive Officer, Colorado Springs Utilities

Todd Sturtevant, Manager, Customer Utilities Connections

Attachments: [FINAL - City Council \(11-14\) - Sterling Ranch Gas Service Boundary Adjustment 10302023](#)
[SterlingRanchCC RES-2023-10-30](#)
[Signed Resolution No. 180-23.pdf](#)

This Resolution was adopted on the Consent Calendar.

- 4B.G.** [ANEX-23-00](#)
[02](#) A resolution finding a petition for annexation of the area known as Capital Drive Addition No. 2 Annexation consisting of 6.63 acres to be in substantial compliance with section 31-12-107(1), C.R.S. and setting a hearing date of January 9, 2024, for the Colorado Springs City Council to consider the annexation of the area. (Legislative)

Presenter:

Gabe Sevigny, Planning Supervisor Planning & Neighborhood Services

Peter Wysocki, Planning & Neighborhood Services

Attachments: [Resolution-Hearing Setting-Capital Drive Addition No 2](#)
[Capital Drive Addition No 2 - Petition](#)
[Exhibit B - Plat Capital Drive Addition No 2](#)
[Vicinity Map](#)
[Aerial Location Map](#)
[Signed Resolution No. 181-23.pdf](#)

This Resolution was adopted on the Consent Calendar.

- 4B.H.** [ANEX-23-00](#)
[03](#) A resolution finding a petition for annexation of the area known as Capital Drive Addition No. 3 Annexation consisting of 1.01 acres to be in substantial compliance with section 31-12-107(1), C.R.S. and setting a hearing date of January 9, 2024, for the Colorado Springs City Council to consider the annexation of the area. (Legislative)

Presenter:

Gabe Sevigny, Planning Supervisor Planning & Neighborhood Services

Peter Wysocki, Planning & Neighborhood Services

Attachments: [Resolution-Hearing Setting-Capital Drive Addition No 3](#)
[Capital Drive Addition No 3 - Petition](#)
[Exhibit B - Plat Capital Drive Addition 3](#)
[Vicinity Map](#)
[Aerial Location Map](#)
[Signed Resolution No. 182-23.pdf](#)

This Resolution was adopted on the Consent Calendar.

Approval of the Consent Agenda

Motion by Councilmember Henjum, seconded by Councilmember Risley, 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 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

5. Recognitions

5.A. [23-596](#) City Council Appointments to Boards, Commissions, and Committees

Presenter:

Randy Helms, Council President and Councilmember District 2

Attachments: [111423 Boards Commissions and Committee Appointments](#)

President Helms presented the City Council Appointments to Boards, Commissions, and Committees.

Matthew Giovanni, nominee appointee to the Audit Committee, provided a brief background of himself.

Councilmember Donelson expressed appreciation for the applicants who wish to serve on the Audit Committee.

Motion by Councilmember Avila, seconded by Councilmember Talarico, that the Appointments to City Council Boards, Commissions, and Committees (Audit Committee) be approved. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

President Helms presented the City Council Appointments to Boards, Commissions, and Committees.

David Robbins, nominee appointee to the Planning Commission, provided a brief background of himself.

Councilmember Donelson expressed appreciation for the applicants who wish to serve on the Planning Commission.

Motion by Councilmember Avila, seconded by Councilmember Risley, that the Appointments to City Council Boards, Commissions, and Committees (Planning Commission) be approved. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

5.B. [23-604](#)

A Resolution of Appreciation of Michael Sullivan, Chief Human Resources and Risk Officer, Human Resources Department, for his 12 years of service to the City of Colorado Springs.

Presenter:

Lynnette Crow-Iverson, At-Large City Councilmember
Ryan Trujillo, Deputy Chief of Staff, Office of Mayor

Attachments: [Retiree Resolution Michael Sullivan \(Employee Will Attend\)](#)
[Signed Resolution No. 183-23.pdf](#)

President Pro Tem Crow-Iverson introduced the Resolution of appreciation for Michael Sullivan, Chief Human Resources and Risk Officer, Human Resources Department, for his twelve years of service with the City of Colorado Springs.

Mayor Yemi acknowledged Mr. Sullivan for his leadership, achievements, service, and accomplishments during his career with the City.

Councilmember Avila expressed appreciation for Mr. Sullivan and all he has done for the City.

Mr. Sullivan expressed appreciation for the opportunities he had been given with the City, for the recognition, and for the Human Resources Department Team, the City's Administration team, and all the employees.

Motion by President Pro Tem Crow-Iverson, seconded by that the Resolution of appreciation of Michael Sullivan, Chief Human Resources and Risk Officer, Human Resources Department, for his 12 years of service to the City of Colorado Springs be adopted. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

6. Mayor's Business

There was no Mayor's Business.

7. Citizen Discussion For Items Not On Today's Agenda

Citizen Deborah Caine requested greater assistance for the people experiencing homelessness.

Citizen Andrew Dalby spoke against fascism, Senate Bill 190, and Issue 2A.

Citizen Chauncy Johnson offered some alternatives to Issue 2A for public safety.

Citizens Charles Johnson and Maryah Lauer spoke against a new Colorado Springs Police Department training facility.

8. Items Called Off Consent Calendar

- 4B.F. [ZONE-23-00](#) [12](#) An ordinance amending the zoning map of the City of Colorado Springs relating to 1.23 acres located at 4760 Flintridge Drive from MX-N (Mixed Use Neighborhood Scale) to MX-M (Mixed Use Medium Scale) zone district for a convenience store and fuel canopy. (Quasi-Judicial)

Presenter:

Austin Cooper, Planner II, Planning + Neighborhood Services.
Peter Wysocki, Director, Planning + Neighborhood Services

Attachments: [Ordinance Quik Trip Academy and Flintridge](#)

[Quik Trip Staff Report](#)

[Figure 1 - Project Statement](#)

[Figure 2 - Public Comments](#)

[Figure 3 - Public Comment Response](#)

[Figure 4 - Exhibit A](#)

[Figure 5 - Exhibit B](#)

[Figure 6 - Trip Generation Comparison](#)

[7.5.502.E Development Plan Review](#)

[7.5.603.B Findings - ZC](#)

[7.A-B. Staff Quik Trip Zone Change](#)

[Signed Ordinance No. 23-61.pdf](#)

Mike Tassi, Assistant Planning Director, stated they do not have a formal

presentation for the Ordinance amending the zoning map of the City relating to 1.23 acres located at 4760 Flintridge Drive from MX-N (Mixed Use Neighborhood Scale) to MX-M (Mixed Use Medium Scale) zone district for a convenience store and fuel canopy because this is the first reading to set the public hearing date. He stated the Unified Development Code (UDC) states the first reading of the Ordinance sets the hearing date and the second reading of the Ordinance is the hearing date.

