



City of Colorado Springs

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

Meeting Minutes - Draft City Council

*City Council meetings are broadcast live on Channel 18,
beginning at 1:00 p.m.*

Tuesday, September 23, 2014

1:00 PM

Council Chambers

1. Call to Order

- Present:** 8 - President Pro Tem Merv Bennett, Councilmember Helen Collins, Councilmember Jill Gaebler, President Keith King, Councilmember Jan Martin, Councilmember Joel Miller, Councilmember Andy Pico, and Councilmember Val Snider
- Excused:** 1 - Councilmember Don Knight

2. Invocation and Pledge of Allegiance

The invocation was led by President Pro Tem Bennett.
The Pledge of Allegiance was led by President King.

3. Changes to Agenda/Postponements

Consensus of Council agreed to move agenda items 12.J., 12. K., 12.L. and Added Agenda Item 14. to immediately follow the Consent Calendar.

4. Councilmember Comments

Councilmember Collins stated she does not support the stormwater tax and encouraged citizens to study the agreement carefully.

Councilmember Bennett will be leaving early today to attend a funeral.

5. 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.)

5A. Second Presentation:

5A.A. 14-0377

Ordinance No. 14-63 amending Ordinance No. 13-77 (2014 Appropriation Ordinance) for a Supplemental Appropriation to the Cemeteries Fund in the amount of \$73,900 for the purchase of vehicles, equipment and a computer system upgrade

This Ordinance was finally passed on the Consent Calendar by a vote of 8-0-1.

5B. First Presentation:

- 5B.A. 14-0596** City Council Meeting Minutes September 9, 2014
The motion passed by a vote of 8-0-1.
- 5B.B. 14-0569** Boards and Commissions
The motion passed by a vote of 8-0-1.
- 5B.C. 14-0560** Minor Amendment to the Centennial East Master Plan
(Quasi-Judicial Matter)
The motion passed by a vote of 8-0-1.
- 5B.D. 14-0562** An ordinance amending the Zoning Map of the City of Colorado Springs relating to 10.78 acres located north of Fillmore Street and east of Centennial Boulevard
(Quasi-Judicial Matter)
This Ordinance was approved on first reading on the Consent Calendar by a vote of 8-0-1.
- 5B.E. 14-0563** An ordinance amending the Zoning Map of the City of Colorado Springs relating to 18.47 acres located north of Fillmore Street and east of Centennial Boulevard
(Quasi-Judicial Matter)
This Ordinance was approved on first reading on the Consent Calendar by a vote of 8-0-1.
- 5B.F. 14-0564** Centennial East Concept Plan
(Quasi-Judicial Matter)
The motion passed by a vote of 8-0-1.

Approval of the Consent Agenda

Motion by President Pro Tem Bennett, seconded by Councilmember Martin, that all matters on the Consent Calendar be passed, adopted, and approved by unanimous consent of the members present. The motion passed by a vote of 8-0-1.

Yes: 8 - Bennett, Collins, Gaebler, King, Martin, Miller, Pico, and Snider

Excused: 1 - Knight

6. Recognitions

- 6.A. 14-0559** A resolution recognizing September 27 - October 5, 2014 as "Creek Week" in the City of Colorado Springs

Eileen Gonzalez, City Council Administrator, read a proclamation designating September 27 - October 4, 2014 as Creek Week.

Councilmember Snider spoke about the importance of the Fountain Creek Watershed Greenway and Flood Control District and introduced Larry Small, Executive Director of the district. Mr. Small thanked council for their support and introduced Allison Plute chairman of the district, Ms. Plute provided additional information about activities citizens are encouraged to participate in during Creek Week.

Motion by Councilmemembr Snider, seconded by President Pro Tem Bennett that the resolution be adopted. The motion passed by a voice vote of 8-0-1.

7. Citizen Discussion

Citizen John Hawk spoke about basic services needing to have priority over projects included in the C4C agreement.

Citizen Charles Barber spoke about conservative government.

