



City of Colorado Springs

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

Meeting Minutes - Final City Council

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Tuesday, December 13, 2016

1:00 PM

Council Chambers

1. Call to Order

Present: 9 - Councilmember Larry Bagley, President Merv Bennett, Councilmember Helen Collins, President Pro Tem Jill Gaebler, Councilmember Keith King, Councilmember Don Knight, Councilmember Bill Murray, Councilmember Andy Pico, and Councilmember Tom Strand

2. Invocation and Pledge of Allegiance

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

The Pledge of Allegiance was led by Council President Bennett.

3. Changes to Agenda/Postponements

Council President Bennett stated agenda item 4.B.E. will be pulled from the Consent Calendar.

Eileen Gonzalez, City Council Administrator, stated there has been a request to postpone agenda item 9.D.

4. Consent Calendar

These items will be acted upon as a whole, unless a specific item is called for discussion by a Councilmember or a citizen wishing to address the City Council. (Any items called up for separate consideration shall be acted upon following the Mayor's Business.)

4A. Second Presentation:

4A.A. [16-659](#)

Ordinance No. 16-117 amending Ordinance No. 15-86 (2016 Appropriation Ordinance) for a Supplemental Appropriation to the Memorial Health System Enterprise Fund in the Amount of \$1,217,000 for Transfer to the Colorado Springs Health Foundation

Presenter:
Kara Skinner, Chief Financial Officer

Res/Ord Number: 16-117

This Ordinance was finally passed on the Consent Calendar.

4A.B. [CPC ZC
16-00039](#)

Ordinance No. 16-118 amending the zoning map of the City of Colorado Springs pertaining to 4.592 acres located south of Harrison High School on Janitell Road from R (Estate Single-Family Residential) to C-6/cr (General Business with conditions of record).

(Quasi-Judicial)

Related File: CPC CP 16-00040

Presenter:

Lonna Thelen, Principal Planner, Planning & Community Development
Peter Wysocki, Director Planning and Community Development

Res/Ord Number: 16-118

This Ordinance was finally passed on the Consent Calendar.

4A.C. [CPC PUZ
16-00094](#)

Ordinance No. 16-119 amending the zoning map of the City of Colorado Springs pertaining to 12.73 acres located near the intersection of Grand Cordera Parkway and Argentine Pass Trail from PBC/AO (Planned Business Center with Airport Overlay) and PUD/AO (Planned Unit Development; mixed residential, including assisted senior living, 50-foot 7-inch maximum building height, 24.99 dwelling units per acre with Airport Overlay) to PUD/AO (Planned Unit Development; multi-family residential, 45-foot maximum building height, 22 dwelling units per acre with Airport Overlay)

(Quasi-Judicial)

Related File: CPC PUD 16-00095

Presenter:

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

Res/Ord Number: 16-119

This Ordinance was finally passed on the Consent Calendar.

4A.D. [16-633](#)

Ordinance No. 16-120 amending Ordinance No. 07-113 pertaining to the Public Art Commission of the Pikes Peak Region

Presenter:

Councilmember Tom Strand
Jon Khoury, Chair
Renee Congdon, City Attorney's Office

Res/Ord Number: 16-120

This Ordinance was finally passed on the Consent Calendar.

- 4A.E.** [16-557](#) Ordinance No. 16-121 amending provisions of the Pikes Peak Regional Building Code, 2011 edition, formerly adopted by Ordinance 11-34, as amended by Ordinances 13-6 and 16-23, and amending Sections 102 (Code Adopted by Reference) and 103 (Penalty Provisions, Additions and Modifications) of Part 1 (General Provisions) of Article 10 (Building Code Administration) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended.

Presenter:

Meggan Herington, Planning Manager, Planning and Development Department

Roger Lovell, Regional Building Official

Res/Ord Number: 16-121

This Ordinance was finally passed on the Consent Calendar.

- 4A.F.** [16-462](#) Ordinance No. 16-123 assessing costs for work performed in building demolition at 418 East Cucharras Street, charging the work against the property upon which the work was done and certifying this assessment to the County Treasurer for collection as a priority lien.

