



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, May 13, 2014

1:00 PM

Council Chambers

1. Call to Order

Present: 9 - President Pro Tem Merv Bennett, Councilmember Helen Collins, Councilmember Jill Gaebler, President Keith King, Councilmember Don Knight, Councilmember Jan Martin, Councilmember Joel Miller, Councilmember Andy Pico, and Councilmember Val Snider

2. Invocation and Pledge of Allegiance

The meeting was opened with an invocation by Rabbi Mel Glazer. President King led the Pledge of Allegiance.

3. Changes to Agenda/Postponements

There were no changes to the agenda requested.

4. Councilmember Comments

Councilmember Collins read a statement relative to eminent domain and government development/redevelopment projects. She also spoke on her request to review and reevaluate the need for the City's business licensing fees. She would like to have a draft ordinance brought forward at the next Council Work Session meeting.

President King read a prepared statement relative to Councilmembers' legislative initiatives and affirming their commitment as a body to accomplish legislative work for which they were elected.

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. 14-0137

Ordinance No. 14-25 amending the zoning map of the City of Colorado Springs relating to 2.3 acres located at 1823 Weiskopf Point through the gate to the Club at Flying Horse, from PUD (Planned Unit Development: Commercial; 3.04 dwelling units per

acre, 35-foot maximum building height) to PUD (Planned Unit Development: Short-term stay cottages, lodge suites and meeting space, 35-foot maximum building height).
File No. CPC PUZ 13-00136

This Ordinance was finally passed on Consent.

- 5A.B. 14-0142** Ordinance No. 14-26 amending the zoning map of the City of Colorado Springs relating to 10.507 acres located northwest of Marksheffel Road and Dublin Boulevard, from A/AO (Agricultural with Airport Overlay) to PBC/AO (Planned Business Center with Airport Overlay)
File No. CPC ZC 13-00141

This Ordinance was finally passed on Consent.

- 5A.C. 14-0143** Ordinance No. 14-27 amending the zoning map of the City of Colorado Springs relating to 21.13 acres located northwest of Marksheffel Road and Dublin Boulevard, from A/AO (Agricultural with Airport Overlay) to PUD/AO (Planned Unit Development: single-family residential detached, 35-foot maximum height, 4.78 dwelling units per acre with Airport Overlay).

File No. CPC PUZ 13-00142

This Ordinance was finally passed on Consent.

5B. First Presentation:

- 5B.A. 14-0219** Approval of the minutes of the April 22, 2014 Council Regular Session meeting.

The Minutes were approved on Consent.

- 5B.B. 14-0233** Boards and Commissions

The appointments to Boards and Commissions were approved on Consent.

Approval of the Consent Agenda

Motion by President Pro Tem Bennett, seconded by Councilmember Snider, 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.

Yes: 9 - Bennett, Collins, Gaebler, King, Knight, Martin, Miller, Pico, and Snider

6. Recognitions

Councilmember Gaebler announced the recognition of Councilmember Jan Martin having received the *Athena Leadership Award*. A brief video was shown of the award presentation.

7. Citizen Discussion

Deborah Stout-Meininger spoke regarding a regional approach for Stormwater issues resolution.

Avery Gates, and six other Palmer High School students, working on a "Public Achievement Project," spoke to raise awareness of the issues with pedestrian vs. automobile accidents surrounding Palmer High School.

Carl Strow described his perception of corruption in the City Government.

Marcia Fields provided a "Consecration of the City of Colorado Springs to the Immaculate Heart of Mary."

Dave Dombach spoke relative to the current testing requirements to obtain a tree service license for fire mitigation purposes.

Eric Verlo spoke regarding global warming, continuing investment in an antiquated coal fueled power plant (Drake), and the City's lack of consideration to invest in renewable energy systems (solar array or wind power).

Anita Miller spoke regarding the Urban Renewable meetings and requested recording access so that citizen's are able to view from home. Councilmember Bennett agreed, as a Board member, that it is their desire to move the meetings into the Council Chambers to allow for the access to the audio/visual recording equipment.

8. Mayor's Business

Deputy Chief of Staff, Brett Waters, described the *City for Champions* May 20th meeting that will be held from 4:00 - 6:00 at the Colorado Springs Regional Development Center located at 2880 International Circle. Council and the public are invited to attend.

9. Items Called Off Consent Calendar

There were no items called off the Consent Calendar.

10. Utilities Business

There was no Utilities Business presented.

11. Unfinished Business

- 11.A. 14-0032** An Ordinance Adding New Sections to the Code of the City of Colorado Springs Pertaining to Exercise of and Restrictions Upon the Use of the Power of Eminent Domain to Acquire Property

Sponsors: Miller

David Neville, Urban Renewal Authority Board member, provided a presentation explaining the existing process, state statutes, relevant prior case history, conditions that must be satisfied before eminent domain may be exercised, and the legal requirements already in place to ensure constitutional protections of property rights. He explained that CSURA is a state authority, not a function of City government.

