



City of Colorado Springs

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

Meeting Minutes - Final City Council

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Tuesday, June 14, 2016

1:00 PM

Council Chambers

1. Call to Order

Present: 9 - Councilmember Larry Bagley, President Merv Bennett, Councilmember Helen Collins, President Pro Tem Jill Gaebler, Councilmember Keith King, Councilmember Don Knight, Councilmember Bill Murray, Councilmember Andy Pico, and Councilmember Tom Strand

2. Invocation and Pledge of Allegiance

The Invocation was led by Pastor Dan Schumacher, First Baptist Church.

The Pledge of Allegiance was led by Scout Troop 21 from Corpus Christi, Catholic Church.

3. Changes to Agenda/Postponements

Agenda item 4.B.E. will be pulled off the Consent Calendar per multiple Councilmember requests.

4. Consent Calendar

These items will be acted upon as a whole, unless a specific item is called for discussion by a Councilmember or a citizen wishing to address the City Council. (Any items called up for separate consideration shall be acted upon following the Mayor's Business.)

4A. Second Presentation:

4A.A. [AR V
16-00191](#)

Ordinance No. 16-58 vacating a public right of way consisting of 5,700 square feet originally platted in the Williamsons Addition to Ivywild and located south of East Navajo Street and west of South Nevada Avenue.
Legislative

Presenter:
Ryan Tefertiller, Urban Planning Manager, Planning and Community Development

Res/Ord Number: 16-58

This Ordinance was finally passed on the Consent Calendar.

4B. First Presentation:

4B.A. [16-425](#) City Council Meeting Minutes May 24, 2016

Presenter: Sarah Johnson, City Clerk

The Meeting Minutes were approved on the Consent Calendar.

4B.B. [16-438](#) Appointments to Boards and Commissions

Presenter:
Jacquelyn Puett, Assistant to Council

This item was approved on the Consent Calendar.

4B.C. [16-408](#) A Resolution Approving Modifications to a Declaration of Protective Covenants and Authorizing Execution of Such Modified Declaration of Protective Covenants

Presenter:
Bethany Burgess, Senior Attorney
Jerry Forte, Chief Executive Officer, Colorado Springs Utilities

Res/Ord Number: 56-16

The resolution was adopted on the Consent Calendar.

4B.D. [16-409](#) Resolution approving the Amended Agreement between the City of Aurora, the Southeastern Colorado Water Activity Enterprise, the City of Fountain, the City of Colorado Springs, and the Board of Water Works of Pueblo, Colorado

Presenter:
Brett Gracely, Manager, Water Supply Resources
Jerry Forte, P.E., CEO, Colorado Springs Utilities

Res/Ord Number: 57-16

The resolution was adopted on the Consent Calendar.

4B.F. [16-392](#) A resolution establishing 2016 Drainage Basin Fees, Bridge Fees and Detention Pond Facility and Land Fees.

Presenter:
Peter Wysocki, Planning Director, Planning and Community
Development
Elizabeth Nijkamp, Civil Engineer III
Res/Ord Number: 58-16

The resolution was adopted on the Consent Calendar.

- 4B.G.** [16-391](#) A resolution increasing drainage basin fees for the Sand Creek drainage basin.

(Legislative)

Presenter:
Peter Wysocki, Planning Director, Planning and Community
Development
Elizabeth Nijkamp, Civil Engineer III
Res/Ord Number: 59-16

The resolution was adopted on the Consent Calendar.

- 4B.H.** [CPC LUM
16-00003](#) Ordinance 16-61 amending the Comprehensive Plan 2020 Land Use Map reflecting changes from July 1, 2013 through June 30, 2015. -
Legislative

Presenter:
Carl Schueler, Comprehensive Planning Manager, Planning &
Development Department
Res/Ord Number: 16-61

The ordinance was approved on first reading on the Consent Calendar.

Approval of the Consent Agenda

Motion by Councilmember Murray, seconded by Councilmember Strand, that all matters on the Consent Calendar be passed, adopted, and approved by unanimous consent of the members present. The motion passed by a vote of 9-0-0.