Presenter:

Mike Chaves, P.E., CIP Engineering Manager

Aaron Egbert, P.E., Senior Engineer

Res/Ord Number: 16-123

This Ordinance was finally passed on the Consent Calendar.

4B. First Presentation:

- 4B.A.** [16-733](#) City Council Meeting Minutes November 22, 2016

Presenter:

Sarah Johnson, City Clerk

The Meeting Minutes were approved on the Consent Calendar.

- 4B.B.** [16-740](#) Appointments to Boards and Commissions

Presenter:

Jacquelyn Puett, Assistant to Council

This item was approved on the Consent Calendar.

- 4B.C.** [16-732](#) The City Clerk reports that on November 7, 2016 there was filed with her a petition for the Kum & Go Store 689 annexation. The City Clerk

herewith communicates such to City Council and recommends that the petition and map be referred to the City Administration for review and recommendation regarding whether the petition is in substantial compliance with Section 31-12-107(1) .

Presenter:
Sarah B. Johnson, City Clerk

This Informational Report was received on the Consent Calendar.

4B.D. [16-744](#) The Mail Ballot plan for the April 4, 2017 General Municipal Election

Presenter:
Sarah B Johnson, City Clerk

The Mail Ballot plan was approved on the Consent Calendar.

Approval of the Consent Agenda

Motion by Councilmember Bagley 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 - Bagley, Bennett, Collins, Gaebler, King, Knight, Murray, Pico, and Strand

5. Recognitions

5.A. [16-746](#) Resolution of Appreciation for Shane White on the Occasion of his Retirement as the Litigation Division Chief for the City of Colorado Springs City Attorney's Office.

Presenter:
Wynetta Massey, City Attorney

Res/Ord Number: 148-16

Wynetta Massey, City Attorney, read the proclamation of appreciation.

Shane White thanked the City Attorney's Office for their support over the years.

Motion by Councilmember Strand, seconded by Councilmember Bagley, that the resolution be adopted. The motion passed by a vote of 9-0-0

Aye: 9 - Bagley, Bennett, Collins, Gaebler, King, Knight, Murray, Pico, and Strand

6. Citizen Discussion

Citizen Heidi Hall spoke about the living conditions in affordable housing facilities in the City.

Citizen David Kelly spoke in opposition of the “right sizing” and addition of bike lanes on Research Parkway. Council President Pro Tem Gaebler reminded citizens this is a trial project and there is possible tax funding available for cities that take the initiative to improve bicycle routes.

Citizen Raven Canon spoke about homelessness in our community.

Citizen Gerald Miller spoke about the dangerous intersection at Moreno and Hancock and suggested a brighter street light be installed. Mr. Greene will review this situation and follow-up with Mr. Miller.

Citizen Richard Skorman provided an update about the opposition to the Strawberry Fields land exchange. The Save Cheyenne group may request Council refer a question to the April election or consider an ordinance to protect City Parks.

Citizen Kent Obee spoke in support of Council protecting City Parks through an ordinance.

Mayor Suthers stated the City has used land exchanges on many occasions to enhance the Park properties and warned Council about the unintended consequences of the action proposed by the citizens speaking today.

Citizen Katelyn Sethy spoke about the poor driving habits of Colorado Springs citizens and the lack of enforcement, urging the City to use traffic cameras.

Citizen Jaymen Johnson stated this body seems to be more concerned about parcels of land than about the citizens it represents.

7. Mayor's Business

- 7.A.** [16-742](#) Appointment of Jackie Jaramillo to fill an unexpired term on the Colorado Springs Housing Authority Board, expiring on April 1, 2018.

Presenter:
Mayor John Suthers

Mayor John Suthers presented a summary of Ms. Jaramillo’s qualifications and experience.

Ms. Jaramillo thanked Council for their vote of confidence and promised

to serve with her whole heart.

