

CITY OF COLORADO SPRINGS

RULES AND PROCEDURES

OF CITY COUNCIL¹

Adopted by Resolution No. 20-00
Effective February 1, 2000
(with amendments to October, 2004)

¹Rules of Council are authorized by §3-50 of the Charter of the City of Colorado Springs.

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PROLOGUE

In 1920, the citizens of Colorado Springs chose the Council-Manager form of government for the City of Colorado Springs. In simplest terms, the Mayor and City Council are directly elected by the people to enact municipal laws and set policy affecting the City's affairs. The Council appoints a City Manager to be the chief executive officer of the City, responsible for the day-to-day conduct and operation of the City administration and to carry out its legislative decisions.

The Council-Manager form is the system of local government combining the strong political leadership of an elected Council with the strong managerial experience of an appointed City Manager. The form provides a representative system where all power is concentrated in the elected Council who hires a professionally trained Manager to ensure the delivery of municipal public services. In addition, City Council appoints an Executive Director for Colorado Springs Utilities and a Board of Trustees for Memorial Hospital to professionally manage those enterprises.

PURPOSE OF RULES AND PROCEDURES OF COUNCIL

All powers of the City of Colorado Springs are vested in Council. City Charter §3-10(a). To conduct its business as Council, City Council is authorized to amend and publish its own Rules of Procedure. City Charter §3-50. These rules provide for Council's actions in meetings and hearings, as Council in its legislative, quasi-judicial and regulatory roles. These rules do not apply to Council's role as the Board of Directors for Colorado Springs Utilities. As the Utilities Board, Council has established written policies and By-laws to govern Colorado Springs Utilities and Utilities Board meetings. (2000).

Similarly, Memorial Hospital is governed by a Board of Trustees appointed by City Council. The Board of Trustees has established written policies and by-laws to govern the hospital and hospital board meetings. City Council retains oversight responsibilities for Memorial Hospital.

In its legislative role, Council is the lawmaker for the City as a whole, including Colorado Springs Utilities, Memorial Hospital and other City enterprises. With respect to Colorado Springs Utilities, Memorial Hospital, and other City enterprises, in its legislative role, Council is responsible for approval of budget, appropriation of funds to support the budget, issuance of revenue bonds, initiation of eminent domain (condemnation) proceedings to acquire land or easements and, for Colorado Springs Utilities, extension of water and wastewater service outside the City limits, or other legislative roles as established by applicable statute or court decision. (2000)

Council is also the regulatory authority for Colorado Springs Utilities. In that role, it is responsible for setting rates for regulated electric, natural gas, water and wastewater services. (2000)

PART 1 - ORGANIZATION

1. ORGANIZATIONAL MEETING - ELECTION OF OFFICERS

Newly elected members of Council shall take office at 10:00 a.m. on the third Tuesday of April following the election. The Council shall hold its first meeting on or after the third Tuesday of April. At that first meeting a Vice-Mayor shall be elected from a majority vote of the entire Council (five [5] members). In the event there are more than two candidates for the office of Vice-Mayor and no individual receives a majority vote, the candidate receiving the least number of votes shall withdraw until one candidate receives a majority vote. (1982; 2000)

2. ACTING MAYOR

A. The Charter provides that: "If the Mayor be temporarily absent from the City or otherwise disabled from any cause, the Mayor's duties shall, in the meantime, devolve upon and be performed by the Vice-Mayor. In the absence of both the Mayor and the Vice-Mayor, the other members of Council shall elect one of its members to perform the duties of Mayor." (1982; 2000)

B. By this rule Council establishes the sequence of succession of Mayor until such time as members of Council are able to select one of their number to perform the duties of Mayor. In the case of the absence or inability to act of the Mayor and Vice-Mayor, the members of Council shall successively act as Mayor alphabetically according to seniority of service as members of Council, without regard to any break in service, until such time as members of Council can meet to select one of its members to perform the duties of Mayor or until the Mayor or Vice-Mayor returns or is able to act. (1982; 2000)

PART 2 - COUNCIL MEETINGS

1. FORMAL COUNCIL MEETINGS

A. All formal meetings of the Council shall be held in the Council Chamber at the City Hall, Colorado Springs, Colorado, or at such other places as determined by Council. Formal meetings of the Council shall be held on the second and fourth Tuesdays of each month, commencing promptly at 1:00 p.m. or on such other dates and times as determined by Council. (1982; 2000, 2003)

B. All meetings of the Council shall be open to the public and the media, except Closed Executive Sessions, and citizens shall have a reasonable opportunity to be heard under such rules and regulations as the Council may prescribe. (2000)

C. Agenda Process

(1) City Manager: The City Manager, with the assistance of the City Clerk shall prepare the agenda for all Council meetings except as noted below. The agenda shall include all items requiring Council action. Whenever possible, the Manager shall submit to the Council all facts necessary for the Council to properly study the item and make a decision thereon. To this end, the City Manager may give a recommendation on items under consideration. The City Manager, with the assistance of the City Clerk, shall also determine those items to be included on the consent agenda. All matters to appear on the agenda shall be filed with the City Clerk prior to the Council meeting. The City Clerk shall be furnished copies of all ordinances and resolutions so that copies may be delivered to the City Council prior to the meeting date. Matters not filed with the City Clerk in accordance herewith shall not be considered but shall lie over until the next meeting unless leave for immediate consideration be granted by a majority vote of the members of the Council present at the meeting; provided, always, other matters considered by the City Manager to be of an emergency nature may be submitted by the City Manager. (1982; 2000)

(2) Councilmembers: Any Councilmembers who wish to add an item to a formal agenda for discussion or decision shall submit the item to the City Manager and the Mayor eleven days prior to the next formal Council meeting. The item will be placed on the informal agenda for discussion. If at least five (5) Councilmembers agree, the item will be added to the agenda at a formal Council meeting following the next day's formal meeting. However, any matter considered by any Councilmember to be of an emergency nature may be suggested as an item to be added on the meeting day of Council provided the emergency nature is stated and the item is accepted by consensus of those present at the meeting. For good cause, the Mayor may authorize additional

formal meeting items to be placed on the agenda for an upcoming meeting after this deadline provided that public notice of the items is given in accordance with legal requirements and provided that notice is given to Councilmembers in the same manner as required for special meetings. At an informal meeting, any Councilmember may raise any item for discussion. (2000)