Councilmember Collins asked what are the 11 factors to proceed with eminent domain. Mr. Neville read them from state law.

Deputy Chief of Staff Waters stated the Mayor cannot support the ordinance and described the various reasons.

City Senior Litigation Attorney Anne Turner spoke regarding condemnation matters she has worked on for the city along with Outside Counsel, Ed Blieszner, who provided a presentation and spoke about the legal prerequisites necessary to condemn property. Ms. Turner then provided clarification recommendations for Council's consideration should they wish to move forward with the ordinance.

Councilmember Miller addressed Council and described the extensive research that went into producing the eminent domain ordinance. He introduced Bob Hoban, Managing Partner of Hoban and Feola, an eminent domain practitioner, to whom he had been referred by the Institute for Justice.

Mr. Hoban provided a thorough explanation of legal background and state statutes applying to eminent domain and condemnation. He described the trend in using eminent domain as a facilitator of urban renewal is a bygone trend, the focus now is on forging partnerships using market-based mechanisms to facilitate eminent domain. He noted eminent domain should be a tool of last resort which is what the ordinance attempts to do. In response to President King's inquiry as to whether there were a technical difference between "abandoned" vs. "condemned" property in state statute, Mr. Hoban responded that if there were a nuisance there would be two options under state law: abate the nuisance, charge it to the property owner without title transfer; or, condemn the property and ownership will transfer.

PUBLIC COMMENT:

Those who spoke to support the ordinance:

Deborah Stout-Meiningner, Richard Eleuterio, James Haley, Chesley Miller, Mark Braunlich, Anita Miller, Jon Macomber, Cindy Lyons, Ann Macomber, Ed Billings, Judy Darcy, Mark Slaugh, Bob Lowden, Mary Ann Horvas, and Kanda Calef.

Those who spoke against the ordinance:

Harry Salzman, Doug Stemple, Tim Seibert, Tom Binnings, Kevin Butcher, Jerry Novak, Joe Raso, Toby Gannett, Jim Raughton, Charles Guy, Sarah Harris, on behalf of the Downtown Partnership.

Meeting went into Recess - Meeting Reconvened

Councilmember Miller responded to three primary arguments against the ordinance relative to why now; why fix it if it's not broken; why not focus on things that are more important. After his comments, he made the motion to approve the eminent domain ordinance.

Councilmember Martin expressed how serious Council has taken the topic of eminent domain, now and in the past, throughout her history as a Councilmember. She stated the argument seems to be about a problem that does not exist and does not want to tie hands for future economic development.

Councilmember Bennett stated he too feels that this is unnecessary legislation; that he believed eminent domain should be used only as a last resort.

Councilmember Gaebler stated she believed there are truths on both sides of this issue but she would like to see all parties collaborate and find the best solution for everyone.

Councilmember Knight thanked the City Attorneys' office for providing two different sets of opinions to allow Council to make an informed decision. He provided additional input to the three questions Councilmember Miller addressed and alluded to his commitment to the issue when it was brought up during his campaign.

Councilmember Snider stated he did not believe this ordinance was in the best interest of Colorado Springs and does not want to handcuff future Councils. He did not believe it included input from all stakeholders.

Councilmember Miller expressed his appreciation to the City Attorney's office for providing lawyers on both sides to participate in today's presentation. He also spoke to the arguments presented against the ordinance. He described that the interest in preserving this fundamental American right spans from the far right to the far left of political views.

Councilmembers Collins and Pico described their support for the ordinance and expressed appreciation for all the public participation.

President King described what he perceived was good about the draft ordinance and also expressed his concerns driving his inability to support it.

In closing, Councilmember Miller noted it appeared there were not enough votes to pass the ordinance. He indicated that he would be willing to remove any references to abandoned property from the ordinance if Council would be more favorable with that omission.

Motion by Councilmember Miller, seconded by Councilmember Collins, that the Ordinance be approved on first reading. The motion failed by a vote of 4-5-0.

Yes: 4 - Collins, Knight, Miller, and Pico

No: 5 - Bennett, Gaebler, King, Martin, and Snider

12. New Business

- 12.A. 14-0081** Ordinance No. 14-28 amending Sections 102 (Definitions), 106 (Animals Kept on Premises; Sanitary Requirements), and 110 (Specific Animals Prohibited; Exceptions) of Article 7 (Regulation of Animals - General Provisions), adding Section 108 (Registration of Hoofed Pets) to Article 8 (Regulation of Animals - Dogs and Cats), and amending Section 102 (Hoofed Animals Kept On-Premises; Zoning Requirements) of Article 9 (Regulation of Animals - Hoofed Animals), all of Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as amended, pertaining to hoofed pets.

Sponsors: Gaebler

Councilmember Gaebler described the ordinance and stated that it had been changed from the initial version to limit the size of the goats to weighing no more than 100 pounds at maturity.

