



# City of Colorado Springs

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

## Meeting Minutes Council Work Session

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Monday, May 22, 2017

1:00 PM

Council Chambers

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### 1. Call to Order

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

### 2. Changes to Agenda

Items 8.F., 8.G., and 8.H. related to Mobile Food Vendors are to be discussed earlier in Items for Introduction and Item relating to the 8.A. Cable Franchise has been moved to the beginning of the agenda.

### 3. Regular Meeting Comments

Eileen Lynch Gonzalez, City Council Administrator, stated Item 4B.B. Appointments to Boards and Commissions had a change after publication therefore will be removed from the 5/23/17 City Council Consent Calendar.

Councilmember Murray asked if an additional item will be added to agenda in regards to action items. Eileen said action items from the meeting today will be addressed in Item 10. Councilmember Reports and Open Discussion.

### 4. Review of Previous Meeting Minutes

4.A. [17-1005](#) City Council Work Session May 8, 2017 Meeting Minutes

Presenter:  
Sarah B. Johnson, City Clerk

**Attachments:** [5-8-2017 Work Session Final](#)

The minutes of the May 8, 2017 Work Session meeting were approved by Consensus of Council.

### 5. Executive Session

**5A. Open**

There was no Open Executive Session.

**5B. Closed**

There was no Closed Executive Session.

**6. Staff and Appointee Reports****6.A. [17-946](#) Financial Report - Memorial Health System Enterprise**

Presenter:

Kara Skinner, Chief Financial Officer

**Attachments:** [04-April 2017 MHS Memo](#)

President Skorman, on behalf of all Council members, conveyed appreciation for Kara Skinner, Chief Financial Officer for her years of service. Ms. Skinner reciprocated gratitude for what she has learned from Council, Chief of Staff, and Mayor Suthers.

Councilmember Strand asked if Ms. Skinner was aware of any trends that Council should be aware of. Ms. Skinner said that expenses are decreasing with the run out of workers comp and liability claims and insurance trending down. Ms. Skinner stated that that there will continue to be legal fees related to the lease.

**6.B. [16-690](#) Agenda Planner Review**

Presenter:

Eileen Lynch Gonzalez, City Council Administrator

**Attachments:** [052217 Agenda Planner Review MEMO](#)

Councilmember Knight stated that Item 4, an ordinance pertaining to Development Plan Review Criteria, is scheduled for a vote on 6/13/17. Councilmember Knight and Councilmember Geislinger would prefer the questions they have presented to Planning to be addressed at the Council Work Session on 6/12/17 prior to voting. Consensus of Council agreed.

Councilmember Murray stated that Section 4 from the Strategic Planning presentation was incomplete and inquired if it would be presented at a later date. Eileen Lynch Gonzalez stated that Nina Vetter, Strategic Plan & Business Process Administrator, responded that this information would be included with the second quarter report.

**7. Presentations for General Information**

- 7.A. [17-911](#) Girls of the West, Pikes Peak Range Riders and Pikes Peak or Bust Rodeo

Presenter:

Corliss Palmer, Director, Girls of the West; Jamie Tyler, 2017 Girl of the West; Sierra Silva, 2017 Aide to Girl of the West

Councilmember Knight read a proclamation declaring 6/21/17 Western Wear Day to reaffirm Colorado Springs' pride and awareness of our western heritage.

Russell Freeman and Neil Schuerer of the Pikes Peak Range Riders along with Gene Runyard and Corliss Palmer of the Pikes Peak or Bust Rodeo gave Council a brief history of the event. Jamie Tyler, 2017 Girl of the West, and Sierra Silva, 2017 Aide to Girl of the West, provided detailed information on the rodeo events.

- 7.B. [17-1023](#) City Council Community Engagement Program Update

Presenter:

Eric Phillips, Chair, City Planning Commission

Eric Phillips, Chair of the City Planning Commission, stated that the City Council Community Engagement Program was established in 2014 to educate the citizens of Colorado Springs on the boards and commissions of the City. Thirty people have gone through the program, with six candidates currently serving on boards and commissions. The program has collaborated with El Pomar on Board of Governance training and The Mayor's Young Professionals are going through the program at this time.

