



City of Colorado Springs

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

Meeting Minutes - Final-revised City Council

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Tuesday, March 22, 2016

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. Invocation and Pledge of Allegiance

The Invocation was led by Jeff Anderson, Grace Bible Church.

The pledge of allegiance was led by Council President Bennett.

3. Changes to Agenda/Postponements

Councilmember Knight requested agenda items 4.B.R. and 4.B.S. be pulled off the Consent Calendar and heard under Public Hearings.

Council President Bennett requested agenda items 10.B, 10.C. and 10.D. be heard at the beginning of Unfinished Business, immediately followed by item 11.A.

Councilmember Collins requested agenda item 4.B.C. be pulled off the Consent Calendar.

Consensus of Council agreed to these 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. [16-00098](#)

Ordinance No. 16-29 amending Section 103 (Parking Privilege For

The Disabled) and creating a new Section 108 (Disabled Parking Plate Or Placard Required) of Article 13 (Stopping, Standing or Parking Regulations Sign Required) of Chapter 10 (Motor Vehicles and Traffic) of the Code of the City of Colorado Springs 2001, as amended, pertaining to disabled parking

Presenter:

Cmdr. Pat Rigdon and Lt. Scott Schwall, Colorado Springs Police Department

Res/Ord Number: 16-29

The ordinance was finally passed on the Consent Calendar.

4A.B. [16-00063](#)

Ordinance No. 16-30 amending the zoning map of the City of Colorado Springs relating to 25.615 acres located immediately south of Grand Vista Circle. Quasi-Judicial

Presenter:

Mike Schultz, Principal Planner, Land Use Review

Res/Ord Number: 16-30

The ordinance was finally passed on the Consent Calendar.

4A.C. [16-00197](#)

Ordinance No. 16-32 renaming Article 2 (Amusements) and moving under the renamed Article 2 (Marijuana) Part 1 (Medical Marijuana License Code) and all subsequent sections (101-109) of Article 3 (Sales of Goods and Services) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the code of the City of Colorado Springs 2001, as amended, pertaining to marijuana

Presenter:

Sarah B. Johnson, City Clerk

Res/Ord Number: 16-32

The ordinance was finally passed on the Consent Calendar.

4B. First Presentation:

4B.A. [16-243](#)

City Council Meeting Minutes March 8, 2016

Presenter: Sarah Johnson, City Clerk

The Meeting Minutes were approved on the Consent Calendar.

4B.B. [16-00014](#)

Appointments to Boards and Commissions

This item was approved on the Consent Calendar.

- 4B.D.** [16-00161](#) A Resolution Approving the First Amendment to the Service Level Agreement between the City of Colorado Springs and El Paso County for Facilities Maintenance Services

Presenter:
Ryan Trujillo, Contract Compliance & Sustainability Manager, Finance Department

Res/Ord Number: 24-16

The resolution was adopted on the Consent Calendar.

- 4B.E.** [16-00165](#) A Resolution Approving a Memorandum of Understanding Among Colorado Springs Utilities, the City of Colorado Springs, El Paso County, The El Paso-Teller 911 Authority, The City of Fountain, and the Pikes Peak Regional Building Department to Acquire Digital Orthorectified Imagery in 2016

Presenter:
Jerry Forte, Chief Executive Officer, Colorado Springs Utilities

Res/Ord Number: 25-16

The resolution was adopted on the Consent Calendar.

- 4B.F.** [16-00194](#) Ordinance No. 16-36 amending Ordinance No. 15-86 (2016 Appropriation Ordinance) for an Appropriation to the General Fund in the Amount of \$1,095,560 to Make a Transfer to the City-funded CIP Fund, and to the City-funded CIP Fund in the Amount of \$1,095,560 to Provide the Funding Needed to Complete Public Works Capital Improvement Projects

Presenter:
Travis Easton, P.E. Public Works Director

Res/Ord Number: 16-36

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

- 4B.G.** [16-00107](#) Ordinance No. 16-37 amending Ordinance No. 15-86 (2016 Appropriation Ordinance) for a Supplemental Appropriation to the Memorial Health System Enterprise Fund in the Amount of \$5,264,000 to Pay Costs Related to Third Party Payor Audits and to Transfer Monies to the Colorado Springs Health Foundation

Presenter:
Kara Skinner, Chief Financial Officer
Res/Ord Number: 16-37

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

4B.H. [16-00199](#) Ordinance No. 16-38 amending Section 103 (Presiding Judge; Powers And Duties) Of Article 2 (Judges) And Section 106 (Failure To Pay Fine; Stay Of Execution) Of Article 3 (Procedures) Of Chapter 11 (Municipal Court) Of The Code Of The City Of Colorado Springs 2001, As Amended, Pertaining To Municipal Court Fines

Presenter:
Anne Turner, Senior Attorney
Res/Ord Number: 16-38

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

4B.I. [16-00233](#) Ordinance No. 16-39 correcting a legal description included in Ordinance 12-92 for the B&J Garcia Subdivision No. 2 zone change.