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

5. Recognitions

There were no recognitions.

6. Citizen Discussion

Citizen Dennis Leamy expressed concern about the condition of streets in his neighborhood of Soaring Eagles. Bret Waters, Deputy Chief of Staff will follow up on this concern.

Citizen Roger Miller voiced a request for special license plates supporting ovarian cancer and spoke about the importance of police and fire professionals understanding seizure disorders.

Citizen Charles Barber spoke about a fantasized water production process.

Citizen Joseph Carlson spoke about helping homeless veterans.

Citizen John Kilbury expressed appreciation for the trees on Tejon, spoke about a flower bed that needs cleaning, bus drivers taking off before passengers are seated, a bench and fire hydrant on the sidewalk, and other safety concerns.

Citizen Deborah Stout-Meiningner spoke about the importance of the concerns she voices at Council meetings.

Citizen Ralph Everett voiced concern about the proposed changes to streets in the Old North End area including Nevada Ave. Council President Pro Tem Gaebler stated there is a public meeting planned for Monday June 20, 2016 at 6 pm at the First United Methodist Church. The "right-sizing" of the streets will be addressed in the Planning Commission meeting Thursday June 16, 2016.

Citizens Ralph Everett, Karen Thrillkill, Melody Griffin, and Becky Fuller spoke in opposition to traffic changes in the Old North End neighborhood. Bret Waters, Deputy Chief of Staff, stated City Staff is listening and taking citizen concerns seriously. Ms. Fuller requested copies of the traffic studies justifying the re-routing of bus routes.

Citizen Walter Lawson spoke about the proposed amendments to the Planning Commission appeal process.

Citizen Jaymen Johnson spoke about the need for gun control, specifically high powered and high capacity weapons. Mr. Johnson

urged Council to consider an ordinance prohibiting the open carry of assault rifles.

7. Mayor's Business

There was no Mayor's Business.

8. Items Called Off Consent Calendar

4B.E. [16-245](#)

A Resolution Approving the 2016 Action Plan for the use of Federal Block Grant Funds (CDBG, HOME, ESG) Provided Through the U.S. Department of Housing and Urban Development.

Presenter:

Aimee Cox, Manager, Community Development

Res/Ord Number: 60-16

Aimee Cox, Community Development Manager, presented the 2016 Block Grant proposal. Ms. Cox reviewed the planned projects, budget and program requirements. Ms. Cox explained this item was included on the Consent Calendar in error.

Councilmember Knight expressed frustration about the amount of information received by Council and asked what is being done to decrease administrative costs for these funds. Ms. Cox stated this City's administrative costs, at 14.7 percent, are well below the 20 percent administrative costs allowed by the Federal Government.

Councilmember Collins explained she does not support these grants because of the national debt, the goal to diversify neighborhoods and she finds using funds to send homeless individuals to a center for food and shelter offensive.

Citizens Anne Beer and Lee Patke spoke in support of the proposed plan.

Citizen Deborah Stout-Meiningner spoke in opposition of the proposed plan.

Motion by President Pro Tem Gaebler, seconded by Councilmember Bagley, that the Resolution Approving the 2016 Action Plan for the use of Federal Block Grant Funds (CDBG, HOME, ESG) provided through the U.S. Department of Housing and Urban Development be adopted. The motion passed by a vote of 6-3-0.

Aye: 6 - Bagley, Bennett, Gaebler, King, Murray, and Strand

No: 3 - Collins, Knight, and Pico

9. Utilities Business

- 9.A. [16-337](#) Public Hearing for the Consideration of a Resolution Regarding Changes to Electric Rate Schedule, Industrial Service - Time-of-Day 1,000 kWh/day Minimum (ETL) Rates within the Service Areas of Colorado Springs Utilities

Presenter:

Sonya Thieme, Rates Manager, Colorado Springs Utilities

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

Chris Bidlak with the City Attorney's Office, Utilities Division, introduced the Electric Rate Case Public Hearing and polled Councilmembers regarding any ex parte communication regarding this discussion. There were no ex parte communications reported and no questions about the process.