Councilmembers expressed their appreciation for Mr. Phillips engagement on this project, and he expressed his appreciation for the assistance of City Council staff.

- 7.C. [16-676](#) Colorado Springs Convention & Visitors Bureau (CVB) - Q1 2017 Performance Measures

Presenter:

Doug Price, President & CEO, Colorado Springs Convention & Visitors Bureau  
Ryan Trujillo, Sustainability & Support Services Manager

**Attachments:** [CVB KPI Report Q1 2017 Graphical](#)

Doug Price, President & CEO, Colorado Springs Convention & Visitors Bureau, presented the 2017 Quarter 1 Report. Mr. Price explained that LART collections were up 7.0% through Feb 2017. There will be a dues increase at Convention & Visitors Bureau for members which will allow more advertising.

Councilmember Murray suggested soliciting at trade shows for companies to come to Colorado Springs.

Councilmember Pico said we are advertising for three counties and asked if they if they could start contributing to the cost.

**7.D.** [17-964](#) Pikes Peak Continuum of Care Briefing

Presenter:

Shawna Kemppainen & Beth Roalstad, Board of Directors, Pikes Peak Continuum of Care

**Attachments:** [052217 PPCoC City Council Presentation\\_slides](#)

Beth Roalstad, Executive Director Homeward Pikes Peak and Shawna Kemppainen, Executive Director Urban Peak Colorado Springs explained the purpose of Pikes Peak Continuum of Care (COC) is to represent a group of partner organizations with the goal to alleviate homelessness. People are falling into homelessness at a growth rate faster than the General Population growth rate. Ms. Roalstad will be bringing Council data in a couple weeks with details on housing service providers leveraging additional Federal dollars and bringing them into the community.

Ms. Kemppainen reviewed strategic objectives for 2017 as well as the Annual Housing Assessment Report which reflected an increase in unsheltered individuals. Youth experiencing homelessness has decreased by 9.7% while adult homelessness has increased by 12.6% since 2016. Total housing beds added has also increased 5.5%.

Councilmember Geislinger stated that there are nineteen Governing Board Member agencies contributing to COC's vision and suggested they contact the Utilities economic development group to get involved.

In reference to a chart of states with increased homelessness, Councilmember Geislinger asked if there was a correlation between

states with marijuana legalization and homelessness. Ms. Kempainen stated marijuana has had an impact, but is not the cause of homelessness. Councilmember Geislinger requested additional information regarding if the City's marijuana law is contributing to the growth. Catherine Duarte, Analyst II, said that they will research if there is a correlation.

**7.E.**     [17-974](#)           Bancroft Park Update

Presenter:  
Kurt Schroeder, Parks Operations Manager

**Attachments:**   [20170517 Bancroft Council Powerpoint](#)

Kurt Schroeder, Parks Operations Manager, gave Council an update on Bancroft Park by detailing the timeline information that has been presented. Demolition will begin 5/31/17 and will take 56 days to complete.

David Deitemeyer, Park Planner II, reviewed the approved master plan which proposed an improved streetscape, four added parking stalls, improved pedestrian access, creating a flush curb line, keeping historic markers and elements, a new public restroom facility outside of the bandshell, demolishing the picnic pavilion, enlarging the plaza space, adding a small playground area, adding a security door at stage, and providing better ADA access. Mr. Deitemeyer also discussed the timeline and three phases of demolition, planning and construction.

Councilmember Pico inquired if an automated fire suppression system would be included the plans. Mr. Deitemeyer said that they will look into that. Councilmember Strand would like the next update by September 1, 2017.