Councilmember Donelson read the criteria for approving a zoning change, he does not believe this meets the criteria, and does not think City Council should blindly vote for an item that they have not heard a presentation on.

Councilmember Risley stated that City Council does review the project materials provided as part of Agenda packet.

Ben Bolinger, Legislative Counsel, City Attorney's Office, explained City Code requires City Council to vote on the first reading to set the hearing date.

Councilmember Donelson stated it is still an affirmative vote for the first reading of the zone change and should not be on the Consent Calendar with no presentation,

Mr. Bolinger stated today's vote is to set a hearing date and there was no notice for holding a hearing today.

Councilmember Donelson stated a two-week pause is to allow Council to thoroughly review the information.

Councilmember Henjum stated this process streamlines the process without diminishing the rights of the public.

Councilmember Leinweber stated previous Council has determined this is the best process.

City Council requested the process concerning zone changes be reviewed at the December 11, 2023 Work Session.

Motion by Councilmember Leinweber, seconded by Councilmember Risley, to close debate on this item. The motion passed by a vote of 6-2-1-0

Aye: 6 - Avila, Crow-Iverson, Henjum, Leinweber, Risley, and Talarico

No: 2 - Donelson, and Helms

Excused: 1 - O'Malley

Motion by Councilmember Leinweber, seconded by Councilmember Talarico, that the Ordinance amending the zoning map of the City of Colorado Springs relating to 1.23 acres located at 4760 Flintridge Drive from MX-N (mixed use neighborhood scale) to MX-M (mixed use medium scale) be approved on first hearing. The motion passed by a vote of 7-1-1-0

Aye: 7 - Avila, Crow-Iverson, Helms, Henjum, Leinweber, Risley, and Talarico

No: 1 - Donelson

Excused: 1 - O'Malley

9. Utilities Business

- 9.A.** [23-537](#) A Resolution Authorizing the Acquisition of Permanent Easements on the Properties Identified by El Paso County Tax Schedule Numbers 6420300033 and 6419100027 to be Used for the Kelker to South Plant Transmission Project

Presenter:

Jessica K. Davis, Land Resource Manager, Colorado Springs Utilities
Travas Deal, Chief Executive Officer, Colorado Springs Utilities

Attachments: [2 - CC Presentation Property Acquisition K-SP Mandel Draft](#)
[3 - CC Resolution KelkerSouthPlant Mandel Draft djc comments 09-05-23 KB9.25](#)
[3 - Land Description - 21-7171 - Mandel Billy G 6419100027 & 6420300033 REV2](#)
[Signed Resolution No. 184-23.pdf](#)

Jessica K. Davis, Land Resource Manager, Colorado Springs Utilities (CSU), presented the Resolution authorizing the acquisition of permanent easements on the properties identified by El Paso County Tax Schedule Numbers 6420300033 and 6419100027 to be used for the Kelker to South Plant Transmission Project.

Councilmember Henjum stated this acquisition is critical to the City's transmission and distribution system.

Councilmember Avila asked how many trees are in the path of the proposed transmission lines. Ms. Davis stated she will provide that information.

Motion by Councilmember Leinweber, seconded by Councilmember Risley, that

the Resolution authorizing the acquisition of easements to be used for the Kelker to South Plant Transmission Project be adopted. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

- 9.B.** [23-577](#) Consideration of a Resolution Setting Certain Electric Rates within the Service Area of Colorado Springs Utilities and Regarding Certain Changes to the Electric Rate Schedules

Presenter:

Travas Deal, Chief Executive Officer, Colorado Springs Utilities
Chris Bidlack, City Attorney's Office - Utilities Division

Attachments: [2 - 2024 Rate Case - D&O Electric](#)
[3 - 2024 Rate Case - Electric Resolution](#)
[4 - 2024 Rate Case - Final Electric Tariffs](#)
[Signed Resolution No. 185-23.pdf](#)

Chris Bidlack, City Attorney's Office, Utilities Division, presented the review of the draft decision and order and draft Resolutions setting electric rates, natural gas rates, and water rates within the service area of Colorado Springs Utilities (CSU) as well as certain changes to the Utilities Rules and Regulations (URR) of CSU.

Councilmember Henjum commented that these items have already been thoroughly reviewed by Council.

Motion by Councilmember Donelson, seconded by Councilmember Talarico, that the Resolution setting certain Electric Rates within the service area of Colorado Springs Utilities and regarding certain changes to the Electric Rate Schedules be adopted. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

- 9.C.** [23-578](#) Consideration of a Resolution Setting the Natural Gas Rates within the Service Area of Colorado Springs Utilities and Regarding Certain Changes to the Natural Gas Rate Schedules.

Presenter:

Travas Deal, Chief Executive Officer, Colorado Springs Utilities
Chris Bidlack, City Attorney's Office - Utilities Division

Attachments: [2 - 2024 Rate Case - D&O Natural Gas](#)
[3 - 2024 Rate Case - Natural Gas Resolution](#)
[4 - 2024 Rate Case - Final Natural Gas Tariffs](#)
[Signed Resolution No. 186-23.pdf](#)

Please see comments in Agenda item 9.B.

Motion by Councilmember Donelson, seconded by Councilmember Henjum, that the Resolution setting the Natural Gas Rates within the service area of Colorado Springs Utilities and regarding certain changes to the Natural Gas Rate Schedules be adopted. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

- 9.D.** [23-579](#) Consideration of a Resolution Setting Certain Water Rates within the Service Area of Colorado Springs Utilities

Presenter:

Travas Deal, Chief Executive Officer, Colorado Springs Utilities
Chris Bidlack, City Attorney's Office - Utilities Division

Attachments: [2 - 2024 Rate Case - D&O Water](#)
[3 - 2024 Rate Case - Water Resolution](#)
[4 - 2024 Rate Case - Final Water Tariffs](#)
[Signed Resolution No. 187-23.pdf](#)

Please see comments in Agenda item 9.B.