(3) Council Appointees: Any Council Appointee, (except City boards, committees or commission members) who desires to bring a matter before Council, shall submit the item to the City Manager, the Mayor and the other Appointees eleven (11) days prior to the next formal Meeting. This does not negate the opportunity for Council Appointees to speak at the formal Council meeting. (2000)

(4) The order of business at formal Council meetings shall be:

a. **Invocation and Pledge of Allegiance**

b. **Changes to Agenda/Postponements**

c. **Consent Calendar** - within this section are included all matters of a noncontroversial nature requiring Council action. Any Councilmember or any citizen wishing to address the City Council upon any item on the Consent Calendar may so request and the item will be removed from the Consent Calendar and set aside for action following approval of the Consent Calendar and Utilities Business. If more than one item is removed from the Consent Calendar, those items shall be considered in the order as taken from the Consent Calendar. The Consent Calendar, after removal of any controversial items, shall then be adopted as a unit by unanimous vote. Each item contained therein shall be deemed to have received the unanimous vote of all Councilmembers present, and the Journal shall so reflect.

d. **Resolutions of Appreciation**

e. **Citizen Discussion** - limited to a maximum of 30 minutes. Each speaker is limited to three minutes to discuss items of interest that are not on the agenda and not repetitious. Time limits will be strictly enforced by the Mayor and time will be kept by the City Clerk.

f. **Approval of minutes of Previous City Council Meeting** - If no objection is made to the minutes as presented by the City Clerk, the same shall stand approved without express motion to that effect.

g. **Call-Up Consent Calendar** – matters removed from the consent calendar shall be discussed and voted upon individually.

h. **Utilities Business**

i. **Unfinished Business**

j. **New Business**

k. **Public Hearings**

l. The order of business may be altered by a majority vote of the members of the Council present. (1982; 1984; 2000; 2002; 2003)

2. INFORMAL COUNCIL MEETINGS AND WORK SESSIONS

A. The Council shall meet informally on the Monday immediately preceding regular Council meetings at 1:00 p.m., or at other times upon call of the Mayor or at the request of three (3) members of the Council to discuss matters pending or proposed. (1982; 1989; 1992; 2000; 2003)

B. Informal meetings of the City Council are open to the public and the media. Executive Sessions follow the Informal meeting and the Closed Executive Session is not open to the public. However, Informal meetings are not a time for public comment on items scheduled for discussion. No formal legislative action shall be taken and no quorum shall be necessary. Formal legislative action shall be deemed to be the enactment of an ordinance or the promulgation of a resolution. However, efforts to arrive at a consensus position to research or study a matter shall be permitted. No journal of Council shall be kept. If Council reaches a consensus position, the City Clerk shall record in writing the consensus reached by Council as an informal record. However, at the discretion of City Council, the informal meetings and work sessions may be recorded. (1982; 1989; 1992; 2000, 2001)

C. Informal Council Meeting Agenda Process

(1) City Manager: The City Manager shall prepare the agenda for the informal Council meetings except as noted below. (2000)

(2) City Council: Any Councilmember who wishes to add an item to an informal agenda for discussion shall submit the item to the City Manager and the Mayor ten days prior to the next informal Council meeting. However, any matter considered by any Councilmember to be of an emergency nature may be suggested as an item to be added on the meeting day of Council provided the emergency nature is stated the item is accepted by consensus of those present at the meeting. (2000)

(3) Order of Business: Each informal meeting shall contain an item for general Council discussion and Appointee reports, if applicable. This does not negate the opportunity for Council Appointees to speak at the Informal Council meeting. (2000)

D. Executive Session - The City Attorney shall prepare the Executive Session agenda. The first part of the agenda shall be those items that may be discussed in open session. The

second part of the agenda shall be those items that may be discussed in closed session. In compliance with the Colorado Open Meetings Act, and prior to convening in closed Executive Session, the Mayor shall announce the general topics of the closed Executive Session, as set forth below. The Mayor shall poll Councilmembers and upon consent of two-thirds of the quorum present, may hold a Closed Executive Session. No adoption of any proposed policy, position, resolution, rule, regulation or formal action shall occur at any Executive Session which is not open to the public. The following are among appropriate topics for Closed Executive Session:

(1) Purchase, acquisition, lease, transfer or sale of any real, personal, or other property interests.

(2) Conferences with the City Attorney or other attorneys for the City for the purposes of receiving legal advice on specific legal questions.

(3) Matters required to be kept confidential by federal or state law or rules and regulations.

(4) Specialized details of security arrangements or investigations.

(5) Determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators.

(6) Personnel matters except if the employee who is the subject of the session has requested an open meeting, or if the personnel matter involves more than one employee, all of the employees have requested an open meeting.

(7) Consideration of any documents protected by the mandatory nondisclosure provisions of the Colorado Open Records Act. (1982; 1989; 1991; 1992; 1993; 2000)

E. Executive sessions shall be electronically recorded. The tapes and the contents of such tapes shall be considered privileged and confidential and shall be made available only to members of the Council and may be divulged to others only upon consent of a majority of the entire Council. Proceedings are confidential and matters discussed will not be discussed outside of the meeting. Any Councilmember who does so will be subject to censure by the majority of Council as provided in City Charter 3-50. (1982; 1987; 2000)

3. SPECIAL MEETINGS

Special meetings shall be held at such time, place and manner as stated in the notice of the meeting. The Mayor alone, or the Mayor at the written request of three Councilmembers, shall call special meetings of the Council by notice to each of the Councilmembers in writing, which notice shall state the purpose for which the meeting is called. Notice shall also be sent to Council

Appointees. The notice shall be served at least twenty-four hours prior to the time of such meeting. The notice shall be served personally by fax to each Councilmember at the fax number shown on the administrative assistant's records, and by leaving a copy at the municipal office of each Councilmember. Notice may be supplemented through any other form of communication requested by a Councilmember. (1982; 2000)