Presenter:
Hannah Van Nimwegen, Planner II, Land Use Review Division of the Planning and Community Development Department
Res/Ord Number: 16-39

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

4B.J. [CPC MP](#)
[06-00219-A6](#)
[MN15](#) A minor amendment to the Flying Horse Master Plan amending the land use of 1.44-acre Parcel 25A from Residential to Office. - Quasi-Judicial

Presenter:
Meggan Herington, Planning Manager LUR/DRE
Peter Wysocki, Director, Planning and Community Development

This item was approved on the Consent Calendar.

4B.K. [CPC ZC](#)
[15-00136](#) Ordinance No. 16-40 amending the zoning map of the City of Colorado Springs pertaining to 1.44 acres located south of Flying Horse Club Drive and west Highway 83 from PUD to OC. Quasi-Judicial

Presenter:

Meggan Herington, Planning Manager LUR/DRE
Peter Wysocki, Director, Planning and Community Development

Res/Ord Number: 16-40

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

4B.L. [CPC CP
15-00137](#)

A concept plan for Flying Horse Parcel 25A on a 1.44-acre parcel associated with the Master Plan Amendment and zone change located south of Flying Horse Club Drive and west of Highway 83. Quasi-Judicial

This item was approved on the Consent Calendar.

4B.M. [CPC ZC
16-00004](#)

Ordinance No. 16-41 amending the zoning map of the City of Colorado Springs pertaining to 4.29 acres located one mile north of Drennan Road and one mile east of Marksheffel Road from R1-6000 to PF (Public Facility)
Quasi-Judicial

Presenter:

Meggan Herington, Planning Manager LUR/DRE
Peter Wysocki, Director, Planning and Community Development

Res/Ord Number: 16-41

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

4B.N. [CPC ZC
15-00122](#)

Ordinance No. 16-42 amending the zoning map of the City of Colorado Springs pertaining to 17 acres located east of Manitou Boulevard, north of Monument Street, and south of Uintah Street from PK/PF/R/HS (Parks and Recreation, Public Facilities, Estate Single-Family Residential with Hillside Overlay) to PF/HS (Public Facility with Hillside Overlay). Quasi-Judicial

Presenter:

Lonna Thelen, Principal Planner, Land Use Review
Peter Wysocki, Director, Planning and Community Development

Res/Ord Number: 16-42

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

- 4B.O.** [CPC DP](#)
[97-00346-A1](#)
[MJ15](#) Little Mesa Tanks Relocation Project development plan associated with the change of zone to build a new water tank and demolish the old water tank on the property, located at east of Manitou Boulevard, north of Monument Street, and south of Uintah Boulevard.
Quasi-Judicial

Presenter:

Lonna Thelen, Principal Planner, Land Use Review
Peter Wysocki, Director, Planning and Community Development

This item was approved on the Consent Calendar.

- 4B.P.** [CPC ZC](#)
[16-00002](#) Ordinance No. 16-43 amending the zoning map of the City of Colorado Springs pertaining to 1.28 acres located northwest of Shrider Road and Academy Boulevard from PBC/CR (Planned Business Center with Conditions of Record) to PBC/CR (Planned Business Center with Conditions of Record). - Quasi-Judicial

Presenter:

Katie Carleo, Principal Planner, Planning and Community Development Department
Peter Wysocki, Director, Planning and Community Development

Res/Ord Number: 16-43

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

- 4B.Q.** [CPC DP](#)
[98-00346-A7](#)
[MN16](#) A minor amendment to the Shoppes at Academy Development Plan associated with the change of zoning of 1.28 acres located at Shrider Road and Academy Boulevard. Quasi-Judicial

Presenter:

Katie Carleo, Principal Planner, Planning and Community Development Department
Peter Wysocki, Director, Planning and Community Development

This item was approved on the Consent Calendar.