Motion by Councilmember Avila, seconded by Councilmember Donelson, that the Resolution setting certain Water Rates within the service area of Colorado Springs Utilities be adopted. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

- 9.E.** [23-581](#) Consideration of a Resolution Regarding Certain Changes to Colorado Springs Utilities' Utilities Rules and Regulations

Presenter:

Travas Deal, Chief Executive Officer, Colorado Springs Utilities
Chris Bidlack, City Attorney's Office - Utilities Division

Attachments: [2 - 2024 Rate Case - D&O URR](#)
[3 - 2024 Rate Case - URR Resolution](#)
[4 - 2024 Rate Case - Final URR Tariffs](#)
[Signed Resolution No. 188-23.pdf](#)

Please see comments in Agenda item 9.B.

Motion by Councilmember Leinweber, seconded by President Pro Tem Crow-Iverson, that the Resolution approving the Draft Decision and Order and certain changes to Colorado Springs Utilities' Utilities Rules and Regulations be adopted. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

10. Unfinished Business

There was no Unfinished Business.

11. New Business

- 11.A. [23-568](#) A Resolution Approving an Intergovernmental Agreement between El Paso County and the City of Colorado Springs for the Cleanup of Homeless Camps

Presenter:

Peter Wysocki, Director of Planning and Neighborhood Services

Attachments: [IGA for homeless camp cleanup_CCWS 10-23-2023](#)

[Resolution](#)

[Signed Resolution No. 189-23.pdf](#)

Peter Wysocki, Director of Planning and Community Development, provided an overview of the Resolution approving an Intergovernmental Agreement between El Paso County and the City for the cleanup of homeless camps near the City limits and within County enclaves.

Councilmember Leinweber asked how many blocks a mile is. Mr. Wysocki stated a mile is 5,280 feet.

Councilmember Donelson stated the City is already having a difficult time keeping the City clean although he supports helping clean up the enclaves, but only a quarter mile out.

Motion by Councilmember Donelson, that the Resolution approving an Intergovernmental Agreement between El Paso County and the City of Colorado Springs for the cleanup of homeless camps near the City limits and within County enclaves be amended to change the boundary distance from City Limits from one mile to one fourth mile be adopted. The motion failed for lack of second.

Councilmember Donelson motion to change the boundary distance to one-half mile.

Jamie Fabos, Chief of Staff, if they change the distance to a half mile, they will need to go back and draft a new contract and clarified that this IGA in

no way obligates Code Enforcement to go a mile, it simply allows them at their own professional discretion to go as far as they need in order to alleviate the impacts on local business on local residents.

Ben Bolinger, Legislative Counsel, City Attorney's Office, explained that an IGA simply allows City Council to authorize the Mayor to enter the contract but changing the motion does not change the contract.

Councilmember Henjum asked why the one-mile distance is so important to the County. Mr. Wysocki stated both parties agreed to this distance because it would be a minimal impact to the City but provided a defined boundary.

Councilmember Avila stated this needs to go back to the drawing board with more City Council involvement so that it does not only benefit the County.

President Helms asked what the consequences would be if this was postponed. Ms. Fabos stated reducing this distance would not benefit Code Enforcement in their efforts to clean up the City and the County is funding all cleanup which occurs on County property plus an administrative fee.

Councilmember Leinweber stated citizens want these homeless camps cleaned up and Council needs to move forward and support this effort.

Councilmember Risley spoke about the importance of working with County to support the region.

Councilmember Henjum stated they need to work with the County regarding finding solutions to help address the bigger problem of homeless camps.

Councilmember Donelson stated the County has the resources to hire people to clean up those homeless camps themselves.

Councilmember Avila stated she will support this but would like to have a more robust process regarding this.

Ms. Fabos stated this contract has already been approximately two years in the making and if the authorization is only for one half mile, the Administration will need to determine if it would be a good use of City resources to go back through the process with the County.

Councilmember Henjum stated the Administration needs to involve City

Council earlier in the process.

Councilmember Leinweber stated he does not support the half mile amendment.

Citizen Christopher Bonham recommended setting up secure camp sites for the individuals experiencing homelessness.

Motion by Councilmember Donelson, seconded by Councilmember Avila, that the Resolution approving the Intergovernmental Agreement between El Paso County and the City of Colorado Springs for the cleanup of homeless camps near the City limits and within County enclaves be amended to change the boundary distance from City Limits from one mile to one half mile be adopted. The motion failed by a vote of 2-6-1-0

Aye: 2 - Avila, and Donelson

No: 6 - Crow-Iverson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

Motion by Councilmember Leinweber, seconded by Councilmember Talarico, that the Resolution approving the Intergovernmental Agreement between El Paso County and the City of Colorado Springs for the cleanup of homeless camps near the City limits and within County enclaves The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

11.B. [23-516](#)

A resolution accepting and endorsing the recommendations from the Lodgers and Automobile Rental Tax (LART) Citizen Advisory Committee for expenditures from the LART special fund for inclusion in the 2024 budget

Presenter:

Charae McDaniel, Chief Financial Officer

PK McPherson, Chair, LART Citizens' Advisory Committee

Attachments: [LART Resolution - 2024 Projects](#)

[2024 LART Resolution Exh A](#)

[Signed Resolution No. 190-23.pdf](#)

Charae McDaniel, Chief Financial Officer, presented the Resolution accepting and endorsing recommended expenditures from the Lodgers and Automobile Rental Tax (LART) special fund for inclusion in the 2024 budget.

Councilmember Donelson asked if he wanted to change an amount if it needed to be done now or with the budget. Ms. McDaniel stated that it

would need to be done with the budget process.

Citizen Joe Aldez spoke in opposition of the process for the LART recommendations and explained how the La Vida event would benefit the City.

Councilmember Avila stated there will be another application cycle that La Vida will be able to apply for LART funding and encouraged other Councilmembers to attend the event.

Citizens Jennifer Smith, D Smith, and Craig Harvey, One Body ENT, expressed appreciation for the LART funding for Juneteenth.

Councilmember Donelson provided an overview of the top funded events, what they requested, and what they received.

Motion by Councilmember Henjum, seconded by Councilmember Risley, that the Resolution accepting and endorsing the recommendations from the Lodgers and Automobile Rental Tax (LART) Citizen Advisory Committee for expenditures from the LART special fund for inclusion in the 2024 budget be adopted. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

- 11.C. [23-395](#)** Ordinance No. 23-62 Making and Certifying the 2023 Tax Levy for Taxes Payable in 2024 at 3.579 Mills (comprised of a general operating mill levy of 4.279 mills and a temporary tax credit of 0.70 mills) Upon Each Dollar of Assessed Valuation of All Taxable Property and a Tax Credit of 3.579 Mills Upon Each Dollar of Assessed Valuation of All Taxable Business Personal Property Within the Corporate Limits of the City of Colorado Springs

Presenter:

Charae McDaniel, Chief Financial Officer

Attachments: [TaxLevy2024-BPPT_CreditORD SB23B 11.28.23](#)

Charae McDaniel, Chief Financial Officer, presented the Ordinance certifying the 2023 tax levy for taxes payable in 2024 at 3.349 mills upon each dollar of assessed valuation of all taxable property.

