



# City of Colorado Springs

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

## Meeting Minutes Council Work Session

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Monday, September 21, 2020

10:00 AM

Council Chambers

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### How to Watch the Meeting

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

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### 1. Call to Order

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

Councilmember Geislinger left the meeting at approximately 3:10 PM.

### 2. Changes to Agenda

Sarah B. Johnson, City Clerk, stated item 5.B.A. Closed Executive Session will be moved to the end of the meeting. Consensus of City Council agreed to this change on the agenda.

### 3. Regular Meeting Comments

There were no Regular Meeting Comments.

### 4. Review of Previous Meeting Minutes

4.A. [20-527](#) City Council Work Session Meeting Minutes September 8, 2020

Presenter:  
Sarah B. Johnson, City Clerk

**Attachments:** [9-8-20 City Council Work Session Meeting Minutes Final.pdf](#)

The minutes of the September 8, 2020 Work Session meeting were approved by Consensus of City Council.

- 4.B. [20-529](#) Special City Council Work Session Meeting Minutes September 14, 2020

Presenter:  
Sarah B. Johnson, City Clerk

**Attachments:** [9-14-20 Special City Council Work Session Minutes Final.pdf](#)

The minutes of the September 14, 2020 Special Work Session meeting were approved by Consensus of City Council.

## **5. Executive Session**

### **5A. Open**

### **5B. Closed**

- 5B.A. [20-530](#) In accord with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Law, C.R.S. § 24-6-402(4)(b), the City Council, in Open Session, is to determine whether it will hold an electronic Closed Executive Session. The issue to be discussed involves a conference with the City Attorney for the purposes of receiving legal advice related to proposed changes to the City's Personnel Policies and Procedures Manuals.

The President of Council shall poll the City Councilmembers, and, upon consent of two-thirds of the members present, may conduct an electronic Closed Executive Session. Each City Councilmember participating in the electronic Closed Executive Session shall affirmatively state for the record that no other member of the public not authorized to participate in the electronic Closed Executive Session is present or able to hear the matters discussed as part of the electronic Closed Executive Session. If consent to the electronic Closed Executive Session is not given, the item may be discussed in Open Session or withdrawn from consideration.

Presenter:  
Wynetta Massey, City Attorney

**Attachments:** [09212020ClosedSession](#)

Tracy Lessig, Division Chief, Employment, Office of the City Attorney, stated 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 an electronic Closed Executive Session. The issue to be discussed involves a conference with the City Attorney for the purposes of receiving legal advice

related to proposed changes to the City's Personnel Policies and Procedures Manuals.

President Skorman polled City Council regarding the desire to proceed with an electronic Closed Executive Session. At least two-thirds of City Council agreed to proceed in an electronic Closed Executive Session. Each City Councilmember participating the electronic Closed Executive Session affirmatively stated for the record that no other member of the public not authorized to participate in the electronic Closed Executive Session was present or able to hear the matters discussed as part of the electronic Closed Executive Session.

## **6. Staff and Appointee Reports**

### **6.A. [20-392](#) 2020 Financial Update and 2021 Budget Outlook**

Presenter:

Charae McDaniel, Chief Financial Officer

**Attachments:** [September Financial Report](#)

Charae McDaniel, Chief Financial Officer, presented the September 2020 monthly financial update and 2021 budget outlook. She went over revenue activity through August 31, 2020, sales tax trends, general fund revenue, general fund expenditures, and economic indicators. Ms. McDaniel gave an overview of the projected 2021 revenue, budget priorities, and next steps.

President Pro Tem Strand asked what is included in the operating costs for the City. Ms. McDaniel stated everything except salaries and benefits.

Councilmember Geislinger requested the amount of expense reductions between 2018, 2019, and 2020. Ms. McDaniel stated the operating category value for 2018 is \$65.3M, 2019 is \$67.5M, and 2020 is \$57.6M.

President Pro Tem requested the unfunded amount for market movement and pay for performance in civilian pay. Ms. McDaniel stated they will provide that information.

Councilmember Knight asked how much the employee portion of the cost of the healthcare premium increase of seven percent will be for the City. Ms. McDaniel stated they will provide that information.

Councilmember Williams asked how much the Governor Polis state pension increase will cost the City. Ms. McDaniel stated they will provide that information.

Councilmember Knight asked how the two budget scenarios will be presented if voters approved the 2A Taxpayer's Bill of Rights (TABOR) ballot measure at the November 3, 2020 election. Ms. McDaniel stated they will bring forward administrative recommendations for modification to the 2021 Budget at the Budget Markup Session on November 6, 2020 if the TABOR item passes.

