



City of Colorado Springs

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

Meeting Minutes Council Work Session

City Council meetings are broadcast live on Channel 18. In accordance with the ADA, anyone requiring an auxiliary aid to participate in this meeting should make the request as soon as possible but no later than 48 hours before the scheduled event.

Monday, April 9, 2018

1:00 PM

Council Chambers

1. Call to Order

- Present** 8 - Councilmember Yolanda Avila, Councilmember Merv Bennett, President Pro Tem Jill Gaebler, Councilmember David Geislinger, Councilmember Bill Murray, Councilmember Andy Pico, President Richard Skorman, and Councilmember Tom Strand
- Excused** 1 - Councilmember Don Knight

Councilmember Geislinger arrived at approximately 1:45 PM.

2. Changes to Agenda

Eileen Krauth, City Council Administrator, stated that item 6.A. Financial Report was added after the initial publication of the Agenda.

3. Regular Meeting Comments

Eileen Krauth, City Council Administrator, stated that the appellant may withdraw the appeal for items 12.A., 12.B., and 12.C. regarding The Farm development, but the items will still be presented as a public hearing. She also stated that Councilmember Knight requested item 4B.B. related to the Sands annexation agreement be removed from the Consent Calendar. Consensus of Council agreed to these changes.

4. Review of Previous Meeting Minutes

- 4.A. [18-0171](#) City Council Work Session Minutes March 26, 2018

Presenter:
Sarah B. Johnson, City Clerk

Attachments: [3-26-18 City Council Work Session Meeting Minutes Final](#)

The minutes of the March 26, 2018 Work Session meeting were approved by Consensus of Council.

5. Executive Session

5A. Open

There was no Open Executive Session.

5B. Closed

- 5B.A.** [18-0169](#) In accord with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(b) and (e), the City Council, in Open Session, is to determine whether it will hold a Closed Executive Session. The issue to be discussed involves a conference with the City Attorney for the purpose of receiving legal advice regarding litigation, instructing negotiators, and determining positions relative to that litigation that may be subject to negotiations.

Presenter:

Wynetta Massey, City Attorney

Attachments: [04092018ClosedNotice](#)

Marc Smith, Division Chief, Corporate Legislative Counsel, stated in accord with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(b) and (e), the City Council, in Open Session, is to determine whether it will hold a Closed Executive Session. The issue to be discussed involves a conference with the City Attorney for the purpose of receiving legal advice regarding utilities litigation, instructing negotiators, and determining positions relative to that litigation that may be subject to negotiations.

Council President Skorman polled Council regarding the desire to proceed with a Closed Executive Session. At least two-thirds of Council agreed to proceed in Closed Executive Session.

6. Staff and Appointee Reports

- 6.A.** [18-0105](#) Financial Report - City of Colorado Springs

Presenter:

Charae McDaniel, Chief Financial Officer

Attachments: [Monthly Financial Report](#)

Charae McDaniel, Chief Financial Officer, presented the April 2018 financial update which represented activity through February 2018. She stated some of the revenue reported is for one month of collections and some is for two months of collections which is trending slightly above the projected budget. She said general fund expenditures are below projected

budget for the year. Ms. McDaniel gave an update of the sales tax trends, 2018 grant funds, the Memorial Health System, and the economic indicators.

Councilmember Pico commented that the unemployment rate graph does not reflect the current reported numbers. Ms. McDaniel stated she will provide an updated graph.

Councilmember Strand asked if the auto sales number is consistent with the time of year. Ms. McDaniel said that she will provide a history of previous sales.

Councilmember Murray asked how many single-family unit building permits were issued. Ms. McDaniel stated there were 331 permits pulled for single-family houses and 200 permits pulled for multi-family units.

6.B. [17-1327](#) Agenda Planner Review

Presenter:

Eileen Krauth, City Council Administrator

Attachments: [040918 Agenda Planner Review MEMO](#)

Eileen Krauth, City Council Administrator, stated that there will be an additional New Business item related to the Banning Lewis Ranch wastewater agreement at the April 24, 2018 City Council meeting and that the Intergovernmental Agreement (IGA) with University of Colorado, Colorado Springs (UCCS) item in regards to Eagle Rock Road is scheduled for the May 8, 2018 City Council meeting.

There were no comments on this item.