There were no comments on this item.

Motion by Councilmember Henjum, seconded by Councilmember Donelson, that the Ordinance setting the 2023 Tax Levy for Taxes Payable in 2024 at 3.349 Mills and a Tax Credit of 3.349 Mills on All Taxable Business Personal Property Within

**the Corporate Limits of the City of Colorado Springs be passed on first reading.
The motion passed by a vote of 8-0-1-0**

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

- 11.D.** [23-397](#) Ordinance No. 23-63 repealing Ordinance No. 22-89 and Adopting the City of Colorado Springs - 2024 Salary Structure for Civilian and Sworn Municipal Employees

Presenter:

Mike Sullivan, Chief Human Resources and Risk Officer

Charae McDaniel, Chief Financial Officer

Attachments: [2024 Salary Schedule \(1\).pdf](#)

[11-13-23 - Ordinance - 2024 Salary Schedule](#)

Charae McDaniel, Chief Financial Officer, presented the updated 2024 salary structure for civilian and sworn employees to be effective December 24, 2023. She stated based on the findings of the salary survey and market movement, the proposed salary ranges changes for 2024 are increasing four percent for civilian employees and sworn employees due to market movement and civilians will be eligible for an average of two percent for pay for performance increases.

Councilmember Donelson stated entry level 911 call takers should receive a higher pay.

Motion by Councilmember Henjum, seconded by Councilmember Talarico, that the Ordinance repealing Ordinance No. 22-89 and adopting the City of Colorado Springs - 2024 Salary Structure for Civilian and Sworn Municipal Employees be passed on first reading. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

- 11.E.** [23-529](#) Ordinance no. 23-64 repealing Ordinance No. 23-12, And Amending Section 3 Of Ordinance No. 14-20 (An Ordinance Confirming The Mayor's Appointment Of The City Attorney And Setting The Salary Of The City Attorney), And Section 3 Of Ordinance No. 18-120 (An Ordinance Appointing The City Council Administrator And Setting The Salary Of The City Council Administrator), And Section 3 Of Ordinance No. 21-06 (An Ordinance Appointing Jacqueline Rowland As City Auditor And Prescribing Her Duties, Compensation, And Tenure In Office), And Prescribing The Salaries Of The City Attorney, City Council Administrator, And City Auditor

Presenter:

Michael Sullivan, Chief Human Resources and Risk Officer

Attachments: [2024 Appointee Salary Ordinance](#)

Charae McDaniel, Chief Financial Officer, presented the Ordinance approving the salary of the City Attorney, City Auditor, and City Council Administrator.

There were no comments on this item.

Motion by Councilmember Henjum, seconded by Councilmember Leinweber, that the Ordinance Repealing Ordinance No. 23-12, and amending Ordinance Nos. 14-20, Section 3 (an Ordinance confirming the Mayor's appointment of the City Attorney and setting the salary of the City Attorney), 18-120, Section 3 (an Ordinance appointing the City Council Administrator and setting the salary of the City Council Administrator), and 21-06, Section 3 (an Ordinance appointing Jacqueline Rowland as City Auditor and prescribing her duties, compensation, and tenure in office), and prescribing the salaries of the City Attorney, City Council Administrator, and City Auditor be approved on first reading. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

- 11.F.** [23-396](#) Ordinance 23-65 Annual Appropriation Ordinance Adopting the Annual Budget and Appropriating Funds for the Several Purposes Named in Said Budget for the Year Ending December 31, 2024

Presenter:

Charae McDaniel, Chief Financial Officer

Attachments: [2024 Budget Ordinance-11.13.23](#)

Charae McDaniel, Chief Financial Officer, presented the Ordinance adopting the Annual Budget and appropriating funds for the several purposes named in said Budget for the year ending December 31, 2024.

Councilmember Donelson requested that the amount of Lodgers and Automobile Rental Tax (LART) funding be restored to the full amount they requested for the Colorado Springs Veteran's Day Parade for \$28,700, Colorado Springs Western Street Breakfast for \$15,000, 38th Annual International Association of Fallen Firefighters for \$150,000, and Pikes Peak International Hill Climb Race Day and Fan Fest for \$130,000.

Councilmember Leinweber, Councilmember Henjum, and Councilmember Talarico stated they are concerned with bypassing the LART Advisory Committee and recommended these applicants go through the LART off-cycle process.

Motion by Councilmember Donelson, seconded by President Pro Tem Crow-Iverson, to amend the Ordinance adopting the Annual Budget and appropriating funds for the several purposes named in said Budget for the year ending December 31, 2024 to increase the Lodgers and Automobile Rental Tax (LART) funding for the full amount requested for the Colorado Springs Veteran's Day Parade, Colorado Springs Western Street Breakfast, 38th Annual International Association of Fallen Firefighters, and Pikes Peak International Hill Climb Race Day and Fan Fest. The motion failed by a vote of 3-5-1-0

Aye: 3 - Crow-Iverson, Donelson, and Helms

No: 5 - Avila, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

President Pro Tem Crow-Iverson asked why the City has a Reserve Fund and how long did it take to bring it up to twenty percent. Ms. McDaniel stated the Reserve Fund is in place to address emergencies or funding that is needed in subsequent years, and it has been at approximately twenty percent for the past two years.

President Pro Tem Crow-Iverson asked if the City is planning for the geopolitical war which is taking place and the possible deployment of troops out of the City and how that will affect sales tax revenue. Ms. McDaniel stated the 2024 Budget assumes a zero percent change over the 2023 Budget, so they are taking into account changes in the economic impact to the City.

President Pro Tem Crow-Iverson stated reserves are for severe recession and economic collapse, so this council needs to demonstrate that they are worthy of the citizens trust, and she feels it is irresponsible at this time to dip into reserves considering that currently the deficit is minimal, and they have not really felt the effects of this recession yet. She stated dipping into reserves to grow the operating budget is not sustainable and it is not how reserves should be used in her opinion they are not balancing this budget they are dipping into reserves to do business as usual, so she will not be supporting this budget.