Councilmember Knight requested the anticipated difference between the 2019 and 2020 TABOR cap. Ms. McDaniel stated they will research that information.

President Skorman asked if there is an anticipated drop in revenue for restaurants and retail stores during the winter months. Ms. McDaniel stated there are a number of components which could impact consumer spending, but they will be able to collect online sales tax effective September 1, 2020.

Councilmember Geislinger requested an analysis regarding whether the funding from the CARES Act and stimulus money has artificially inflated the City's recovery plan. Ms. McDaniel stated the CARES funding amount is a one-time issue and must be spent by December 31, 2020 and the citizen stimulus funding also appears to be one-time occurrence.

**6.B.**    [20-505](#)            Agenda Planner Review

Presenter:  
Sarah B. Johnson, City Clerk

**Attachments:**    [Agenda Planner Review 9-21-20.pdf](#)

There were no comments on this item.

## **7. Presentations for General Information**

**7.A.**    [20-485](#)            Districting Process Advisory Committee Preliminary Report to City Council and City Clerk

Presenter:  
Carlos Perez, District 2 Representative and Chair of the Committee

**Attachments:**    [DPAC2020 Redistricting Preliminary Report - FINAL 20200916](#)

Carlos Perez, District 2 Representative and Chair of the Districting Process Advisory Committee (DPAC), presented the 2020 Preliminary Report for redistricting to City Council and the City Clerk. He gave an overview of the committee's objective, DPAC process, public outreach, public comments, and DPAC recommendations for election district boundaries.

Councilmember Knight asked if the City is allowed to plan for growth when redistricting. Mr. Perez stated they do work towards finding a balance of populations in districts, but future annexations are not considered at the time of redistricting, only the current City boundaries.

Councilmember Avila stated she supports the recommendation of District 4 absorbing the airport area and uniting the John Adams neighborhoods.

Councilmember Pico asked what the rationale was behind Banning Lewis Ranch (BLR) being divided into two districts. Mr. Perez stated the forecast is that the buildout of BLR will occur over the next twenty to twenty-five years and the southern portion does not have much development or population at this time. He stated it could also be beneficial to the citizens to have multiple City Council representation.

Councilmember Williams asked what point-in-time the population estimates are based on. Mr. Perez stated they used data provided by (Environmental Systems Research Institute) Esri which is consistent with the state's demography office. Sarah B. Johnson, City Clerk, stated the data is based on July 2019 census estimates. Councilmember Williams stated that District 2 and District 6 may be underrepresented in population. Mr. Carlos gave an overview how growth rates and proportionality are considered. Councilmember Knight stated there will be considerable rate of growth downtown as well due to the number of apartments being built.

## **8. Items for Introduction**

- 8.A. [20-388](#) A resolution accepting and endorsing the recommendations from the Lodgers and Automobile Rental Tax (LART) Citizen Advisory Committee for expenditures from the LART special fund for inclusion in the 2021 budget

Presenter:

Charae McDaniel, Chief Financial Officer

Laurel Prud'homme, Chair, LART Citizens' Advisory Committee

**Attachments:** [LART Resolution - 2021 Projects - with Exhibit A](#)  
[2021 LART Resolution Exhibit A \(Recommendations\)](#)

Laurel Prud'homme, Chair, Lodgers and Automobile Rental Tax (LART) Citizens' Advisory Committee, presented the Resolution accepting and endorsing recommended expenditures from the Lodgers and Automobile Rental Tax (LART) special fund for inclusion in the 2021 budget. She stated based on projections, the committee is recommending funding for contractual agreements and the Resolution events included in 2019. Ms. Prud'homme stated if funding projections change, they will open applications in the first quarter of 2021.

Charae McDaniel, Chief Financial Officer, explained that they delayed bringing this Resolution to City Council so they could see how revenue was trending. She stated if ballot item 2A is passed by voters, the LART fund may be amended at the Budget Markup Session.

Councilmember Geislinger requested this fund be included in the analysis he requested regarding whether the funding from the CARES Act and stimulus money has artificially inflated the City's recovery. Ms. McDaniel stated they will provide that information.