Sonya Thieme, Rates Manager, CSU, presented a summary of the proposed electric rate schedule change.

Jacqueline Rowland, Assistant City Auditor, stated a review of the proposed electric rate schedule change has been performed and the City Auditor's office supports the filing.

There were no citizen questions or comments on this item.

There were no Councilmember questions or comments on this item.

Mr. Bidlak read the following, "Utilities proposed a rate change to the Electric Service Rate Schedule, Industrial Service - Time-of-Day Service 1,000 kWh/Day Minimum (ETL) rate which will be the first step in bringing the class revenues to equal its cost to serve. Should the ETL schedule be revised as proposed?" Consensus of Council agreed the electric rate schedule change should be revised as proposed. The proposed Electric Service Rate Schedule proceeding will continue at the June 28, 2016 City Council Meeting with consideration of the resolution to adopt the rate change.

10. Unfinished Business

- 10.A. [CPC PUZ](#)
[15-00143](#) Ordinance No. 16-59 amending the zoning map of the City of Colorado Springs pertaining to 168 acres located near Echo Canyon Drive and North Powers Boulevard from A (Agriculture) to PUD

(Planned Unit Development) for single-family residential development.

Quasi-Judicial

Presenter:

Katie Carleo, Principal Planner, Land Use Review

Peter Wysocki, Director, Planning and Community Development

Res/Ord Number: 16-59

There were no questions or comments on this agenda item.

Motion by Councilmember Murray, seconded by Councilmember Bagley, that the ordinance changing the zoning from A (Agriculture) to PUD (Planned Unit Development: Detached Single-Family Residential, 3.6 Dwelling Units Per Acre and 36-foot Maximum Building Height), based upon the findings that the change of zoning request complies with the three (3) criteria for granting of zone changes as set forth in City Code Section 7.5.603(B) and the criteria for the establishment and development of a PUD zone as set forth in City Code Section 7.3.603 be finally passed. The motion passed by a vote of 8-1-0.

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

No: 1 - Collins

10.B. [CPC ZC
16-00018](#)

Ordinance No. 16-60 amending the zoning map of the City of Colorado Springs pertaining to a 10.7-acre property located at the corner of Boychuk Avenue (just west of South Academy Boulevard) and Drennan Road from C-6/AO (General Business with Airport Overlay) to M-1/AO (Light Industrial with Airport Overlay).

Quasi-Judicial

Presenter:

Michael Turisk, Planner II

Peter Wysocki, Director, Planning and Community Development Department

Res/Ord Number: 16-60

Councilmember Collins stated she does not support this proposal because the residents of an adjacent mobile home park were not individually notified of this plan and due to the burden the garbage trucks will place on the streets. Ms. Collins stated the owner of the mobile home park does not live in Colorado and commented on the 13 postcards sent out to notify property owners in the vicinity.

Citizen Jaymen Johnson spoke in opposition of this proposal.

Motion by Councilmember Murray, seconded by Councilmember Strand, that the ordinance to approve the zone change from C-6/AO (General Business with

Airport Overlay) to M-1/AO (Light Industrial with Airport Overlay) based on the finding the request complies with the review criteria in City Code Section 7.5.603.B (Establishment or Change of Zone District Boundaries) be finally passed. The motion passed by a vote of 8-1-0.

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

No: 1 - Collins

11. New Business

- 11.A.** [16-253](#) A Resolution Approving the Issuance of Debt by Copper Ridge Metropolitan District in the Form of a Limited Tax General Obligation Loan. (Legislative Item)

Presenter:

Carl Schueler, Comprehensive Planning Manager, Planning and Community Development

Res/Ord Number: 61-16

Carl Schueler, Comprehensive Planning Manager, summarized the updates to the proposal since the previous meeting.

Councilmember Knight stated he understands the original loan was going to be extended from 10 to 25 years, is this still the case. Alex Brown representing the applicant, stated the intent is to extend this to a 20 year loan.