PART 3 - COUNCIL PROCEDURE

1. QUORUM

The Mayor, or in the Mayor's absence the acting Mayor, shall take the Chair at the hour appointed for the Council to meet, and shall immediately call the members to order. The City Clerk shall enter upon the Journal of the meeting the names of the members present. Five (5) members of the Council shall constitute a quorum to do business. In the absence of a quorum at the time appointed for a meeting, the members present shall adjourn the meeting to another designated time. (1982; 2000)

2. SEATING ARRANGEMENTS

Members shall occupy the respective seats in the Council Chamber assigned to them by the Mayor. (2000)

3. ADDRESSING THE MAYOR

Members speaking to a question or making a motion, shall address the Mayor as "Mr. or Madam Mayor", and the Mayor shall thereupon pronounce the name of the member entitled to the floor. Members addressing Council shall confine themselves to the question under debate. (1982; 2000)

4. PERMISSION REQUIRED TO ADDRESS COUNCIL

Members of the audience may address the Council upon recognition by the Mayor. The decision of the Mayor may be overruled by a vote of a majority of the Council. (1982; 2000)

5. APPEALS FROM DECISION OF THE MAYOR

The Mayor shall preserve decorum and decide all questions of order, subject to appeal to Council. In case of an appeal from a ruling of the Mayor, the question shall be: "Shall the decision of the Mayor stand as the decision of the Council?" If a member violates the Rules of Council, the Mayor shall call such member to order, in which case the member shall be silent, unless permitted to explain. (1982; 2000)

6. VOTING

A. The Council shall act only by ordinance, resolution or motion. Every Councilmember present when a question is put shall vote thereon. Every ordinance, resolution or motion, except those providing for the expenditure of money, shall require the affirmative vote of the majority of the membership of the Council present for approval and passage. Every ordinance or resolution providing for the expenditure of money shall require the affirmative vote of five (5) members upon final passage. (1982; 2000)

B. Whenever a vote is taken, each Councilmember present shall vote "aye" or "nay". After all members have voted, the Mayor shall cause the vote of the Council to be flashed upon a recording board, which board shall be plainly visible to the Council and others present in the Council Chamber. The City Clerk shall then record the vote of each member of the Council in the Journal of Council's proceedings before passing on to the next order of business. (1982; 2000)

C. In the event the electronic voting machine becomes inoperative during any meeting, or the meeting is at a location without an electronic voting machine, the City Clerk shall call the roll in alphabetical order with the same Councilmember being called first throughout the meeting. The City Clerk shall record the oral vote of "aye" and "nay" of each Councilmember upon the Journal of the Council's proceedings. (1982; 2000)

7. VOTE OF ABSENT COUNCILMEMBER

It shall be improper for any Councilmember to state or attempt to state the vote or sentiments of any absent Councilmember or for the City Clerk to make any reference in the Minutes to such an attempt. (1982; 2000)

8. DIVISION OF A QUESTION

On demand of any member of Council, a question under consideration covering two or more points shall be divided where the question allows such division. (1982; 2000)

9. DISSENTS AND PROTESTS

Any member shall have the right to express dissent from or protest against any ordinance or resolution of Council, and have the reason therefore entered upon the Journal. (1982; 2000)

10. TIE VOTES

In case of a tie vote on any proposal, the proposal shall be considered lost/failed. (2000)

11. UNANIMOUS CONSENT - EXPEDITING COUNCIL BUSINESS

Since these rules are designed for the protection of the minority, they need not be strictly enforced by the Mayor except as to voting on ordinances and resolutions in formal Council sessions. Therefore, when there appears to be no opposition to a matter, the formality of voting can be avoided by a member's requesting unanimous (or general) consent to a proposal or by the Mayor's asking if there is any objection to a proposal, and if there is none, announcing the result. (1982; 2000)

12. PROCEDURE IN ABSENCE OF RULE

In the absence of a rule to govern a point of procedure, "Parliamentary Law for Nonprofit Organizations" shall govern Council's actions. (1982; 2000)

13. EXCUSAL DURING MEETING

Councilmembers may be excused from the remaining Council meeting with permission from the Mayor. (2000)

14. MOTIONS TO BE STATED BY THE MAYOR - WITHDRAWAL

When a motion is made and seconded, it may be restated by the Mayor or by the City Clerk before debate and again before the final vote. Any member may demand that it be reduced to writing. A motion may not be withdrawn by the mover without the consent of the second. (1982; 2000)

15. SPECIAL MOTIONS

These motions must be disposed of immediately:

A. Motion Objecting to Consideration - This motion must be made immediately after an item is called to the attention of Council by the City Clerk. This motion enables the Council to avoid a main motion that would be undesirable to consider at the time. It does not require a second, is not debatable, is not amendable, and requires a 2/3 vote of those present. (1982; 2000)

B. Motion to Withdraw - A mover of any motion may withdraw the motion as a matter of right so long as the consent of the second is first obtained. (1982; 2000)

C. Motion to Suspend Rules - This motion applies to all rules herein except Rule 11A. The purpose of this rule is to enable Council to set aside one or more of its procedural rules that would otherwise prevent consideration of a certain action. A motion to suspend rules suspends only those rules which specifically interfere with the consideration of the particular action involved. The rules are suspended only temporarily and are automatically reactivated when the proposed action has been considered. No rules set forth in the City Charter or City Code may be altered by suspending the rules. A motion to suspend rules is not a debatable motion and may not be amended. This motion requires a majority vote of the Council present. (1982; 2000)

16. PARLIAMENTARY PROCEDURE FOR MOTIONS

When an item is before Council, no motion shall be entertained except as listed according to priority (highest to lowest): (1982; 2000)

A. Motion to Adjourn - Requires a second, is not debatable, is not amendable, and requires a majority vote of those present. (1982; 2000)

B. To Postpone Temporarily - Requires a second, is not debatable, is not amendable, and requires a majority vote of those present. (1982; 2000)

C. To Close Debate - Requires a second, is not debatable, is not amendable, and requires a 2/3 vote of those present. (1982; 2000)

D. To Limit or Extend Debate - Requires a second, is debatable as to type and time of limitations, is amendable as to time and type of limitations, and requires a 2/3 vote of those present. (1982; 2000)

