



City of Colorado Springs

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

Meeting Minutes City Council

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Tuesday, June 26, 2018

12:00 PM

Council Chambers

1. Call to Order

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

2. Invocation and Pledge of Allegiance

The Invocation was made by Councilmember Geislinger.

President Skorman led the Pledge of Allegiance.

3. Changes to Agenda/Postponements

Eileen Krauth, City Council Administrator, requested item 7. Mayor's Business be moved before Citizen's Discussion. 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. [18-0162](#) Ordinance No. 18-65 amending Ordinance No. 17-116 (2018 Appropriation Ordinance) for a supplemental appropriation in the amount of \$230,000 to the City Capital Improvement Program fund for Parks, Recreation, and Cultural Services (PRCS) projects as recommended by the LART Citizens' Advisory Committee

Presenter:
Charae McDaniel, Chief Financial Officer

Attachments: [2018 LART Projects - Exhibit A](#)
[Supplemental Approp Ord for Trf from LART to CIP 202 for PRCS](#)
[Signed Ordinance 18-65](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.B. [18-0185](#)** Ordinance No. 18-66 amending Ordinance No. 17-116 (2018 Appropriation Ordinance) for a supplemental appropriation to the Arterial Roadway Fund in the amount of \$500,000 for the purpose of accommodating higher than expected reimbursement payments

Presenter:
Charae McDaniel, Chief Financial Officer

Attachments: [Supplemental Approp Ord - Arterial Roadway Fund](#)
[EXHIBIT A to Memo for Arterial Roadway Bridge Fund Supplemental Appropriation Ordinance](#)
[Signed Ordinance 18-66](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.C. [18-0218](#)** Ordinance No. 18-67 amending Ordinance No. 17-116 (2018 Appropriation Ordinance) for a supplemental appropriation to the Airport Grants Fund in the amount of \$13,500,000 for the Rehabilitation of Taxiway G project at the Colorado Springs Airport and to the Airport Capital Improvement Program Fund in the amount of \$1,215,000 for a transfer into the Airport Grants Fund for grant match

Presenter: Greg Phillips, Director of Aviation

Attachments: [Supplemental Approp Ord - Airport Discretionary Grant from FAA.docx](#)
[Signed Ordinance 18-67](#)

This Ordinance was finally passed on the Consent Calendar.

- 4A.D. [CPC V](#)
[18-00011](#)** Ordinance No. 18-68 vacating portions of "Old" Eagle Rock Road right-of-way located east of North Nevada Avenue and south of the newly realigned Eagle Rock Road.

(Legislative)

Related File: 18-0141

Presenter:
Peter Wysocki, Planning and Development Director
Kathleen Krager, Transportation Planning Manager
Michael Schultz, Principal Planner

Bryan English, Development Projects Manager (CSU)

Attachments: [ORD Vacation Portions of Eagle Rock Road - BB Edited 3-9-18](#)
[Exhibit C - Legal Description \(From Agreement\)](#)
[Attachment 3 to Vacation Ordinance](#)
[Signed Ordinance 18-68](#)

This Ordinance was finally passed on the Consent Calendar.

4B. First Presentation:

4B.A. [18-0297](#) City Council Regular Meeting Minutes June 12, 2018

Presenter:
Sarah B. Johnson, City Clerk

Attachments: [6-12-2018 City Council Meeting Minutes Final.pdf](#)

The Minutes were approved on the Consent Calendar.

4B.B. [18-0270](#) Rocky Mountain Line Tech Program Property Lease Resolution

Presenter:
Joe Awad, Acting Energy Services Officer
Eric Tharp, Acting Chief Executive Officer, Colorado Springs Utilities

Attachments: [6.26.18 Rocky Mountain Line Tech Program Property Resolution.docx](#)
[Signed Resolution 64-18](#)

This Resolution was adopted on the Consent Calendar.

4B.C. [17-1354](#) A resolution finding a petition for annexation of the area known as Dublin North No. 4 Annexation consisting of 10.91 acres to be in substantial compliance with section 31-12-107(1), C.R.S. and setting a hearing date of August 14, 2018 for the Colorado Springs City Council to consider the annexation of the area.

(Legislative)

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

Attachments: [RES_Dublin North No. 4 Hearing Dates](#)
[Exhibit A Legal Description Dublin North No.4](#)
[PUBLIC NOTICE_Dublin North No. 4](#)
[Aerial Vicinity](#)
[Vicinity Map_Dublin North No.4](#)
[Signed Resolution 65-18](#)

This Resolution was adopted on the Consent Calendar.

