

80-171

AN ORDINANCE ANNEXING TO THE CITY OF COLORADO SPRINGS THAT AREA SOMETIMES KNOWN AS THE SOUTHWEST ANNEXATION AREA AS HEREINAFTER SPECIFICALLY DESCRIBED IN EXHIBIT "A", AND DECLARING AN EMERGENCY.

22.00

WHEREAS, the City Council of the City of Colorado Springs, on September 18, 1980, adopted Resolution No. 350-80 entitled: A RESOLUTION EXPRESSING THE INTENT OF THE CITY COUNCIL TO ANNEX THE SOUTHWEST AREA, and

WHEREAS, the City Council of the City of Colorado Springs on September 25, 1980, adopted Resolution No. 380-80 entitled:

"A RESOLUTION OF INTENT INITIATING AND PROVIDING FOR ANNEXATION PROCEEDINGS FOR THAT TERRITORY SOMETIMES KNOWN AS THE SOUTHWEST ANNEXATION AREA, AS HEREINAFTER SPECIFICALLY DESCRIBED IN EXHIBIT "A", AND SETTING A TIME AND PLACE FOR A HEARING TO DETERMINE IF THE PROPOSED ANNEXATION COMPLIES WITH THE MUNICIPAL ANNEXATION ACT OF 1965, AS AMENDED, PART 1 OF ARTICLE 12 OF TITLE 31, C.R.S. 1973 (1977 REPLACEMENT VOLUME 12)"

and

WHEREAS, pursuant to notice required under Sections 31-12-106 and 31-12-108, C.R.S. 1973 (1977 Replacement Volume 12) [the Municipal Annexation Act of 1965, hereafter Annexation Act], the City Council of Colorado Springs has held on the 27th day of October, 1980, a hearing pertaining to said annexation, and

WHEREAS, the City Council of Colorado Springs has, by resolution, made Findings of Fact, Conclusions based thereon, and Determinations

ADDENDUM I

pertaining to said annexation, and has determined that the said Southwest Annexation Area should be annexed forthwith as a part of the City of Colorado Springs.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Attached hereto and incorporated herein by reference as if fully set forth herein is Exhibit "A", a legal description of the area sometimes known as the Southwest Annexation Area.

Section 2. The territory known as the Southwest Annexation Area as set forth in Exhibit "A" is hereby annexed to the City of Colorado Springs.

Section 3. The City Council of Colorado Springs hereby declares that an emergency exists.

Section 4. Such emergency is described as follows:

I. Because the previous annexation of the Southwest Annexation Area has been declared void, the City may not collect any property taxes for 1980. Upon adoption of this ordinance, the City must provide full services to the Southwest Annexation Area. Therefore, it is imperative that the City immediately collect sales taxes in the Southwest Annexation Area in order to properly provide these services to protect the public health, safety or welfare of the residents of the Southwest Annexation Area. The difference in amount of sales tax collected immediately upon adoption of this ordinance and the amount that would be collected beginning after regular passage of this ordinance, is approximately \$70,000.

II. The County presently provides police services for the Southwest Annexation Area. The level of police service presently provided by the County is marginal because of budgetary constraints. The City is prepared immediately to double the level of police service in the Southwest Annexation Area. Thus, to provide for and protect the health, safety, welfare or peace of the residents of the Southwest Annexation Area, it is necessary that the City effectuate this annexation immediately.

III. Both the City and County are currently preparing budgets for 1981. It is necessary that both the City and County know at the earliest opportunity who is going to be providing services to the Southwest Annexation Area so that each may prepare its budget accordingly and determine its tax levy for 1981.

IV. The Southwest Annexation Area was made a part of the City of Colorado Springs on December 31, 1978. It was a part of the City and functioned as a part of the City until September 24, 1980. It is imperative for the smooth operation of government and governmental services within the area that the area be reannexed as quickly as possible to avoid breakdowns in lines of communication, provision of services and all other governmental functions. Since the City of Colorado Springs has determined that the area should be reannexed, it is imperative that such be done as quickly and efficiently as possible so as to cause the least amount of dislocation and confusion for the City and County administrations as well as the residents of the area in question.