7. Presentations for General Information

7.A. [18-0155](#) Introduction of the Sands Metropolitan Districts Nos. 1-4 and Pending Sands Annexations 1-4

(Legislative)

Presenter:

Peter Wysocki, Director of Planning and Community Development
Katie Carleo, Principal Planner, Planning and Community Development
Carl Schueler, Planning Manager- Comprehensive Planning, Planning

and Community Development Department

Attachments: [CWS-Presentation 04.9.18](#)

[Memo to Colorado Springs re The Sands MD 1-4 and Service Plan Comparison 02-22-2018 \(final\)](#)

Carl Schueler, Planning Manager, Comprehensive Planning, Planning and Community Development Department, gave an update that the public hearing date for the pending Sands Metropolitan Districts Nos. 1-3 annexations is scheduled for the May 22, 2018 City Council meeting. He provided a brief summary of the proposed annexations and stated that because not all of the district property is proposed to be annexed, by statute, El Paso County would continue to be the approving authority of the districts. Mr. Schueler identified the site map, the land uses, the district boundaries, and the key comparative differences of the districts. He explained the approving authority role and other available options for the districts.

Peter Wysocki, Director of Planning and Community Development, explained that this informational briefing was to inform City Council of the annexation request, but the actual public hearing on the annexation would be held at the May 22, 2018 City Council meeting.

Councilmember Pico asked if the annexation would make Districts 1, 2, and 3 contiguous with the City. Mr. Schueler stated it would, but that District 4 is not requesting annexation at this time.

Councilmember Murray asked about how covenants enforcement works with a special mill levy in place. Mr. Schueler stated that covenants would be enforced through the collection of taxes rather than fees. Jeff Mark, The Landhuis Co., representing the petitioner, said the covenants control works similarly to a homeowner association (HOA) through the Board of Directors for the district.

Councilmember Geislinger asked if Districts 1, 2, and 3 were annexed to the City if they would be under the City's authority. Mr. Schueler said that they would not because District 4 is not included in the annexation and in order to be under the City's authority, all the districts would have to be annexed in.

President Pro Tem Gaebler asked why the applicant wanted Districts 1-3 to be annexed into the City. Mr. Mark said the primary reason was because

El Paso County would not grant the requested access points for the commercial part of the development, but they would be granted by the City.

President Pro Tem Gaebler asked if District 4 could be excluded so the City could control the metropolitan district. David O'Leary, Spencer Fane, representing the petitioner, explained that because the current approving jurisdiction for the original service plan is El Paso County, the service plan would have to be amended which would delay the construction an additional six to nine more months.

Councilmember Pico asked if the use of eminent domain would be restricted to utility requirements. Mr. Schueler stated that according to state statutes, eminent domain has to be used for public purpose. Mr. Mark explained the only circumstance for use of eminent domain would be for off-site easements. Mr. O'Leary stated it would be limited to public purpose such as streets, roadways, water, and sewer.

Councilmember Geislinger asked if the petitioner would be willing to have the City as the authority over Districts 1-3. Mr. Mark stated they would not be amenable to it because the mill levy differential is substantial.

Councilmember Strand asked if there were any foreseen traffic engineering issues. Kathleen Krager, Traffic Engineering Division Manager, stated El Paso County would not allow the requested access to the commercial center, but that she is in agreement with the proposed access plan.

Councilmember Pico asked about the connection requirements of the utilities. Brian Whitehead, Manager of System Extensions with Colorado Springs Utilities, stated that the utility line would have to go north in order to connect to the loop system. Councilmember Pico asked about the use of eminent domain since it is mostly grassland and not developed. Mr. O'Leary said they will attempt to negotiate acquiring those easements before using eminent domain and that the applicant would also consider bringing the use of eminent domain before City Council.

Councilmember Murray requested the utility plan for the districts. Mr. Mark agreed to provide that information.

8. Items for Introduction

- 8.A.** [18-0177](#) A Resolution for Acquisition of a 0.2997 Acre Parcel of Real Property

from the Union Pacific Railroad Company to the City of Colorado Springs

Presenter:

Richard Mulledy, City Water Resources Engineering Division Manager
Brian Kelley, City Water Resources Engineering Programs Manager

Attachments: [Resolution UP Acquisition - Final](#)
[UP Parcel Acquisition - Exhibit A](#)
[UP Parcel Acquisition - Exhibit B](#)
[Signed Resolution 32-18](#)

Brian Kelley, City Water Resources Engineering Programs Manager, presented the Resolution for the acquisition of one-third acre parcel of property from the Union Pacific Railroad Company for the purpose of a Downtown Water Quality Project and identified a map of the property location.

Councilmember Bennett asked if a phase-one study had been completed. Mr. Kelley stated the environmental assessment is currently being conducted with no issues reported so far.