- 8.B.**    [20-524](#)            A Resolution Rescinding Resolution No. 18-11 and Establishing Licensing Fees for Cats and Dogs and Redemption Fees for Impounded Animals

Presenter:

Charae McDaniel, Chief Financial Officer

**Attachments:**    [Attachment A Animal Control Fee Update](#)  
[Attachment B - Other City Animal Licensing Fees](#)  
[AnimalLicensingFeesRES-2020-09-08](#)

Charae McDaniel, Chief Financial Officer presented the Resolution establishing updated licensing fees for cats and dogs and redemption fees for impounded animals to be effective January 1, 2021 and the Ordinance amending sections of City Code pertaining to animal fees. She stated the City contracts with the Humane Society of the Pikes Peak Region (HSPPR) to provide animal law enforcement (ALE), and sheltering services in which the HSPPR collects and retains revenue for dog licenses, permits, impounds and other associated fees to offset part of the costs. Ms. McDaniel stated the cat and dog license fees have not been increased since 2011 and the permit registration and dangerous animal license have not been updated since 2014. She stated the costs of animal law enforcement and sheltering services have increased over recent years, the proposed increase for cat and dog licenses will be \$5.00 each, fees for licenses obtained by citizens over age 65 will be less than \$3.00, and is comparable to other jurisdictions across the country. Ms. McDaniel stated the permit registration and dangerous animal license fees are increasing by a greater amount due to the site inspection costs and the total estimated revenue change generated by these proposed fee increases is \$86,180.00

Councilmember Gaebler asked why a dangerous animal would be allowed within City limits. Ms. McDaniel stated if an incident goes to court and the judge deems an animal to be dangerous, there are steps that mandates the pet owner register them as a dangerous animal which includes inspections and licensing requirements.

- 8.C. [20-525](#) An Ordinance Amending Multiple Sections Within Chapter 6 (Neighborhood Vitality/Community Health) of the Code of the City of Colorado Springs 2001, as Amended, Pertaining to Animal Fees

Presenter:

Charae McDaniel, Chief Financial Officer

**Attachments:** [Attachment A Animal Control Fee Update](#)

[Attachment B - Other City Animal Licensing Fees](#)

[AnimalControlFeesORD-2020-09-08](#)

Please see comments in Agenda item 8.B.

- 8.D. [20-515](#) An Ordinance Certifying Delinquent Stormwater Fees and Charges to the El Paso County Treasurer for Collection

Presenter:

Richard Mulledy, Stormwater Enterprise Manager

**Attachments:** [Ordinance StormwaterFees-CertificationOfDelinquency](#)

[Exhibit A](#)

Richard Mulledy, Stormwater Enterprise Manager, presented the Ordinance certifying delinquent stormwater fees and charges to the El Paso County Treasurer for collection. He stated there are 249 parcels which are ninety days or more past due for a total of \$107,077.08 without the \$30 El Paso County Assessor Fees and the Stormwater Enterprise will pursue the collection of unpaid fees through a potential property tax lien.

Councilmember Geislinger asked what the response rate was from last year's collection. Mr. Mulledy stated approximately half of the payments were made before the assessment was completed.

Councilmember Geislinger asked how many parcels are repeat offenders for non-payment. Mr. Mulledy stated he will provide that information.

Councilmember Geislinger asked what percentage of citizens are noncompliant with paying the fees. Mr. Mulledy stated .89 percent.

- 8.E. [20-461](#) An Ordinance amending Ordinance No. 19-87 (2020 Appropriation

Ordinance) for a supplemental appropriation to the Parking Enterprise Fund in the amount of \$1,100,000 for additional funding of smart technology parking meters

Presenter:

Scott Lee, Parking Enterprise Director

Chris Wheeler, City Budget Manager

**Attachments:** [Supplemental Approp Ord - Parking Enterprise for smart meters](#)

Scott Lee, Parking Enterprise Director, presented the Ordinance for a supplemental appropriation to the Parking Enterprise Fund in the amount of \$1.1M for additional funding of smart technology parking meters. He stated this request will speed up the planned replacement of 3,000 existing parking meters in the remainder of downtown and Old Colorado City. Mr. Lee said the 2020 budget for the Parking Enterprise Fund includes the replacement of approximately 1,100 meters, they are proposing replacing the remaining meters in 2020 instead of 2021 due to the unreliability of the older meters, the mobile pay option is not available on the older meters, and the in-ground sensors do not work with the older meters. He gave an overview of the Budget Committee questions/comments.

There were no comments on this item.

**8.F.** [19-731](#)

An ordinance amending Section 102 (Definitions), Section 105 (Prohibition on Sale of Cigarettes or tobacco products in vending machines), and Section 106 (Tobacco Product Placement) of Part 1 (No Smoking in Public Places or Workplaces Except in Those Areas Designated for Smoking) 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 limitations on tobacco products in vending machines and tobacco product placement and providing penalties for the violation thereof

Presenter:

Tom Strand, City Councilmember

Marc Smith, Corporate Division Chief and Legislative Counsel, City Attorney's Office

**Attachments:** [Tobacco Placement ORD-2020-09-15-clean.docx](#)

[HB2020a\\_1001\\_signed](#)

[HB20-1001 State Bill Summary](#)

President Pro Tem Strand stated they are working toward protecting the



youth in regards to the ability to obtain tobacco products.

