



# City of Colorado Springs

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

## Meeting Minutes - Final City Council

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Tuesday, January 24, 2017

1:00 PM

Council Chambers

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### 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 Greg Wilkins, Vista Grande Church.

The Pledge of Allegiance was led by Council President Bennett.

### 3. Changes to Agenda/Postponements

Council President Bennett stated there has been a request to hear agenda items 11.A. and 11.B. immediately following Mayor's Business. Consensus of Council agreed to this change to 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.** [CPC ZC  
16-00113](#)

Ordinance No. 17-1 amending the zoning map of the City of Colorado Springs pertaining to 2.00 acres located at 1060 Kelly Johnson Boulevard from PIP-1 (Planned Industrial Park) to PBC (Planned Business Park). (Quasi-Judicial)

Presenter:

Rachel Teixeira, Planner II, Planning and Community Development  
Peter Wysocki, Director Planning and Community Development

**This Ordinance was finally passed on the Consent Calendar.**

- 4A.B.** [CPC CA 16-00115](#) Ordinance No. 17-2 Amending Section 201 (Definitions Enumerated) of Part 2 (Definitions of Article 2 (Basic Provisions, Definitions and Land Use Types and Classifications); Section 1205 (Nonconforming Lots) of Part 12 (Nonconforming Development) of Article 5 (Administration and Procedures), and Multiple Sections of Article 7 (Subdivision Regulations) All within Chapter 7 (Planning, Development and Building of the Code of The City of Colorado Springs 2001, as Amended, Pertaining to Waiver of Replat (Legislative)

Presenter:

Meggan Herington, LUR/DRE Planning Manager, Planning and Community Development  
Peter Wysocki, Director of Planning and Community Development

**This Ordinance was finally passed on the Consent Calendar.**

- 4A.C.** [CPC V 16-00067](#) Ordinance No. 17-3 vacating excess portions of public rights-of-way within Banning Lewis Ranch located near the intersection of Vista Del Flores Street and Vista Del Tierra Drive, and along Dublin Boulevard west of Vista Del Tierra Drive.

(Legislative)

Presenter:

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

**This Ordinance was finally passed on the Consent Calendar.**

**4B. First Presentation:**

- 4B.A.** [17-800](#) City Council Meeting Minutes January 10, 2017

Presenter:

Sarah Johnson, City Clerk

**The Meeting Minutes were approved on the Consent Calendar.**

- 4B.B.** [CPC ZC 16-00125](#) An ordinance amending the zoning map of the City of Colorado Springs pertaining to 0.16 of an acre located west of the southwest corner of North Circle Drive and Willamette Place, addressed as 2709 Willamette Place, from R-5 (Multi-Family Residential) to C-6 (General Business) (Quasi-Judicial)

Related Items: CPC MDP 07-00131-A1MN16, AR R 16-00763

Presenter:  
Hannah Van Nimwegen, Planner II, Planning & Community Development  
Peter Wysocki, Director Planning and Community Development

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

- 4B.C.** [CPC MDP 07-00131-A1 MN16](#) Minor Amendment to the Metal Products Development Plan for the parking lot reconfiguration, building addition, and other minor alterations to the existing site located west of the southwest corner of North Circle Drive and Willamette Place, addressed as 2709 and 2717 Willamette Place.

(Quasi-Judicial)

Related Items: CPC ZC 16-00125, AR R 16-00763

Presenter:  
Hannah Van Nimwegen, Planner II, Planning & Community Development  
Peter Wysocki, Director Planning and Community Development

**This item was approved on the Consent Calendar.**

- 4B.D.** [AR R 16-00763](#) Administrative Relief for the Metal Products Development Plan to allow a reduction in the required number of onsite parking stalls from 18 to 16 located west of the southwest corner of North Circle Drive and Willamette Place, addressed as 2709 and 2717 Willamette Place.