Approval of the Consent Agenda

Motion that all matters on the Consent Calendar be passed, adopted, and approved by unanimous consent of the members present. The motion passed by a vote of 9-0-0.

5. Recognitions

There were no recognitions.

6. Citizen Discussion

Citizen John Kilbury voiced concerns about the condition of sidewalks in the downtown area.

Citizen David Tone spoke about divine judgment on the City.

Citizen Carl Strow spoke in opposition to the proposed Broadmoor land swap.

Citizens Nori Rost, Gary Betchan, Dennis Apuan, Matthew Ransom, and Marcus Barth spoke in opposition of Councilmember Pico's proposed refugee resolution.

Citizen Ruthie Markwardt, Andi VanGogh, Trig Bundgaard, and Sean Huff spoke in opposition to the pedestrian access ordinance.

Citizen Deborah Stout-Meiningner spoke in opposition to the proposed Broadmoor land swap.

Citizen Walter Lawson spoke about future Colorado Springs Utilities Board governance, urging Council to elect a separate utilities board.

Citizen Dennis Quinn spoke about the scar on the mountain. Councilmember Knight explained the permits for the mining project that created the scar were issued by El Paso County.

Citizen Pamela Bennett voiced her concern about facilities growing marijuana in her neighborhood.

Citizen Pat Dejong spoke in opposition of marijuana consumption clubs and requested Council consider an extension of the moratorium.

Citizen Chris Waldrop spoke in support of marijuana consumption clubs.

7. Mayor's Business

- 7.A. [16-248](#) Appointment of Stephen Powell to a five year term on the Colorado Springs Housing Authority Board, effective April 1, 2016.

Presenter:

Mayor John Suthers

Mayor John Suthers presented a summary of Mr. Powell's qualifications and experience leading to his recommended appointment.

Motion by Councilmember Strand, seconded by Councilmember Murray, to appoint Stephen Powell to a five year term on the Colorado Springs Housing Authority Board expiring 4/1/2021. The motion passed by a vote of 8-1-0.

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

No: 1 - Collins

- 7.B.** [16-250](#) Appointment of Jack Wiepking to fill an unexpired term on the Colorado Springs Urban Renewal Authority Board, expiring on April 1, 2017.

Presenter:
Mayor John Suthers

Mayor John Suthers introduced Mr. Wiepking and presented a summary of his qualification for the board.

Councilmember Collins stated she does not support special improvement districts, therefore she is not supporting the nomination of individuals to these boards.

Councilmember Knight thanked Mayor Suthers for involving Council in the interview process for these nominees and he supports the all of the nominations.

Motion by Councilmember Murray, seconded by President Pro Tem Gaebler, to appoint Jack Wiepking to a one year term on the Colorado Springs Urban Renewal Authority Board expiring 4/1/2017. The motion passed by a vote of 8-1-0.

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

No: 1 - Collins

- 7.C.** [16-251](#) Appointment of Toby Gannett to fill an unexpired term on the Colorado Springs Urban Renewal Authority Board, expiring on April 1, 2018.

Presenter:
Mayor John Suthers

Mayor John Suthers presented a summary of Mr. Gannett's qualifications and experience leading to his recommended appointment.

Motion by Councilmember Murray, seconded by Councilmember Bagley, to appoint Toby Gannett to a two year term on the Colorado Springs Urban Renewal

Authority Board, expiring 4/1/2018. The motion passed by a vote of 8-1-0.

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

No: 1 - Collins

- 7.D. [16-252](#) Appointment of Gary Feffer to a five term on the Colorado Springs Urban Renewal Authority Board, expiring on April 1, 2021.

Presenter:
Mayor John Suthers

Mayor John Suthers presented a summary of Mr. Feller's qualifications and experience leading to his recommended appointment.

Motion by Councilmember Strand, seconded by Councilmember Murray, to appoint Gary Feffer to a five year term on the Colorado Springs Urban Renewal Authority Board, expiring 4/1/2021. The motion passed by a vote of 8-1-0.

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

No: 1 - Collins

8. Items Called Off Consent Calendar

- 4B.C. [16-00109](#) A Resolution Supporting the Acceptance of a Grant from the Colorado Department of Local Affairs in the Amount of \$95,000 and Approving the North Nevada Avenue Redevelopment Plan Project

Presenter:
Nina Vetter, Senior Budget Analyst, Finance Department
Kara Skinner, Chief Financial Officer

Res/Ord Number: 26-16

Councilmember Collins stated she pulled this item off the Consent Calendar due to concerns about the economic development of the area. This grant is from the State, yet there is abundant news coverage that the State does not have enough money.