## **8. Items for Introduction**

**8.A.**     [17-992](#)           Ordinance No. 17-52 establishing the terms, fees, compensation, conditions and other matters relating to the granting of a cable franchise to Comcast of Colorado/ Pennsylvania/West Virginia, LLC and approving a cable franchise agreement between Comcast of Colorado/Pennsylvania/West Virginia, LLC and the City of Colorado Springs

Presenter:  
Bret Waters, Deputy Chief of Staff  
Ken Fellman, Outside Counsel

Renee Congdon, Senior Attorney,  
Kelsey Hunt, Southern Colorado Educational Television Consortium

**Attachments:** [ApprovingComcastFranchiseORD-2017-05-22 final](#)  
[Proposed Comcast-Colorado Springs Renewal Franchise Agreement](#)  
[Comcast cable franchise comparison of key terms 5-22-17](#)  
[SCETC POWERPOINT CITY COUNCIL WORK SESSION 5-22-17](#)  
[Comcast--Summary of Public Comments](#)

Bret Waters, Deputy Chief of Staff, introduced the franchise agreement with Comcast of Colorado which he explained as an agreement for a private company using public right of way for a franchise fee starting at 3.5%. He noted that this fee is imposed on the franchisee not the customers.

Ken Fellman, Kissinger & Fellman, P.C., provided background on the history of cable franchising. Franchise fees are the rent for the use of the City's right of way. City is entitled to adopt customer service standards relating to cable. The City is not limited when it comes to utilizing police powers to monitor public safety issues. The City cannot require specific channels, but can require certain programming types.

Renee Congdon, City Attorney, presented a side by side comparison of the current and proposed new franchise. The franchise fee is currently \$1.53 per subscriber, of which Comcast keeps \$.33 to repay itself for a grant it made to the City for capital improvements. This amount is equivalent to 1.5% of gross revenue. The proposed agreement would be 3.5% of gross revenue to start, 4.5% in one year, and 5% in two years. The new PEG fee for capital costs may be initiated in the future by City Council resolution. Comcast agreed to the City's request for nine Access Channels. Standard installation has remained the same despite the Cedar Heights issue and Comcast will not budge on the 125 feet connection requirement. The buildout requirement to provide to entire city remained the same, but there are changes in the City requirements. Customer Service Standards have been updated as well as new requirements added.

Councilmember Knight asked about the open trench issue. Ms. Congdon says it is not in this agreement because the City Code should be addressed.

Councilmember Murray asked where the \$1.20 will be applied. Mr.

Waters said it is split between the Information Technology Department and Communications Department. Councilmember Murray inquired as to the cost to Comcast to provide an HD channel. Ms. Congdon said they will research that information.

Councilmember Knight asked why there is a delay until 2020 regarding the PEG fee. Ms. Congdon said it was delayed due to the sensitivity of the already 3.5% increase so the impact will not be so large.

Councilmember Murray asked if the Comcast internet fee could be differentiated from the cable fee and Ms. Congdon confirmed that it could.

Mr. Fellman informed Council that there will be more detailed language on bills for audits. As for an increase in the franchise fee, he said that he is comfortable with the increase because most other cities have implemented 5% franchise fees and he feels that it is fair.

Kelsey Hunt, Director of Media Services UCCS and President of Southern Colorado Educational Television Consortium, and Sean Leyva, Media Technology Specialist Colorado School for the Deaf and the Blind expressed support of the agreement and spoke regarding their mission, the content of their educational based programming, and their 19 years of collaboration with the City. Councilmember Murray inquired if they were in support of channels or the franchise fee and Ms. Hunt said both.

Councilmember Knight asked if the twenty percent of funding from Comcast will change. Mr. Waters said that they are expecting the same yearly dollar amount that they are receiving now.

Councilmember Murray asked where will the franchise fee will be allocated. Mr. Waters indicated that this would be a separate discussion regarding budget.

Councilmember Pico stated that he is opposed to an increased fee. He disagrees that the fee will only be charged to the franchisee and believes the customer will also have their fees increased and he also believes cable will soon be an obsolete technology.

Councilmember Knight said that he requested the franchise fee bifurcated from the contract and would like a clear answer on how much

the fee will be. He would also like to know what the exact revenue would be. Mr. Waters said it is approximately \$3.2 million.

Councilmember Knight said that he is not voting in favor of this item until the specifics of the revenue allocation are worked out. He believes it is a hidden tax increase. He would like to know what the City had to give up in order for Comcast to agree to the the fee increase.

Councilmember Gaebler reiterated that this is a fee for the use of the City's rights of way. It is Comcast's decision whether they are going to pass the fee to their customer and feels it is fair. She stated that she does not want to hold up getting the contract passed. She would like a community conversation regarding the use of the PEG fees.