Citizen Deborah Stout-Meiningner spoke in opposition to this proposal.

Councilmember King requested a break-down of the repayment sources. Mr. Brown stated, at this time, 60 percent of the loan is funded by PIF revenue and 40 percent is funded by property tax revenue.

Motion by Councilmember Strand, seconded by Councilmember Bagley, that the resolution approving the issuance of debt by the Copper Ridge Metropolitan District in the form of Limited Tax General Obligation Loan be adopted. The motion passed by a vote of 8-1-0.

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

No: 1 - Collins

- 11.B.** [CPC CA 16-00044](#) A resolution adopting the North Nevada/University of Colorado, Colorado Springs Economic Opportunity Zone Task Force Findings and Recommendations, for strategic planning purposes.

(Legislative)

Presenter:

Peter Wysocki, Planning and Community Development Director
Carl Schueler, Comprehensive Planning Manager

Res/Ord Number: 62-16

Fred Veitch, Chair of the Economic Opportunity Zone Team, spoke about the intent of this proposal being a tool for City Council to use in making development decisions and noted the development firm he represents owns no property in this area.

Motion by Councilmember Strand, seconded by Councilmember Bagley, that the resolution adopting the North Nevada / University of Colorado, Colorado Springs Economic Opportunity Zone Task Force Findings and Recommendations for strategic planning purposes be adopted. The motion passed by a vote of 9-0-0.

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

- 11.C. [CPC CA 16-00043](#) A resolution adopting the South Academy Economic Opportunity Zone Action Plan for strategic planning purposes.

(Legislative)

Presenter:

Peter Wysocki, Planning and Community Development Director
Carl Schueler, Comprehensive Planning Manager

Res/Ord Number: 63-16

Councilmember Collins stated she participated in a working group relating to the Hancock and Academy Boulevard intersection and she feels most of the effort was focused on the overpass which was disappointing as she would like to have seen more effort put into improving this area. She suggested the old Sam's Club building be renovated into an event center.

Motion by Councilmember Strand, seconded by Councilmember Bagley, that the resolution adopting the South Academy Economic Opportunity Zone Action Plan for strategic planning purposes be adopted. The motion passed by a vote of 9-0-0.

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

- 11.D. [16-398](#) A Resolution to Extend the Term of the Cable Television Franchise being Operated by Comcast of Colorado/Pennsylvania/West Virginia, LLC (locally known as Comcast)
Body

Presenter:

Bret Waters, Deputy Chief of Staff, Mayor's Office

Res/Ord Number: 64-16

Bret Waters, Deputy Chief of Staff, stated both Comcast and City Staff are in agreement with the extension and the intent of the review team is to have a recommendation prior to the end of the extension agreement. They are committed to returning to Council in 90 days in a closed session to provide an update on the negotiations.

Councilmember Strand stated he has met with Mr. Waters and is now in support of this extension to allow time to negotiate the contract and get it right. He suggested the resolution to extend the contract include a Council update on the process in three months as well as two public hearings.

Councilmember King stated he has been critical of the customer service provided by Comcast and asked if customer service standards are being addressed in the negotiation process. Mr. Waters stated customer service standards will be established in the agreement and the City will hold Comcast accountable for the customer service standards established in the agreement.

Councilmember Knight expressed concern about approving the contract extension without knowledge of the issues being negotiated and suggested Council receive a briefing on the contract negotiations in a closed session to be held no later than June 28, 2016.

Renee Congdon with the City Attorney's Office stated a delay in approving the extension could potentially stop the negotiation process and would require coordination with Ken Fellman, outside counsel, to provide an update to Council.

Citizen Jaymen Johnson spoke in opposition to the Comcast agreement. Councilmember Knight provided a brief explanation of the cable television franchise agreement process and terms to Mr. Johnson.

Councilmember Murray stated the City needs to develop a comprehensive technology plan.

Councilmember King stated he did not support this item because two willing parties are required to achieve successful negotiations and he is not convinced Comcast is willing to come to an agreement.

Councilmember Knight stated Council needs to discuss government

involvement in cable service provision prior to taking this to the Mayor.