(Quasi-Judicial)

Related Items: CPC ZC 16-00125, CPC MDP 07-00131-A1MN16

Presenter:  
Hannah Van Nimwegen, Planner II, Planning & Community Development  
Peter Wysocki, Director Planning and Community Development

**This item was approved on the Consent Calendar.**

- 4B.E.** [16-758](#) A Resolution Appointing Bill Cherrier to the Board of Directors of the Public Authority for Colorado Energy for a Three-Year Term, Retroactive to and Effective December 15, 2016

Presenter:  
Eric Tharp, Chief Energy Services Officer, Energy Supply

Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

The resolution was adopted on the Consent Calendar.

**4B.F.** [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

The resolution was adopted on the Consent Calendar.

**4B.G.** [16-765](#) An Ordinance Amending Section 703 (Wastewater Discharge; Limitations) of Part 7 (Prohibitions - Limitations on Wastewater Discharge) of Article 5 (Wastewater Treatment Code) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as Amended, Pertaining to Wastewater Discharge

Presenter:  
Dave Padgett, Chief Environmental Officer  
Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

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

**Approval of the Consent Agenda**

**Motion by Councilmember Strand, seconded 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**

Councilmember Strand recognized this is School Choice Week and spoke about the schools in our City.

Councilmember Bagley read a proclamation declaring February 1, 2017 to be "Get Up" Day. Representatives from U.S. Figure Skating accepted the proclamation.

Diane Brunjes, Gardener from the Horticulture Arts Society, presented an overview of the programs, benefits and services provided by the gardens.

**6. Citizen Discussion**

Citizen Michael Hazard presented ideas to increase business in the downtown area.

Citizen Charles Barber spoke about the need to include wind resistance standards in the City Building Code.

El Paso County Commissioner Longinos Gonzalez spoke of capitalizing on our partnership with Olympic athletes.

Citizen Douglas Bruce expressed concern about Council passing proposals on April 20, 2016 that allegedly violate TABOR provisions.

Citizen Walter Lawson voiced concern about the Comcast cable television franchise agreement.

## **7. Mayor's Business**

Mayor Suthers spoke about why he supports the ordinance prohibiting solicitation on medians because it is a public safety issue. He also provided a brief summary of his request to allow citizens to vote on the idea of allowing the City to retain \$6 million in excess revenue under TABOR in order to address storm water issues.

## **8. Items Called Off Consent Calendar**

There were no items called off the Consent Calendar.

## **9. Utilities Business**

- 9.A. [16-754](#) A Resolution Setting the Electric Cost Adjustment Effective February 1, 2017

Presenter:

Sonya Thieme, Rates Manager

Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

Sonya Thieme, Rates Manager, provided a summary of the two proposed cost adjustments to the electric rates charged by City Utilities.

Councilmember Knight stated the Finance Committee recommends Council take action to correct an over collection of utility costs based on predicted gas price increases. Ms. Thieme stated option two is in accord with the adopted policy, if gas prices continue to drop and the ECA balance rises above the "band of reasonableness", Utilities will return to Council next month to request another cost adjustment. Councilmember

Pico spoke about how this policy was calculated.

Councilmember Strand requested additional information about the tension between the two competing factors. Councilmember Pico stated this is what Council requested, however; the calculation method used in the policy may need to be adjusted.

Councilmember Murray spoke about the object of this policy being to lend stability to utility rates and agrees the calculation method may need to be adjusted. Councilmember Knight spoke about the intent of this policy and the increase in October was likely premature, he agrees the calculation method may need to be adjusted. Council continued to discuss the policy and possible ideas for changing the calculation method.

Council President Bennett commented on the difficulty of predicting gas prices and stated he supports this as a means to help stabilize rates.

**Motion by Councilmember Strand, seconded by Councilmember Murray, that the Resolution including ECA alternative number one (1), to maintain the current ECA rate, be adopted. The motion passed by a vote of 5-4-0.**

**Aye:** 5 - Bagley, Bennett, Gaebler, Murray, and Strand

**No:** 4 - Collins, King, Knight, and Pico

**9.B.**     [16-755](#)           A Resolution Setting the Gas Cost Adjustment Effective February 1, 2017

Presenter:

Sonya Thieme, Rates Manager

Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

Councilmember Knight referred to the comments he made in the electric rate discussion and, in addition, he expressed concern about the effect of this action on industrial rates.