Chief of Staff, Jeff Greene, spoke about the importance of grant funding to the redevelopment of the North Nevada Avenue area in conjunction with growth at the University of Colorado, Colorado Springs campus.

Council President Pro Tem Gaebler voiced her support of infill and redevelopment.

Motion by President Pro Tem Gaebler, seconded by Councilmember Bagley, to adopt the attached resolution supporting the acceptance of a grant from the Colorado Department of Local Affairs in the amount of \$95,000 and approving the North Nevada Avenue Redevelopment Plan Project. The motion passed by a vote

of 8-1-0.

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

No: 1 - Collins

9. Utilities Business

There was no utilities business.

10. Unfinished Business

- 10.A.** [16-00048](#) Ordinance No. 16-31 creating a new infill and redevelopment chapter within the existing City of Colorado Springs Comprehensive Plan in accord with Section 7.1.107.B of the Code of the City of Colorado Springs, 2001, as amended.
(Legislative)

Presenter:

Peter Wysocki, Director, Planning and Community Development
Carl Schueler, Comprehensive Planning Manager, Planning and Community Development

Res/Ord Number: 16-31

Councilmember Collins stated she voted against this last time because, although she is a big proponent of infill, she had concerns about the lack of detail. She is changing her vote because she now sees the benefit of this action.

Councilmember King was excused.

Motion by President Pro Tem Gaebler, seconded by Councilmember Murray, that the ordinance creating a new Infill and Redevelopment Chapter within the existing City of Colorado Springs Comprehensive Plan in accord with Section 7.1.107.B of the Code of the City of Colorado Springs, 2001, as amended be finally passed. The motion passed by a vote of 7-1-1.

Aye: 7 - Bagley, Bennett, Collins, Gaebler, Murray, Pico, and Strand

No: 1 - Knight

Excused: 1 - King

- 10.B.** [16-00164](#) Ordinance No. 16-33 amending Section 302 (Definitions of Use Types) of Part 3 (Land Use Types and Classifications) of Article 2 (Basic Provisions, Definitions) and Section 205 (Additional Standards for Specific Land Uses) of Part 2 (Commercial Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to marijuana consumption club facilities

Presenter:

Peter Wysocki, Planning and Community Development Director

Res/Ord Number: 16-33

Citizens Pamela Bennett, Jan Doran, Shelly Schmidt, Paul Seeling, and Jack Lundberg spoke in support of the proposed Ordinances.

Citizens Robert Corry, Jared McCluster, Andrew Poarch, Ambur Racek, Steve Pacheco, Anthony Robinson, Daniel Goodman, Aaron Stone, Camille Mara, Heather Hart, Lance Vollrath, Jaymen Johnson, Jason Warf, Rachel Johnson, Presence Mercier, Wayne Wasso, Tanner Thomason, Marie Carrillo, Chad Gee, Gina Stokes and Bob Wiley spoke in opposition to the proposed ordinances

Councilmember Knight stated his major concern with marijuana consumption clubs from the onset was the clubs had more rights than the average citizen allowing clubs to be established near residents and with little to no regulation. The model established initially under the similar use determination did not allow marijuana sales in the consumption clubs. Currently clubs are not following that model and marijuana is being exchanged for "membership fees" and other considerations.

Councilmember Murray encouraged Council to postpone this item to a later date. Council discussed the termination of the moratorium and the repercussions of postponing this action with Marc Smith from the City Attorney's Office.

Council Pro Tem Gaebler stated the City needs practical policy around this issue that fills the need to provide legal places for consumption of marijuana and expressed concern about the lack of public inclusion in the process of developing this proposal.

Councilmember King read an excerpt from amendment 64 about the ability of a locality to regulate this industry.

Motion by Councilmember Murray, seconded by President Pro Tem Gaebler, to postpone this item to the September 20, 2016 City Council meeting. The motion failed by a vote of 3-6-0.

Aye: 3 - Collins, Gaebler, and Murray

No: 6 - Bagley, Bennett, King, Knight, Pico, and Strand

Res/Ord Number: 16-33

Motion by Councilmember Knight, seconded by Councilmember Bagley, that the ordinance amending Section 302 (Definition of Use Types) of Part 3 (Land Use Types and Classifications) of Article 2 (Basic Provisions, Definitions) and Section 205 (Additional Standards for Specific Land Uses) of Part 2 (Commercial Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (planning, development and buildings) of the Code of the City of Colorado Springs 2001, as amended, pertaining to marijuana consumption club facilities with an 8 year amortization period be finally passed. The motion passed by a vote of 6-3-0.