- 4B.D.** [CPC V
17-00139](#) Ordinance No. 18-69 vacating portions of a public right-of-way known as Cora Lane consisting of .25-acre located northwest of Palmer Park Boulevard and Cora Lane

(Legislative)

Presenter:

Michael McConnell, Planner II, Land Use Review

Attachments: [Exhibit A - Legal Description](#)
[Exhibit B - Cora Lane Vacation Plat](#)
[Vicinity Map](#)
[PlanDev-CoraLaneVacationORD-2018-06-18](#)

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

- 4B.E.** [18-0247](#) A Resolution Authorizing the Purchase of Lower Arkansas Water Management Association Stock owned by Arkansas River Farms, LLC for Colorado Springs Utilities; and Authorizing the Execution of Closing Documents

Presenter:

Pat Wells Water Resources and Demand Management General Manager

Eric Tharp, Acting CEO, Colorado Springs Utilities

Attachments: [Resolution--Purchase of ARF LAWMA Shares_Draft 6-13-2018.docx](#)
[Signed Resolution 66-18](#)

This Resolution was adopted on the Consent Calendar.

- 4B.F.** [18-0271](#) A Resolution Authorizing the Filing of a Water Court Application for Appropriative Rights of Exchange from Points on the Arkansas River and its Tributaries Upstream to Pueblo Reservoir

Presenter:

Pat Wells, Water Resources and Demand Management General Manager

Eric Tharp, Acting CEO, Colorado Springs Utilities

Attachments: [LAWMA Exchange Resolution Draft 6-13-18 .docx](#)
[Signed Resolution 67-18](#)

This Resolution was adopted on the Consent Calendar.

Approval of the Consent Agenda

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

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

5. Recognitions

5.A. [18-0286](#) A Resolution Designating July as National Park and Recreation Month

Presenter:

Karen Palus - Parks, Recreation and Cultural Services Director

Attachments: [062618 - 2018 Park and Rec Month Resolution](#)
[Signed Resolution 68-18](#)

Karen Palus, Director Parks, Recreation and Cultural Services, presented the Resolution designating July as National Park and Recreation Month and identified some of the many events and activities occurring within the parks during the month of July.

President Pro Tem Gaebler read the Resolution Designating July as National Park and Recreation Month.

Motion by President Pro Tem Gaebler, seconded by Councilmember Bennett, that the Resolution designating July as Park and Recreation Month be adopted. The motion passed by a vote of 9-0-0

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

5.B. [18-0148](#) A resolution recognizing July 1, 2018 as Honor Guards Day in Colorado Springs

Presenter:

Councilmember Don Knight

Attachments: [062618 Honor Guards Day resolution](#)
[Signed Resolution 69-18](#)

Councilmember Knight read the Resolution recognizing July 1, 2018 as

Honor Guards Day in Colorado Springs and expressed appreciation to the Honor Guards who serve our community.

Motion by Councilmember Strand, seconded by Councilmember Bennett, that the Resolution recognizing July 1, 2018 as Honor Guards Day in Colorado Springs be adopted. The motion passed by a vote of 9-0-0

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

6. Citizen Discussion

Citizen Carl Strow spoke regarding the Broadmoor land swap, the closing of the Manitou Incline, and panhandlers.

Citizen Gerald Miller spoke against the use of fireworks in his neighborhood.

Citizen Tom Noonan spoke about the addition of restrooms at the Citadel Transit Transfer Station.

Citizen Tony Carpenter expressed his concerns that City staff is not following the City Charter.

Citizen Kevin Bright spoke regarding her forged signature which was used to allow her honey bee poster to be used by Pikes Peak Community College. She also spoke about video surveillance footage in Memorial Park.

Citizen Bette Kelso spoke about the background noise of the Metro Mobility Transit call center.

7. Mayor's Business

Mayor Suthers gave a brief history of the Carnegie Hero Fund Commission Coin and awarded Ross A. Johnson the Carnegie medal. Mr. Johnson saved the life of a woman who was being assaulted.

Mayor Suthers also asked for City Council to support the Ordinance prohibiting camping within one-hundred feet of a waterway. He said the City often needs to act on behalf of the health, safety, and welfare of the citizens. Mayor Suthers stated in order to remain compliant with the MS4 permit, the City needs to clean up the waterways. He also said shelter-bed capacity will be increased to accommodate additional homeless people and that this is a serious health and safety issue.