V. There is currently pending for consideration at the November 4, 1980 General Election an Amendment to Article II of the Colorado Constitution which, if adopted, will prohibit unilateral annexation of the Southwest Annexation Area by the City. By Resolution 401-80, the City Council has expressed its opposition to passage of Amendment No. 3. The possible passage of Amendment No. 3 creates a condition calling for immediate action to unilaterally annex the Southwest Annexation Area. To postpone such action would result in serious damage and injury to the government of the City of Colorado Springs, the people of the City of Colorado Springs, and the community at large. Specifically:

a. It is unclear when Amendment No. 3 will be effective - upon a canvass of the votes pertaining to such amendment occurring on November 25, 1980, or November 4, 1980, when the Amendment may be approved by a majority of the citizens voting thereon.

b. It is unclear that if the City commenced unilateral annexation proceedings of the Southwest Area by regular ordinance and Amendment No. 3 was adopted, whether such adoption would prohibit the City from proceeding to second reading and final adoption of the annexation ordinance.

c. It is unclear that if Amendment No. 3 is adopted on November 4, what the status will be of the 280 Annexation Agreements that have resulted in the City providing municipal services or agreeing to provide municipal services to land in the Southwest Annexation Area wherein as a condition of such municipal services the landowners agree to annex to the City when their property becomes eligible for annexation.

Under the current Municipal Annexation Act, all the property covered by the 280 Annexation Agreements is within the area eligible for unilateral annexation.

d. It is unclear whether in the future the City could charge suburban water and wastewater rates in the Southwest Area because of the recent decision in Boulder Valley Water and Sanitation District v. City of Boulder wherein the Boulder District Court found the City of Boulder was acting as a public utility, and therefore, was subject to PUC regulation of water and wastewater rates.

e. It is unclear what the term "landowner" means as used in Amendment No. 3, and in fact such term could result in "absentee landowners" controlling governmental destiny of the Southwest Annexation Area because "absentee landowners" owning 50% of the land could thwart the desires of the majority of the resident landowners of the area.

f. It is unclear that if Amendment No. 3 is adopted and the question of annexation is submitted to the landowners and registered electors of the Southwest Area, whether the landowners and registered electors would vote in favor of annexation.

g. It is clear that if Amendment No. 3 is adopted, registered electors of the City cannot vote on the annexation of the Southwest Annexation Area. The City Council recognizes that the intent of Amendment No. 3 is to assure that the people of the area to be annexed have the right to vote. However, the City Council also recognizes that annexations of urbanized areas to the City have not only a great effect on the people who live in the area to be annexed, but also have an

equally profound effect on the residents of the City. Thus, if there is going to be a vote on annexation, all those citizens whose future is affected, should have a right to vote. Adoption of this ordinance as an emergency ordinance does not obviate the right of all the citizens of the City including the newly annexed area, to have a vote as to whether the Southwest Annexation Area should remain a part of the City through the powers of initiative and referendum under the City Charter.

h. It is clear that if the Southwest Annexation Area is not annexed to the City, there will be a variety of special districts necessary to meet the urban needs of the Southwest Annexation Area.

i. It is clear that if the Southwest Annexation Area is not annexed to the City that the real property taxpayers of the City will continue to be inequitably taxed for County services that are not provided within the City but provided solely to the residents of the Southwest Annexation Area and other unincorporated areas of the County.

j. It is clear that if the Southwest Area is not annexed, approximately 35% of the projected 1981 bed and car tax revenues, Article 20 of Chapter III of the Code of the City of Colorado Springs 1968, as amended, will not be received. Up to 50% of such revenues are used to promote tourism for the Pikes Peak region.

k. It is clear that the real property taxpayers of the City will continue to provide for municipal services enjoyed by the residents of the unincorporated areas of the County who do not pay City property taxes.

1. For the above reasons, the City Council finds and declares that a public emergency affecting life, health, property or the public peace exists and that failure to unilaterally annex by emergency ordinance would result in serious damage and injury to the people of the City of Colorado Springs, the government of the City of Colorado Springs, and the Pikes Peak community.

Section 5. The emergency as described in Section 4 of this ordinance, requires that the City Council adopt this ordinance as an emergency ordinance to protect life, the public health, safety and welfare, property and the public peace.

Section 6. This ordinance is hereby passed as an emergency ordinance to be effective forthwith upon its passage, as provided by the Charter.

Section 7. In the event that the emergency provisions of this ordinance should be declared to be unenforceable, Sections 3, 4, 5 and 6 are hereby declared to be severable from the remainder of the ordinance. In the event any or all of said sections are severed from the ordinance so that an emergency does not exist as provided for by the City Charter, then this ordinance shall be in full force and effect from and after its final passage and publication as provided by the Charter.

Adopted and approved this 27th day of October, 1980.