Motion by Councilmember Strand, seconded by Councilmember Bagley, that the resolution be adopted with the following amendments; 1. City staff negotiating the franchise renewal agreement, supported by outside counsel, will appear before Council in an executive session not later than June 28, 2016 and again within three months of the date of this resolution, to provide information to Council on the status of the ongoing negotiations, and 2. Prior to the expiration of the term of the franchise, as extended, City Council shall conduct two public hearings or town hall forums in order to receive public comment related to the extension of the franchise agreement with Comcast. The motion passed by a vote of 8-1-0.

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

No: 1 - King

12. Public Hearing

- 12.A.** [CPC A
15-00060-R](#) A resolution adopting findings of fact and conclusions of law based thereon and determining the eligibility for annexation of property known as Kum & Go Store 685 Annexation.

(Legislative)

Presenter:

Mike Schultz, Principal Planner, Land Use Review

Res/Ord Number: 65-16

Michael Schultz, Principal Planner, provided a brief overview of the annexation proposal, zone change and development plan for this property.

Josh House, applicant, spoke about the marketplace design and plans for the location included in this proposal.

Councilmember Strand asked what experience Mr. House will apply to this location. Mr. House stated they have learned Colorado Springs customers are very loyal, City Staff is good to work with and customers appreciate clean stores.

Councilmember Murray asked about market saturation. Mr. House stated they have done a market saturation analysis and this location is well within the saturation limits.

Councilmember King asked about the number of gas pumps at each location. Mr. House stated their goal is to elevate themselves above the

competition.

Citizen Steve Hittle, owner of a nearby recreational center, spoke in support of this proposal

Citizen Jaymen Johnson spoke in support of this proposal.

David Kunsble, counsel representing Powers Dublin, LLC, the property across Dublin from the proposed annexation owned by Mr. Lowman, stated they are in support of the annexation of the property and the widening of Dublin Boulevard, but have concerns about the annexation agreement. Mr. Lowman was required to construct half of Dublin Boulevard along his property per his annexation agreement. Mr. Kunsble spoke about the annexation agreements of adjacent properties which also required them to fund portions of the construction of Dublin Boulevard. PPRTA is now planning to fund the remainder of the construction on Dublin. Mr. Kunsble requested the annexation agreement with Kum & Go require the organization to pay its fair share of the costs of construction of Dublin Boulevard.

Council President Pro Tem Gaebler stated this was discussed in Planning Commission and asked what City staff said regarding this situation. Mr. Kunsble stated he was told this decision was based on the individual annexation agreements of the parties.

Mr. House stated, per the annexation agreement, Kum & Go is responsible for expanding Dalby Drive and is donating nine acres of property to the City for public right-of-way.

Council President Bennett asked about money being held in escrow by PPRTA for improvements in this area. Mr. Schultz stated there are funds in an escrow account for the street improvements, including curbs, gutters and traffic signals in this area.

Councilmember Knight asked what construction Kum & Go is required to complete on Dalby. Ryan Aldridge, Site Developer for Kum & Go, stated Kum & Go is required to widen Dalby 12 feet to the East. They will also install sidewalks and place money in an escrow account for curbs and gutters along the property on Dublin and Dalby, a total of about 1,000 feet.

Councilmember Knight asked Mr. House if he feels the requirements in the Kum & Go annexation agreement represent a fair share of the development costs. Mr. House stated Kum & Go is making a significant financial investment to perform public improvements.

Councilmember Knight asked if Mr. Lowman was required to perform other public infrastructure improvements as part of his annexation agreement. Ed Roman, the developer for Mr. Lowman outlined the requirements of the annexation agreement Mr. Lowman signed including the development of Dublin, water lines and other infrastructure improvements.

Council President Pro Tem Gaebler asked if Staff believes this is a fair situation. Mr. Schultz stated each developer negotiates the terms of their own annexation agreement. Kathleen Krager, Transportation Manager, explained the cost and reimbursement process included in the City transportation process. There is an arterial street reimbursement application process. Ms. Krager stated the process may not seem fair as things change over time. In this case, the situation is somewhat fair as Mr. Lowman's property supports five retail fronts and Kum & Go is a single front.

