



# City of Colorado Springs

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

## Meeting Minutes - Draft Council Work Session

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Monday, July 21, 2014

1:00 PM

Council Chambers

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### 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. Changes to Agenda

Agenda items 8D., 8G., 8H., and 8I. will be heard together. Consensus of council approved this change to the agenda.

### 3. Regular Meeting Comments

There were no Regular Meeting comments.

### 4. Review of Previous Meeting Minutes

#### **4.A. 14-0416** City Council Work Session Meeting Minutes July 7, 2014

The minutes of the July 7, 2014 Work Session were approved as presented.

### 5. Executive Session

#### A) Open

Legislative Counsel Andrews read the proposed Closed Executive Session items into the record. President King polled Council regarding discussing Council's legislative authority in a Closed Executive Session, and two-thirds (2/3) of Council did not agree to proceed with discussing the item pertaining to legal advice and consultation with the City Attorney for the purpose of receiving legal advice regarding Council's legislative authority in Closed Executive Session. Councilmembers King, Collins, Knight, and Miller did not consent to discussing this item in Closed Executive Session.

Wynetta Massey, City Attorney, said she would withdraw the item rather than having the discussion in Open Executive Session. Ms. Massey stated the confidential opinion discussing the Council's legislative authority was issued to the Mayor in response to his question, and was copied to the Council, as the Council had a need to know the conclusion reached in the confidential opinion. Neither the Mayor nor the Council

had waived their privilege to discuss the legal opinion publically. Ms. Massey indicated that she was prepared to discuss additional information on the subject.

Councilmember Knight suggested this is a process discussion and requested to move forward with the discussion in Open Executive Session.

Councilmembers Bennett and Gaebler stated they will not participate in this discussion in an Open Executive Session.

Councilmember Gaebler requested Council reconsider the decision to discuss this issue in a Closed Executive Session because she would like to hear the information Ms. Massey was prepared to present.

President King polled Council again regarding discussing Councils legislative authority in a Closed Executive Session, again, two-thirds of the Council did not agree to proceed with this discussion in Closed Executive Session. Councilmembers King, Collins, Knight, and Miller did not consent to discussing this item in Closed Executive Session.

There was a short recess. When the meeting was called back to order, the President of Council announced that the Mayor had waived his privilege to the confidential opinion. The City Attorney acknowledged that she, too, understood that the Mayor had waived his privilege, but that she could not discuss the opinion unless a majority of Council also waived the Council's privilege to keep the opinion confidential.

President King polled Council regarding Council's desire to waive its privilege. Consensus of Council agreed to waive privilege on the confidential legal opinion. Councilmembers Martin and Snider did not consent to waiving the Council's privilege on the confidential legal opinion.

The discussion regarding Council's legislative authority was held in Open Executive Session per consensus of Council.

Wynetta Massey, City Attorney, presented information regarding Councils' legislative authority to initiate an amendment to the Annual Appropriation Ordinance. Ms. Massey also provided clarification on the process for repurposing funds. The Mayor may come to City Council to request budgeted funds be moved from one department to another department during the fiscal year. An explanation of the City Charter and City Code provisions and their functions as checks and balances on the Executive and Legislative branches of City government ensued. The City Charter does not give Council authority to act administratively in the administration of appropriated funds during the fiscal year as would be

the case if the proposed ordinance reducing the annual appropriation by \$250,000, on the agenda for the July 22, 2014, City Council meeting, passed. Ms. Massey discussed The Local Government Budget Law of Colorado (C.R.S. § 29-1-101, *et seq.*), as a statutory budgeting and appropriation framework that was substantially similar to the provisions of the City Charter and City Code.

Councilmember Miller asked several questions about the process of reallocation of funds based on the information presented, Ms. Massey responded to his questions.

Councilmember Knight commented on the events leading to this proposed reallocation of funds and the governmental process.

President King stated that all legislative power should be vested in the Council and asked why there is a restriction on what Council can do in this situation. Ms. Massey stated she believes Council has the authority to make changes to the Annual Appropriation Ordinance in the event of a catastrophe or emergency, as outlined in City Charter § 7-60 and City Code § 1.5.103(B).