8. Items Called Off Consent Calendar

There were no items called off the Consent Calendar.

9. Utilities Business

There was no Utilities Business.

10. Unfinished Business

- 10.A.** [18-0278](#) A Resolution approving the Intergovernmental Agreement between the City of Colorado Springs, Colorado, and The Sands Metropolitan District related to the service plan for The Sands Metropolitan District Nos. 1, 2 and 3.

(Legislative)

Related Files: CPC A 17-00004, CPC A 17-00005, CPC A 17-00006, CPC A 17-00007, CPC ZC 17-00081, CPC ZC 17-00082, CPC ZC 17-00083

Presenter:

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

Attachments: [Sands IGA Resolution 6-4-18](#)
[IGA Sands - City of Colorado Springs](#)

Catherine Carleo, Principal Planner, presented an overview of the updates that were made to The Sands annexation agreement since its first reading on May 22, 2018. These updates include 1.) the addition of the language “Owners acknowledge that the City and the Sands Districts intend to enter into an Intergovernmental Agreement (IGA), wherein the Sands Districts agree to, among other matters, adopt a new service plan as approved by the City”, and 2.) the addition of an addendum in regards to Colorado Springs Utilities (CSU) and Cherokee Metropolitan District which details the connection of utility services. Brian Whitehead, Manager of System Extensions, CSU, stated until the exclusion of the property from Cherokee Metropolitan is complete, CSU may be prohibited from providing water or wastewater service to the property. He said once the annexation is complete, Cherokee Metropolitan District may not provide utility service without prior written approval from CSU.

President Pro Tem Gaebler asked when the Cherokee Metropolitan Water District lawsuit will be resolved. Pat Hrbacek, from Spencer Fane, LLP, general counsel for the district, said the district court determines the time

table for the appeal, but predicts it will be soon. Jeff Mark with the Landhuis Co., representing the petitioner, said once the district is annexed and depending on the verdict from the district court, negotiations will be made for utilities. He said they would like construction to begin as soon as possible.

President Pro Tem Gaebler said she is also concerned about the agreement to allow the district to use eminent domain. Ben Bollinger, Senior Attorney, said if the terms of the IGA need to be renegotiated, the item will need to be postponed.

Councilmember Knight stated if Cherokee Metropolitan District does not release the Sands Districts from utilities service, it will create an issue because in order to be annexed into the City, it will have to be serviced by CSU. He recommended this item be postponed.

Larry Keleher, Cherokee Metropolitan District Board member, stated the Sands District exclusion from Cherokee Metropolitan District may be approved at their next board meeting and they want to work with the City. Councilmember Pico commented that he has spoken with other board members of the Cherokee Metropolitan District and that there is a majority that want the Sands District to be annexed to the City because they do not have the water to supply the district.

Councilmember Geislinger asked if CSU staff requested the addendum language. Mr. Whitehead confirmed they did in order to protect their right to the monopoly and make the owner aware that if they proceed, they are at risk until the concerns with service from Cherokee Metropolitan District are resolved. Michael Gustafason, Attorney, CSU, stated this addendum language protects the City and CSU and puts any financial obligations on the developer.

Councilmember Geislinger asked if the need to use eminent domain is a game-changer. Mr. Mark stated their concern is not having access to the easements as a pathway to utilities.

Jeff Greene, Chief of Staff, recommended a recess to discuss these issues with the applicant. Consensus of Council agreed to Mr. Greene's request.

After the meeting reconvened, Mr. Greene recommended these items be postponed to the July 10, 2018 City Council meeting. He said the Cherokee Metropolitan District has agreed to hold a special meeting to consider withdrawing the appeal from district court.

Councilmember Knight said City Council has not been kept informed of the changes and there are still issues that have not been resolved. He recommended that the item return to the July 9, 2018 Work Session meeting for discussion prior to the vote. Mr. Greene agreed with the recommendation and stated that CSU requested the addendum language to ensure certain protections were in place until the litigation was resolved.

Councilmember Murray recommended voiding the 1st reading vote of the Ordinances. Consensus of Council did not agree to that recommendation.

Councilmember Pico stated the CSU addendum was a surprise and requested that in the future, the information be presented earlier in the process.