Aye: 6 - Bagley, Bennett, King, Knight, Pico, and Strand

No: 3 - Collins, Gaebler, and Murray

- 10.C.** [16-00196](#) Ordinance No. 16-34 adopting Part 2 (Marijuana Consumption Clubs) of Article 2 (Marijuana) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the code of the City of Colorado Springs 2001, as amended, pertaining to Marijuana Consumption Club licenses

Presenter:

Sarah B. Johnson, City Clerk

Res/Ord Number: 16-34

Please see comments in agenda item 10.B.

Motion by Councilmember Knight, seconded by Councilmember Bagley, that the ordinance to ban Marijuana Consumption Clubs with time limited licensing of existing clubs be finally passed. The motion passed by a vote of 7-2-0.

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

No: 2 - Collins, and Murray

- 10.D.** [16-00198](#) Ordinance No. 16-35 amending Section 507 (License Fees Enumerated) of Part 5 (License Fees) of Article 1 (General Business License Provisions) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Marijuana Consumption Club license fees

Presenter:

Sarah B. Johnson, City Clerk

Res/Ord Number: 16-35

Please see comments in agenda item 10.B.

Motion by Councilmember Knight, seconded by Councilmember Bagley, that the Ordinance be finally passed. The motion passed by a vote of 7-2-0.

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

No: 2 - Collins, and Murray

11. New Business

- 11.A. [16-239](#) A resolution establishing criteria for determining “lawful operation” of marijuana consumption club facilities prior to September 22, 2015, and authorizing notice of expiration of amortized non-conforming land use.

Presenter:

Peter Wysocki, Planning and Community Development

Res/Ord Number: 27-16

Mr. Wysocki stated Planning Staff recommends approval of this item to provide guidance for Planning Staff when considering applications for marijuana related business locations.

Please also see comments in agenda item 10.B.

Councilmember King was excused.

Motion by Councilmember Knight, seconded by Councilmember Bagley, to adopt the resolution establishing criteria for determining "lawful operation" of marijuana consumption club facilities prior to September 22, 2015, and authorizing notice of expiration of amortized non-conforming land use. The motion passed by a vote of 7-2-0.

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

No: 2 - Collins, and Murray

- 11.B. [16-00105](#) A Resolution endorsing the use and maintenance of an Infill Action Plan. (Legislative).

Presenters:

Peter Wysocki, Planning and Community Development Director
Carl Schueler, Comprehensive Planning Manager, Planning and Community Development

Res/Ord Number: 28-16

Peter Wysocki, Director of Planning and Community Development, explained this action plan was discussed during the first reading of the ordinance that created a new Infill/Redevelopment Chapter within the Comprehensive Plan. This resolution allows Council to support the implement the infill action plan.

Motion by President Pro Tem Gaebler, seconded by Councilmember Murray, to adopt a resolution endorsing the use and maintenance of an Infill Action Plan. The motion passed by a vote of 7-1-1.

Aye: 7 - Bagley, Bennett, Collins, Gaebler, Murray, Pico, and Strand

No: 1 - Knight

Excused: 1 - King

- 11.C.** [16-00192](#) Resolution Authorizing the Use of a Possession and Use Agreement for the Property Owned by AMERCO Real Estate Company that is Needed for the Tejon Roundabout Project

Presenter:

Mike Chaves, Engineering Manager/City Engineering

Res/Ord Number: 29-16

Councilmember Knight stated he does not support this proposal because he feels the roundabout will not improve traffic in the intersection and this is not a critical need meriting the action being taken.

Council President Bennett feels this is a critical project as this is a major intersection critical to two urban renewal projects.

Motion by Councilmember Murray, seconded by Councilmember Strand, to adopt the resolution Authorizing the Use of a Possession and Use Agreement for the Property Owned by AMERCO Real Estate Company Needed for the Tejon Roundabout Project. The motion passed by a vote of 5-3-1.

Aye: 5 - Bagley, Bennett, Gaebler, Murray, and Strand

No: 3 - Collins, Knight, and Pico

Excused: 1 - King

- 11.D.** [16-00101](#) Resolution Approving an Amendment to the Service Plan for the Upper Cottonwood Creek Metropolitan District Nos. 2, 3, 4 and 5.