E. A Motion to Postpone to a Definite Time - Requires a second, is debatable as to reasons for postponement and date of reconsideration, is amendable as to date of reconsideration, and requires a majority vote of those present. (1982; 2000)

F. Motion to Refer - Requires a second, is debatable as to the referral, is amendable as to the referral, and requires a majority vote of those present. (1982; 2000)

G. Motion to Amend - Requires a second, is debatable unless applied to an undebatable motion, is amendable, and requires a majority vote of those present. (1982; 2000)

H. Motion to Postpone Indefinitely - Requires a second, is debatable, is not amendable, and requires a majority vote of those present. (This motion is not applicable to quasi-judicial items.) (1982; 2000)

I. Motion to Reconsider - Requires a second, is debatable, is not amendable, and requires a majority vote of those present. This motion can be made at the same meeting or at a meeting other than the meeting at which the action was taken. If at a meeting other than the meeting at which the action was taken, all members of Council must give at least fourteen (14) days written notice to the Mayor and City Clerk that Councilmember (Name) is going to move to reconsider Item No. ___ of the formal City Council Agenda of (Date). If the motion to reconsider is voted upon and approved, no action shall be taken on the item reconsidered until the next regular Council meeting. (1982; 1986; 1991; 2000)

J. Main Motions - Requires a second, is debatable, is amendable, requires a majority vote of those present. Every ordinance or resolution providing for the expenditure of money requires the affirmative vote of five (5) members upon final passage. (1982; 2000)

In making any of the above motions, the motion maker may not interrupt another speaker. (1982; 2000)

PART 4 - UTILITIES PRICING AND TARIFF HEARING PROCEDURE

The following rules shall govern Council hearings concerning the adoption of resolutions which change the pricing or tariff for any regulated utility service of Colorado Springs Utilities (Utilities):

1. HEARING PROCESS

A. Pre-Hearing Procedures

1) The process to change pricing or tariffs for any regulated utility service shall commence with the filing by Utilities of a resolution identifying the proposed changes, accompanied by the proposed tariffs, at a regular or special meeting of Council. Council shall establish a date for a public hearing at that meeting, which hearing shall be no less than thirty (30) calendar days nor more than sixty (60) calendar days from the date of the notice to customers of the proposed resolution.

2) Utilities shall be responsible for notifying customers of proposed changes in pricing or tariffs for any regulated utility service as required by the City Code and Colorado law. Utilities shall place one copy of the Utilities filing and any written documents provided to Council to explain the proposed resolution on file in the office of the City Clerk. These documents shall be available for public inspection.

3) Before or during any public hearing, Council may be assisted by legal, technical or other professional personnel as it deems necessary. If Council retains a professional consultant or advisor, the consultant or advisor shall provide a written report to Council, Utilities and any customer who has filed a notice of intent under subsection A.8 below at least ten (10) working days prior to the public hearing. A copy shall also be filed with the City Clerk and shall be available for public inspection.

4) If the change in pricing is supported by a cost of service study, Utilities shall provide a draft copy of the proposal and cost of service study to the City Auditor at least thirty (30) calendar days prior to the filing. If the proposed changes do not require a supporting cost of service study, Utilities shall provide a draft of the proposal to the City Auditor seven (7) calendar days prior to the filing of the proposed resolution. If the City Auditor chooses to file a report on the proposal, such report shall be filed with the City Clerk and Utilities at least five (5) calendar days prior to the public hearing.

5) Drafts of the proposed resolution and tariff sheets will be provided to the City Attorney seven (7) calendar days prior to filing with Council.

6) Subsequent to the Utilities filing and before the public hearing, Utilities may make the following changes to its filed proposal provided that copies of any changes are filed with the City Clerk and sent to customers who have notified the City Clerk of their intention to present witnesses: a) minor corrections or administrative clarifications to the Utilities' filing; b) supplements containing additional information necessary or appropriate to substantiate the filing; c) modifications which reduce the amount of the change requested.

7) Prior to the public hearing, no increase in the prices as noticed may be proposed without notification to all customers who notified the City Clerk of their intention to present witnesses at the hearing and without publication of such changes at least once in a newspaper of general circulation within the City. Material supporting any proposal to increase the prices as previously noticed must be filed with the City Clerk and held open for public inspection.

8) The representative or attorney of a customer who wishes to present testimony by witnesses other than the customer must file a notice of intent with the City Clerk disclosing the names of witnesses, a short summary of testimony and a copy of all exhibits and other documentation to be presented to Council no less than seven (7) working days prior to the public hearing. A copy of all such material must be filed at the same time with the Utilities' Pricing Department Manager.

9) There is no formal right to discovery, but parties are urged to share information in order to expedite the proceeding. Parties are also encouraged to meet in advance of the hearing to narrow or resolve the disputed issues between them. Nothing shall prohibit the Utilities from meeting with customers outside of the hearing process to discuss proposed changes in pricing or tariffs and to solicit their input.

B. Hearing Procedures.

1) Council shall hear the matter in its legislative capacity. The Colorado Court Rules of Civil Procedure and the Rules of the Public Utilities Commission of the State of Colorado shall not apply to the proceedings. Council is not bound by the rules of evidence. Council may take notice of general, technical or scientific facts, or of laws, regulations or court decisions without the necessity of presentation of evidence.

2) At the public hearing Utilities shall make a presentation to explain the filing and the need for changes in pricing or tariffs. Any customer shall be allowed to present testimony and/or exhibits relevant to the proposed changes during that portion of the public hearing when public comment is allowed.

3) At the public hearing, Council may question witnesses and may allow such questioning, rebuttal or argument by Utilities, and by customers, their attorneys or representatives, as Council deems appropriate. Council may limit the time for presentation by Utilities, customers and their attorneys or representatives, as it deems appropriate. Testimony must be relevant to the issues being heard and shall not be repetitious. If the testimony or exhibits are repetitious, Council may require all similarly interested customers to designate a spokesperson or may appoint one for them.

4) No party shall have a right to present written briefs during or at the conclusion of the public hearing, unless requested by Council.

