



City of Colorado Springs

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

Meeting Minutes Council Work Session

City Council meetings are broadcast live on Channel 18. In accordance with the ADA, anyone requiring an auxiliary aid to participate in this meeting should make the request as soon as possible but no later than 48 hours before the scheduled event.

Monday, September 10, 2018

1:00 PM

Council Chambers

1. Call to Order

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

2. Changes to Agenda

There were no changes to the Agenda.

3. Regular Meeting Comments

Sarah B. Johnson, City Clerk, stated staff has updated the Ordinance approving a supplemental appropriation for the acquisition of property for the Corral Bluffs Open Space which is to be presented at the September 11, 2018 City Council meeting.

4. Review of Previous Meeting Minutes

4.A. [18-0442](#) City Council Work Session Meeting Minutes August 27, 2018

Presenter:

Sarah B. Johnson, City Clerk

Attachments: [8-27-18 City Council Work Session Meeting Minutes Final.pdf](#)

The minutes of the August 27, 2018 Work Session meeting were approved by Consensus of Council.

5. Executive Session

5A. Open

There was no Open Executive Session.

5B. Closed

5B.A. [18-0452](#) In accord with the City Charter Art. III, § 3-60(d) and its incorporated

Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(b),(c) and (g), the City Council, in Open Session, is to determine whether it will hold a Closed Executive Session. The topic of the Closed Executive Session is Formal Ethics Complaint 2018-01. The issues to be discussed involve: (1) conferences with the City Attorney's Office for the purpose of receiving legal advice (C.R.S. § 24-6-402(4)(b)); (2) matters required to be kept confidential by federal or state law or rules and regulations (C.R.S. § 24-6-402(4)(c); C.R.S. § 24-72-202(6)(a)(II)(A) & (6)(b)(II) (work product prepared for elected officials); and C.R.S. § 24-72-204(3)(a)(XIII) (deliberative process materials)); and (3) consideration of documents protected by the mandatory nondisclosure provisions of part 2 of article 72 of title 24, commonly known as the "Open Records Act" (C.R.S. § 24-6-402(4)(g); C.R.S. § 24-72-202(6)(a)(II)(A) & (6)(b)(II) (work product prepared for elected officials); and C.R.S. § 24-72-204(3)(a)(XIII) (deliberative process materials)).

Presenter:
Wynetta Massey, City Attorney

Attachments: [09102018ClosedNotice](#)

President Skorman recused himself from the meeting for this item.

Marc Smith, Corporate Division Chief, 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 a Closed Executive Session. The issues to be discussed involve: (1) conferences with the City Attorney's Office for the purpose of receiving legal advice (C.R.S. § 24-6-402(4)(b)); (2) matters required to be kept confidential by federal or state law or rules and regulations (C.R.S. § 24-6-402(4)(c); C.R.S. § 24-72-202(6)(a)(II)(A) & (6)(b)(II) (work product prepared for elected officials); and C.R.S. § 24-72-204(3)(a)(XIII) (deliberative process materials)); and (3) consideration of documents protected by the mandatory nondisclosure provisions of part 2 of article 72 of title 24, commonly known as the "Open Records Act" (C.R.S. § 24-6-402(4)(g); C.R.S. § 24-72-202(6)(a)(II)(A) & (6)(b)(II) (work product prepared for elected officials); and C.R.S. § 24-72-204(3)(a)(XIII) (deliberative process materials)).

President Pro Tem Gaebler polled Council regarding the desire to proceed with a Closed Executive Session. At least two-thirds of Council agreed to proceed in Closed Executive Session.

6. Staff and Appointee Reports**6.A. [18-0214](#) City Financial Report**

Presenter:

Charae McDaniel - Chief Financial Officer

Attachments: [September 10 Monthly Financial Report.pptx](#)

Charae McDaniel, Chief Financial Officer, presented the September 2018 financial update which represented activity through July 2018. She stated the general fund revenue variance is approximately 1.1%-1.3% above projected budget and general fund expenditures are approximately \$280K below projected budget for the year. She explained the sales tax collection trends and gave an update of the 2018 grant funds, the Memorial Health System, and the economic indicators.

Councilmember Avila requested additional information such as percentages and numbers to be verbally incorporated in future presentations to assist with providing more details of the reports to those who are visually impaired. Ms. McDaniel stated she will include that information in future presentations.