Res/Ord Number: 30-16

Councilmembers Murray and Knight discussed the importance of notifying property buyers of the higher tax rate associated with this area. Ralph Braden with Nor'wood Development stated the special district policy requires buyer notification of the mil levy and purpose thereof.

Motion by President Pro Tem Gaebler, seconded by Councilmember Bagley, to adopt a resolution approving an amendment to the Service Plan for the Upper Cottonwood Creek Metropolitan District Nos. 2, 3, 4 and 5. The motion passed by a vote of 6-2-1.

Aye: 6 - Bagley, Bennett, Gaebler, Knight, Murray, and Strand

No: 2 - Collins, and Pico

Excused: 1 - King

12. Public Hearing

4B.R. [CPC PUZ
15-00092](#) Ordinance No. 16-44 amending the zoning map of the City of Colorado Springs pertaining to 14.44 acres located northwest of South Rockrimmon Boulevard and Delmonico Drive from OC/CR/PUD/HS/SS to PUD/SS. Quasi-Judicial

Presenter:

Rachel Teixeira, Planner, Land Use Review

Peter Wysocki, Director, Planning and Community Development

Res/Ord Number: 16-44

Rachel Teixeira with City Planning provided an overview of the proposed amendment to the zoning map and development plan.

Stephen Kuehster with Engineering Development Review provided a summary of the geologic hazard review done on this property.

Councilmember Knight addressed concerns about this area including the geological survey, drainage, underlying mine shafts, creek bank erosion, removal of the hillside overlay, traffic flow and emergency evacuation, with Mr. Castro, Ms. Teixeira, and Kathleen Krager, City Transportation Manager.

Andrea Barlow with NES, the Applicant, provided a brief overview of the development plan. Ms. Barlow provided additional information in response to Councilmember Knight's questions.

Citizen Rick Gorham spoke in opposition to the development.

Motion by Councilmember Murray, seconded by Councilmember Strand, that the ordinance changing the zoning of 14.44 acres located northwest of South Rockrimmon Boulevard and Delmonico Drive from OC/CR/HS/SS and PUD/HS/SS to PUD/SS (Planned Unit Development - Single-Family Attached; 35-foot maximum building height; 12 dwelling units/acre with Streamside Overlay) 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 the criteria for the establishment and development of a PUD zone as set forth in City Code Section 7.3.603 be approved on first reading. The motion passed by a vote of 5-2-1.

Aye: 6 - Bagley, Bennett, Gaebler, Murray, Pico, and Strand

No: 2 - Collins, and Knight

Excused: 1 - King

- 4B.S.** [CPC PUD
15-00093](#) The Wildgrass Development Plan associated with the change of zone to develop the vacant site into single-family attached (duplexes) residential development located at the northwest corner of South Rockrimmon Boulevard and Delmonico Drive. Quasi-Judicial

Presenter:

Rachel Teixeira, Planner, Land Use Review

Peter Wysocki, Director, Planning and Community Development

Please see comments in agenda item 4.B.R.

Motion by Councilmember Murray, seconded by Councilmember Strand, to approve the Development Plan for Wildgrass based upon the finding that the development plan meets the review criteria for PUD development plans as set forth in City Code Section 7.3.606, and the development plan review criteria as set forth in Section 7.5.502E, subject to the technical and/or informational plan modifications listed in the Planning Commission Record of Decision. The motion passed by a vote of 6-2-1.

Aye: 6 - Bagley, Bennett, Gaebler, Murray, Pico, and Strand

No: 2 - Collins, and Knight

Excused: 1 - King

- 12.A.** [CPC CU
15-00132-AP](#) An appeal of City Planning Commission's decision to deny a Conditional Use for Iron Mountain Demolition and Roll-Off and Meade Holdings, LLC construction and demolition debris transfer station, located at 3310 and 3320 North Cascade. - Quasi-Judicial

Presenter:

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

David Andrews, Legislative Counsel, discussed ex parte communications received and disclosed by Councilmembers and polled Council about any additional communication they may have received or participated in regarding this quasi-judicial item. Mr. Andrews questioned Councilmember Knight about about a phone call he received and email communication involving Zane Penley dated March 19, 2016 regarding this item and confirmed Mr. Knight is able to make a fair and impartial decision in this case. Mr. Andrews stated there has been a disclosure about a conversation involving procedural matters only and an email communication received by Mr. Knight. All Councilmembers indicated they have no pre-judgment regarding this case and are able to make a fair and impartial decision based on the information presented today.