**Motion by Councilmember Pico, seconded by Councilmember Murray, that the Resolution including GCA alternative number two (2) be adopted. 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.**     [16-725](#)           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

Councilmember Collins stated she does not support this because it is difficult to get a 60 percent supermajority vote and there seems there is a lot of money stacking the board.

**Motion by Councilmember Strand, seconded by Councilmember Murray, that the Ordinance to place the Charter Amendment requiring a sixty percent (60%) supermajority vote of the City's electors to sell, convey, or lease a substantial part of the City's Utilities systems on the April 2017 ballot 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

## **11. New Business**

### **11.A. [16-736](#)**

A resolution submitting to the registered qualified electors of the City of Colorado Springs, Colorado, at the general municipal election conducted by mail ballot to be held on Tuesday, April 4, 2017, the question of retaining and spending up to \$6,000,000 of the estimated 2016 fiscal year revenue above the 2016 fiscal year revenue and spending limitations, and a like amount of any excess revenue in fiscal year 2017, as a voter approved revenue change, with any excess revenue in fiscal years 2016 and 2017 beyond this \$6,000,000 revenue change to be refunded to taxpayers; providing for the form of the ballot title and text; providing for certain matters with respect to the election; and providing the effective date of this resolution.

Presenter:

Mayor John Suthers

Kara Skinner, CFO

Kara Skinner, CFO, stated Council has been given an updated version of the resolution including the changes addressed in the work session yesterday.

Councilmember Knight asked what effect that the economic downturn had on the City budget and what the current budget amount would have been given the current economic growth. Ms. Skinner stated she considered the budget decrease and recovery cycle and confirmed this expenditure would not be necessary had the economy not taken the downturn it did.

Councilmember King stated these funds must not replace the funds assigned to the MOU with Pueblo, there must be maintenance of effort, these dollars should go for projects in addition to projects already included in original commitments, the ballot language should state that the excess revenue is in addition to the money that is already to be expended as required by IGAs. He will support this based on the additions outlining these provisions being included in the updated version.

Councilmember Pico stated he cannot support this because it is largely driven by tax revenue increases in auto sales and construction repairs due to hail damage on the east side of the City.

Citizen Douglas Bruce spoke in opposition to the proposal.

Councilmember Strand clarified Council is asking the electors to determine if the City can retain these funds.

Councilmember Collins will not support this because she believes the voters should have been asked to support the Pueblo IGA in the first place and due to concerns about TABOR violations.

Councilmember Murray cannot support this because he does not feel that it is addressing the most critical needs of the City.

**Motion by Councilmember Strand, seconded by Councilmember Bagley, that the Resolution which adds a paragraph to Section 4 thereof submitting to the registered qualified electors of the City of Colorado Springs, Colorado, at the general municipal election conducted by mail ballot to be held on Tuesday, April 4, 2017, the question of retaining and spending up to \$6,000,000, the estimated 2016 fiscal year revenue above the 2016 fiscal year revenue and spending limitations, and a like amount of any excess revenue in fiscal year 2017, as a voter approved revenue change, with any excess revenue in fiscal years 2016 and 2017 above this \$6 million revenue change to be refunded to taxpayers; providing for the form of the ballot title and text; providing for certain matters with respect to the election; and providing the effective date of this resolution be adopted. The motion passed by a vote of 6-3-0**

**Aye:** 6 - Bagley, Bennett, Gaebler, King, Knight, and Strand

**No:** 3 - Collins, Murray, and Pico

**11.B.** [16-776](#)

An Ordinance Creating a New Section 112 (Use Of Medians) of Article 18 (Pedestrians' Rights and Duties, Drivers to Exercise Due Care) and Amending Section 312 (Official Traffic Control Records) of Part 3 (Administration) of Article 1 (Administration And Enforcement), Both of



Chapter 10 (Motor Vehicles and Traffic) of the Code of the City of Colorado Springs 2001, as Amended, Pertaining to Pedestrian Use of Narrow or Domed Medians on Higher Volume and Higher Speed Roadways, and Providing Penalties for the Violation Thereof

Presenter:

Anne Turner, Senior Attorney

Kathleen Krager, Transportation Planning Manager, Traffic Engineering

Pete Carey, Police Chief

Anne Turner, Senior Attorney, provided an update on the proposed ordinance.