Mr. Waters said it is about equity and fairness in our process and that fees get increased all over for the City to do service. This contract has had two years of negotiations. It was the recommendation of the Mayor's Office to increase the fees on a graduated scale. Mr. Waters stated that there is an obligation to our citizens for these channels. Mr. Waters agreed to present the fee schedule and allocation.

Councilmember Geislinger elaborated that the City rights of way are an asset in the right of way and compared the fee to a toll road for access to cable. Councilmember Geislinger said he is in support.

Councilmember Bennett asked if there is clear language for cooperation with the Public Works Department and newly paved roads. Mr. Waters agreed that there is clear language.

Councilmember Knight expressed concerns that this fee will give this administration a tax and spend reputation. Councilmember Knight asked for clarification regarding the mandatory buildout requirement. Ms. Congdon clarified that it is forty dwellings per mile which equates to ten dwellings per quarter mile. Mr. Fellman said that it is based on a density calculation.

Councilmember Murray stated that it is not a fee for service, it is a fee for access and requested the allocation information as well.

**8.B.** [17-995](#)

A Resolution authorizing the use of eminent domain to acquire real property owned by Francisco Serna needed for the West Colorado Avenue reconstruction, 31st street to U.S. Highway 24, project



Presenter:

Aaron Egbert, Senior Engineer

**Attachments:** [Serna Resolution - 05 26 2017](#)

[2017 05 22 Council Worksession 3740 W Colorado AHT 5 12 2017](#)

[Signed Resolution 66-17](#)

Aaron Egbert, Senior Engineer, presented an overview of the West Colorado Avenue project including the subject property, the City's appraisal and the negotiations with the owner. Funding for the project is currently at \$30,930,475. Mr. Egbert displayed the project configuration that spans three jurisdictions as well as the property data details including the appraisal data. The next phase of project construction is scheduled to begin fall 2017 requiring the acquisition to be made by September 2017. Mr. Egbert reviewed the timeline of the City acquisition process which included 37 attempts to contact the owner. The owner is proposing a redesign moving the road further to the south. Mr. Egbert requested that a resolution to authorize a Possession and Use Agreement and Eminent Domain to be presented to Council on 6/13/17.

Councilmember Bennett indicated that the owner has contacted him and said the owner requested a reconfiguration, which Councilmember Bennett does not see as a viable option due to serious safety issues. He stated the eminent domain step is critical for this process and needs to be moved forward.

Councilmember Geislinger inquired if the owner was advised of the presentation today. Brad Rodenberg, Vice President TRS, stated that in the final offer letter to Mr. Serna he was advised that if they did not have an answer by 5/18/17 they would return to Council for further direction.

**8.C.** [17-991](#)

Ordinance No. 17-46 amending Ordinance No. 16-116 (2017 Appropriation Ordinance) for a supplemental appropriation to the Lodgers & Auto Rental Tax (LART) Fund in the amount of \$235,642 for events recommended by the LART Citizen Advisory Committee

Presenter:

Charae McDaniel, Acting Budget Director

Fred Veitch, Chair, LART Citizen Advisory Committee

**Attachments:** [2017 Attachment A - List of LART recommended projects](#)

[Ordinance for LART 2017 Additional Events](#)

[Signed Ordinance 17-46](#)

Councilmember Strand stated he and Councilmember Gaebler are both non-voting members of the LART Citizen Advisory Committee and the summary being presented to Council includes funding, as well as procedural changes for applications.

Charae McDaniel, Interim Budget Director, commented that the LART Citizen Advisory Committee still had funds available, and as a result they considered additional applications for in 2017 and also recommend reappropriating funds for projects that did not request their appropriated funds during 2016. Ms. McDaniel also stated the committee continues to recommend holding \$250,000 in reserve for future projects.

Councilmember Knight mentioned that if there is a future submission for another mid-year application request, there should be a new procedure that is fully advertised to the City prior to the request.