5) Pursuant to the legal requirement that pricing and tariff decisions must be based on information contained "on the record", once the proposed resolution has been filed if Councilmembers have communications about matters subject to decision outside of the public hearing such communications are considered to be "*ex parte* communications". When an *ex parte* communication occurs, the pertinent details of the communication should be noted during the public hearing. In recognition of the fact that Councilmembers also serve on the Utilities Board, and that Councilmembers/Boardmembers and members of Utilities staff frequently communicate on a number of issues, if an *ex parte* communication occurs between a Councilmember and a staff member of Utilities the staff member will reduce the pertinent elements of the communication to writing. The writing will be distributed to all Councilmembers and customers who have filed notices of intent, and shall be placed on file with the City Clerk as part of the record of the proceeding.

C. Post-Hearing Procedures

1) At the conclusion of the public hearing, Council shall identify issues for deliberation and decision. Council may adjourn to another time to complete its deliberation and make a decision on the issues. Council may revise any proposed pricing or tariff as a result of the information presented at the public hearing. All decisions made by Council shall be based on the record.

2) After its deliberations, Council shall instruct the City Attorney to draft a proposed Decision and Order. The Decision and Order shall incorporate a description of the history of the proceeding, the issues identified by Council for deliberation, and Council's findings on the issues.

3) The written Decision and Order of Council shall be incorporated in a Resolution of Council revising pricing or tariffs. The Decision and Order shall be adopted in open public

session and shall be placed on file with the City Clerk. It shall identify the date on which changes in pricing or tariffs were approved and the date on which they shall become effective.

4) All prices, as established by Council in these proceedings, shall meet the requirements of the City Code. All prices shall be designated in tariff sheets and shall remain on file in the City Clerk's Office and the Utilities Pricing Department.

5) No party shall have the right to request rehearing, reargument or reconsideration of the decision of Council.

6) The Utilities filing and supporting documentation, all subsequent documents submitted to Council or the City Clerk by Utilities, customers or their representatives, the report of the City Auditor, the presentations to Council by any party, all Council deliberations, its Decision and Order, and the Resolution adopted, shall constitute the record of these proceedings.

2. EXPEDITED HEARING PROCESS FOR INSTANCES OF GOOD CAUSE

A. Instances for which Good Cause Exists

1) Certain pricing and tariff changes may be made, or refunds authorized, without meeting the notice and public hearing requirements imposed by Section I of this Part 4, provided that good cause exists. In the following instances, good cause exists:

a) Changes to the gas cost adjustment to reflect increased or decreased gas costs.

b) Changes to the electric cost adjustment to reflect increased or decreased costs of the fuel used for electric generation or purchased power costs.

c) Refunds to customers.

d) Changes to other fees, rates or charges that are not within the control or discretion of the City or the Utilities.

e) Changes to the pricing of water necessary to avoid a water shortage.

f) Tariff changes which have no adverse impact on customers.

2) Council may find that good cause exists in other instances, and must state the nature and circumstances of the good cause in the resolution resulting from its action.

B. Process for Expedited Hearing

1) Proceedings for consideration of matters for which good cause exists shall be conducted in a legislative manner as a Council item.

2) When Utilities proposes changes to the gas cost adjustment or the electric cost adjustment, drafts of the proposal including the proposed resolution and tariffs will be provided to

the City Auditor and the City Attorney seven (7) calendar days prior to filing the proposal with Council. If the City Auditor finds that the proposed adjustment is adequately supported and conforms with the requirements of the cost adjustment tariffs, the City Auditor will provide such findings in a letter to the Council that will be included in the filing by Utilities. If the proposed changes to the gas cost adjustment or the electric cost adjustment are supported by a letter from the City Auditor, the resolution effecting the change will be placed on the Council's consent agenda.

3) The Resolution adopting such changes shall be considered an Order of Council, shall specify the changes to be made and shall state: a) the circumstances which establish good cause and necessitate the change being made under these procedures, b) the effective date of the changes, and c) the manner in which the changes shall be published. (2000, 2004).

PART 5 - BOARDS, COMMITTEES, AND COMMISSIONS

1. COUNCIL BOARDS, COMMITTEES AND COMMISSIONS

Council boards and commissions are generally advisory in nature to assist Council and staff by preparing recommendations for Council decision. Board, committee, and commission members may not speak or act for Council except when formally given such authority for specific purposes. Council boards, committees, and commissions cannot exercise authority over staff without specific authority. Members of boards, committees, and commissions shall be selected from within El Paso County and shall serve without compensation. Members of boards, committees, and commissions shall not serve with a member of their household or immediate family or with a member that is an employer/employee on the same board, committee, or commission. (2000, 2002)

2. MAYOR COMMITTEES

The Mayor may appoint special committees or commissions composed of Councilmembers and/or citizens to assist in the study of items before the Council. A committee so appointed shall serve until the matter is disposed of by the Council unless sooner terminated by the Mayor. (1982; 2000)

3. ALTERNATES

Council may appoint alternate members to its boards and commissions. As alternates, these individuals are appointed to gain experience and observe that board or commission. The alternates shall not: 1) participate in the discussion of the board or commission; 2) participate in executive sessions; 3) vote in any matter as an alternate; or 4) substitute in the absence of a regular member. (2000)

4. POWERS

No committee shall have the power of employing any person for, or on behalf of, the City, or incur any expense, unless specifically authorized by Council. (2000)

PART 6 - LAND ACQUISITIONS

1. SALE OF CITY-OWNED REAL PROPERTY

If the Council has found or determined that City-owned real property or interests are unneeded for the proper conduct of City affairs, the City's manager handling Real Estate Services shall cause the same to be appraised by a competent land appraiser. Upon receipt of such appraisal, the City's Real Estate Manager shall advertise such real property for sale by sealed bid. The advertisement must be published one time in the official City newspaper at least ten (10) days prior to the date set for the opening of such bids and by posting upon a sign, notice of the sale at least ten (10) days prior to the date set for the opening of such bids. The sign shall be placed at points along the perimeter of the property so as to be visible from any adjacent ways or streets, and located so as to provide opportunity for notice to owners of surrounding properties and the public. Posting may be outside the perimeter if in the opinion of the City's Real Estate Manager, the posting offers more visibility for public notice. Such real property shall be sold to the highest bidder at a price not less than the appraised value. (1982; 1994; 2000)