Citizen Miguel Lousell encouraged Council to remember Senior Citizens Week and to address the issue of homeless senior citizens by finding ways to support this population by providing jobs for young college graduates.

Citizen Deborah Stout-Meninger attended the Urban Renewal Authority meeting September 10, 2014 and expressed her concerns about the cost of cleaning up contamination in the area and the Mayor's ability to get money based only on his signature.

Citizen Carl Strow expressed concern about trespassing on the closed Manitou Incline and the failure to meet safety standards. He also voiced his concerns about the City government.

Citizen Melissa Walker spoke on behalf of the Friends of Garden of the Gods, in support of the Parks Master Plan.

Citizen Dave Lord spoke about the opportunities Council has to support initiatives today that will support this community and urged Council to think about the "Big Picture".

Citizen Roger Mc Carville expressed appreciation for Councilmember

Miller's position based on an editorial. He spoke about property management agencies. Councilmember Miller clarified he is talking about the housing authority management plans.

Citizen Doug Jones resident of Deerfield Hills neighborhood requested Council's support in keeping the Deerfield Hills Community Center open.

Citizen Ron Biandini spoke in favor of the Parks Master Plan.

Citizen Christine Lyle, Chief of Staff and Public Information Officer for Harrison School District 2, spoke in favor of the Deerfield Hills and Meadows Park community centers.

Citizen Jeremy Fields voiced his support of moving forward with the C4C project.

8. Mayor's Business

Bret Waters, Deputy Chief of Staff, reminded Council of the upcoming ground breaking ceremony for Venezia Regional Park is this Thursday.

9. Items Called Off Consent Calendar

There were no items called off the Consent Calendar.

10. Utilities Business

10.A. 14-0568

An Ordinance Amending Section 201 (Definitions) of Part 2 (Definitions); Section 702 (Wastewater Discharge; Prohibitions), Section 703 (Wastewater Discharge; Limitations), and Section 705 (Silver Source Control) of Part 7 (Prohibitions - Limitations on Wastewater Discharge); Section 901 (Reporting Requirements) and Section 903 (Inspection, Sampling, and Analysis) of Part 9 (Industrial Wastewater Monitoring and Reporting); Section 1002 (Manifest System), Section 1004 (Vehicle Maintenance Requirements) and 1005 (Financial Assurance Requirements) of Part 10 (Liquid Waste Hauler Requirements); Section 1102 (Discharge Permit; Application For), 1104 (Significant Industrial User Discharge Permit; Conditions), 1106 (Discharge Permit; Duration), 1108 (Liquid Waste Hauler Permit; Application For), 1109 (Liquid Waste Hauler Permit; Conditions) and 1112 (Modification for Permits and Control Mechanisms of Part 11 (Permit and Control Mechanism System); and Section 1201 (Enforcement Generally; Remedies Cumulative) and 1207 (Affirmative Defenses) of Part 12 (Enforcement) of all Article 5 (Wastewater Treatment Code) of Chapter 12 (Utilities) of the Code of the City of

Colorado Springs 2001, as amended

Dave Padgett, Chief Environmental Health and Safety Officer, and Lauren Swenson, Environmental Specialist, with Colorado Springs Utilities provided copies of the proposed revisions to the document in response to the request from the Utilities Board meeting.

Councilmember Miller asked if the updated procedure manual is available on-line, Mr. Padgett stated that it is.

Councilmember Collins expressed appreciation of the work done to update this document.

Mr. Padgett stated this action will trigger a 30 day public comment notice by the EPA. The second reading will be scheduled for the end of October.

Motion by President Pro Tem Bennett, seconded by Councilmember Snider, that the Ordinance be approved on first reading. The motion passed by a vote of 8-0-1.

Yes: 8 - Bennett, Collins, Gaebler, King, Martin, Miller, Pico, and Snider

Excused: 1 - Knight

11. Unfinished Business

There was no Unfinished Business.