- 8.D.**     [17-944](#)     Resolution to amend the Rules of the Colorado Springs Civil Service Commission for the Municipal Police and Fire Departments

Presenter:

Tracy Lessig, Division Chief - Employment Division, City Attorney's Office

**Attachments:**   [Resolution](#)

[061317 CivilServiceRuleChanges-CouncilVersion-FINAL-05-25](#)

[061317 CivilServiceRuleChanges-CouncilVersion-CLEAN](#)

[Signed Resolution 62-17](#)

Tracy Lessig, Division Chief - Employment Division, City Attorney's Office informed Council that the reason for the revision to the Civil Service Rules, which were approved by the Civil Service Commission on 5/2/17 with no opposition, was to align the rules with the language of the City Charter.

Ms. Lessig stated that the Civil Service Commission Rules apply only to sworn Police and Fire employees. Relevant Charter provision states "for a period of probation before employment is made permanent" which has been historically the length of the training academy plus one year. The Charter also states "Discharges from the classified civil service or reductions in grade or compensation or both, may be made for cause." The need to correct the language is due to the word "cause" as it may be interpreted as entitling an individual to a full procedural due process appeal hearing. The goal is to correct this issue prior to the next police academy, which is scheduled to begin 7/10/17. Police recruits and Fire

trainees have always been considered as probationary, at-will employees which makes the current language inconsistent with the intent of the Charter. Ms. Lessig then reviewed with Council each of the Rule changes proposed for approval.

Councilmember Pico stated that he had questions regarding "at will" and "for any cause" that he will address with Ms. Lessig offline.

Councilmember Strand questioned the grandfathered recruits being able to be under the Civil Service protection. Ms. Lessig explained that the four police recruits that were terminated are in full due process appeal due to the inconsistencies with the Civil Service Rules protection.

Steve Dubay, Deputy Fire Chief, and Tish Olszewski, Police Division Commander, stated that they fully support the changes to the rule.

Councilmember Knight stated that he supports all of the changes with the exception of removing the language stating commissioners will serve past their term if no replacement is made. Wynetta Massey, City Attorney said that all Council and board members are asked to serve until replaced. Councilmember Knight said that he will speak with Ms. Massey regarding this.

Councilmember Geislinger asked if the grandfather clause will be just for those four specific recruits or would it expand further than those cases. Ms. Lessig answered that it is just those four appeals that have been considered at this time.

**8.E.** [17-965](#)

A resolution approving and authorizing the Mayor to execute and administer the Intergovernmental Agreement (IGA) with the Colorado Department of Transportation (CDOT) regarding funding for the 30th Street Corridor Improvements.

Presenter:

Aaron Egbert, P.E. Senior Engineer

**Attachments:** [IGA-CDOT-30thStreet-2017-05-11](#)

[Exhibit A R2-IGA-21635 Execs revised 08Feb2017 Part 1](#)

[R2-IGA-21635 Execs revised 08Feb2017 - Part 2 Exhibits](#)

[30th council powerpoint](#)

Aaron Egbert, P.E. Senior Engineer, explained the existing road conditions of the 30th Street Corridor extending from Fontanero St. to

Mesa Rd. Mr. Egbert stated that there are pavement failures, drainage undercutting, and slope failures. Mr. Egbert said there would also be intersection improvements. The proposed schedule is to start design spring 2017, begin construction spring 2019 which will take approximately 18 to 24 months with completion summer of 2021.

- 8.F.** [17-923](#) Ordinance No. 17-47 amending Part 7 (Peddlers of Food Wares) of Article 3 (Sales of Goods and Services) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Mobile Food Vendors and providing penalties for the violation thereof

Presenter:

Sarah B. Johnson, City Clerk

Lee McRae, License Enforcement Officer

**Attachments:** [MobileFoodVendorCh2Art3Part7-2017-05-17v2 \(2\)](#)  
[City Council - Mobile Food Vending-2017-06-13](#)  
[Signed Ordinance 17-47](#)

Lee McRae, License Enforcement Officer, spoke regarding allowing food vendors at parking meters. Mr. McRae gave a brief history of the General Business License Code. The current Food Vendor City Code prohibits a Peddler from occupying metered parking spaces. The City has received numerous requests from businesses for permission to use metered parking spaces for special occasions.