Councilmember Donelson stated he feels they are not doing their job if they approve cutting the Police budget at the same rate of Human Resources, and the Office of Innovation. He stated public safety and law enforcement should be the number one job of City government and read an e-mail he received from a citizen concerning crime in the area of Centennial Boulevard and cutting overtime hours for Police Officers is not a good idea so he will not be supporting this item.

Councilmember Risley stated the budget is a framework and adjustments can be made when needed and using some of the reserves to smooth out the dips is not a bad thing and will be supporting the budget as it is presented.

Councilmember Henjum stated the Colorado Springs Chief of Police is supportive of the proposed budget, and they have not dipped below the standards for fund balance so she will be supporting it.

Motion by Councilmember Henjum, seconded by Councilmember Talarico, that the appropriation Ordinance adopting the annual budget and appropriating funds for the several purposes named in said budget for the year ending December 31, 2024 be approved on first reading. The motion passed by a vote of 6-2-1-0

Aye: 6 - Avila, Helms, Henjum, Leinweber, Risley, and Talarico

No: 2 - Crow-Iverson, and Donelson

Excused: 1 - O'Malley

12. Public Hearing

North Gate Boulevard Addition No. 8 Annexation Estimated Time: 10 minutes

- 12.A.** [23-600](#) Ordinance No. 23-66 annexing to the City of Colorado Springs that area known as North Gate Boulevard Addition No. 8 annexation consisting of 1.37-acres located at North Gate Boulevard and Struthers Road intersection.
(Legislative)

Presenter:

Katelynn Wintz, Planning Supervisor, Planning and Neighborhood Services

Peter Wysocki, Director, Planning and Neighborhood Services

Attachments: [ORD_Northgate8](#)
[Exhibit A - Legal North Gate Blvd Add No 8](#)
[Annex Plat North Gate Blvd Add No 8](#)
[Planner Affidavit](#)
[Surveyor Affidavit](#)
[Staff Presentation NothGate 8](#)
[StaffReport_Northgate ANEX](#)

Katelynn Wintz, Planning Supervisor, Planning and Neighborhood Services, presented the Ordinances annexing to the City the area known as North Gate Boulevard Addition No. 8 annexation consisting of

1.37-acres and .55-acres located at North Gate Boulevard and Struthers Road intersection. She provided an overview of the annexation process, vicinity map, project summary, site plan, public notice/engagement, and conditions for annexation.

There were no comments on this item.

Motion by President Pro Tem Crow-Iverson, seconded by Councilmember Talarico, that the Ordinance annexing to the City of Colorado Springs that area known as North Gate Boulevard Addition No. 8 based upon the findings that the annexation complies with the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203 be approved on first reading. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

North Gate Boulevard Addition No. 9 Annexation Estimated Tme: 10 minutes

- 12.B.** [23-601](#) Ordinance No. 23-67 annexing to the City of Colorado Springs that area known as North Gate Boulevard Addition No. 9 annexation consisting of 0.55-acres located west of North Gate Boulevard and Struthers Road intersection.

Presenter:

Katelynn Wintz, Planning Supervisor, Planning and Neighborhood Services

Peter Wysocki, Director, Planning and Neighborhood Services

Attachments: [ORD_Northgate9](#)
[Signed Resolution No. 140-23.pdf](#)
[Exhibit A - Legal North Gate Blvd Add No 9](#)
[Annex Plat North Gate Blvd Add No 9](#)
[Planner Affidavit](#)
[Surveyor Affidavit](#)
[Staff Presentation_NorthgateAdd9](#)
[StaffReport_Northgate ANEX](#)

Katelynn Wintz, Planning Supervisor, Planning and Neighborhood Services, presented the Ordinances annexing to the City the area known as North Gate Boulevard Addition No. 9 annexation consisting of 1.37-acres and .55-acres located at North Gate Boulevard and Struthers Road intersection and provided an overview of the vicinity map.

There were no comments on this item.

Motion by Councilmember Avila, seconded by Councilmember Henjum, that the Ordinance annexing to the City of Colorado Springs that area known as North Gate Boulevard Addition No. 9 based upon the findings that the annexation complies with the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203 be approved on first reading. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

Woodmen Road Addition No. 2 Annexation Estimated Time: 15 minutes

- 12.C** [23-602](#) Ordinance No. 23-68 annexing to the City of Colorado Springs that area known as Woodmen Road Addition No. 2 annexation consisting of 1.60-acres located northwest of Woodmen Road and Chapel Lane intersection.
(Legislative)

Presenter:

Katelynn Wintz, Planning Supervisor, Planning and Neighborhood Services

Peter Wysocki, Director, Planning and Neighborhood Services

Attachments: [ORD_Woodmen2](#)
[Signed Resolution No. 141-23.pdf](#)
[Exhibit A_WoodmenRoadAdd2_LegalDesc](#)
[Annex Plat Woodmen Road Add 2](#)
[Planner Affidavit](#)
[Surveyor Affidavit](#)
[Staff Presentation Woodmen Addition 2](#)
[StaffReport_WoodmenANEX](#)

Katelynn Wintz, Planning Supervisor, Planning and Neighborhood Services, presented the Ordinances annexing to the City the area known as Woodmen Road Addition No. 2 annexation consisting of 1.60-acres located northwest of Woodmen Road and Chapel Lane intersection. She provided an overview of the annexation process, vicinity map, project summary, site plan, public notice/engagement, and conditions for annexation.

There were no comments on this item.

Motion by President Pro Tem Crow-Iverson, seconded by Councilmember Donelson, that the Ordinance annexing to the City of Colorado Springs that area known as Woodmen Road Addition No. 2, based upon the findings that the annexation complies with the Conditions for Annexation Criteria as set forth in

City Code Section 7.6.203 be approved on first reading. The motion passed by a vote of 8-0-1-0

Aye: 8 - Avila, Crow-Iverson, Donelson, Helms, Henjum, Leinweber, Risley, and Talarico

Excused: 1 - O'Malley

Appeal of a City Planning Commission Decision Estimate Time: 30 minutes

- 12.D. [APPL-23-0006](#) An appeal of City Planning Commission's approval with conditions of a Conditional Use to allow a carwash in the MX-M (Mixed-Use Medium Scale) zone district consisting of 1.91 acres located at 3924 Pony Tracks Drive.