Councilmember Strand asked why the medical marijuana sales tax revenue is decreasing. Bret Waters, Deputy Chief of Staff, stated medical marijuana industry representatives have indicated that it is due to the numerous amount of dispensaries in the City which is causing some of the facilities to struggle financially.

Councilmember Murray requested job availability and unemployment rate data from El Paso County to be included in future presentations. Ms. McDaniel stated she will include that information.

Councilmember Geislinger asked if there was any anticipated revenue coming in the near future. Ms. McDaniel said they anticipate there will be revenue received from a one-time audit from the Sales Tax Department within the next couple of months.

6.B. [17-1337](#) Agenda Planner Review

Presenter:

Sarah B. Johnson, City Clerk

Attachments: [Agenda Planner Review 9-10-18.pdf](#)

Sarah B. Johnson, City Clerk, stated the Ordinance regarding establishing

standards and associated fees for short term rental units will be presented at the September 24, 2018 City Council Work Session meeting. She said the budget items for the Business Improvement Districts will be presented at the October 8, 2018 City Council Work Session meeting and setting the Public Hearing date for adopting the budgets for the General Improvement Districts will be presented at the October 9, 2018 City Council meeting.

There were no comments on this item.

7. Presentations for General Information

There were no Presentations for General Information.

8. Items for Introduction

- 8.A. [18-0412](#) Ordinance No. 18-93 authorizing the issuance by the City of Colorado Springs, Colorado, acting by and through its Pikes Peak - America's Mountain Enterprise, of its Pikes Peak - America's Mountain Enterprise revenue bonds, Series 2018 in the aggregate principal amount of not to exceed \$33,000,000 for the purpose of financing a portion of the costs of constructing a new Pikes Peak Summit Complex; providing the form, terms and conditions of said Series 2018 bonds, the manner and terms of their issuance, the manner of their execution, the method of paying them and the security therefor from the net pledged revenues of the system of the Pikes Peak - America's Mountain Enterprise; providing for the sale of said Series 2018 bonds; providing other details concerning said Series 2018 bonds, and providing other matters relating thereto; and approving other documents relating thereto

Presenter:

Charae McDaniel, Chief Financial Officer

Tom Florczak, Deputy City Attorney

Jack Glavan, Pikes Peak - America's Mountain Manager

Attachments: [Colorado Springs - Pikes Peak Enterprise Revenue Bonds Ordinance 2018 - with change on 09-10-18.doc](#)

Charae McDaniel, Chief Financial Officer, presented the Ordinance authorizing the issuance of its revenue bonds for \$33,000,000 for the purpose of financing a portion of the costs of constructing a new Pikes Peak Summit Complex. She identified the summit complex bond team and gave a brief history of the Pikes Peak Enterprise. She explained the budget, annual visitor growth trends, and the operating results for the enterprise. Ms. McDaniel identified the debt service coverage, the commitment from the U.S. Forest Service for a recommendation of a permit renewal, and the Lodgers and Rental Tax (LART) fund backing to replenish the Debt Service Reserve Fund. She gave an overview of the

proposed summit complex project, the financing, and the Series 2018 bonds. Ms. McDaniel stated due to a timing issue, this item will be on the September 11, 2018 City Council meeting for the first reading.

Councilmember Murray asked for the amount in the bond reserve account. Ms. McDaniel said they anticipate it will be approximately \$2M.

Councilmember Murray asked if staff recommends a LART reserve account. Ms. McDaniel stated she does not believe it is necessary at this time because the financial structure of the Pikes Peak Enterprise is in extremely good condition and could accommodate the annual debt service payment without a problem. Councilmember Murray stated he does not want this to be precedent setting and that it be a one-time only decision.

Councilmember Knight asked when the bonds are set to expire. Scott Shad, City Financial Advisor with George K. Baum and Company, said 2050 because two additional years were added outside the full amortization schedule as a buffer in case it needed to be extended.

Councilmember Knight asked if LART would need to back the bond if they chose the bond insurance rather than the service reserve fund. Mario Trimble, Kutak Rock, Bond Counsel, said the reserve fund would consist of the surety bond and the LART pledge would stay in place either way. He explained that if the reserve or the surety bond is drawn upon, the means to replenishment it would be at Council's discretion.