The City Council adjourned and reconvened as the Board of Directors of the Briargate General Improvement District for the following item:

16.A. 14-0497 Briargate General Improvement District Refunding Bonds, Series 2014

Kara Skinner, CFO, provided an overview of the plan to refinance the Briargate bonds and refund the mill levy early as a result of this action. The interest rate on the new bonds will be lower resulting in reduced debt and faster repayment of the debt.

Councilmember Miller asked if revenue collected in excess of the bond could be used to accelerated repayment of the bond money. Tom Florczak, Deputy City Attorney, explained the mill levy could only be used to repay the bonds; this includes paying the debt down early but would require Council to restrict the action of the future board of directors and would require the bank to approve this restriction.

Councilmember Pico supported the idea of allowing Council to make the decisions of how to repay this debt. Mario Tremble, Kutak Rock, Bond Counsel, provided clarification on the amount of the mill levy and how it can be adjusted within limits according to income and repayment requirements. Councilmember Miller asked if a mill levy has ever been decreased. Mr. Tremble stated this has happened.

Mr. Temble provided additional clarification that this refinance will allow this debt to be paid back sooner and at a much lower cost.

Motion by President Pro Tem Bennett, seconded by Councilmember Snider, that the plan to refund bond series 2014 be approved. The motion passed by a vote of 7-1-1.

Yes: 7 - Bennett, Collins, Gaebler, King, Martin, Pico, and Snider

No: 1 - Miller

Excused: 1 - Knight

The meeting of the Board of Directors of the Briargate General Improvement District adjourned.

President Pro Tem Bennett was excused.

City Council Reconvened.

12. New Business

12.A. 14-0516 An ordinance amending Article 1 (Administration and Enforcement) of Chapter 10 (Motor Vehicles and Traffic) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the definition of a trailer and towing of the same

Councilmember Miller expressed concern about the 72 hour towing law. Chief Peter Carey, CSPD, stated this is a law that has been on the books for many years.

Motion by Councilmember Gaebler, seconded by Councilmember Martin, that the ordinance be approved on first reading. The motion passed by a vote of 6-1-2.

Yes: 6 - Collins, Gaebler, King, Martin, Pico, and Snider

No: 1 - Miller

Excused: 2 - Bennett, and Knight

12.B. 14-0517 An ordinance amending Section 401 (Shoplifting Prohibited) of Part 4 (Shoplifting) 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 theft

Chief Peter Carey, CSPD, explained this ordinance will align City Code with the State law.

Motion by Councilmember Gaebler, seconded by Councilmember Snider, that the Ordinance be approved on first reading. The motion passed by a vote of 7-0-2.

Yes: 7 - Collins, Gaebler, King, Martin, Miller, Pico, and Snider

Excused: 2 - Bennett, and Knight

- 12.C. 14-0518** An ordinance amending Section 218 (Signal Lamps and Devices; Street Rod Vehicles and Custom Motor Vehicles) of Part 2 (Vehicle Equipment and Inspection) of Article 22 (Vehicle Equipment and Inspection); Section 101 (Obstruction of View or Driving Mechanism) of Article 23 (Miscellaneous Rules of the Road); and Section 101 (Compulsory Vehicle Insurance) of Article 28 (Compulsory Insurance) of Chapter 10 (Motor Vehicles and Traffic) of the Code of the City of Colorado Springs 2001, as amended, pertaining to motor vehicles and traffic

Chief Peter Carey, CSPD explained this ordinance will also align City Code with State laws.

Councilmember Martin requested clarification of the definition of visual screens, asking if this includes GPS devices, cell phones and computer screens in the car. Chief Carey stated the State limits this to visual entertainment.

Motion by Councilmember Gaebler, seconded by Councilmember Snider, that the ordinance be approved on first reading. The motion passed by a vote of 7-0-2.

Yes: 7 - Collins, Gaebler, King, Martin, Miller, Pico, and Snider

Excused: 2 - Bennett, and Knight

- 12.D. 14-0519** An ordinance amending Section 207 (Perishable or Hazardous Property) of Part 2 (Custody of Property and Weapons) of Article 1 (Administration and Enforcement) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to destruction of perishable and hazardous property

Chief Peter Carey, CSPD reminded Council of the importance of this ordinance to protect CSPD staff.