Hannah Van Nimwegan, Planner II, provided an overview of the proposed facility and discussed the violations this organization has been cited for and the process the applicant followed to try to comply with City requirements.

Councilmember Knight and Mr. Wysocki discussed the process for issuing conditional use permits and the criteria considered by City Planning Staff and the Planning Commission in making the decision regarding this proposal.

Councilmember Pico asked if there is a marijuana grow operation in the vicinity of the site as responses to the neighbor notification mentioned marijuana odors. Ms. Johnson stated there are marijuana facilities in the vicinity but not close enough to be associated with this site.

Councilmember Strand referred to the City Code criteria for approving a conditional use permit based on adherence to the comprehensive plan. Mr. Wysocki stated the criteria are subjective and the goal of Planning is to mitigate significant impacts to the neighborhood.

Patrick Meade, the applicant and appellant, presented an overview of the business plan for this location including detailed information about how the facility operates and the business' response to citations for zoning violations.

Councilmember Knight asked what the guidelines are for selecting and installing mitigation measures. Mr. Meade stated his objective is to satisfy the requirements of the conditional use permit inspection scheduled in about a year. He is committed to doing whatever it takes to mitigate the offensive properties of his operation.

Councilmember Knight asked about the sorting process and how many loads are delivered on a daily basis. Mr. Meade stated 15 to 20 incoming loads are sorted daily using an efficient process to recycle, reclaim and re-use as much material as possible. The site plan is for loads to be sorted within 24 hours and three to four containers are shipped out each day.

Zane Penley, representing the opposition to the proposal, provided a summary of the objections to this operation based on the City Code.

Citizens Carla Greeley, Ken Manza, and Michael Dyer spoke in support

of the proposal.

Citizens Linda Welsh and Patrick Bray spoke in opposition to the proposal.

Councilmember Murray asked where the debris comes from and how it is screened. Mr. Meade stated the debris primarily comes from commercial construction projects and is screened by the construction companies as a condition of their building permit.

Councilmembers Murray and Knight requested additional information about storage in this zone. Mr. Wysocki clarified City Code includes a separate definition for transfer stations which supersedes the light or heavy industrial use zone specifications regarding storage in this case.

Councilmember Knight expressed concern about the North Nevada Economic Opportunity Zone not being included and was originally going to suggest this item be sent back to the Planning Commission. However, after hearing the testimony this evening, he cannot support this item due to the objection of two out of three neighbors.

Councilmembers Murray and Pico stated they cannot support this proposal based on concerns about the North Nevada Economic Zone not being included in the decision, the uniqueness of the facility to the area, opposition from adjacent neighbors on two sides, and lack of mitigation efforts.

Motion by President Pro Tem Gaebler, seconded by Councilmember Bagley, to grant the appeal, reversing the Planning Commission's decision to deny the Conditional Use application, and approve the Conditional Use for Iron Mountain Demolition and Roll-Off and Meade Holdings, LLC based upon the finding that the Conditional Use complies with the review criteria in City Code Section 7.5.704, subject to compliance with the condition of approval listed below: Condition of Approval 1. This Conditional Use shall be scheduled for review by the Land Use Review Division no later than March 31, 2017 to ensure recommendations have been implemented and to ensure the proposed mitigation strategies are effective for the surrounding neighborhood. If this action is not fully completed by February 28, 2017, the City may take any applicable enforcement action permitted under the City Code. If staff determines Iron Mountain Demolition and Roll-Off is not in compliance at this review, staff shall recommend the application to the City Planning Commission for further review and decision. The motion failed by a vote of 4-4-1.

Aye: 4 - Bagley, Bennett, Gaebler, and Strand

No: 4 - Collins, Knight, Murray, and Pico

Excused: 1 - King

- 12.B.** [CPC ZC 15-00130](#) Ordinance No. 16-45 to change the zoning of 4.75 acres located at the northeast corner of Platte Avenue and Wooten Road from PIP-1/AO to C-5/AO. Quasi-Judicial

Presenter:

Mike Schultz, Principal Planner, Land Use Review

Peter Wysocki, Planning and Development Director, Planning and Development Department

Res/Ord Number: 16-45

Mike Schultz, Principal Planner, provided an overview of this proposal.

Councilmember Knight questioned the proposed traffic flow in and out of the facility. Ms. Krager explained the planned right-in-right-out design is preferred based on the surrounding businesses, traffic patterns and landscape features.