Motion by Councilmember Strand, seconded by Councilmember Murray, to confirm the Mayor's appointment of Jackie Jaramillo to fill an unexpired term on the Colorado Springs Housing Authority Board, expiring on April 1, 2018. The motion passed by a vote of 9-0-0

Aye: 9 - Bagley, Bennett, Collins, Gaebler, King, Knight, Murray, Pico, and Strand

8. Items Called Off Consent Calendar

- 4B.E.** [16-734](#) Resolution setting two public hearings to receive public comment on the renewal of the Comcast cable franchise agreement

Presenter:

Bret Waters, Deputy Chief of Staff

Res/Ord Number: 149-16

Councilmember Strand stated he pulled this item from the Consent Calendar to request an update on the agreement negotiation process. Bret Water, Deputy Chief of Staff, stated the proposed agreement will be provided to the public as soon as possible and prior to the public meetings.

Motion by President Pro Tem Gaebler, seconded by Councilmember Bagley, that the resolution setting two public hearings to receive public comment on the renewal of the Comcast cable franchise agreement be adopted. The motion passed by a vote of 9-0-0

Aye: 9 - Bagley, Bennett, Collins, Gaebler, King, Knight, Murray, Pico, and Strand

9. Utilities Business

- 9.A.** [16-725](#) Ordinance No. 16-125 Submitting A Charter Amendment to the Registered Qualified Electors Of The City At The General Municipal Election To Be Held April 4, 2017, Relating To Sale Or Conveyance Of Units Of Colorado Springs Utilities And Amending Section 6-80 Of The City Charter

Presenter:

Christian Nelson, Strategy & External Affairs
Jerry Forte, P.E., CEO, Colorado Springs Utilities

Res/Ord Number: 16-125

Christian Nelson, Strategy & External Affairs, reviewed the proposed changes to the City Charter.

Councilmember Murray requested clarification about what Council is voting on. Ms. Massey explained the documents to Mr. Murray.

Councilmember Murray requested additional information about why certain terms were removed from the document. Mr. Nelson stated the terms were removed and the language was amended to lend clarification to the document.

Councilmember Knight proposed the ballot question language be amended to clarify this is a change from a simple majority to a super majority vote. He feels the current language does not make it clear that a vote would already be required. Councilmembers Bennett and Pico agreed.

Rick Griffith with the City Attorney's Office suggested the language be changed, to add at the end of the current language, "rather than a simple majority (over 50%) as required by the current Charter".

Councilmember Murray asked why the City needs to require a 60 percent majority vote. Councilmember King stated this City has a treasure in this municipally owned utility and the question of selling this utility to a private enterprise should be taken seriously and carefully considered by voters.

Motion by Councilmember King, seconded by Councilmember Bagley, that the Ordinance, as amended, to place the Charter Amendment requiring a sixty percent (60%) supermajority vote, rather than a simple majority (over 50%) as required by the current City Charter, of the City's electors to sell, convey, or lease a substantial part of the City's Utilities systems on the April 2017 ballot. The motion passed by a vote of 9-0-0

Aye: 9 - Bagley, Bennett, Collins, Gaebler, King, Knight, Murray, Pico, and Strand

- 9.B.** [16-726](#) An Ordinance Amending Multiple Sections Within Chapter 1 (Administrative, Personnel, And Finance) of the Code of the City of Colorado Springs 2001, As Amended, Pertaining To Colorado Springs Utilities

Presenter:

Christian Nelson, Strategy & External Affairs
Jerry Forte, P.E., CEO, Colorado Springs Utilities

Christian Nelson, Strategy & External Affairs, reviewed the proposed changes.

Councilmember Knight stated this was discussed in the Utility Board meeting as a formality. He has some concerns about the proposed changes and requested this item be postponed to a later date to allow for additional discussion and consideration by Council.