Motion by Councilmember Gaebler, seconded by Councilmember Snider, that the ordinance be approved on first reading. The motion passed by a vote of 7-0-2.

Yes: 7 - Collins, Gaebler, King, Martin, Miller, Pico, and Snider

Excused: 2 - Bennett, and Knight

- 12.E. 14-0527** A resolution of the City Council of the City of Colorado Springs, Colorado approving revisions to the Articles of Incorporation and Bylaws of the Foundation and approving the investment and grantmaking policies developed by the Board of Trustees of the Colorado Springs Health Foundation.

Councilmember Bennett explained Council is voting on the revised articles of incorporation and investment policies of the Colorado Springs Health Foundation today. Councilmember Bennett expressed thanks on behalf of Mr. Medved for Council's support through this process.

Motion by President Pro Tem Bennett, seconded by Councilmember Gaebler, that the resolution be adopted as presented. The motion passed by a vote of 8-1-1.

Yes: 7 - Bennett, Collins, Gaebler, King, Martin, Pico, and Snider

No: 1 - Miller

Excused: 1 - Knight

- 12.F. 14-0549** A Resolution to approve an economic development agreement between the city of Colorado Springs and Colorado Interstate Gas Company, LLC and New Colorado Square, LLC

Bret Waters, Deputy Chief of Staff, provided details regarding this resolution and stressed the importance of the retention of Kinder Morgan to the economic vitality of this community and stated this proposal is in line with the City Council's strategic plan. Bob Cope provided a brief overview of the proposal.

President King asked Mr. Cope to clarify if this type of incentive is available to other business entities. Mr. Cope stated this is the starting point of negotiations.

Councilmember Snider praised the implications of this agreement.

Councilmember Pico stated he would like to see this type of program broadened to include other businesses.

Councilmember Collins expressed her disagreement with the need to negotiate with organizations to stay in the City, stating she does not feel this is beneficial to entities across the board.

Councilmember Martin expressed her appreciation for the work done to keep this community partner in town.

Councilmember Miller acknowledged the standard list of incentives and requested this list be made equally available to all entities, adding that he cannot support this agreement due to his belief that this is not readily available to everyone.

Citizen John Cassiani, Executive Director of Colorado Springs Forward, spoke in support of this agreement.

Councilmember Gaebler requested clarification on the availability of these programs to business entities. Mr. Cope responded that there will be additional discussion about making these programs consistently available.

Al Wenstrand, Regional Business Alliance, stated these are reasonable incentives to encourage sustained growth in the downtown area.

Motion by President Pro Tem Bennett, seconded by Councilmember Gaebler, that the Resolution to approve the attached Economic Development Agreement between the City of Colorado Springs and Colorado Interstate Gas Company, LLC and New Colorado Square, LLC be adopted. The motion passed by a vote of 6-2-1.

Yes: 6 - Bennett, Gaebler, King, Martin, Pico, and Snider

No: 2 - Collins, and Miller

Excused: 1 - Knight

12.G. 14-0548 A Resolution of Approval Regarding the Proposed Velodrome Roof Enclosure at Memorial Park

Chris Lieber, Park Development Manager, and Aaron McGuire with the USOC were available to answer questions. Mr. Leiber reminded Council the intent of this resolution is to provide better training facilities for Olympic Athletes.

Motion by Councilmember Gaebler, seconded by Councilmember Snider, that the resolution to approve the proposed temporary/seasonal roof structure over the Velodrome at Memorial Park be adopted. The motion passed by a vote of 7-0-2.

Yes: 7 - Collins, Gaebler, King, Martin, Miller, Pico, and Snider

Excused: 2 - Bennett, and Knight

- 12.H. 14-0537** A Resolution of Acceptance Supporting the Agreement Between the City of Colorado Springs and the State Board of the Great Outdoors Colorado Trust Fund for the Harlan Wolfe Park Flood Restoration and Park Improvement Project

Councilmember Miller stated the agreement is not included in the Council Packet and he would like to see the agreement before voting. Chris Lieber, Park Development Manager, stated the agreement is in the standard GOCO form and apologized for not including it in the packet.