Motion by Councilmember Bennett, seconded by Councilmember Strand, that the Resolution approving an Intergovernmental Agreement between the City of Colorado Springs, Colorado and The Sands Metropolitan District be postponed to the July 9, 2018 Work Session meeting and the July 10, 2018 City Council meeting. The motion passed by a vote of 9-0-0

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

10.B. [CPC A
17-00004](#)

Ordinance No. 18-58 annexing to the City of Colorado Springs an area known as The Sands Addition No.1 Annexation consisting of 38.67 acres located northeast of the intersection of Marksheffel Road and Constitution Avenue.

(Legislative)

Related Files: CPC A 17-00004, CPC A 17-00005, CPC A 17-00006, CPC A 17-00007, CPC ZC 17-00081, CPC ZC 17-00082, CPC ZC 17-00083

Presenter:

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

Attachments: [Annex_ORD_SandsAdditionNo1](#)
[Exhibit A Legal The Sands Addition No.1](#)
[Exhibit B -The Sands Annexation Agreement NO 1](#)
[The Sands District Resolution 6-20-18](#)
[CMD Special Meeting Board Resolution 7-2-18](#)
[The Sands Annexation Addition No. 1 Plat](#)
[Vicinity Map The Sands](#)
[Street Map](#)
[EnclaveMap The Sands Annexation](#)
[CPC Staff Report The Sands Annexation KAC](#)
[FIGURE 1 Project Statements](#)
[FIGURE 2 Airport Advisory Committee Review](#)
[FIGURE 3 District 49 Comments](#)
[FIGURE 4 The Sands Annexation Addition No. 1](#)
[FIGURE 5 The Sands Annexation Addition No. 2](#)
[FIGURE 6 The Sands Annexation Addition No. 3](#)
[FIGURE 7 The Sands Annexation Addition No. 4](#)
[FIGURE 8 Sands Annex Agreement](#)
[FIGURE 9 Fiscal Impact Report FIA The Sands Annexation](#)
[FIGURE 10 Rezone Map M1 ZONE](#)
[FIGURE 11 Rezone Map PBC ZONE](#)
[FIGURE 12 Rezone Map R1 6000](#)
[FIGURE 13 The Sands Master Plan](#)
[FIGURE 14 The Sands Concept Plan](#)
[FIGURE 15 Land Suitability Analysis](#)
[FIGURE 16 Natural Resource Letter](#)
[FIGURE 17 SECWCD Letter of Assent](#)
[FIGURE 18 CGS Comments](#)
[7.6.203-Annexation Conditions](#)

Please see comments in Agenda item 10.A.

Motion by Councilmember Bennett, seconded by Councilmember Murray, that that the Ordinance approving the Sands Addition No.1 Annexation based upon the findings that the annexation complies with all of the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203 be postponed to the July 9, 2018 Work Session meeting and the July 10, 2018 City Council meeting. The motion passed by a vote of 9-0-0

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

10.C. [CPC A](#) Ordinance No. 18-59 annexing to the City of Colorado Springs an area
[17-00005](#) known as The Sands Addition No.2 Annexation consisting of 23.90

acres located northeast of the intersection of Marksheffel Road and Constitution Avenue.

(Legislative)

Related Files: CPC A 17-00004, CPC A 17-00005, CPC A 17-00006, CPC A 17-00007, CPC ZC 17-00081, CPC ZC 17-00082, CPC ZC 17-00083

Presenter:

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

Attachments: [Annex ORD SandsAdditionNo2](#)
[Exhibit A Legal The Sands Addition No.2](#)
[Exhibit B - The Sands Annexation Agreement NO 2](#)
[The Sands Annexation Addition No. 2 Plat](#)
[7.6.203-Annexation Conditions](#)

Please see comments in Agenda item 10.A.

Motion by Councilmember Strand, seconded by Councilmember Murray, that the Ordinance approving The Sands Addition No. 2 Annexation based upon the findings that the annexation complies with all of the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203 be postponed to the July 9, 2018 Work Session meeting and the July 10, 2018 City Council meeting. The motion passed by a vote of 9-0-0

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

10.D. [CPC A 17-00006](#)

Ordinance No. 18-60 annexing to the City of Colorado Springs an area known as The Sands Addition No. 3 Annexation consisting of 24.74 acres located northeast of the intersection of Marksheffel Road and Constitution Avenue.

(Legislative)

Related Files: CPC A 17-00004, CPC A 17-00005, CPC A 17-00006, CPC A 17-00007, CPC ZC 17-00081, CPC ZC 17-00082, CPC ZC 17-00083

Presenter:

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

Attachments: [Annex_ORD_SandsAdditionNo3](#)
[Exhibit A Legal The Sands Addition No.3](#)
[Exhibit B - The Sands Annexation Agreement NO 3](#)
[The Sands Annexation Addition No. 3 Plat](#)
[7.6.203-Annexation Conditions](#)

Please see comments in Agenda item 10.A.