Motion by Councilmember Knight, seconded by Councilmember Strand, to postpone the ordinance indefinitely. The motion passed by a vote of 9-0-0

Aye: 9 - Bagley, Bennett, Collins, Gaebler, King, Knight, Murray, Pico, and Strand

- 9.C.** [16-743](#) An Ordinance Amending Article 1 (General Provisions) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, As Amended, Pertaining To Colorado Springs Utilities

Presenter:

Christian Nelson, Strategy & External Affairs
Jerry Forte, P.E., CEO, Colorado Springs Utilities

Please see comments in agenda item 9.B.

Motion by Councilmember Knight, seconded by Councilmember Strand, to postpone the Ordinance indefinitely. The motion passed by a vote of 9-0-0

Aye: 9 - Bagley, Bennett, Collins, Gaebler, King, Knight, Murray, Pico, and Strand

- 9.D.** **16-738** A Resolution Accepting a Donation of a 3.407 Acre Parcel of Real Property from Norris Properties, LLC to the City of Colorado Springs

Presenter:

Lyman Ho, SDS Land Acquisition Manager
Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

There were no questions or comments on this agenda item.

Motion by Councilmember Strand, seconded by Councilmember Bagley, that the Resolution be postpone to a date certain, the January 23, 2017 City Council Work Session and the January 24, 2017 City Council meeting. The motion passed by a vote of 9-0-0

Aye: 9 - Bagley, Bennett, Collins, Gaebler, King, Knight, Murray, Pico, and Strand

10. Unfinished Business

- 10.A.** [16-468](#) Ordinance No. 16-122 amending all sections of Article 3 (Code of Ethics) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended.

Presenter:

Tracy Lessig, Division Chief-Employment, City Attorney's Office
Andy Pico, City Council Member, District 6

Res/Ord Number: 16-122

There were no questions or comments on this agenda item.

Motion by Councilmember Murray, seconded by Councilmember Bagley, that the ordinance be finally passed. The motion passed by a vote of 8-1-0

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

No: 1 - Collins

10.B. [CPC PUZ
16-00102](#)

Ordinance No. 16-124 amending the zoning map of the City of Colorado Springs pertaining to 116.82 acres located south of Old Ranch Road and north of Cordera Crest Avenue from A (Agriculture) to PUD (Planned Unit Development; single-family detached residential, 2.63 dwelling units per acre, 36-foot maximum building height).

(Quasi-Judicial)

Related Files: CPC MPA 007-00061-A4MJ16, CPC PUP 16-00103, CPC PUD 16-00104

Presenter:

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

Res/Ord Number: 16-124

Councilmembers Gaebler, Knight, Pico and Strand recused themselves from this item.

There were no questions or comments on this agenda item.

Motion by Councilmember Murray, seconded by Councilmember Bagley, that the ordinance changing the zoning of 116.82 acres from A (Agriculture) to PUD (Planned Unit Development; single-family detached residential, 2.63 dwelling units per acres, 36-foot maximum building height), based upon the findings that the change of zone request complies with the three (3) review criteria for granting a zone change as set forth in City Code Section 7.5.603 and the development of a PUD zone as set forth in City Code Section 7.3.603 be finally passed. The motion passed by a vote of 4-1-0-4

Aye: 4 - Bagley, Bennett, King, and Murray

No: 1 - Collins

Recused: 4 - Gaebler, Knight, Pico, and Strand

11. New Business

11.A. [CPC CA
16-00008](#)

An Ordinance repealing and reordaining Section 906 (Appeals) of Part 9 (Notice, Hearings and Appeals) of Article 5 (Administration and Procedures) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to appeals.

(Legislative)

Presenter:

Peter Wysocki, Planning and Community Development Director

Carl Schueler, Comprehensive Planning Manager

Councilmember Pico was excused.

Carl Schueler, Comprehensive Planning Manager, provided an overview of the changes to this proposal since the previous meeting.

Councilmember Knight asked if anything has changed about what is considered appealable. Mr. Schueler stated nothing has changed as far as what can be appealed. Peter Wysocki, Director of Planning and Community Development, provided additional information about what planning items can be appealed.