- 8.B.** [18-0145](#) An Ordinance Repealing and Reordaining Part 1 (Fire Prevention Code) of Article 4 (Fire Prevention) of Chapter 8 (Public Safety) of the Code of the City of Colorado Springs 2001, as Amended, Adopting the 2015 Edition of the International Fire Code with Amendments and Providing Penalties for the Violation Thereof

Presenter:

Fire Marshal Brett Lacey

Attachments: [Fire-2015_IFC_AmendmentsAdoptionByReferenceORD-2018-04-04](#)
[IFC - LETTER IFC Public Process from HBA 2018 03 09](#)
[IFC - LETTER IFC Public Process from AIA 2015 IFC with Amendments 2017 11 30](#)
[IFC - LETTER IFC Public Process from Colorado Springs Chamber and EDC 2015 IFC with Amendments 2017 12 22](#)
[IFC - PRESENTATION 2015 IFC as Amended to City Council 2018 04 09](#)

Fire Marshal Brett Lacey presented the proposed amendments to the 2015 Edition of the International Fire Code (IFC). He described the public process involved and the relationship between the codes of the International Building Code (IBC) and the standards of the National Fire Protection Association (NFPA).

Councilmember Strand asked how these changes will affect affordable housing. Fire Marshal Lacey stated that only affordable housing developments constructed in the wildland-urban interface would be affected with an increase in building costs of between zero and six percent and that rebuilds would have a two percent increase.

- 8.C. [CPC CA 18-00014](#) An Ordinance Amending Section 102 (General Standards) of Part 1 (General Standards) of Article 4 (Site Development Standards) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as Amended, Pertaining to Screening and Fencing.

(Legislative)

Presenter:

Peter Wysocki, Director of Planning and Community Development
Meggan Herington, Assistant Planning Director

Attachments: [Ordinance_ScreeningAndFencing_4-17-18](#)

[FIGURE 1 Temporary Fences Pic Packet](#)

Meggan Herington, Assistant Planning Director, presented the amendment to City Code Section 7.4.102.B which updated the title to Screening and Fence Materials and added a subsection describing that tarps, plastic sheeting, polypropylene and other similar materials are prohibited from being used as permanent screening and fencing when visible off of the property. She presented example photos and explained the review process.

There were no comments on this item.

- 8.D. [CPC CA 18-00020](#) An Ordinance Amending Section 1102 (Specific Requirements Prior to Building Permit Issuance) of Part 11 (Assurances and Guaranties for Public Improvements) of Article 7 (Subdivision Regulations) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, As Amended, Pertaining to Utilities Charges.

(Legislative)

Presenter:

Peter Wysocki, Director of Planning and Community Development
Meggan Herington, Assistant Planning Director
Mike Schultz, Principal Planner

Attachments: [PlanDev-UtilityPaymentsORD-2018-04-02](#)

Meggan Herington, Assistant Planning Director, presented the proposed ordinance which modifies City Code Section 7.7.1102.B by removing two words regarding payment of all utility charges associated with the building permit process. Colorado Springs Utilities requested to strike the words “in cash” in order to accept other forms of payment.

There were no comments on this item.

8.E. [18-0132](#) A Resolution approving an Amended and Restated Banning Lewis Ranch Annexation Agreement

(Legislative)

Presenter:

Peter Wysocki, Director of Planning and Development
Bob Cope, Economic Development Manager
Bethany Burgess, Senior Attorney

Attachments: [042418 BLRAnnexationAgreement RES 2018-04-02](#)
[042418 Proposed BLR Annexation Agreement with Exhibits](#)
[BLR Annex Presentation 041818a](#)
[11.A. 18-0132 Resolution No. 36-18 Annexation Agreement](#)
[Signed Resolution 36-18](#)

Peter Wysocki, Director of Planning and Development, presented the proposed amended and restated Banning Lewis Ranch (BLR) annexation agreement. He stated any future proposed amendments to the master plan including land use and zoning would require City Council approval. Mr. Wysocki explained the proposed changes to the agreement in regards to the zone change requirements, development agreements, public facilities, metropolitan districts, streets, drainage, parks, schools, fire protection, police service, and public land dedication.

Bethany Burgess, Senior Attorney, City Attorney’s Office, gave an overview of the Colorado Springs Utilities requirements for BLR in regards to utility dedications and easements, extension of utilities service facilities, wastewater collection systems, interim facilities, the Southeastern Colorado Water Conservancy District, and water rights.