Motion by Councilmember Gaebler, seconded by Councilmember Snider, that the Resolution of Acceptance for a Great Outdoors Colorado Flood Recovery Grant in the amount of \$98,521 for the Harlan Wolfe Park Flood Recovery and Park Improvement Project be adopted. The motion passed by a vote of 7-0-2.

Yes: 7 - Collins, Gaebler, King, Martin, Miller, Pico, and Snider

Excused: 2 - Bennett, and Knight

- 12.I. 14-0403** A resolution adopting the Colorado Springs Park System Master Plan (years 2015-2025)

Karen Palus, Director of Parks, Recreation and Cultural Services, expressed appreciation for the team involved in developing this plan and provided an overview of the updated plan. Chris Leiber, Park Development Manager, provided additional information about how the plan was developed and how it is intended to move the City parks forward over the next ten years.

Citizens John Hawk, Karen Fleming, Jackie Hilaire, Brian Kates, Jim Reese, and Susan Davies spoke in support of the Parks Master Plan.

Councilmember Miller applauded the work and collaboration that has gone into this document and expressed his concerns with this plan, specifically the financial aspects of the plan including tax increases passing the responsibility of providing parks to the citizens when the City should provide those amenities. He will support the plan but not the tax increases.

Councilmember Martin expressed appreciation to all of the individuals, employees and volunteers for the work done in developing this plan.

Councilmember Collins commented on the citizen participation in the development of the plan and thanked everyone who worked on the plan, adding she will support this but not the TOPS sales tax increase.

Councilmember Snider praised the work done on trails and expressed his appreciation to Karen Palus and Chris Leiber and the Parks Department.

Motion by President Pro Tem Bennett, seconded by Councilmember Gaebler, that the Resolution to approve the resolution adopting the Colorado Springs Park System Master Plan (Years 2015-2025) be adopted. The motion passed by a vote of 8-0-1.

Yes: 8 - Bennett, Collins, Gaebler, King, Martin, Miller, Pico, and Snider

Excused: 1 - Knight

12.J. 14-0557 An ordinance submitting a Charter amendment to the electors of the City of Colorado Springs for the general municipal election to be held April 7, 2015 relating to voting requirements for planning, building, funding or financing a stadium and event center

Councilmember Miller moved to postpone this item to the November 10, 2014 Council meeting for first reading and to align the second reading with placement on the April 17, 2015 ballot.

Councilmember Miller stated the building of a stadium should be approved by tax payers, adding that the State funding through C4C will only cover 10% of the cost of the stadium.

Motion by Councilmember Miller, seconded by Councilmember Pico, that the ordinance be postponed to a date certain, November 10, 2014. The motion passed by a vote of 6-2-1.

Yes: 6 - Bennett, Collins, Gaebler, King, Miller, and Pico

No: 2 - Martin, and Snider

Excused: 1 - Knight

12.K. 14-0506 A resolution of the City Council of the City of Colorado Springs concerning the retention of outside legal counsel

President Pro Tem Bennett moved to postpone this item to the October 28, 2014 City Council meeting to allow Councilmember Knight to be present for the discussion.

Motion by President Pro Tem Bennett, seconded by Councilmember Pico, that the resolution be postponed to a date certain, October 28, 2014. The motion passed by a vote of 5-3-1.

Yes: 5 - Bennett, Collins, King, Miller, and Pico

No: 3 - Gaebler, Martin, and Snider

Excused: 1 - Knight

12.L. 14-0598 Consideration of resolutions or other actions relating to the disposition of the property known as Jones Park for a public purpose.

President Pro Tem Bennett moved that an appraisal of the Jones Park property be conducted by November 25, 2014.