Councilmember Knight requested the language in the Ordinance that states "and to the extent there is a requirement set forth in the Sale Certificate to deposit amounts in the 2018 Reserve Account" be removed. Ms. McDaniel stated that language will be removed.

Councilmember Knight also requested the language in the Section in 302C where it references that the Mayor has the authority to determine the principal amount of the minimum bond reserve be removed. Tom Florzack, Deputy City Attorney, stated this language is standard and it is not giving the Mayor authority because the market determines what the reserve fund has to be set at and the Internal Revenue Service Code sets the three-tier test for the maximum.

8.B. [18-0384](#)

An Ordinance Amending Ordinance No. 17-116 (2018 Appropriation Ordinance) for a Supplemental Appropriation to the Airport Capital Improvement Program Fund in the Amount of \$2,500,000 for Repairs Related to the April 2018 Fire at the Colorado Springs Airport

Presenter:

Chris Wheeler, City Budget Manager

Greg Phillips, Director of Aviation

Attachments: [Supplemental Approp Ordinance Airport Fire-Sept 2018](#)

Chris Wheeler, City Budget Manager, presented the Ordinance for a supplemental appropriation to the airport capital improvement program fund in the amount of \$2,500,000 for demolition and repairs related to the April 2018 fire at the Colorado Springs Airport. She stated the entire amount will be reimbursed by insurance proceeds.

Greg Phillips, Director of Aviation, Colorado Springs Airport, stated phase one of the remediation has been completed so staff can move back into their offices and United Airlines will soon be moved back into their space. He said they estimate phase two will be completed by November 15, 2018 and the extent of the damage will total approximately \$7M.

Councilmember Geislinger asked if the insurance limit has been reached. Mr. Phillips said it has not and the insurance limit with FM Global is \$146M.

8.C. [18-0327](#)

A Resolution authorizing issuance of debt by the Powers Metropolitan District in the form of general obligation limited tax bonds in the estimated aggregate principal amount of \$3,380,000.

(Legislative Item)

Presenter:

Carl Schueler, Comprehensive Planning Manager, Planning and Community Development

Attachments: [Resolution PowerMD DebtIssuance](#)
[Correspondence re PowersMetroDistrict 2018 Bonds](#)
[Figure 1z - Powers MD 2018 Indenture](#)
[Figure 1a - Bond Term Sheet](#)
[Figure 2 - SVWPC Opinion PowersMetroDistrict 2018 Bond](#)
[Figure 3 - Debt and Development Projection](#)
[Figure 4a - Cost Certification Letter - Carefree and Powers SW, Inc](#)
[Figure 4b - Cost Certification - Carefree and Powers SW, Inc.](#)
[Figure 4c - Cost Certification Letter - TSG Colorado Springs, LLC](#)
[Figure 4d - Cost Certification - TSG Colorado Springs, LLC](#)
[Figure 5a - Boundary Map](#)
[Figure 5b - Powers Pointe Shopping Center - Tenant Map](#)
[Figure 6 - Distribution List](#)
[PowerPoint PowersMD Debt Issuance](#)

Carl Schueler, Planning Manager, Comprehensive Planning, Planning and Development Department, presented the Resolution authorizing issuance of debt by the Powers Metropolitan District in the form of general obligation limited tax bonds in the amount of \$3,380,000. He provided a brief background and summary of the district, presented a vicinity map, the Powers Pointe site summary, and identified the allocation of funds.

Councilmember Knight asked if this was a developer carry bond. Mr. Schueler said it was not and that it will be marketed to third-parties.

Councilmember Knight asked what the amount of the original service plan debt ceiling was. Mr. Schueler said he would verify that it will be lower than the issuance of debt.

Councilmember Murray asked what a pilot agreement was. Mr. Schueler explained it was payment in lieu of taxes for any entities that are tax-exempt such as medical facilities.

Mr. Schueler said the district requested to not pledge their share of specific ownership taxes which are projected to be approximately six percent of the equivalency of the revenue from property taxes.