Quasi-Judicial

Presenter:

Tamara Baxter, Senior Planner, Planning + Neighborhood Services
Peter Wysocki, Director, Planning + Neighborhood Services

Attachments: [CPC Staff Report Autowash 3924 Pony Tracks](#)

[CUDP-23-0014](#)

[Autowash appeal of a city planning commission deci](#)

[Staff Autowash 3924 Pony Tracks Dr 11.14.23](#)

[Planning Commission Minutes](#)

[Project Statement](#)

[Public Comments](#)

[Response to Public Comment](#)

[CONTEXT MAP](#)

[Staff Autowash 3924 Pony Tracks Dr 10.9.23](#)

Tamara Baxter, Senior Planner, Planning and Neighborhood Services, presented the appeal of City Planning Commission's decision to approve with conditions of a Conditional Use to allow a carwash in the MX-M (Mixed-Use Medium Scale) zone district consisting of 1.91 acres located at 3924 Pony Tracks Drive She provided an overview of the context, vicinity map, project description, approval criteria, and proposed motions.

Councilmember Donelson asked if the appeal is approved if the applicant could still move forward with the Development Plan. Ms. Baxter confirmed they could because the appeal is for the restrictions regarding the hours of operation.

Paul Bautista, architect, representing the applicant, provided an overview of the vicinity map, similar existing site, view from Pony Tracks

Road/Peterson Road/existing convenience and gas, example building, auto bay, pet wash, and other twenty-four-hour carwash/pet wash sites in the City located near residential homes.

President Helms asked if the facility will be staffed twenty-four hours per day. Dennis Driesen, owner of the Autowash, representing the applicant, stated they have a twenty-four-hour phone support line with staffing during four to five hours per day.

Councilmember Talarico asked how close the rear of the carwash is to a residential home. Mr. Bautista stated approximately 150 feet and there is a public street which separates the development.

Councilmember Risley requested additional information as to why they should approve the appeal of the hours of operation restriction. Mr. Driesen explained that when the Planning Commission reduced the hours, it was under the premise that there were no -other twenty-four-hour carwash locations in the City so they are illustrating that there are many carwashes in the City using that model.

Councilmember Avila asked how much revenue would be lost with the restricted hours. Mr. Driesen stated ten to fifteen percent.

Councilmember Donelson asked how many twenty-four-hour carwashes are directly across the street from residential. Mr. Driesen stated approximately fifteen.

President Helms asked how many vehicles per day, per location, use the carwash. Mr. Driesen stated approximately two hundred on average.

Motion by Councilmember Donelson, seconded by Councilmember Henjum, to deny the appeal, thereby upholding the action of the City Planning Commission to approve the Autowash at 3924 Pony Tracks Drive Conditional Use, based on the findings that the application complies with the review criteria set forth in City Code Section 7.5.601, with the following conditions of approval, and that the appeal criteria found in City Code Section 7.5.416 are not met:

- Limit hours of operation between 6:00 am to 11:00 pm
- Illuminated signage shall not be visible to the residential development along Pony Tracks Drive.
- Year-around landscape screening, such as evergreens a minimum of 8 feet in height, shall be provided along Pony Tracks Drive. If site utilities along Pony Tracks limit tree plantings, other screening methods will be required, such as a screen wall and robust shrub planting. This shall be determined at the time of the development plan review.
- Permissible noise levels between residential and commercial zones shall not

exceed City Code Section 9.8.104.

- Exterior structure and site lighting shall be directed inward to the site and away from the resident development along the south of Pony Tracks Drive
- A development plan application is necessary to be submitted for the future car wash which will be reviewed administratively. The motion passed by a vote of 5-3-1-0

Aye: 5 - Donelson, Helms, Henjum, Leinweber, and Talarico

No: 3 - Avila, Crow-Iverson, and Risley

Excused: 1 - O'Malley

Appeal of a City Planning Commission Decision Estimated Time: 2 hours

- 12.E. [APPL-23-0007](#) An appeal of the Planning Commission decision to deny the CSU Wilson Tank Height Increase Development Plan Major Modification.

(Quasi-Judicial)

Presenter:

William Gray, Senior Planner, Planning + Neighborhood Services
Peter Wysocki, Director, Planning + Neighborhood Services

Attachments: [Wilson Tank Major Modification Planning Commission Staff Report](#)
[Notice of Appeal Wilson Tank Mjr Mod to Increase Height 10232023](#)
[Planning Commission Minutes](#)
[CC Staff Presentation Wilson Tank Mjr Mod Appeal WEG 11012023](#)
[Vicinity Map](#)
[Approval Letter](#)
[Approved Development Plan](#)
[Approved Final Plat](#)
[DP Major Modification](#)
[Project Statement](#)
[Statement For Appeal](#)
[Planning Comment Response](#)
[Planning and Public Comment Response](#)
[Wilson Tank Landscape Model](#)
[Wilson Tank Renderings](#)
[Geologic Hazard Study](#)
[Wilson Reservoir and Pump Station Development Plan](#)
[Mountain Shadows Master Plan](#)
[Ordinance No. 93-25](#)
[Notice and Order](#)
[Public Comment](#)
[Eugene and Jacqueline Gunn Public Comment CSU Wilson Tank Amd 08082023](#)
[Flying W Ranch Public Comment CSU Wilson Tank Amd 08012023](#)
[Katharine Heffner Public Comment CSU Wilson Tank Amd 08132023](#)
[Kristine Land Public Comment CSU Wilson Tank Amd 08142023](#)
[Lawrence Starr DEPN-23-0157 Review Process Track Public Comment 08092023](#)
[Pre-Application Summary](#)
[Starr Berdon Major Mod rejection 20231010](#)
[StarrBerdon Public Comment CSU WilsonTank Amd 08092023](#)
[Stop Work Demand on Wilson Tank](#)
[Ward and Lori Garza Public Comment CSU Wilson Tank 08122023](#)

Ben Bolinger, Assistant City Attorney, City Attorney's Office, polled City Council regarding any ex parte communications or site visits they wish to disclose, that they understand that their role as a director of Utilities and as a Councilmember for quasi-judicial official hearings are separate roles, and that they be fair and impartial and make the decision today based on the evidence presented at the hearing as it applies to the review criteria in

the City Code. All Councilmembers responded with any ex parte communications/site visits they had and all stated they are able to make fair and impartial decisions with the exception of Councilmember Donelson who stated he has had a lot of ex parte communications starting with visiting with the owner of the Flying W Ranch who then sent an e-mail or call and let him know what was being built up there which was not what she expected so he told her he would ask the Colorado Springs Utilities (CSU) Chief Executive Officer to come up where they spoke again, and he also attended a neighborhood meeting which CSU hosted to answer questions for the neighborhood and at those different meetings, he gave an opinion at that time. He stated that even though he feels he can be fair and impartial, he wants to avoid even the appearance of impropriety and recused himself. He also clarified that it is not due to him being the Chair of the CSU Board.