Councilmember Martin reiterated that she believes having an appraisal done is a waste of time and resources since Council is inclined to give this land to the county.

David Andrews, Legislative Counsel, requested clarification on the timeline for the appraisal and biological study. Councilmember Bennett stated he understands the November 25, 2014 date allows adequate time for the necessary studies to be completed.

A citizen questioned the need to have an appraisal done if there is no intent to sell the property to private bidders and encouraged Council to make a decision in the best interest of the citizens.

President King stated it was decided at the Utility Board meeting to move forward with the appraisal.

Jeff Greene, El Paso County Administrator, provided a statement of intent for El Paso County to reimburse the City for the costs of the appraisal, environmental study and cultural survey as needed if the land is donated to the County. Mr. Greene also stated the County is committed to follow the NEPA process.

Councilmember Miller stated he believes it is imperative for Council to know the value of the land prior to making a decision.

Councilmember Gaebler stated her concerns about this situation include Colorado Springs Utilities spent two years deciding on the best action for this property, which Council did not follow and secondly, she does not see any reason to do the appraisal if there is no intent to sell the property to the highest bidder.

Citizens Roger McCarvelle and Charles Guy spoke in support of doing an appraisal of the property.

Gary Bostrom, Chief Water Services Officer with CSU requested clarification that the appraisal will include the deed restrictions. President King confirmed this.

Motion by President Pro Tem Bennett, seconded by Councilmember Collins, that the appraisal be completed concerning the Jones Park property by November 25, 2014. It is the intent of Council to express with this motion that El Paso County should be the recipient of the property if it is transferred. However, Council directs that the process that was outlined at the Utility Board meeting on September 17, 2014 be honored and that the appraisal provides information to Council on the appropriate value and use of the property. The motion passed by a vote of 5-3-1.

Yes: 5 - Bennett, Collins, King, Miller, and Pico

No: 3 - Gaebler, Martin, and Snider

Excused: 1 - Knight

13. Public Hearing

There was not a Public Hearing.

14. Added Item Agenda

Approve a settlement agreement in a pending litigation matter.

Wynetta Massey, City Attorney, explained this item is a request for authorization to settle the City v. Public Employees Retirement Association of Colorado lawsuit.

- The City Council authorized filing this declaratory judgment action in 2012, after the City signed a voter-approved forty (40) year lease of the City's Memorial Health System to entities associated with the University of Colorado Hospital Authority (UCH).
- The case involved PERA issues of first impression pertaining to pension benefit costs for former Memorial Health System employees.
- The City did not pay PERA because serious questions existed regarding whether the City or Memorial had any legal obligation to pay PERA any amount under the Termination Provisions of the PERA statute.
- In the face of this uncertainty, the law provides affected parties the ability to ask a court to decide the dispute by way of a declaratory judgment. This is the remedy the City and PERA invoked to resolve their good faith disagreement.

Citizen Charles Guy requested the final disposition of the court be known prior to signing an agreement with PERA. John Cook, Consultant, explained the settlement agreement outlined by Ms. Massey provided these details.

Motion by President Pro Tem Bennett, seconded by Councilmember Martin, that the settlement agreement in a pending litigation matter be approved. The motion passed by a vote of 8-0-1.

Yes: 8 - Bennett, Collins, Gaebler, King, Martin, Miller, Pico, and Snider

Excused: 1 - Knight

15. Executive Session

There was not an Executive Session.

4. Councilmember Comments

Councilmember Miller requested an update on the Comprehensive Plan. Mr. Andrews stated the Comprehensive Plan has not been abandoned and that administration is in the early stages of fulfilling the plan. Councilmember Miller expressed concern about the plan stating Council would hire a consultant and that not being done.

Councilmember Miller commented on the Infill Development Steering Committee being largely comprised of developers and lacking representation of residents or members of a neighborhood association.

Councilmember Pico addressed this concern, stating that CONO was intentionally not included in the membership because they already have adequate voice.

Councilmember Gaebler explained opportunities for citizens to be represented and heard by the committee.

16. Adjourn