Councilmember Miller expressed that Council has control of the funds being spent and feels they should be able to reallocate as they deem appropriate, provided the funds are not being taken from an existing contractual agreement.

Councilmember Collins expressed concern about the power struggle between the legislative and executive branches and stated the importance of the public being made aware of these issues.

President King requested another legal opinion on this issue. Councilmember Miller concurred, and added he would like an impartial opinion. Ms. Massey stated she has consulted with another attorney who was in agreement with her opinion. Ms. Massey also stated that in seeking another opinion, her charter obligations are being circumvented.

Councilmember Gaebler questioned the wisdom of going against the advice of the City Attorney.

## B) Closed

### **B)A. 14-0399**

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 negotiation consultation with the City Attorney regarding a pending litigation matter; and (2) legal advice and

consultation with the City Attorney for the purpose of receiving legal advice regarding Council's legislative authority.

The President of Council shall poll the City Councilmembers, and, upon consent of two-thirds of the members present, may hold a Closed Executive Session. If consent to the Closed Executive Session is not given, the item may be discussed in Open Session or withdrawn from consideration.

President King stated the purpose of the Closed Session was to discuss one item, an update on the PERA litigation and a discussion about Council's legislative authority.

President King polled the Councilmembers regarding the PERA litigation matter, consensus of Council agreed to proceed with the discussion in Closed Session. Councilmembers Collins and Miller voted no.

Council went into a Closed Session.

Council reconvened into Regular Session.

## 6. Staff and Appointee Reports

### **6.A. 14-0101** Agenda Planner Review

Councilmember Snider invited Nechie Hall, Former Interim CEO of the Fine Arts Center, to speak at the Work Session August 11, 2014.

### **6.B. 14-0397** Memorial Health System Enterprise Financial Report

There were no questions or discussion on the Memorial Health System Enterprise Update.

## 7. Presentations for General Information

There were no Presentation for General Information.

## 8. Items for Introduction

### **8.A. 14-0361** A resolution approving amendments to the Rules of the Colorado Springs Civil Service Commission for the Municipal Police and Fire Forces.

Christie McCall, Senior Attorney with the City Attorneys Office, presented a summary of the changes to Civil Service Rule 5.3., allowing

for continuous testing for the promotional position of paramedic firefighters to fulfill department needs. There were no questions or comments following her presentation.

- 8.B. 14-0404** A resolution adopting City Council's annual Report to the Citizens for 2013-2014, pursuant to City Charter Section 3-10(d).

Eileen Gonzalez, City Council Administrator, presented the Council's first Annual Report to Citizens, a requirement of the City Code, requesting Councilmembers feedback. Councilmember Gaebler complimented the work done. Councilmember Collins suggested the word "collaboration" be changed to "regional coordination".

- 6.C. 14-0418** City for Champions Update

Bob Cope, City for Champions Project Manager, presented an update on the City for Champions project. Discussion continues around how the projects in the EDC agreement are tied together per State requirements, yet will move forward independently. The plan is to have the updated draft agreement back from the OEDIT Staff and the City Attorneys office by the August 14, 2014 EDC meeting. Final approval of the agreement is planned for the September 11, 2014 EDC meeting.

A project partnership agreement between the United States Olympic Museum and the United States Olympic Committee for an interactive Museum was recently executed. Additional project partnerships are expected to be announced in the near future.

The next public meeting will be held August 19, 2014 from 5-6:30 pm featuring a new, interactive format.

Councilmember Miller requested clarification on why there is limited access to discussions between the City for Champions committee and a third party attorney hired to work on this project. Mr. Cope stated that this is a matter of attorney client privilege.

Councilmember Knight requested an agenda change based on individuals in attendance to present, requesting item 9.A. be heard following item 8.E..

- 8.C. 14-0406** Intergovernmental Agreement Among El Paso County, Colorado, the City of Colorado Springs, the City of Manitou Springs, the City of Fountain, the Town of Green Mountain Falls, for the Creation of the Pikes Peak Regional Drainage Authority

A new copy of the Intergovernmental Agreement (IGA) was provided to Councilmembers.