Councilmember King asked if the City has any legal obligations in situation or if this is more of a moral question. Ms. Krager stated the City has no legal obligation as each party agreed to their respective annexation agreement. Trying to rectify situations based on moral aspects would be virtually impossible as so many things change over time.

Councilmember Knight asked about an additional retail site on Dolby. Ms. Krager stated that site would be accessed by Dolby but the area is still much smaller than Mr. Lowman's property.

Councilmember Knight asked about details of the Kum & Go annexation agreement. Ms. Krager stated Kum & Go will install the side walk and establish an escrow fund that will be used to reimburse PPRTA for the curbs, gutters and planned traffic signal. Council continued to discuss the details of this agreement with Ms. Krager and Mr. Schultz.

Motion by Councilmember Murray, seconded by Councilmember Bagley, that the resolution finding that the Kum & Go Store 685 annexation meets the requirements of and fully complies with Part 1 of Article 12 of Title 31 C.R.S., the Municipal Annexation Act of 1965, as amended, and Section 30 of Article II of the

Colorado Constitution and that the property is eligible for annexation, be adopted. The motion passed by a vote of 9-0-0.

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

12.B. [CPC A
15-00060](#)

Ordinance No. 16-62 annexing to the City of Colorado Springs that area known as Kum and Go Store 685 consisting of 7.711 acres located at the northwest corner of Powers Boulevard and Dublin Boulevard.

(Legislative)

Related Files: CPC ZC 15-00081

Presenter:

Michael Schultz, Principal Planner, Land Use Review

Res/Ord Number: 16-62

Please see comments in agenda item 12.A.

Motion by Councilmember King, seconded by Councilmember Murray, that the ordinance to approve the Kum Go Store 685 Annexation, based upon the findings that the annexation complies with all of the Conditions for Annexation Criteria as set forth in City Code Section 7.6.203 and the Colorado Municipal Annexation Act of 1965 (C.R.S. 31-12-101, et seq.) be approved on first reading. The motion passed by a vote of 9-0-0.

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

12.C. [CPC ZC
15-00081](#)

Ordinance No. 16-63 establishing the PBC/AO (Planned Business Center with Airport Overlay) pertaining to 4.611 acres located at the northwest corner of Powers Boulevard and Dublin Boulevard.

Related Files: CPC A 15-00060

Presenter:

Michael Schultz, Principal Planner, Land Use Review

Res/Ord Number: 16-63

Please see comments in agenda item 12.A.

Motion by Councilmember Murray, seconded by Councilmember Bagley, that the ordinance to approve the establishment of zone district to PBC/AO (Planned Business Center with Airport Overlay) pertaining to 4.611 acres associated with the Kum & Go Store 685 annexation based upon the findings that the request complies with the criteria for granting establishment or change of zone district set forth in City Code Section 7.5.603 be approved on first reading. The motion passed by a vote of 9-0-0.

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

- 12.D. [CPC DP 15-00082](#) A development plan and concept plan illustrating the development of a convenience store on 1.877 acres with the remaining 1.6 acres consisting of a concept diagram for future retail development.

(Quasi-Judicial)

Presenter:

Michael Schultz, Principal Planner, Land Use Review

Please see comments in agenda item 12.A.

Motion by Councilmember Murray, seconded by Councilmember King, to approve the development plan and concept plan associated with the Kum Go Store 685 annexation, based upon the finding that the development plan complies with the development plan review criteria set forth in City Code Section 7.5.502.E and that the concept plan complies with the criteria set forth in City Code Section 7.5.501.E, subject to completing the technical and/or informational plan modifications outlined in the May 19, 2016 Planning Commission minutes. The motion passed by a vote of 9-0-0.

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

13. Added Item Agenda

There were no added agenda items.

14. Executive Session

There was not an Executive Session.

15. Adjourn

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

Sarah Johnson, City Clerk