Motion by Councilmember Geislinger, seconded by Councilmember Murray, that the Ordinance approving The Sands Addition No.3 Annexation based upon the findings that the annexation complies with all of the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203 be postponed to the July 9, 2018 Work Session meeting and the July 10, 2018 City Council meeting. The motion passed by a vote of 9-0-0

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

- 10.E.** [CPC A 17-00007](#) Ordinance No. 18-61 annexing to the City of Colorado Springs an area known as The Sands Addition No. 4 Annexation consisting of 53.29 acres located northeast of the intersection of Marksheffel Road and Constitution Avenue.

(Legislative)

Related Files: CPC A 17-00004, CPC A 17-00005, CPC A 17-00006, CPC A 17-00007, CPC ZC 17-00081, CPC ZC 17-00082, CPC ZC 17-00083

Presenter:

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

Attachments: [Annex_ORD_SandsAdditionNo4](#)
[Exhibit A Legal The Sands Addition No.4](#)
[Exhibit B - The Sands Annexation Agreement NO 4](#)
[The Sands Annexation Addition No. 4 Plat](#)
[7.6.203-Annexation Conditions](#)

Please see comments in Agenda item 10.A.

Motion by Councilmember Strand, seconded by Councilmember Murray, that the Ordinance approving The Sands Addition No.4 Annexation based upon the findings that the annexation complies with all of the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203 be postponed to the July 9, 2018 Work Session meeting and the July 10, 2018 City Council meeting. The motion passed by a vote of 9-0-0

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

- 10.F. [CPC ZC 17-00081](#) Ordinance No. 18-62 amending the zoning map of the City of Colorado Springs pertaining to 17.58 acres located northeast of the intersection of Marksheffel Road and Constitution Avenue establishing the M-1/AO/SS (Light Industrial with Airport and Streamside Overlay) zone district

(Legislative)

Related Files: CPC A 17-00004, CPC A 17-00005, CPC A 17-00006, CPC A 17-00007, CPC ZC 17-00081, CPC ZC 17-00082, CPC ZC 17-00083

Presenter:

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

Attachments: [ZC ORD TheSands M-1-AO-SS](#)

[Exhibit A Legal Sands Industrial](#)

[Exhibit B Rezone Map M1 ZONE](#)

[7.5.603 Findings - ZC req CA](#)

Please see comments in Agenda item 10.A.

Motion by Councilmember Geislinger, seconded by Councilmember Murray, that the Ordinance establishing the M-1/AO/SS (Light Industrial with Airport and Streamside Overlay) zone district, based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603(B) be postponed to the July 9, 2018 Work Session meeting and the July 10, 2018 City Council meeting. The motion passed by a vote of 9-0-0

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

- 10.G. [CPC ZC 17-00082](#) Ordinance No. 18-63 amending the zoning map of the City of Colorado Springs pertaining to 85.94 acres located northeast of the intersection of Marksheffel Road and Constitution Avenue establishing the R1-6000/DFOZ/AO/SS (Single-Family Residential with Design Flexibility, Airport and Streamside Overlays) zone district.

(Legislative)

Related Files: CPC A 17-00004, CPC A 17-00005, CPC A 17-00006, CPC A 17-00007, CPC ZC 17-00081, CPC ZC 17-00082, CPC ZC 17-00083

Presenter:

Peter Wysocki, Director, Planning and Community Development

Catherine Carleo, Principal Planner, Planning and Community Development

Attachments: [ZC ORD TheSands R1-6000](#)
[Exhibit A Legal Sands Residential](#)
[Exhibit B Rezone Map R1 6000](#)
[7.5.603 Findings - ZC req CA](#)

Please see comments in Agenda item 10.A.

Motion by Councilmember Strand, seconded by Councilmember Murray, that the Ordinance establishing the R1-6000/DFOZ/AO/SS (Single-Family Residential with Design Flexibility Overlay, Airport Overlay and Streamside Overlay) zone district, based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603(B) be postponed to the July 9, 2018 Work Session meeting and the July 10, 2018 City Council meeting. The motion passed by a vote of 9-0-0

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

- 10.H.** [CPC ZC 17-00083](#) Ordinance No. 18-64 amending the zoning map of the City of Colorado Springs pertaining to 10.79 acres located northeast of the intersection of Marksheffel Road and Constitution Avenue establishing the PBC/AO/SS (Planned Business Center with Airport and Streamside Overlays) zone district.