Dave Munger, Co-chair of the Citizens Taskforce, presented an overview and update of resolution progress, including Joint Resolution and IGA fulfillment, funding, changes to the IGA proposal, and future plans. The next public meeting will be Wednesday July 23, 2014.

Kevin Walker, President of Walker Strategies, consultant on the project provided an overview of the proposed fee structure.

Councilmembers Collins, King and Miller requested clarification on how the cost of this project will be funded by all property owners including private citizens, businesses, and military installations. Mr. Munger and Mr. Walker responded that they are making every effort to make payment of these fees apply equitably. Mr. Walker explained the breakdown of fees and reiterated that the credits will only be given to organizations that have installed drainage systems, at their own expense, that meet or exceed the requirements of the plan. He also reminded Council that these fees are estimates based on the lot size and type of property and impervious area.

Councilmember Bennett expressed his support and appreciation for the work on this project and the manner in which collaboration has occurred to make this a success.

Per President Kings' request, Mr. Munger agreed to include verbiage regarding no fee increases for five years in the agreement.

Councilmember Knight reiterated concerns about administrative fees, and verbiage in sections of the agreement that may mislead citizens about the amount they will be required to pay. Mr. Munger addressed these concerns and stated there is a plan to inform homeowners of the estimated monthly fee for specific properties.

President King outlined changes he would like to see made to the agreement and suggested a joint meeting between the Commissioners and Council prior to the August 12, 2014 Council meeting.

Steve Cox, Chief of Staff, requested the changes to the agreement be made in a timely manner. Mr. Munger referred back to the timeline

included in the PowerPoint presentation and assured Mr. Cox this will be followed.

Eileen Gonzalez, City Council Administrator informed Council that this is agenda item, 12.G., on the meeting agenda for Tuesday July 22, 2014 and the version of the agreement included in the Council packet does not include changes suggested by President King.

**8.E. 14-0417** Colorado Springs Health Foundation Update and Review of Policy Documents

Jon Medved, Chairman, Colorado Springs Health Foundation (CSHF) Board of Trustees, reviewed changes to the policy documents provided to Councilmembers.

Councilmember Knight requested a percentage of funds to be allocated to government agencies providing healthcare in the City and that Council have authority over changes to budget allocations.

Discussion about the format of public meetings and the definition of "teleconference" ensued. Britt Haley from the City Attorney's office added that as a Council appointed Board, the CSHF board must follow the same rules as Council.

Discussion between Council and Mr. Medved about the agreement including specific procedural, financial and technical details. Councilmembers requested specific changes to the documents, Mr. Medved agreed to discuss requested changes with the CSHF Board. David Lord, member of the Board of Trustees of CSHF responded to questions about the investment portfolio.

**9.A. 14-0420** West Colorado Annexation Options and Potential Fee Policy Change

Councilmember Bennett introduced this discussion, defined the physical area to be annexed and provided an overview of the issues and confusion associated with adjacent properties located in different jurisdictions.

Carl Schueler, Planning Manager - Comprehensive Planning, presented additional information about the annexation plan including drawbacks, benefits, alternatives and costs. The plan includes having property

owners' participate on a voluntary basis.

Citizens Mary Galvin and Bonnie Lapora spoke in favor of annexing this property.

Councilmember Martin stated she supports this initiative but has some reservations about financial burdens associated with the drainage, utility work and roadwork needed in this area. Kathleen Krager explained that these concerns will be included in a PPRTA project that is already funded and planned for 2016.

Councilmember Martin requested clarification on how neighborhood support will be solicited; Mr Schueler stated they will have neighborhood meetings.

Peter Wysocki responded to questions from Councilmembers about a Master Plan for this area stating this would require a request for funding and will probably be delayed until the PPRTA project is completed. Mr. Wysocki also stated that there have already been meetings to discuss this plan with the citizens living in the area.

Councilmember Snider pointed out that this annexation plan is in accordance with the development plan adopted by Council.