Marc Smith, Corporate Division Chief, Office of the City Attorney, presented the Ordinances pertaining to limitations on tobacco products in vending machines and tobacco product placement and the unlawful transfer of tobacco and tobacco products and providing penalties for the violation thereof. He stated state and federal law has raised the minimum age to purchase tobacco products to twenty-one years of age and these Ordinances bring City Code into alignment with state law.

There were no comments on this item.

- 8.G.**    [20-539](#)    An ordinance creating a new Section 213 (Unlawful Transfer of Tobacco and Tobacco Products) of Part 2 (Other Dangerous Weapons and Substances) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the unlawful transfer of tobacco and tobacco products and providing penalties for the violation thereof

Presenter:

Tom Strand, City Councilmember

Marc Smith, Corporate Division Chief and Legislative Counsel, Office of the City Attorney

**Attachments:**    [Tobacco Possession Transfer ORD-2020-09-15-clean.docx](#)

Please see comments in Agenda item 8.F.

- 8.H.**    [20-141](#)    A resolution extending the suspension of the Rules of the City Council of the City of Colorado Springs and authorizing the conduct of electronic or telephonic quasi-judicial hearings and executive sessions during the period of the state of emergency declared for the City of Colorado Springs and resulting from a public health emergency caused by the 2019 Novel Coronavirus

Presenter:

Wynetta Massey, City Attorney

**Attachments:**    [City Council Resolution\\_Electronic Meetings\\_09-03-20\\_clean.docx](#)  
[City Council Resolution\\_Electronic Meetings\\_09-03-20\\_redline.pdf](#)  
[Proclamation and declaration of Emergency - Mayor Suthers.pdf](#)  
[Signed Resolution 19-20.pdf](#)  
[Signed Resolution 23-20.pdf](#)  
[Signed Resolution 40-20.pdf](#)  
[Signed Resolution 81-20.pdf](#)

Marc Smith, Corporate Division Chief, Office of the City Attorney, presented a Resolution suspending certain rules of the City Council until December 31, 2020 resulting from a public health emergency caused by the 2019 Novel Coronavirus. He stated unlike the previous Resolutions permitting remote meetings, section 5 of this Resolution has been amended to remove the language that gives applicants the ability with quasi-judicial items to automatically suspend scheduling of the quasi-judicial hearing until such time as the local or state-wide emergency is lifted and the application can be scheduled at a regular meeting at which a quorum will be physically present. He stated removing this automatic suspension will prevent hearings from being delayed until the emergency is lifted. Mr. Smith stated remote hearings for quasi-judicial items have been successfully conducted many times over the last six months and an applicant is still permitted to request postponements which will be evaluated on a case-by-case basis.

Councilmember Knight asked what options are available if there are electronic issues which affect the hearing. Mr. Smith stated there is already language in the Resolution which addresses those potential situations.

## **9. Items Under Study**

### **9.A. [20-371](#) Discussion on the Medical Marijuana Delivery Concept**

Presenter:

Brett Waters, Deputy Chief of Staff

Sarah Johnson, City Clerk

Lee McRae, License Enforcement Officer II, City Clerk's Office

**Attachments:** [MMJ Delivery Options 2020-07-27](#)

[CITY MMJ LICENSE CODE - REDLINE DRAFT \(with options\)  
2020-06-26](#)

Brett Waters, Deputy Chief of Staff, introduced the discussion on the medical marijuana (MMJ) delivery concept.

Shannon Fender, Director of Public Affairs, Native Roots Cannabis Co., representing the MMJ industry, gave an overview of the parameters of legal cannabis delivery in Colorado, process for permitting, reasons for delivery, looping prevention, accident scenarios, and addressing patchwork lawmaking. She provided a comparison to pharma delivery and their recommendations for an Ordinance

Councilmember Gaebler requested the definition for looping. Ms. Fender stated it is when a person requests multiple transactions per day in order to attempt to obtain over the legal transaction limit.

Councilmember Gaebler asked if deliveries passed through other jurisdictions, would they also have to pass similar Ordinances. Ms. Fender confirmed they would.

Tom Scudder, Owner, A Wellness Centers, and member of the MMJ Working Group, representing the MMJ Industry identified the need and desire for delivery in the City, business results, patient results, key themes, and updates to local delivery conversations.