Councilmember Murray asked why the Planning Department wants to make this change. Mr. Schueler stated the intent is to make the process more efficient and customer friendly.

Councilmember King asked how this affects the rights of property owners. Mr. Schueler stated the process continues to protect the rights of property owners, but makes the process more efficient and effective.

Council President Pro Tem Gaebler stated she has had feedback from constituents requesting the notification distance be changed from 500 feet to 1000 feet. Mr. Schueler stated planning staff will normally increase the notification distance on potentially contentious items. There are multiple ways notification is provided including posters, Home Owners Association notification, newsletters, etc. Increasing the notification area will also increase the associated costs. Ms. Gaebler asked what the cost difference would be with the larger notification area requirement. Mr. Wysocki stated the cost of notification falls on the developer; this is not a cost saving measure for the City, but the Planning Department does consider costs to the developer. An exact cost for this change would vary depending on the population density of the area and other factors.

Councilmember Knight presented an overview of research he has done on this process in comparison with other cities and presented proposed changes to the proposal.

Councilmember King asked how much this will change the current appeals process. Mr. Knight stated he believes this is a good

compromise.

Mr. Greene asked how Albuquerque defines a person interest. Mr. Knight will research this and follow-up with Council.

Dave Munger, President of the Council of Neighbors and Organizations (CONO), stated this proposal has been in process for many months and the CONO Board has expressed unanimous support of this proposal. Mr. Knight took exception to the statement that the CONO Board supports this unanimously and stated he has had discussions with Jan Doran from the CONO Board in which she expressed dissent to this proposal. Mr. Munger clarified that the CONO representative on the Code Scrub Committee approve the proposed changes.

Councilmember Murray asked why CONO feels the need to make changes to this process when a substantial need for this change has not been demonstrated. Mr. Munger stated they have identified a process that could be improved and are trying to make changes to achieve that improvement.

Kyle Campbell with Classic Consulting spoke in support of the proposal as presented and stated he questions the need for these changes. Councilmember King confirmed Mr. Campbell does not feel the proposed changes will dramatically change development in Colorado Springs. Mr. Campbell confirmed this is his opinion. His impression from listening to Council today is that Council desires to keep the appeal process open.

Councilmember Collins stated she was contacted by citizens expressing concern about these changes. She does not see a need for the proposed changes or any benefit to the average citizen as a result of these changes.

Citizens Dave Gardner, Jaymen Johnson and Walter Lawson spoke in opposition to the proposed changes.

Councilmember Knight stated he does not feel it is fair to vote on an amended motion when it was suggested Council delay this action due to the late receipt of his proposal.

Motion by Councilmember Knight, seconded by Councilmember Murray, to postpone the ordinance indefinitely. The motion passed by a vote of 6-2-1

Aye: 6 - Bennett, Collins, King, Knight, Murray, and Strand

No: 2 - Bagley, and Gaebler

Excused: 1 - Pico

12. Public Hearing

There was not a Public Hearing.

13. Added Item Agenda

There were no items added to the agenda.

14. Executive Session

The Closed Executive Session will be held at 3:00 p.m.

14.A. [16-721](#)

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 issues to be discussed involve: (1) legal advice and consultation with the City Attorney regarding pending litigation related to a regulatory matter; (2) legal advice and negotiation consultation with the City Attorney regarding a franchise agreement; and (3) legal advice and consultation with the City Attorney regarding settlement of a pending litigation matter related to a Utilities permitting matter.

Presenter:

Wynetta Massey, City Attorney

Wynetta Massey, City Attorney, stated the purpose of the Closed Executive Session is to; receive legal advice and consultation with the City Attorney regarding a pending litigation related to a regulatory matter, to receive legal advice and negotiation consultation regarding a franchise agreement, and to received legal advice and consultation regarding settlement of a pending litigation matter related to a Utilities permitting matter.

Council President polled Council regarding the desire to proceed with these discussions in a closed executive session. Consensus of Council agreed to proceed with the discussion in a closed executive session.

15. Adjourn

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

Sarah Johnson, City Clerk