Councilmember Knight asked if the land included in the vacation of right-of-way will be divided between the City and the adjacent property owners. Ms. Krager stated all of the property is going back to the original land owner. Mr. Knight asked why a land exchange was not considered since Edison Road will go through the property. Ms. Massey stated this land cannot be included in a land swap because it was acquired by the City through a plat.

Councilmember Knight stated he contacted Fox 21, the business across the street, and they said they did not receive a postcard notifying them of this proposal. Mr. Schultz stated he reached out to the church next door, and they had received their notification card.

Councilmember Pico expressed concern about the right-in-right-out intersection in conjunction with two similar intersections in close proximity. Ms. Krager stated she plans to restructure traffic flow on Platte Avenue when the bridges over Sand Creek are replaced several years from now and this design is hamonious with the planned changes.

Motion by Councilmember Murray, seconded by Councilmember Bagley, that the ordinance changing the zoning of 4.75 acres from PIP-1/AO to C-5/AO 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) be approved on first reading. The motion passed by a vote of 8-0-1.

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

Excused: 1 - King

- 12.C.** [CPC CP
15-00131](#) A concept plan for Platte Business Center on 4.75 acres for a commercial shopping center located at the northeast corner of Platte Avenue and Wooten Road. Quasi-Judicial

Presenter:

Mike Schultz, Principal Planner, Land Use Review

Peter Wysocki, Planning and Development Director, Planning and Development Department

Please see comments in agenda item 12.B.

Motion by Councilmember Strand, seconded by Councilmember Murray, to approve the Platte Business Center Filing 2B Concept Plan, based upon the finding that the concept plan complies with the concept plan review criteria in City Code Section 7.5.501.E. subject to the technical and/or informational plan modifications outlined within the City Planning Commission Record of Decision. The motion passed by a vote of 8-0-1.

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

Excused: 1 - King

- 12.D.** [CPC V
15-00106](#) Ordinance No. 16-46 to vacate .384 acres (16,727 square feet) of Edison Avenue right-of-way located just east of Wooten Road; Legislative

Presenter:

Mike Schultz, Principal Planner, Land Use Review

Peter Wysocki, Planning and Development Director, Planning and Development Department

Res/Ord Number: 16-46

Please see comments in agenda item 12.B.

Motion by Councilmember Murray, seconded by Councilmember Bagley, that the ordinance vacating a portion of City right-of-way for Edison Avenue, based upon the finding that the vacation request complies with the vacation of right-of-way review criteria in City Code Section 7.7.402.C, contingent upon the technical and/or informational modifications set forth in the vacation ordinance and outlined within the City Planning Commission Record of Decision be approved on first reading. The motion passed by a vote of 8-0-1.

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

Excused: 1 - King

- 12.E.** [CPC DP
15-00104](#) A development plan for a Kum and Go convenience store and gas station on a 2.47-acre site located directly west of the Platte Business

Center concept plan. Quasi-Judicial

Presenter:

Mike Schultz, Principal Planner, Land Use Review

Peter Wysocki, Planning and Development Director, Planning and Development Department

Please see comments in agenda item 12.B.

Motion by Councilmember Murray, seconded by Councilmember Bagley, to approve the Kum & Go Development Plan, based upon the finding that the development plan complies with the development plan review criteria in City Code Section 7.5.502.E, subject technical and/or informational plan modifications outlined within the City Planning Commission Record of Decision. The motion passed by a vote of 8-0-1.

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

Excused: 1 - King

13. Added Item Agenda

There were no added agenda items.

14. Executive Session

There was not an executive session.

Administrative Item

Councilmember Pico requested Council start the Utilities Governance meeting scheduled for Wednesday morning at 8:00am at 9:00 instead. Consensus of Council agreed to this change. Ms. Gonzalez will make staff aware in order to inform attendees if necessary.

Councilmember Murray requested a transcript of the February 8, 2016 Closed Executive Session. Ms. Gonzalez stated Council Rule 2-5 section I regarding this request requires consent of the majority of Council. Motion by Councilmember Murray, seconded by Councilmember Knight, to include this administrative item in the agenda for today's meeting. The motion passed by a vote of 5-3-1.

Motion by Councilmember Murray, seconded by Councilmember Strand to provide Councilmember Murray a formal transcript of said meeting. The motion passed by a vote of 5-3-1.

Council requested Wynetta Massey, City Attorney, provide the transcript.

15. Adjourn

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

Sarah Johnson, City Clerk