PUBLIC COMMENT:

Judy Darcy, Mark Slaugh, Lindsey Aparicio, Monica Snowbird, and her daughter, Isabella Snowbird, spoke to support the ordinance.

Jim Bensberg spoke against the ordinance

Councilmembers Knight and Miller expressed concern about eight being the total number animals allowed as the ordinance was currently written. Councilmember Bennett was supportive of the ordinance as presented; however, Councilmember Gaebler stated she would be willing to amend the ordinance to allow up to two goats for a total of four animals to be consistent with the ordinance for pot-bellied pigs.

Motion by Gaebler, second by Bennett, that the Ordinance be passed on first reading with the language amended to state "hoofed pets are limited to two (2) per household or dwelling with the maximum number of dogs, cats and hoofed pets in any household or dwelling to not exceed four (4) total animals." The motion passed by a vote of 9-0-0.

Yes: 9 - Bennett, Collins, Gaebler, King, Knight, Martin, Miller, Pico, and Snider

- 12.B. 14-0189** A resolution authorizing the Mayor to execute two agreements to allow the Colorado Department of Transportation (CDOT) to move funding in the amount of \$4,950,133 from the original CDOT contract to a new CDOT contract for the Woodmen Road Widening Project (I-25 to Powers Boulevard)

Councilmember Pico was excused from the meeting.

Mike Chaves, Senior Civil Engineer, described the IGA as a housekeeping exercise between the City and CDOT.

Councilmember Miller asked what may have changed from the prior version of

the IGA. Legislative Counsel Andrews answered that the City Attorney's Office had done a comparison of the old with the new version confirming that there was nothing substantively changed, simply pagination and an Excel spreadsheet with the exact data as included in the prior version.

Motion by President Pro Tem Bennett, seconded by Councilmember Gaebler, that the Resolution be adopted. The motion passed by a vote of 8-0-1, with Councilmember Pico excused.

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

Excused: 1 - Pico

- 12.C. 14-0205** A resolution authorizing the acquisition of property owned by Matthew A., Anna L., and Thomas J. Alimena to be used for the Woodmen Road Corridor Improvements Project (Phase 2) and authorizing a short-term lease of that property to Matthew A. and Anna L. Alimena for less than fair market value after the acquisition

Mike Chaves, Senior Civil Engineer, described the background for the resolution.

Motion by President Pro Tem Bennett, seconded by Councilmember Knight, that the Resolution be adopted. The motion passed by a vote of 8-0-1, with Councilmember Pico excused.

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

Excused: 1 - Pico

- 12.D. 14-0206** A resolution authorizing the acquisition of property owned by Carl and Hazelene Jordan to be used for the Woodmen Road Corridor Improvements Project (Phase 2) and authorizing a short-term lease of that property to Carl and Hazelene Jordan for less than fair market value after the acquisition

Mike Chaves, Senior Civil Engineer, described the background for the resolution.

Motion by President Pro Tem Bennett, seconded by Councilmember Snider, that the Resolution be adopted. The motion passed by a vote of 8-0-1, with Councilmember Pico excused.

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

Excused: 1 - Pico

- 12.E. 14-0122** A Resolution establishing 2014 Drainage Basin Fees, Bridge Fees, and Detention Pond Facility and Land Fees

Dave Lethbridge, Public Works Director, provided background for the ordinance. Councilmember Knight asked whether anything had changed since the Work Session presentation. Mr. Lethbridge clarified that nothing had changed.

Motion by Councilmember Knight, seconded by Councilmember Gaebler, that the Resolution be adopted. The motion passed by a vote of 8-0-1, with Councilmember Pico excused.

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

Excused: 1 - Pico

- 12.F. 14-0162** Ordinance No. 14-29 modifying Section 502 (Claims Reserve Fund) and 503 (Compromise or Settlement of Claims) of Part 5 (Claims Management) and Section 602 (Worker's Compensation Claim Reserve Fund) of Part 6 (Workers' Compensation) of Chapter 1 (Finance Management Procedures) of Chapter 1 (Administration, Personnel and Finance) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the requirements for the frequency of certain audits.

Councilmember Martin described the background and the request to expand time between the Workmen's Compensation audits. She confirmed it had passed through the audit committee's review.

Councilmember Knight described agreeing to this ordinance would create a disconnect from the other City required audit schedules and also expressed concern relative to the statement that it is "...at the discretion of the auditor."

Motion by Councilmember Martin, seconded by President Pro Tem Bennett, that the Ordinance be approved on first reading. The motion passed by a vote of 5-3-1, with Councilmember Pico excused.

Yes: 5 - Bennett, Gaebler, King, Martin, and Snider

No: 3 - Collins, Knight, and Miller

Excused: 1 - Pico

13. Public Hearing

There was no Public Hearing scheduled.

14. Added Item Agenda

There were no Added Items.

15. Executive Session

There was no Executive Session requested.

16. Adjourn

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

Sarah B. Johnson, City Clerk