Councilmember Murray commented that the economic benefit results were only based on the Tischler Bise analysis, the leapfrogging issue is due to there not being any affordable housing with acreage available inside the

City, the \$1M collected in revenue from citizens was intended for a sewage treatment plant, and that this proposed agreement should be postponed until the citizens have had more time to review it.

Jeff Greene, Chief of Staff, stated that El Paso County developed urban areas because of the unavailability of property to develop in the City and because of the prohibitive restrictions placed on BLR. He stated that is also why the leapfrogging occurred. Mr. Greene stated the annexation agreement outlines the process of how it will develop in the future and the fiscal impact analysis is a separate report based upon the model of how BLR will develop over time.

- 8.F. [CPC CA 17-00144](#) An Ordinance amending Section 705 (Right of Way Dedication and Street Improvements) of Part 7 (Streets in Subdivisions), Section 1102 (Specific Requirements Prior to Building Permit Issuance) of Part 11 (Assurances and Guaranties for Public Improvements), and repealing Part 19 (Banning Lewis Ranch Annexor Fees and Reimbursements), all of Article 7 (Subdivision Regulations) of Chapter 7 (Planning, Development and Building) of the Code of the City Of Colorado Springs 2001, as amended, pertaining to Banning Lewis Ranch Regulations

(Legislative)

Presenter:

Peter Wysocki, Director of Planning and Development

Attachments: [BLR_RegulationsORD-2018-04-02](#)

[CPC_Minutes_BLR Code Amendment](#)

Peter Wysocki, Director of Planning and Development, stated that if the amended and restated Banning Lewis Ranch (BLR) annexation agreement is approved by City Council, the shared BLR annexor fees would no longer be applicable and would have to be removed from City Code.

There were no comments on this item.

- 8.G. [18-0191](#) A Resolution terminating that certain Modified and Restated Wastewater Facilities Participation, Utilization, and Service Agreement approved February 10, 2009, as amended, by and between Colorado Springs Utilities and the Banning Lewis Ranch Metropolitan District No. 1

Presenter:

Bethany Burgess, Senior Attorney, City Attorney's Office

Attachments: [BLRTerminationofWWAgreement RES 2018-04-02](#)
[Modified and Restated WW Agmt](#)
[Signed Resolution 37-18](#)

Bethany Burgess, Senior Attorney, City Attorney's Office, presented the Resolution that would terminate the service agreement that required owners within the Banning Lewis Ranch (BLR) Metropolitan District No. 1 to finance the wastewater facilities if the amended and restated BLR annexation agreement is approved by City Council.

Councilmember Bennett asked if the amended and restated BLR annexation agreement was released to the public. Jeff Greene, Chief of Staff, stated it was released last week.

Councilmember Strand stated the citizens feel that they have not been given enough time to voice their opinions.

Councilmember Murray recommended a more robust presentation in regards to the agreement so that citizens have a better understanding of the proposed agreement.

Councilmember Geislinger stated he is comfortable with the proposed agreement, but is not comfortable that the citizens are not comfortable with it and suggested that they be given ample time to discuss their issues at the Town Hall meeting.

Councilmember Pico stated is also comfortable with the agreement and recognizes that there are people that need more time to review it, but that it has been in review by staff and City Council for the past five years. He also stated that any future development will require an economic impact analysis and that it is impossible to guarantee the economic prediction.

President Pro Tem Gaebler stated that many of the changes that have been requested by citizens have been implemented and that this needs to move forward.

Mr. Greene stated that any proposed changes to re-zones, plan developments, and the responsibilities of the developers and districts, will have to be approved by City Council which is where the public will need to be engaged. Councilmember Strand stated that the other steps in the

process will provide the leverage that the City needs.

Councilmember Bennett commented that any suggested changes by citizens that are implemented need to be what is most beneficial for the City.

9. Items Under Study

There were no items under study.

10. Councilmember Reports and Open Discussion

Councilmember Strand stated he and several other Councilmembers attended the Avenue Task Force meeting in regards to concerns about the homeless population. He said that he, Councilmember Bennett, and Councilmember Pico took a company tour of Hewlett Packard Enterprises and that he attended the Teen Court luncheon.

Councilmember Avila stated she attended the inaugural event at the airport for the new flights on Frontier Airlines.

Councilmember Bennett stated that he also attended the Teen Court luncheon and that they have a ninety-three percent success ratio of non-recidivism.

Jeff Greene, Chief of Staff, stated that he and Mayor Suthers attended the Athena Award luncheon where Jan Weiland was awarded.

11. Adjourn

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

Sarah B. Johnson, City Clerk