2. ACQUISITION OF REAL PROPERTY

Acquisition of real property shall follow the procedures set forth in the Handbook for Land Acquisition approved by Resolution No. 103-74, dated April 23, 1974, as the same may be hereafter amended. (1982; 2000)

3. CONVEYANCES NOT REQUIRING COUNCIL APPROVAL

Whenever the Council has approved the conveyance of a parcel of land or an interest in land that fails by reason of a technical imperfection or error or by reason of failure of the conveyance to perfectly carry out the intention of the Council, the Mayor is authorized to execute another conveyance and the City Clerk to attest the same in the same manner and intent as approved by the prior Council action without further Council approval. (1982; 2000)

4. UTILITIES PROPERTY

Matters involving Utilities land acquisitions, conveyances and sale of excess property are subject to Utilities Board policies or by-laws. (2000)

PART 7 - PUBLIC HEARINGS

1. GENERAL PROCEDURES FOR LEGISLATIVE PUBLIC HEARING:

A. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is related to the purpose of the public hearing. The Mayor has the authority to limit debate to a reasonable length of time to be equal for both positions.

B. Any person speaking may be questioned by a member of Council. The Council, at its discretion, may establish a reasonable time limit upon each speaker.

C. The Mayor shall rule upon all disputed matters of procedure, unless, on motion duly made, the Mayor is overruled by a majority vote of Councilmembers present.

D. The Colorado Rules of Evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.

E. Exhibits to Council - all parties who desire to submit exhibits to the Council for the purposes of inclusion in a record shall submit the original of such exhibit and twelve (12) copies thereof to the City Clerk who shall mark such exhibit and distribute the same to the Council. One copy of each exhibit that may be displayed so that all of Council can simultaneously observe it shall be given to the City Clerk. If exhibits are electronic, a disk must be given to the City Clerk. The City Clerk shall hold all exhibits until time for appeal has expired, and the exhibits shall then be disposed of, unless the person submitting the exhibit picks up such exhibit from the Clerk within ten (10) working days after time of appeal has expired. (1982; 2000).

2. GENERAL PROCEDURES FOR QUASI-JUDICIAL MATTERS:

A. When Council sits as a quasi-judicial body in rezoning applications, appeals from the Planning Commission, and such other matters in which Council is restricted to making findings of facts on evidence presented, no member of Council should receive or solicit comments from any person(s) regarding the matter pending before the Council prior to the formal public hearing at which the matter is presented. (1982; 2000)

B. In appeals from decisions of the Planning Commission and Hearing Officer, Council reserves the right to limit the hearings on appeal to matters raised on appeal.

C. The order of the hearing for items appealed from or considered by the Planning Commission shall be as follows:

1. City staff shall have available a copy of any required public notice as published in the newspaper, a copy of any required affidavit of posting of public notice, all application documents for the proposed project, and other materials as appropriate. City staff should summarize City Planning's recommendation and the Planning Commission's recommendation for the record.
2. The applicant should give an overview of the project and present their evidence in support of the project.
3. Any others in support of the applicant shall present their evidence.
4. Any person or entity who has filed an appeal opposing the application shall describe the nature of their request and present their evidence.
5. After hearing from the person or entity who has filed the appeal or if no appeal has been filed opposing the application, others opposing the application shall present their evidence.
6. A short rebuttal by applicant shall be limited to issues raised in preceding argument. No new evidence shall be presented during rebuttal.
7. Final comments from the applicant and/or all parties are allowed with permission of the Mayor only.
8. Final comments from City staff and staff recommendation shall conclude the public hearing, which is then closed.
9. All questions will be directed through the Mayor who will then direct the appropriate person to respond.
10. Council may then make its decision on the matter or delay its decision. If final action is not taken at the public hearing, the Mayor will advise the audience when the matter will be considered. Councilmembers not present at the public hearing will be allowed to vote on the matter only if they carefully review all applicable minutes and other documentation prior to voting.
11. Exhibits to Council - all parties who desire to submit exhibits to the Council for the purposes of inclusion in a record shall submit the original of such exhibit and twelve (12) copies thereof to the City Clerk whom shall mark such exhibit and distribute the same to the Council. One copy of each exhibit that may be displayed so that all of Council can simultaneously observe it shall be given to the City Clerk. If exhibits are electronic, a disk must be given to the City Clerk. The City Clerk shall hold all exhibits until time for appeal has expired, and the exhibits shall then be disposed

of, unless the person submitting the exhibit picks up such exhibit from the Clerk within ten (10) working days after time of appeal has expired. (1982; 2000).

D. The order of the hearing for items appealed from a decision of the Hearing Officer shall be as follows:

1. City staff shall have available a copy of any required public notice as published in the newspaper, a copy of any required affidavit of posting of public notice, the record including the transcript of proceedings and evidence before the Hearing Officer. City staff should summarize City Planning's recommendation and the Hearing Officer's recommendation for the record.

2. The appellant may present argument in support of the appellant's position.

3. A person or entity who has not appealed may present argument in support of that person's or entity's position.

4. A short rebuttal by the applicant shall be limited to issues raised during the preceding argument.

5. Council shall review the record including the transcript of proceedings and evidence before the Hearing Officer, and shall determine whether or not there is substantial evidence in the record to support the decision of the Hearing Officer.

6. If there is substantial evidence in the record to support the decision of the Hearing Officer, then Council shall affirm such decision of the Hearing Officer.

7. If there is not substantial evidence in the record to support the decision of the Hearing Officer, then the Council may reverse the decision of the Hearing Officer, or remand the matter back to the Hearing Officer for further proceedings.

8. No new evidence shall be submitted to the Council unless a majority of the Council determines that such evidence could not have been reasonably presented at the time the matter was heard before the Hearing Officer.

9. If the Council decides to hear such new evidence, it may hear the new evidence or remand the matter back to the Hearing Officer for further proceedings.

10. Council shall have the discretion to modify, reject, or add to the conditions or record established by the Hearing Officer with respect to any matter before it on appeal.

11. All questions will be directed through the Mayor who will then direct the appropriate person to respond.

12. Council may then make its decision on the matter or delay its decision. If final action is not taken on the appeal, the Mayor will then advise the audience when the matter will be

considered. Councilmembers not present at the public hearing will be allowed to vote on the matter only if they have reviewed the record including the transcript of proceedings and evidence before the Hearing Officer and all applicable minutes and other documentation prior to voting.