Lee McRae, License Enforcement Officer II, City Clerk's Office, gave an overview of HB19-1234 which permits the delivery of MMJ to private residences, comments from the MMJ Working Group, state provisions, and details of MMJ delivery Option 1 and Option 2. He presented discussion topics for proposed City MMJ rules to implement a delivery permit for Option 2, enforcement considerations, and implementation.

Councilmember Geislinger requested additional information regarding Transporting Caregivers. Mr. McRae stated they need to be registered with the Colorado Department of Health, can deliver for up to five patients, they have been in place since the inception of MMJ, there are approximately three or four registered within El Paso County, and they have been transporting for relatives.

Councilmember Gaebler asked what opposition there was with MMJ delivery Option 2. Mr. Waters stated some of the members of the MMJ Working Group expressed concerns regarding looping, lack of mechanisms to track the process, and how to ensure the plant count is not exceeded. He stated law enforcement has concerns with how to enforce it and that there is a very limited case study in regards to other jurisdictions which have MMJ delivery. Mr. Waters stated the Mayor and the Administration are not supportive of the MMJ delivery process.

Councilmember Williams asked if the sales tax for a MMJ delivery made outside of City limits would go to the delivery jurisdiction. Mr. McRae confirmed it would.

Councilmember Knight recommended that if MMJ delivery is allowed, the MMJ delivery timeframe be adjusted so that any remaining product on the vehicle could be returned to the store before it closes at 9:00 PM.

Councilmember Knight asked what the break-even cost will be for enforcement and the process. Mr. McRae stated there will need to be further discussion regarding that.

Scott Whittington, Commander, Colorado Springs Police Department, requested a time limit be set for response to accident scenarios, and stated they are uncertain if the MMJ transporters will be authorized to be armed, if transporters will be required to have approved credentials, what the product cap limit will be, and which City Department will be responsible to conduct inspections. He said there will have to be officer training considerations taken and suggested body cameras be worn by transporters to verify valid identification and the packages be sealed with identifying information on them.

John Harding, member of the MMJ Working Group, stated he believes MMJ delivery is a bad idea because it would put transporters in danger, looping would occur, and it would put additional burden on law enforcement.

President Skorman stated there are legitimate MMJ card holder patients in which MMJ delivery could assist.

Mr. Waters stated if City Council was in support of staff moving forward with a MMJ delivery Ordinance, it would be likely vetoed by the Mayor so it would need to be supported by a super majority of City Council.

Councilmember Williams requested an explanation of the protections in the state regulations for MMJ delivery which prevents someone from sharing it with others. Ms. Fender stated recipients need to be a minimum of twenty-one years old with a valid identification and medical card and education by the dispensary at the point of sale could assist in that prevention.

Councilmember Williams asked how looping will be prevented. Ms. Fender stated she believes that would have to be a statutory change. Mr. Scudder stated the state has the data to determine if someone is looping because

retailers are required to report every sale, every night to the state. Councilmember Williams asked if the state proactively investigates that data. Mr. McRae confirmed they do and a locality can obtain some of the data if it pertains to a local level investigation.

Councilmember Geislinger stated he supports exploring MMJ delivery Option 1 further, but there are still many uncertainties with the regulatory system.

Councilmember Avila requested the statistics regarding the number of drivers who are driving under the influence of marijuana. Commander Whittington stated it is difficult to determine the exact percentage of people who are arrested for impaired driving and if they have marijuana in their system because they generally test for alcohol first and marijuana stays in a person's system longer.

President Skorman stated he supports MMJ delivery for the patients which really need it and would be financially beneficial for the dispensaries and the City.

President Skorman stated the majority of City Council is requesting Option 1, which allows MMJ stores to sell CBD products, and after updates due to state law changes, to be brought forward at this time.

Councilmember Knight asked if Option 1 is leveling the playing field with other retailers in regards to selling CBD products. Mr. Waters stated they will provide additional information regarding that and the City Code changes which will need to be made.

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

Councilmember Knight requested he and President Pro Tem Strand be City Council representatives for the U.S. Space Command Headquarters discussions.

President Pro Tem Strand stated there will be a farewell party held on Tuesday, September 22, 2020 for Lee Milner who has been very devoted to the community.

Councilmember Pico stated he attended the El Paso County's Veteran of the Year ceremony where Colonel Nanette Brédé Mueller was selected the El Paso County Veteran of the Year.

**11. Adjourn**

Upon completion of the Closed Executive Session, there being no further business to come before City Council, Council adjourned.

Sarah B. Johnson, City Clerk