(Legislative)

Related Files: CPC A 17-00004, CPC A 17-00005, CPC A 17-00006, CPC A 17-00007, CPC ZC 17-00081, CPC ZC 17-00082, CPC ZC 17-00083

Presenter:

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

Attachments: [ZC ORD TheSands PBC](#)
[Exhibit A Legal Sands Commercial](#)
[Exhibit B Rezone Map PBC ZONE](#)
[7.5.603 Findings - ZC req CA](#)

Please see comments in Agenda item 10.A.

Motion by Councilmember Strand, seconded by Councilmember Murray, that the Ordinance establishing the PBC/AO/SS (Planned Business Center with Airport and Streamside Overlays) zone district, based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603(B) be postponed to the July 9, 2018 Work Session meeting and the July 10, 2018 City Council meeting. The

motion passed by a vote of 9-0-0

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

11. New Business

- 11.A. [18-0272](#) A Resolution authorizing the use of eminent domain to acquire real property owned by Robert T. Wilcox and Diane Y. Wilcox needed for the West Colorado Avenue Reconstruction, 31st Street to U.S. Highway 24, project

Presenter:

Mike Chaves, Engineering Manager

Attachments: [Final Resolution WAAP Parcel 79_REV1_6.4.2018](#)
[Signed Resolution 70-18](#)

Mike Chaves, Engineering Manager, presented the amendment to the West Colorado Avenue Reconstruction Project to include an acquisition of a portion of the property owned by Robert T. Wilcox and Diane Y. Wilcox by use of eminent domain. He identified the property location and provided the summary of negotiations with the owners.

Bob Wilcox, property owner, spoke in opposition of the acquisition by use of eminent domain due to it causing the removal of the ADA compliant pedestrian access entrance ramp. Mr. Chaves stated there will be ADA compliant access provided during construction.

Councilmember Geislinger asked if the potential loss of business is the primary concern. Mr. Wilcox confirmed it is. Councilmember Murray asked what the anticipated loss of business would be. Mr. Wilcox stated \$3,000 per day.

Councilmember Knight stated the vote is for the use of eminent domain in order for the project to continue, not how the Public Works Department does their work.

Motion by Councilmember Bennett, seconded by Councilmember Strand, that the Resolution authorizing the City Attorney to take all action necessary to acquire the Property and to seek immediate possession of the Property by eminent domain, or other appropriate proceedings be adopted. The motion passed by a vote of 9-0-0

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

- 11.B. [18-0198](#) Ordinance No. 18-70 creating section 111 (Camping Within Public Stream/Public Stream Riparian Zone Prohibited) of Part 1 (General

Offenses) of Article 6 (Offenses Affecting Property) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to camping within public stream riparian zones, and providing penalties for the violation thereof

Presenter:

Tom Strand, Councilmember At-Large

Richard Mulledy, City Water Resources Engineering Manager

Attachments: [Camping-Riparian-Council2018-05-01](#)
[Camping within Public Streams 5.1.18](#)

Councilmember Strand stated this Ordinance is not a solution to homelessness issues, but is a solution to address water quality and public safety and health issues.

Richard Mulledy, City Water Resources Engineering Manager, said the City has experienced an increase in camping on properties adjacent to waterways which has led to making it unlawful to camp within one-hundred feet of a stream, streambed, or a stream riparian zone. He identified the trash and debris that continually needs to be cleaned up and said there is also potential water contamination resulting from the camping within these areas.

Councilmember Murray asked if was easier to enforce the camping ban or moving them one-hundred feet from the stream. Mr. Mulledy said the Police Department would be better equipped to answer that question, but the goal is to protect the waterways.

Councilmember Strand asked for an explanation on the legality of the Ordinance. Marc Smith, Division Chief, Corporate Legislative Counsel, stated the City Attorney's Office has done extensive research and believes it is defensible.

Councilmember Pico commented that the waterways need to be cleaned up for health and safety reasons as well as compliance with the MS4 permit.

Councilmember Geislinger stated this Ordinance focuses on the consequences of the actions of campers, but should be focused on preventing the actions of the campers and others who are polluting the waterways.

Councilmember Murray stated moving people one hundred feet will not resolve the problem and he will not be supporting it.

President Pro Tem Gaebler said Mayor Suthers announced he is trying to add three hundred additional low-barrier beds to shelter housing to accommodate the people being displaced from these waterways.