PART 8 - COUNCILMEMBER CONDUCT

1. COUNCILMEMBER INVESTIGATIONS

Whenever a verbal or written communication is received by other Councilmembers, Appointees, or employees stating allegations of misconduct about a Councilmember, Council shall schedule a Closed Executive Session to discuss. If deemed merited by Council, an independent third party investigation may be requested. In order to summarily deal with untruthful complaints, the independent third party investigator shall immediately communicate with the Councilmember about whom the complaint has been made and commence an investigation by meeting with the Councilmember and the complainant. If the complaint is without merit, the independent third party investigator shall close and seal the file and report that the matter has been investigated without any finding of merit to Council. If the complaint merits further investigation, the third party investigator shall make a report to Council to request authorization for further investigation. All investigative work shall be considered work product and may be otherwise privileged. Completed final investigation reports shall be made to Council. By adoption of this rule, Council authorizes an annual budget item for the purposes of retaining an independent third party investigator. (1995; 2000)

2. RIGHT OF FLOOR

When recognized by the Mayor, a Councilmember shall confine himself/herself to the question under debate, avoid personalities, and refrain from impugning the motives of any other Councilmember's argument or vote. (2000)

3. UNITY OF CONTROL

Individual decisions or instructions of Councilmembers are not binding on the City Manager or other Council Appointees. In the case of Councilmembers requesting information or assistance without Council authorization, the City Manager and other Council Appointees may refuse such requests that require, in their opinion, a material amount of staff time, or funds, or are disruptive. Councilmembers and Appointees may bring such requests to Council for consideration. (2000)

4. VOTING

Every Councilmember present at a Council meeting must vote on every item before Council unless it would constitute a conflict of interest under the City Charter or City Code of Ethics. Any member of City Council who has a personal or private interest in any matter proposed or pending before the City Council shall disclose such interest to the City Council and shall excuse themselves, and shall

refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter. (2000)

5. ACCOUNTABILITY OF APPOINTEES

The Council's accountability connection to the City and its enterprises, their operational organization, their achievements and conduct is through the City Manager and other Council Appointees. Although individual Councilmembers are encouraged to freely communicate with Appointees, Councilmembers should refrain from giving individual direction to persons who report directly to the City Manager and other Appointees. Council, as a body and individual Councilmembers will refrain from evaluating, either formally or informally, the overall job performance of any staff other than their Appointees. (2000)

6. MONITORING PERFORMANCE

Council will evaluate each Appointee's job performance at least once per year based upon an approved performance plan. (2000)

7. CODE OF CONDUCT

A. Councilmembers must represent unconflicted loyalty to the interests of the citizens of Colorado Springs. Councilmembers should consider the interest of all of the citizens of Colorado Springs and vote accordingly.

B. Councilmembers should not attempt to exercise individual authority or influence over the City and its enterprises.

C. Individual Councilmembers will never lead the public or media to have the impression that their Appointees are acting improperly. If an individual Councilmember believes an Appointee is acting improperly, the matter shall be discussed and decided by Council.

D. Councilmembers will respect the confidentiality appropriate to issues of a sensitive or legal nature. Any Councilmember who discusses confidential matters publicly will be subject to censure by the majority of Council as provided in City Charter §3-50.

E. Councilmembers will come properly prepared for Council Meetings. (2000)

8. COMPUTER USAGE AND COMPUTING ENVIRONMENT

A. The City provides computer systems for use of its City Councilmembers in the conduct of official business. The computer systems are the property of the City and include computer hardware; approved, licensed software; e-mail messages; and data and/or the necessary network connections. The Information Technology Strategic Plan serves as the foundation for technology implementation.

B. Definitions

(1) Computing Resources: Computer, network, or data equipment, and/or services leased, owned, or contracted for or by the City, to include:

- a. Computer and network hardware
- b. Computer software, application systems, and programs
- c. Data such as records, files, logs, and images which are or have been stored electronically or transmitted using City property
- d. Messages such as e-mail, created, stored, or viewed on such computer
- e. Computer or network services, such as Internet, intranet, e-mail systems, and other programs or applications that reside within or operate as part of the City's computing environment.

(2) Approved Software: Software or programs that are:

- a. Approved for use by the manager of the unit
- b. Approved for use in the City, as stated in the Hardware and Software standards for the City.

C. Access - The City is able to monitor or examine messages, data, or software that involve its computing resources. As the owner of the computer systems, the City reserves the right to periodically examine, as it deems appropriate, any messages, data, or software left on or transmitted using the City's computing resources, including electronic logs and usage records.

(1) City Council should assume that such messages, data, or software are not private/confidential.

(2) The contents of computers and electronic mail are subject to the Colorado Open Records Act, court order, or a legitimate City business inquiry. Therefore, under certain circumstances, the City may disclose the contents to the public.

(3) At the City's discretion, messages, data, or software deleted from computing resources may be retrieved.

D. Internet Usage - The City uses software and systems to monitor and record the Internet usage for each user. The City reserves the right to block accesses from within its networks to any sites deemed inappropriate or which have a detrimental effect upon network performance. Councilmembers should not have any expectation of privacy as to their usage of Internet World Wide Web sites, file transfers, chat sessions, and/or online subscription and delivery.

E. E-mail - E-mail or other computer generated messages that are to be broadcast to all City employees must be coordinated with Public Communications and will be distributed by Information Technology.

F. Security - Councilmembers must follow the security policies and procedures established for the City, for their Groups, and for the applications they use.

G. Responsibility - The Information Technology Unit is responsible for perimeter security, including policies and security procedures regarding firewalls, proxy services, Internet practices, and remote access to or from the City's network. Sponsors, administrators, and managers of applications are responsible for establishing the security policies and procedures required for use of their applications. Group/Unit Managers or Council Appointees are responsible for establishing and enforcing the appropriate security policies and procedures for applications in use within their organizations.