Councilmembers Knight, Miller and Pico brought up concerns about consistency with annexation fees overtime across the City.

Mr. Wysocki suggested that to encourage property owners to agree to annexation, groups of properties requesting to be annexed together would pay reduced annexation fees.

**8.D. 14-0408** Colorado Springs Utilities Plan of Finance Update

Dede Jones , General Manager, Financial Services for Colorado Springs Utilities (CSU) provided a status update of financial activity for CSU. Ms. Jones discussed remarketing activity and explained the approval time line for ordinances previously presented to Council. There were no questions or comments following this presentation.

**8.G. 14-0409** Ordinance No. 14-55 of the City of Colorado Springs, Colorado Approving and Authorizing the Execution and Delivery of the Second Amendment to the Standby Bond Purchase Agreement by



and Among the City of Colorado Springs, Colorado and Wells Fargo Bank, N.A., as Tender Agent and Paying Agent and Royal Bank of Canada, as Credit Facility Bank and the First Amendment to the Fee Letter Between the City of Colorado Springs, Colorado and Royal Bank of Canada; and Providing Other Matters Relating Thereto

Please see comments in agenda item 8.D.

- 8.H. 14-0410** Ordinance No. 14-56 of the City of Colorado Springs, Colorado Approving and Authorizing the Execution and Delivery of a Remarketing Agreement Between the City of Colorado Springs, Colorado and Barclays Capital Inc. Relating to Utilities Revenue Bonds; and Ratifying Certain Action Heretofore Taken

Please see comments in agenda item 8.D.

- 8.I. 14-0421** 2014A New Money Revenue Bonds

Please see comments in agenda item 8.D.

- 8.F. 14-0419** Fire and Police Pension Association (FPPA) Employer Election Regarding Member Contributions to the Fire Statewide Defined Benefit Plan

Kara Skinner, Chief Financial Officer, provided an explanation of this retirement program and the process for both employer and employee election. Ms. Skinner also explained the employer contribution rate would not change, just the employee contribution rate under this proposal.

Councilmember Miller inquired about the motivation of plan members to adopt this plan. Ms. Skinner explained that one motivation was to protect the beneficiaries from the impacts of inflation.

Jesse Ortiz, Battalion Chief CSFD, also addressed member reasons for agreeing to increase their required contributions.

Councilmember Martin was excused at 5:50 pm.

- 8.J. 14-0296** A Resolution to approve the Transit Services Division's 2014 Title VI Program, which documents how services are provided without regard to race, color, or national origin

Brian Vitulli, Planning Supervisor, Colorado Springs Transit, provided an

overview of the updated of Title VI Transit Program to be presented to Council August 12, 2014.

Councilmember Miller questioned how Transit Services determines which amenities are provided and which vehicles are used in certain areas or on certain routes. Mr. Vitulli stated this is done in a non-discriminatory manner.

President King asked if there are free bus passes available, Mr. Vitulli explained there are some free bus passes available through different programs.

## 9. Items Under Study

There were no items Under Study.

## 10. Councilmember Reports and Open Discussion

Councilmember Snider attended a conference about electricity resources, he arranged for the instructor to have lunch with Councilmembers to discuss utilities options. Councilmembers interested in attending should contact him.

Councilmember Bennett provided a copy of the letter from Xcel Energy to all Councilmembers. He requested approval to spend some of his funds to travel to Washington DC to attend the RBA conference. Consensus of Council approved this expenditure. In the past Council held a joint meeting with Pueblo's City Council and he would like to schedule another one. Councilmembers Bennett and King will pursue this together.

Councilmember Miller reiterated a request to the City Attorney's Office to revisit information in the OEDIT agreement regarding the IGA Determination and formation of the RTA Advisory Board. The majority of Council stated they would like to see confirmation from the City Attorney's Office that the issues from the June 20, 2014 draft of the RTA resolution are being revisited even though final decisions have not been made. Mr. Andrews agreed to provide the requested information and reminded Council that the information that will be provided is based on hypothetical information.

Councilmember Gaebler was excused at 6:37pm.

11. Adjourn

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

Sarah B. Johnson, City Clerk