William Gray, Senior Planner, Planning and Neighborhood Services, presented the appeal of City Planning Commission's decision to deny the CSU Wilson Tank Height Increase Development Plan (DP) Major Modification. He provided an overview of the context, vicinity map, project description, approval criteria and proposed motions.

Councilmember Leinweber asked if the tank had a flat roof or a domed roof. Mr. Gray stated it was a partially domed roof.

Councilmember Henjum asked if the six proposed conditions of approval were recommended by the Planning Commission. Mr. Gray stated they were proposed by the Planning Department Staff after review of the application in order for the major modification application to meet the review criteria and read each of the conditions.

Councilmember Henjum asked if trees could be purchased which are as tall as the existing trees. Mr. Gray stated it is not common, but they could be.

Councilmember Henjum asked if prior to getting to the Planning Commission and the residents discovering that there was a discrepancy between what was approved and what was built, if there were there any elements of the process prior to that where City Planning should have done anything differently than what was done. Mr. Gray stated it would have been to catch it at the time of building permit review.

Lisa Barbado, I am the officer of our system planning and projects division, provided an overview of the request, project background, site history, description, tank service area, new tank at same location, construction update, submittal timeline, public process, Planning Department Staff recommendation, Planning Department recommended conditions, Major Modification to development plan, Major Modification complies with the Unified Development Code (UDC) and all applicable City regulations, Major Modification does not create more adverse impacts on surrounding properties than the approved DP, Major Modification is consistent with the PlanCOS/neighborhood, and identified CSU process improvements.

Councilmember Henjum asked if one year for approval of the development plan is typical for a project like this. Ms. Barbado explained the submittal process and Mr. Gray stated this application when it was submitted was a development plan and a final plat and it is typical for development plans with final plats to take anywhere from six months to twelve months and this application had a geohazard report that had to be reviewed, a drainage study that had to be reviewed and approved by stormwater, and also they were evaluating the compliance of the proposal with the criteria applicable to a project being proposed in the PF zone district and also located in the Wildland Urban Interface (WUI) and the Hillside Overlay, so time and care needs to be taken on these types of applications which going through the review process.

Councilmember Henjum requested what role Pikes Peak Regional Building Department (PPRBD) played in the permitting process and if they had any awareness or recognition of the building height. Ms. Barbado stated they submitted the drawings through the PPRBD process which is submitted to City Planning department and that was with the plans which had the forty-five feet height, and the sixty-foot height was submitted through the PPRBD process at the building permit phase after they had hired a contractor so PPRBD approved a plan with a sixty foot tank height and they got a building permit issued by PPRBD with a sixty foot height limit.

Councilmember Henjum asked why the Planning Department refer the second application to the Planning Commission. Peter Wysocki, Director, Planning and Neighborhood Services, stated given that this was a City Code compliance situation, a CSU issue, citizen concerns, and this was response to curing a violation of the development plan, he made a decision

to defer it directly to the Planning Commission.

Councilmember Leinweber asked if a big component regarding replacing the old tank was due to it have decaying posts in it that which was causing water quality issues and concern for public safety which led to getting rid of the posts resulting in the need to put a dome on it. Ms. Barbado confirmed it was.

Councilmember Talarico asked what the plans for that for the old tank are and if a new geohazard study will need to be done due to it being made of steel. Ms. Barbado stated once the new tank is in service and tested, they will then be able to tear that tank down and there no there is no need for a geohazard study because they would just demolish the old tank.

Citizens Butch Gunn, Jackie Gunn, Margaret Bogart, Diane Bell, William Bell, James Cara, Dorothy Macnak, and James Berdon ceded their time to Larry Starr who spoke in opposition to the project and provided an overview of the three criteria for reversal or modification (UDC 7.5.415.A.2), criteria for Major Modification approval UDC 7.5.516.D.1(a-c), Planning Commission made the correct decision deny Major Modification, CSU's project timeline of events, key events not on timeline, CSU should have known the dome height was not four feet, timeline summary, impact of building plan error/height overage, example of a property with a water tank, and financial concerns.

Harmon Zuckerman, Attorney, Frasca, Joiner, Goodman, and Greenstein, representing Larry Starr and Jim Berdon, stated he wrote a letter to City Staff requiring a work stoppage or the tank be brought into compliance with City Code and a week later the City did issue a stop work order which CSU appealed and applied for a Major Modification and then provided an overview of the legal perspectives of the matter.

Councilmember Henjum asked Mr. Starr who at CSU told him it would be a four-foot dome. Mr. Starr stated a community outreach person told them it was originally going to be an inground tank or would only have a three-to-four-foot dome up until June 13, 2023.

Councilmember Risley asked how the pictures from the timeline photos were obtained. Mr. Starr stated it was from his mounted camera overseeing his property.

Citizens Bill Wysong, Genevieve Gustavson, Thad Zylka, Michael Crocker, Gerald Thurston, Leigh Ann Wolfe, Dana Duggan, Sharon De Halas, and Julia Owens spoke in opposition to the project.

Councilmember Henjum asked why Mr. Wysong wanted to speak to City Council regarding why Councilmember Donelson recused himself. Mr. Wysong stated because he recused himself on grounds which were unfair for him to have to recuse himself.

Ms. Barbado rebutted by saying CSU had a permit from Stormwater Enterprises to do the excavation on the grading, excavation, and control, the DP height during the building permit phase was only an estimate, they had multiple meetings with the public on the process, their landscape architect has said that they can obtain trees twenty-five to thirty-five feet tall, regardless if the tank is forty-five feet tall, it can be seen from Flying W Ranch, this tank cannot be built underground because hydraulically, it would not meet customer needs, there are five water tanks in the Broadmoor area, the renderings were not falsified, they were accurate and to scale, they had some missteps, but they met all the criteria of the UDC, and this is the best tank for the community long-term.