Kathleen Krager, Transportation Planning Manager, Traffic Engineering provided additional information regarding traffic control as it pertains to this proposal.

Pete Carey, Police Chief, spoke about enforcement on of the proposed ordinance.

Councilmember Knight clarified that probation would be on the fine. Ms. Turner confirmed this is correct.

Councilmember Murray questioned the circumstances around permits and licenses being issued to allow occupancy of these medians and questioned how these medians are considered safe for occupancy under those conditions. Ms. Turner clarified that licenses and permits would be issued during times of street closure or to professionals performing work or maintenance on the streets. Wynetta Massey, City Attorney, provided additional clarification about the license and permit process.

Citizens Andi Van Gogh, Trig Bundgaard, Ken Schauer, Raven Cannon, Steve Fehl, Helen Broderick-Griffith, Joe Kastrinakis, Denise, Bob Powell, Gwen Cook, Michael Smith and Jaymen Johnson spoken in opposition to the proposal.

District Attorney Dan May, spoke in support of the proposal.

Councilmember Strand asked Mr. May how judges determine the amount of a fine to be charged. Mr. May stated, in his experience, judges normally base fines on the severity of the violation and the income of the violator. Ms. Turner added that violators would be not be

arrested, only issued summons.

Councilmember Murray asked if there will be reluctance on the part of police officers to issue tickets for this violation. Chief Carey stated officers will follow protocol, just like for any other offense.

Council President Pro Tem Gaebler requested the motion be amended to include a 60 day warning period. Ms. Turner stated there will be a delay from the time the proposal is passed, until the signs are installed on the medians, allowing time for public education.

**Motion by President Pro Tem Gaebler, seconded by Councilmember Murray, that the ordinance be amended to include a 60 day warning period before enforcement. The motion failed by a vote of 3-6-0**

**Aye:** 3 - Bagley, Gaebler, and Murray

**No:** 6 - Bennett, Collins, King, Knight, Pico, and Strand

Councilmember Murray requested the motion be amended to change the maximum fine to \$50 and or probation. Ms. Massey stated this amendment would require additional revisions to City Code.

**Motion by Councilmember Murray, seconded by Councilmember Strand, that the ordinance be amended to include language in the penalty section setting a maximum fine of up to \$50 and/or probation. The motion failed by a vote of 3-6-0**

**Aye:** 3 - Gaebler, Murray, and Strand

**No:** 6 - Bagley, Bennett, Collins, King, Knight, and Pico

Councilmember Knight asked what would happen if a violator needs to be removed from the median because they refuse to leave on their own. Chief Carey stated that police officers will follow protocol for removing someone from a dangerous situation.

**Motion by Councilmember Knight, seconded by Councilmember Pico, that the ordinance creating a new section of City Code pertaining to Pedestrian Use of Narrow or Domed Medians on Higher Volume and Higher Speed Roadways and amending the City Code section pertaining to Official Traffic Control Records be approved on first reading. The motion passed by a vote of 9-0-0**

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

**11.C. [16-710](#)**

An ordinance amending Part 2 (No Smoking in Public Places or on Park Property) of Article 6 (Public Health and Sanitation - No Smoking in Public Places) of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, pertaining to smoking.

Presenter:  
Craig Blewitt- Transit Services Manager

Councilmember Collins stated citizens need to be respectful of those around them.

Citizen Jaymen Johnson spoke in support of this proposal.

Councilmember Knight asked how difficult it would be to amend this to include both the inner and outer benches at the downtown bus terminal. Mr. Blewitt stated the outer benches are on the City sidewalk and including them would be challenging to enforce.