H. Misuse of Computing Resources - City Councilmembers are expected to properly use the computer resources available to assist in the performance of their elected position. Computer misuse may result up to and including discharge. Examples of misuse include, but are not limited to:

(1) Excessive or inappropriate use: A Councilmember's access to the Internet or use of any computing resources may be terminated or limited at the discretion of the Councilmember's immediate supervisor, Group/Unit Manager, or Council Appointee if the usage is interfering with the performance of duties or is otherwise deemed inappropriate.

(2) Offensive Material: A wide variety of materials may be deemed offensive by colleagues or citizens. This includes, but is not limited to sexually explicit material and material that includes racial, ethnic, religious, or sexist slurs. It is a violation of City policy to intentionally view, store, print, or redistribute any such document, graphic file that is not directly related to the City unit's business activities and the user's job. As defined by the Unit's Manager, a wide variety of materials available on the Internet or received by e-mail may be deemed offensive. These materials include, but are not limited to sexually explicit material and material that includes racial, ethnic, religious, or sexist slurs. Councilmembers are not to use the City's computing resources to intentionally view, store, print, or redistribute any such document or graphic file.

(3) Personal Economic Gain: The City's computing resources must not be used in any fashion for personal economic gain, including private businesses or gambling activity.

(4) The Fair Campaign Practices Act: Provisions must not be violated through personal usage of the computer, if such usage might influence the outcome of an election.

(5) Software Usage: The installation and use of software must be approved by the Group/Unit Manager or Council Appointee and must comply with the City's Hardware and Software Standards. Usage of approved software must comply with all licensing requirements.

(6) E-mail misuse: E-mailed chain letters, jokes, personal messages, and goods for sale should not be broadcast. Offensive and inappropriate material should not be contained in any e-mail messages.

PART 9 - MISCELLANEOUS

1. COMMUNICATIONS ADDRESSED TO CITY COUNCIL CONCERNING ADMINISTRATIVE MATTERS

City communications addressed to the City Council that require administrative action shall be referred to the City Manager for response. Constituent information or other information requests on administrative City matters may go directly to a group support manager. Communication matters regarding Colorado Springs Utilities are directed by Utilities Board policies. (1982; 2000)

2. QUASI-JUDICIAL ACTIONS

If Council receives written individual information on quasi-judicial actions, a copy should be made for the rest of Council. Council should refrain from discussing quasi-judicial actions with any person until the appeal time has run or ten (10) days thereafter, whichever is later.

3. REIMBURSEMENT

A. Councilmembers shall be eligible for reimbursement of expenses incurred while attending to official City business. Reimbursable expenses shall include but not be limited to travel in Councilmember's automobiles, lodging, meals and miscellaneous expenses such as parking fees and child care expenses. Child care expenses shall be limited to those incurred while attending to official City business. The cost of alcoholic beverages will not be reimbursed nor will the cost of a Councilmember's spouse or family member who may travel with the Councilmember on official City business. Expenses incurred in campaign activities whether for or against a candidate or election question to be voted on will not be reimbursed. Councilmembers will show good judgment and proper regard for economy in incurring reimbursable expenses. (1982; 1993; 2000)

B. All out of state travel by a Councilmember must be authorized by Council before reimbursements shall be authorized. Any Councilmember wishing to obtain reimbursement for out of state travel will address a communication to that effect to Council at a time prior to the event with a copy to the City Manager. The request will be considered as an action item on the next Informal Council Meeting Agenda. If approved, a Councilmember may request a Travel Advance (Form 1 attached). (1982; 1993; 2000)

C. Councilmembers wishing to obtain reimbursement for expenses incurred while attending to official City business shall keep accurate records including receipts and mileage log, and periodically fill out an Expense Summary (Form 2 attached) and send it to the City Controller. Such

requests for reimbursement shall be reported to Council as soon as possible. Reimbursement requests and amounts reimbursed shall be public records. (1982; 1993; 2000)

4. AMENDMENT OF RULES

These rules may be amended or waived and new rules adopted by a majority vote of all members of the Council. (2000)

5. DEFINITIONS

A. COUNCIL: Wherever "Council" is used, it refers to City Council for the City of Colorado Springs. (2000)

B. COUNCIL APPOINTEE: A "Council Appointee" is the City Manager, Utilities Executive Director, City Attorney, City Auditor, City Clerk, municipal judges through the presiding municipal judge and the Memorial Hospital Board of Trustees through its chair person. (2000)

C. LEGISLATIVE ACTION: A legislative action generally involves the exercise of Council's authority to make laws for the good of all the citizens. The existence of a statute or ordinance is immaterial since the law considers the nature of the decision and the process by which the decision was reached as most important. Legislative action is usually reflective of some public policy relating to matters of a permanent or general character, is not normally restricted to identifiable persons or groups, and is usually prospective in nature. Further, legislative action requires balancing questions of judgment and discretion, is of general application and concerns an area usually governed by legislation. See: *Cherry Hills Resort Development Co. v. City of Cherry Hills Village*, 757 P.2d 622 (Colo. 1988). (2000)

D. ORDINANCE: An ordinance is the formal legislative document which establishes the law of the City and remains in effect until otherwise rescinded or amended by the Council. The City Clerk shall read the title of the ordinance for consideration by Council except those items on the consent calendar which are acted upon as a whole. Related ordinances may be acted upon as one item after the titles are read in series by the City Clerk. (2000)

E. QUASI-JUDICIAL ACTION: A quasi-judicial action generally involves a determination of the rights, duties, or obligations of specific individuals on the basis of the application of presently existing legal standards or policy considerations to past or present facts developed at a hearing conducted for the purpose or resolving the particular interests in question. The existence of a statute or ordinance mandating notice and a hearing is generally evidence of a quasi-judicial decision. Another factor indicating the judicial nature of a municipal action is whether the matter is of a type ordinarily heard by a court. If the issue is essentially political, the action cannot be

deemed to be quasi-judicial. McQuillin Mun Corp §49.69. It is the nature of a decision rendered by the governmental body and the process by which that decision is reached that determines whether the governmental body has exercised a quasi-judicial function in rendering its decision. See: *Cherry Hills Resort Development Co. v. City of Cherry Hills Village*, 757 P.2d 622 (Colo. 1988). (2000)

F. RESOLUTION: A resolution may be used for a statement of policy or other matters which are not required to be adopted by ordinance. (2000)