Mayor

ATTEST:


City Clerk

A tract of land in Townships 14 and 15 South, Ranges 66 and 67 West of the 6th Principal Meridian, El Paso County, Colorado, more particularly described as follows: Beginning at a point on the Southerly line of Fairview Addition to the City of Colorado Springs as annexed to the City of Colorado Springs in March 1966, said point being on the West right-of-way line of a public road being the extension of 26th Street; thence Southerly along said Westerly right-of-way line and its continuation as the Westerly right-of-way line of a public road commonly known as Bear Creek Road to its intersection with the West line of Section 22, Township 14 South, Range 67 West; thence Southerly along said West line to the Southwest corner of the Northwest 1/4 of said Section 22, said corner being also the Southeast corner of the Northeast 1/4 of Section 21, Township 14 South, Range 67 West; thence Westerly along the South line of said Northeast 1/4 to the Southwest corner of the Southeast 1/4 of the Northeast 1/4 of said Section 21; thence Southerly along the West line of the Northeast 1/4 of the Southeast 1/4 of said Section 21 to the Southwest corner thereof; thence Easterly along the South line of said Northeast 1/4 of the Southeast 1/4 to the Southeast corner thereof, said point being on the West line of Section 22, Township 14 South, Range 67 West; thence Southerly along the West line of Section 22 and the West line of Section 27, Township 14 South, Range 67 West to the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of said Section 27; thence Southeasterly along a straight diagonal line to the Southeast corner of the Southeast 1/4 of the Southwest 1/4 of said Section 27 said point being also the Northwest corner of the Northwest 1/4 of the Northeast 1/4 of Section 34, Township 14 South, Range 67 West; thence Southeasterly along a straight diagonal line to the Southeast corner of the Northeast 1/4 of the Southeast 1/4 of said Section 34, said point being also the Northwest corner of the Southwest 1/4 of the Southwest 1/4 of Section 35, Township 14 South, Range 67 West; thence Southeasterly along a straight diagonal line to the Southeast corner of said Southwest 1/4 of the Southwest 1/4 of Section 35, said point being also the Northwest corner of the Northeast 1/4 of the Northwest 1/4 of Section 2, Township 15 South, Range 67 West; thence Southerly along the West line of said Northeast 1/4 of the Northwest 1/4 of Section 2 to its point of intersection with the Southerly right-of-way line of a public road known as "Old Stage Road"; thence Easterly along said Southerly right-of-way line of the Old Stage Road and the Southerly right-of-way of Cheyenne Mountain Boulevard until it intersects the Southerly line of Marland Road in the South 1/2 of Section 36, Township 14 South, Range 67 West; thence continuing in an Easterly direction along the Southerly right-of-way line of said Marland Road to its intersection with the Easterly right-of-way line of Marland Road which runs in a Southerly direction, said point being the Northwest corner of a tract of land as described in Book 893, Page 68 of the El Paso County records; thence Southerly along the East right-of-way line of said Marland Road to the Southwest corner of said tract recorded in Book 893, Page 68; thence Southeasterly along a bearing of South 59° 45' East (basis of bearing is description recorded in Book 893, Page 68) a distance of 582.5 feet to a point of curve to the left; thence along said curve to the left, whose radius is 65.0 feet, a distance of 85.24 feet; thence Northeasterly tangent

EXHIBIT "A" (Cont'd.)

to the aforesaid curve a distance of 133.55 feet to the Southwesterly corner of Lot 4, Polly King Ruhtenberg Subdivision as recorded in the records of El Paso County, Colorado; thence along the Southerly line of said Subdivision to the Southeast corner thereof; thence continuing along the Southerly line of said Subdivision extended Easterly a distance of 288.6 feet to its point of intersection with the existing corporate boundary line of the City of Colorado Springs as annexed under Gates Addition No. 10 to the City of Colorado Springs; thence commencing in a Northerly direction on and along the existing corporate boundary of the City of Colorado Springs to the point of beginning.

I HEREBY CERTIFY, that the foregoing ordinance entitled "AN ORDINANCE ANNEXING TO THE CITY OF COLORADO SPRINGS THAT AREA SOMETIMES KNOWN AS THE SOUTHWEST ANNEXATION AREA AS HEREINAFTER SPECIFICALLY DESCRIBED IN EXHIBIT "A", AND DECLARING AN EMERGENCY" was introduced, read, finally passed, adopted and approved as an emergency ordinance and ordered published at a special meeting of the City Council of the City of Colorado Springs, held on the 27th day of October, 1980.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City this 27th day of October, 1980.


City Clerk

Publication Date: October 28, 1980