**Motion by Councilmember Murray, seconded by Councilmember Strand, that the ordinance amending Part 2 (no smoking in public places or on park property) Article 6 (public health and sanitation - no smoking in public places) of Chapter 6 (neighborhood vitality/community health) of the Code of the City of Colorado Springs 2001, as amended, pertaining to smoking be approved on first reading. The motion passed by a vote of 8-1-0**

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

**No:** 1 - Collins

**11.D.** [CPC 167](#)

A resolution finding a petition for annexation of the area known as Bowen Addition Annexation consisting of .849 acres to be in substantial compliance with section 31-12-107(1), C.R.S. and setting a hearing date of February 28, 2016 for the Colorado Springs City Council to consider the annexation of the area.  
(Legislative)

Presenter:

Michael Schultz, AICP, Principal Planner

Peter Wysocki, Planning and Development Director, Planning and Community Development Department

Councilmember Pico asked why the property owners are requesting this annexation. Michael Shultz, Principal Planner, stated the property owners are requesting this annexation in order to acquire access to water through utilities services, as their wells are failing.

**Motion by Councilmember Strand, seconded by Councilmember Murray, that the resolution finding the petition for annexation to be in substantial compliance with C.R.S. section 31-12-107(1), setting the hearing date of February 28, 2017 for consideration of the Bowen Addition Annexation, and directing the Clerk to provide notice in accord with C.R.S. section 31-12-108 be adopted. The motion passed by a vote of 9-0-0**

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

**11.E.** [CPC 168](#)

A resolution finding a petition for annexation of the area known as Hartsuiker Addition Annexation consisting of acres to be in substantial compliance with section 31-12-107(1), C.R.S. and setting

a hearing date of February 28, 2016 for the Colorado Springs City Council to consider the annexation of the area.  
(Legislative)

Presenter:  
Michael Schultz, AICP, Principal Planner  
Peter Wysocki, Planning and Development Director, Planning and Community Development Department

Please see comments in agenda item 11.D.

**Motion by Councilmember Strand, seconded by Councilmember Murray, that the resolution finding the petition for annexation to be in substantial compliance with C.R.S. section 31-12-107(1), setting the hearing date of February 28, 2017 for consideration of the Hartsuiker Addition Annexation, and directing the Clerk to provide notice in accord with C.R.S. section 31-12-108 be adopted. The motion passed by a vote of 9-0-0**

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

- 11.F. [CPC CA 16-00116](#) An Ordinance Amending Part 2 (Off Street Parking 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 Parking.

(Legislative)

Presenter:  
Meggan Herington, LUR/DRE Planning Manager, Planning and Community Development  
Peter Wysocki, Director of Planning and Community Development

There were no questions or comments on this agenda item.

**Motion by Councilmember Strand, seconded by Councilmember Murray, that the ordinance amending Part 2 (Off Street Parking 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 Parking be approved on first reading. The motion passed by a vote of 9-0-0**

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

- 11.G. [16-674](#) A Resolution rescinding Resolution No. 19-13 and establishing Development Application Fees and Charges for the Land Use Review Division of the Planning and Development Department

Presenter:  
Nina Vetter, Strategic Plan Administrator, Finance  
Kara Skinner, Chief Financial Officer  
Peter Wysocki, Planning and Development Director, Planning and Development Department

Councilmember Knight stated he will support this if the appeal fee remains \$176.

**Motion by Councilmember Knight, seconded by Councilmember Bagley, that the resolution rescinding Resolution No. 19-13 and establishing development application fees and charges for the Land Use Review Division of the Planning and Development Department amended to retain the \$176 planning appeal fee be adopted. The motion passed by a vote of 9-0-0**

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

## **12. Public Hearing**

There was not a public hearing.

## **13. Added Item Agenda**

There were no items added to the agenda.

## **14. Executive Session**

### **14.A. [17-811](#)**

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 legal advice associated with ongoing litigation related to a Colorado Open Records Act request.

Presenter:

Wynetta Massey, City Attorney

David Andrews, Legislative Council, stated the purpose of the Closed Executive Session is to receive legal advice and consultation regarding a CORA request.

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

## **15. Adjourn**

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

Sarah Johnson, City Clerk