Mobile Food Vendor License Code changes would include changing City Code language from "Peddler of Food Wares" to "Mobile Food Vendor", clarifying definitions and the intent to sell towards the sidewalk, changes prohibition on operating from a metered parking space and changes license fees code section to match the updated license type. There would be no fee change.

- 8.G.** [17-1021](#) Ordinance No. 17-48 amending Section 507 (License Fees Enumerated) of Part 5 (License Fees) of Article 1 (General Business License Provisions) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, pertaining to Mobile Food Vendor license fees

Presenter:

Sarah B. Johnson, City Clerk

Lee McRae, License Enforcement Officer

**Attachments:** [MobileFoodVendorCh2Art1Pt5-LicenseFeesEdit-2017-05-17](#)  
[Signed Ordinance 17-48](#)

Matthew Fitzsimmons, Planner II, explained that in late 2016 a planning meeting with the downtown partnership, food truck and cart owners, and brick and mortar owners indicated that there was a need to allow food vendors to operate downtown and in Old Colorado City, in front of brick and mortar shops and restaurants. At a March 9th public meeting, it was proposed to allow Mobile Food Vendors to operate in metered parking with the sponsorship of a brick and mortar shop. Brick and mortar shops will need to complete an application to be approved by the Planning department. Once the application is reviewed and signed, it will go to the Parking Enterprise for review.

- 8.H. [17-916](#) Ordinance No. 17-49 amending Section 104.F, Article 15, Chapter 10 and Section 106, Article 15, Chapter 10 of the City Code to allow mobile food vendors to utilize on-street metered parking spaces.

Presenter:

Greg Warnke, Parking Administrator

**Attachments:** [Parking-MobileFoodVendorORD-2017-05-12FINAL](#)  
[Application for Mobile Food Vendor Parking Hoods - Final](#)  
[Signed Ordinance 17-49](#)

Greg Warnke, Parking Administrator, presented a map of metered parking. Mr. Warnke explained any brick and mortar establishments that are adjacent to metered parking would be allowed to request twice a year, with a twelve hour duration, a Mobile Food Vendor use of metered spaces. If approved, the Parking Enterprise would hood the meter at \$6 per hood with 2-4 hoods allowed.

Councilmember Strand inquired why there was previous prohibition. Mr. Warnke said that it was originally a public safety issue and there was a very low demand for Mobile Food Vendors. Mr. Warnke indicated that recently more requests have been received. Councilmember Strand asked about the meters in front of residences. Mr. Warnke said that there are very few metered spaces in front of residences and the Mobile Food Vendor has to be within fifty feet of the assigned address.

Councilmember Knight asked if Mobile Food Vendors not associated with a brick and mortar use the hoods. Mr. Warnke replied that it has to be sponsored by downtown or Old Colorado City business and is limited to twice a year. Councilmember Knight would like something in writing

that Old Colorado City is in support of this.

Councilmember Geislinger asked if there was a provision for restaurants to be able to challenge this if it interfered with business. Mr. Warnke said that they communicated the process to the brick and mortar businesses and indicated that their response is that they are in support of this.

## **9. Items Under Study**

No items under study.

## **10. Councilmember Reports and Open Discussion**

Councilmember Knight indicated that he had attended the Western Spirit Mixer a couple weeks ago in regards to the Girls of the West presentation. He also mentioned that on 5/16/17 the Rocky Mountain Restaurant Group, which includes the owners of Salsa Brava, Over Easy and Sonterra Grill, organized a program where they donated \$1.00 for every lunch special purchased and raised \$10,798.00 for Trails and Open Spaces.

Councilmember Murray stated that he will be going to Mountain Connect in Keystone to discuss broadband opportunities and will be attending the finals of the Go Code Colorado state competition in Denver.

Councilmember Strand stated that he was able to attend the Governor's bill signing on 5/15/17 to witness the signing of a bill regarding juvenile delinquency record expungement for minor offenses. He was also able to attend the Pikes Peak Children's Water Festival on 5/16/17 which included over 500 4th graders as well as many Colorado Springs Utilities staff, to teach importance of water conservation.

## **11. Adjourn**

The meeting was adjourned.

Emily S. Evans, Deputy City Clerk