President Skorman said this Ordinance will not solve the issue of homelessness, but the City has a responsibility to keep the waterways clean.

Councilmember Murray asked if issues related to e.coli was identified in the MS4 permit lawsuit. Mr. Mulledy confirmed it was.

Citizens Ryan Jones, Cindy Wilkinson, Sharon Mullaly, and Scott Gadbury, spoke in support of the proposed Ordinance.

Councilmember Avila stated she understands this Ordinance is about health and safety, but it will not solve the issue of homelessness. She said incarceration and fines are not the solution to the issue and she will not be supporting it.

Motion by Councilmember Bennett, seconded by Councilmember Strand, that the Ordinance creating section 111 (Camping Within Public Stream/Public Stream Riparian Zone Prohibited) of Part 1 (General Offenses) of Article 6 (Offenses Affecting Property) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to camping within public stream riparian zones, and providing penalties for the violation thereof be approved on first reading. The motion passed by a vote of 7-2-0-0

Aye: 7 - Bennett, Gaebler, Geislinger, Knight, Pico, Skorman, and Strand

No: 2 - Avila, and Murray

12. Public Hearing

12.A. [18-0267](#) North Cheyenne Cañon Park Master and Management Plan Appeal

Presenter:

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

David Deitemeyer, Senior Landscape Architect - Parks, Recreation and
Cultural Services

Attachments: [NCC. Master Plan Appeal letters](#)
[NCC Master and Mgmt Plan Appeal Delay Request](#)
[NCC Appelant Additional Documents.pdf](#)
[NCC Master Plan City Council 06-26-18-FINAL](#)
[NCC Master and Mgmt Plan. Exec Summary.letters of support](#)
[public feedback impact-FINAL.pdf](#)

Councilmember Murray disclosed he attended the initial presentation to the Parks and Recreation Advisory Board, but that it would not affect his ability to remain fair and impartial to the public hearing.

Karen Palus, Parks, Recreation and Cultural Services Director, gave an overview of the process involved for the North Cheyenne Cañon Park master and management plan.

Britt Haley, Design and Development Manager/TOPS Program Manager, presented a vicinity map of the North Cheyenne Cañon Park and the details of the steps, guiding principles, and consistent themes of the public process. She identified the final recommendations and the details of the final master plan. Ms. Haley stated the areas of concern relevant to the appeal include the removal of three strategies which include 1.) the use of shuttles to reduce private vehicles, 2.) progressive traffic controls, and 3.) the re-alignment of the park entrance and re-design of the South Cañon Area, the closing of South Cañon Road and Mesa Avenue, and the marketing or branding of the park.

President Pro Tem Gaebler asked if shuttle buses are included in the master plan. Ms. Haley said the master plan references there could be conditions in the future that may require analysis of the need for park shuttles, but would require additional steps and procedures in order to implement.

Councilmember Knight said he is concerned about minor master plan changes being able to be approved by the Parks, Recreation and Cultural Services Director without having to go before the Parks and Recreation Advisory Board or the Planning Commission. Ms. Haley identified what conditions would be classified as a minor master plan change and what would require a change to go before the Parks and Recreation Advisory Board. Marc Smith, Division Chief, Corporate and Legislative Counsel, identified the requirements per City Code as it relates to parks and stated

amendments to the parks master plan, whether minor or major, shall follow the procedure required for the original plan which have to be reviewed by the Parks and Recreation Advisory Board and those decisions are appealable to City Council.

Councilmember Geislinger asked how citizens were notified of the meetings. Susan Watkins with KezziahWatkins explained the public involvement communication process.

Jim Bensberg, Founder of Cheyenne Cañon Conservationists, representing the appellant, gave a brief history of the group and its members, presented a map of the area, and identified their four major areas of concern with the master plan update which included 1.) elected officials should be the final arbiter of this and future master plan updates, 2.) the proposed "reconfiguration" of the South Cheyenne Canyon Road entrance is unnecessary, 3.) the proposed use of shuttle buses, widening of the road and destruction of Mesa pavilion area is unnecessary, and 4.) the "branding" or aggressive marketing of the area as a tourist destination is unnecessary.

President Pro Tem Gaebler stated any future changes to the master plan such as the addition of shuttle buses and changes to the entrances will not occur without a further public process. Mr. Bensberg explained he would like those references stricken from the master plan.