- 8.D.** [18-0453](#) An Ordinance amending Section 111 (Camping Within Public Stream/Public Stream Riparian Zone Prohibited) of Part 1 (General Offenses) of Article 6 (Offenses Affecting Property) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as

amended, pertaining to camping within public stream riparian zones, and providing penalties for the violation thereof

Presenter:

Marc Smith, Corporate Division Chief, Office of the City Attorney

David Geislinger, City Councilmember

Attachments: [StreamRiparianWaste AmendmentORD-2018-09-18.docx](#)

Marc Smith, Corporate Division Chief, Office of the City Attorney, presented the Ordinance amending the Ordinance pertaining to camping within public stream riparian zones and providing penalties for the violation thereof. He said Councilmember Geislinger requested the City Attorney's Office to draft additional regulations to increase penalties for other violations with the riparian stream zone. The proposed ordinance makes it unlawful for any person to knowingly or recklessly deposit, place, or permit to be deposited or placed any waste within any public stream and/or public stream riparian zone. Mr. Smith stated the fine for littering is currently set at \$500, but littering in the riparian zone would result in a penalty of a maximum of \$2,500 or 189 days maximum imprisonment for adults and up to a \$500 fine for minor offenders or probation. He said the exception would be the placing of litter in a trash receptacle located within the riparian zone.

Councilmember Geislinger explained that when the camping ban in the riparian zone Ordinance was passed, there was a legitimate concern that there needed to be equality with the rest of the population in regards to the pollution of the waterways. He said with the camping ban, there is a provision that includes a warning to move, but if that person is deliberately violating the littering ban, they could be cited just as anyone else could be.

Councilmember Knight asked if law enforcement could provide a warning for people who are littering if they remove the debris. Councilmember Geislinger said it would be the discretion of the Police Officer in regards to the consequence if the waterway has not already been polluted.

Councilmember Knight asked if a person could be cited twice under the same Ordinance if they were both camping and littering within the riparian zone. Mr. Smith confirmed they could.

Councilmember Knight asked if the discretion of the Police Officer could also be used in regards to camping within the riparian zone instead of

having to issue a twenty-four warning. Councilmember Geislinger said that if there was eminent danger, they would be allowed to evacuate the area.

Councilmember Knight also asked regarding the penalty exemptions of a maximum of \$2,500 or 189 days maximum imprisonment for littering. Mr. Smith said there is a provision in City Code that exempts certain offenses from a jury trial which lowers the penalty to \$500.

Councilmember Murray commented that polluting anywhere within the City should have the same penalty as polluting the streams.

Councilmember Pico asked if there was a provision for community service as a penalty. Mr. Smith stated they will research that.

Councilmember Bennett stated they need to be coordinating with El Paso County. Bret Waters, Deputy Chief of Staff, stated they will follow up with that request.

9. Items Under Study

There were no items under study.

10. Councilmember Reports and Open Discussion

Councilmember Strand stated the Council of Neighbors and Organizations (CONO) hosted an open house and two neighborhood chats at Buffalo Lodge. He stated he, Councilmember Pico, and Councilmember Avila attended the Colorado Springs Utilities Water Tour. He commented that September is Suicide Prevention Month and he attended the El Paso County Health Department Child Fatality Review.

Councilmember Knight requested a date certain that the Emergency Ordinance that was passed on the August 22, 2018 Special City Council meeting be amended that the Mayor cannot delegate the appointment of the temporary replacement members of the Title Board. Marc Smith, Corporate Division Chief, Office of the City Attorney, stated the Ordinance has been drafted and will be scheduled for a City Council meeting soon.

Councilmember Murray stated he attended the Environmental Protection Agency (EPA) trial in Denver, CO and recommended other City Council members attend as well to learn what the City needs to be aware of in regards to how the City needs to proceed regarding environmental issues.

Councilmember Geislinger stated he attended the opening of Penrose-St. Francis emergency medical technician and paramedics program.

Councilmember Bennett said he and several other Councilmembers attended the business tour at Compassion International. He stated the Utilities Board has determined three finalists for the Chief Executive Officer position at Colorado Springs Utilities and the public will have the opportunity to meet with the candidates later this week.

Councilmember Avila said September is Hispanic Heritage Month and invited everyone to attend to the community luncheon being held on September 12, 2018. She said she has been invited to speak for Latina Voices at Library21c on September 22, 2018.

Councilmember Murray requested citizen support at the ceremony for the Fallen Firefighter Memorial which will be held September 15, 2018.

President Skorman wished a happy new year for Rosh Hashana to everyone.

11. Adjourn

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

Sarah B. Johnson, City Clerk