Councilmember Risley asked if there was a plan to move the sixty-year-old water tank from one side of the site to the other and if CSU has recently built other sixty-foot-high water tanks to similar specifications. Ms. Barbado stated they had always intended to build the tank where it was because they must keep the existing tank in service, build a new tank, and then demolish the existing tank, so there was never an intent to move the existing tank, and they purchased that tank site in 1960 specifically to build water tanks. She stated for the allegation that they should have known the height of the tank because there are other tanks that utilities has built to a similar specification, there is a Mesa tank which is the same size of five million gallons, and it is sixty feet tall, but the reason they did not assume that that was going to be the size of this tank was there are several tank contractors and they did not know who they were going to contract with which was after they had submitted the DP.

Councilmember Leinweber asked how water pressure is affected by the water tower height. Ms. Barbado stated they needed to maintain a water surface level of thirty-six feet in order to maintain the existing pressure to

the area and the system.

Councilmember Leinweber asked if the height of the walls of the tank would remain the same even if the tank was demolished and a new one was built. Ms. Barbado confirmed they would be.

Councilmember Leinweber asked if there will be an additional berm added. Ms. Barbado stated some of the earlier renderings did reflect a berm, but that is not a requirement of the City, and the landscape architect did not think the trees would grow in a berm.

Councilmember Avila asked when the tank was constructed. Ms. Barbado stated 1966.

Councilmember Risley asked if the six potential conditions were offered by CSU as part of the modification to mitigate the height of the tank. Ms. Barbado confirmed they were.

Councilmember Henjum requested additional information regarding the height which was submitted. Ms. Barbado stated their DP had a maximum height of forty-five feet as an estimated because they had not yet selected their contractor/vendor to give them the height and when they submitted their building permit, they had the correct height. She stated once they realized that there was a discrepancy, they submitted the Major Modification and City Planning recommended it for approval.

Councilmember Henjum asked if construction continued after the work stop order was issued. Ms. Barbado stated because they had an approved building permit, they had every right to continue building the tank, but they did decide to stop work once the Major Modification was submitted to the Planning Commission.

Councilmember Risley commented that City Council not only received a legal opinion regarding City Council's role in hearing this matter from the City Attorney, but also from the attorney at Murray Weiner, but he defaults to the guidance of the City Attorney who represents City Council.

Councilmember Risley stated in his opinion, the review criteria have been satisfied.

Councilmember Henjum stated CSU employees are dedicated public servants who made a mistake which needs to be fixed. She stated she thinks the opposing attorney did an outstanding job of making a case that the criteria were not substantially met and will not be voting in favor of approving the appeal.

Councilmember Leinweber stated CSU does such a good job delivering water to the City, he thinks there is some fault at the City level also, humans make mistakes, and he will be voting in favor of the appeal because he feels they need to move in a positive way with the City and feels the infrastructure costs that the City bears cannot be taken lightly.

Councilmember Risley stated he thinks the culpability lies primarily with CSU, but also extends to the City Planning Department and PPRBD and they are working very hard to change the way the Planning Department presents land use items and communicating with constituents in order to improve accountability, communication, and transparency in the process.

Councilmember Henjum asked that everyone use their empathy to try and put themselves in the other's position and to recognize what they are all trying to do to get through this life and when mistakes are made, they need to figure out how to fix it and rebuild trust.

Motion by Councilmember Risley, seconded by Councilmember Leinweber, to approve the appeal and reverse the Planning Commission decision on the Wilson Tank Height Increase, based upon the finding that the review criteria for deciding on a major modification as set forth in City Code Section 7.5.516.D.1 are met with the following conditions:

- 1. The size range of 25' - 35' listed for the larger Ponderosa Pine or Colorado Blue Spruce trees in the Plant Schedule under the Botanical/Common Name column that is contained on the Landscape Plan is revised to 25' HGT. MIN. to match the Size/Cal. column.**
- 2. The designer of record for the Landscape Plan must be present at the nursery at the time the larger, 25 feet minimum height Ponderosa Pine or Colorado Blue Spruce trees are selected to document that the trees meet the minimum required height as specified by the Landscape Plan. This is to be documented by a photographic verification and written affidavit showing that each selected tree meets the minimum height before being planted.**
- 3. A height survey verification for the water storage tank is required to be provided from a licensed professional surveyor in the State of Colorado prior to any zoning final inspection.**
- 4. Financial Assurance shall be put in place for the Landscape Plan and Irrigation Plan improvements prior to any zoning final inspection.**
- 5. The water tank color is revised to Juniper Green.**
- 6. The landscape plan is revised to include six (6) additional 25 feet minimum height Ponderosa Pine or Colorado Blue Spring in the southwest corner of the site (see illustration on Page 11, City Planning Commission Staff Report). The**

motion passed by a vote of 5-2-1-1

Aye: 5 - Avila, Crow-Iverson, Helms, Leinweber, and Risley

No: 2 - Henjum, and Talarico

Recused: 1 - Donelson

Excused: 1 - O'Malley

- 12.F.** [APPL-23-0008](#) An appeal of the Planning Commission decision to deny the appeal of the Notice of Violation and Order to Abate for the CSU Wilson Tank Development Plan.

(Quasi-Judicial)

Presenter:

William Gray, Senior Planner, Planning and Neighborhood Services
Peter Wysocki, Director, Planning and Neighborhood Services

Attachments: [Wilson Tank Notice and Order Appeal City Planning Commission Staff Report](#)
[Wilson Tank Notice and Order Approval Letter](#)
[Approved Development Plan](#)
[Notice of Appeal Notice and Order Wilson Tank Development Plan](#)
[Planning Commission Minutes](#)
[CC Staff Presentation Wilson Tank Notice and Order Appeal WEG 11012023](#)
[Appeal Statement](#)
[Stop Work Demand on Wilson Tank Notice and Order](#)
[LES-StarrBerdon Appeal Comments APPL-23-0005](#)

Peter Wysocki, Director, Planning and Neighborhood Services, stated the Notice of Violation and Order to Abate is a moot point now because City Council approved the Major Modification, which was a method to cure compliance so there is no longer a violation.

Motion by Councilmember Avila, seconded by Councilmember Risley, to withdraw the appeal of the Planning Commission decision to deny the appeal of the Notice of Violation and Order to Abate for the CSU Wilson Tank Development Plan. The motion passed by a vote of 7-0-1-1

Aye: 7 - Avila, Crow-Iverson, Helms, Henjum, Leinweber, Risley, and Talarico

Recused: 1 - Donelson

Excused: 1 - O'Malley

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, President Helms adjourned the meeting at 7:05 PM.

Sarah B. Johnson, City Clerk