Kathy Meinig, Co-founder of Save Cheyenne, stated previous master plans do not include language for future considerations and is requesting the toolbox items be removed from the master plan. She stated there were no traffic or parking studies conducted and there were no concerns identified from the public process in regards to the entrance to the South Cheyenne Canyon.

Kent Obee, President of Save Cheyenne, stated this master plan is unlike any other master plan he has seen for the City. He stated the marketing aspect should not be in the master plan and the Parks, Recreation and Cultural Services Department does not have the money to implement all the considerations proposed in the master plan.

Councilmember Knight asked for clarification of what is being requested to be removed because many of the references of the appeal had already

been withdrawn from the master plan. Mr. Obee identified the pages of future considerations of the master plan they are requesting to be taken out.

Councilmember Geislinger asked if there was any reason to doubt the process that would be required in order to implement the potential future considerations. Mr. Obee said yes, there was a reason to doubt the process due to the previous Strawberry Fields exchange process. Ms. Palus clarified what the community involvement process was and what it would be for future considerations.

Councilmember Murray said it is a trust issue between the citizens and the Parks, Recreation and Cultural Services Department because of the issues with Strawberry Fields and recommended removing the future considerations from the master plan.

Councilmember Knight commented that he is concerned with labeling the future considerations as minor master plan amendments instead of as major master plan amendments. He also said Parks, Recreation and Cultural Services Department decisions should be appealable. Ms. Palus stated a new appeal process is being worked on as part of the review of City Code. Mr. Smith reiterated that under current City Code, any master plan amendments, whether minor or major, would have to be reviewed by the Parks and Recreation Advisory Board and those decisions are appealable to City Council.

Councilmember Knight said this document needs to be a stand-alone document and the terminology needs to be consistent with Planning Department master plans in regards to major and minor amendments. He recommended that the word "minor" be removed from the document.

Citizens Hank Scarangella, Susan Davies, Joseph Faking, and Carol Beckman spoke in opposition of the appeal.

Citizens Donna Strom, John Spangler, and Robert Bernheim spoke in support of the appeal.

Ms. Haley stated the Parks, Recreation and Cultural Services Department is comfortable with removing the word minor in reference to any plan amendments and understands that amendments are appealable. She

explained the commitment of the department towards the steps and criteria required for future considerations and said their intent is to provide information to people, not for it to be used as a marketing plan.

Councilmember Strand asked for clarification of the items being disputed. Ms. Haley provided a summary of the issues presented. Councilmember Strand commented that the plan was not built just for tourism. Ms. Haley said it was built to balance both residents and visitors alike.

Mr. Obee stated the requested changes are reasonable, prudent, and safe. He stated tourism does not belong in a Parks, Recreation and Cultural Services Department plan and asked for any section that references tourism be removed.

Jeff Greene, Chief of Staff, commented that the Parks, Recreation and Cultural Services Department has the greatest amount of public process than any other department within the City and the reason the City uses consultants is to obtain fresh ideas, innovation, and creativity to help guide those processes. He said the master plan is important to address the growing needs of the City.

Councilmember Bennett commented he believes this is an excellent, visionary plan and does not have any concerns regarding the use of consultants.

Councilmember Avila stated sometimes editing a document results in a better overall document. She also said this park should be kept as being primarily used by local citizens.

President Skorman stated he agrees with Councilmember Avila in regards to making the requested changes and that the City needs to decide what parks are going to be promoted for tourism.

Councilmember Knight asked if an amendment could be made to the motion to remove the word "minor" in reference to the amendments in the master plan. Consensus of Council agreed. Councilmember Knight stated keeping the future processes in the document adds protection.

Councilmember Pico said he supports denying the appeal and does not believe the park will be commercialized.

Councilmember Geislinger stated this plan reflects the contribution made by many other members of the community and to change the plan would neglect their previous input.

Councilmember Strand stated he believes the City is very close to reaching a compromise in regards the three areas of concern surrounding the appeal and that he will be voting in favor of denying the appeal.

Motion by Councilmember Bennett, seconded by Councilmember Geislinger, to deny the appeal and uphold the adoption of the North Cheyenne Cañon Park Master and Management Plan by the Parks and Recreation Advisory Board as amended with direction to Parks, Recreation and Cultural Services Department staff to remove the word "minor" in reference to future master plan amendments. The motion passed by a vote of 6-3-0-0

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

No: 3 - Avila, Murray, and Skorman

13. Added Item Agenda

There were no items added to the Agenda.

14. Executive Session

There was no Executive Session.

15. Adjourn

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

Sarah B. Johnson, City Clerk