

CITY COUNCIL WORK SESSION MEETING
CITY OF COLORADO SPRINGS
JULY 8, 2013

Present: President King, President Pro Tem Bennett, Councilmembers Collins, Gaebler, Knight, Martin, Miller, Pico, and Snider. Also present, Chief of Staff Neumann and Legislative Counsel Massey.

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1. CALL TO ORDER

In City Clerk Johnson's absence, Mr. Lee McRae, License Enforcement Officer from the Office of the City Clerk, called the roll. All Councilmembers were present, except for Councilmember Snider who was excused. (Councilmember Snider arrived later in the meeting.)

2. CHANGES TO THE AGENDA

A request by Colorado Springs Health Foundation Chair, Jon Medved, to allow his presentation, Item 7-A, to be presented prior to Executive Session.

President King stated two additional items would be presented under Item 10, Councilmember Reports and Open Discussion.

3. REGULAR MEETING COMMENTS

There were no comments.

4. REVIEW OF JUNE 24, 2013, WORK SESSION MINUTES

There were no changes.

Item 7-A taken out of order:

7-A. Update and Report from Chair of CS Health Foundation – Jon Medved

Councilmember Bennett provided a presentation describing the formation of the Colorado Springs Health Foundation, appointment of the nine trustees, initial assignments, a brief financial update, and a request to have progress reports presented to Council every three months. He stated that key in their start-up research is to establish grant making guidelines, learning what health related needs the community has, and how the money will be spent.

Councilmember Miller asked about the creation and structure of the Bylaws and Articles of Incorporation. Mr. Medved stated they are reviewing the documents and some changes will be recommended. Councilmember Bennett clarified that any recommended changes will first be brought forward to Council for approval.

Councilmember Knight clarified as a point of order that Resolution 121-12 in the presentation stated that the Mayor nominates (rather than appoints) and Council appoints (rather than approves).

Councilmember Knight then had two questions relative to: 1) the requirement to have \$100 million in the Foundation before funding any grants; and, 2) if there were a budget and what the budget approval process will be. Mr. Medved responded they are looking at the \$100 million requirement and considering alternative options, but this will not be known until the PERA matter is resolved and they know how much money they have to work with. Relative to the budget, he stated this is part of the Administrative Structure and which will come forward for Council's approval. Councilmember Bennett clarified that the \$100 million was an initial guideline. He indicated that financial stability was the critical component of their consideration.

Councilmember Snider arrived.

5. EXECUTIVE SESSION (estimated time will be a minimum of one hour)

Open Executive Session Items moved to Item 6. Staff and Appointee Reports

Legislative Council Massey read the request to enter into Closed Executive Session.

President King called for a voice vote to approve movement into Closed Executive Session. Consensus was not achieved on a 4-4 vote.

Ms. Massey explained that for the first Closed Executive item, there is a confidential Independent Ethics Commission report they are required to bring to Council and that she cannot make the report public without Council's approval. She stated that if Council is willing to accept the findings of the Independent Ethics Commission, then her recommendation would be to make the report public.

Councilmember Martin requested Council consider the two Closed Executive Agenda items separately. Councilmember Bennett cautioned that Council needs to be careful when addressing certain legal issues outside of Closed Session as they may have a critical impact to the City if not managed strategically.

President King called for a separate voice vote on each item to determine consensus to discuss in Closed Executive Session:

- A. Legal advice and consultation with the City Attorney regarding the Independent Ethics Commission's Confidential Report, Case No. 2012-01.

Consensus to enter into Closed Executive Session failed by a voice vote of 4-4.

Councilmember Bennett noted the report's conclusion stated the preponderance of evidence did not support a finding of a violation of any provision of the Code of Ethics; therefore, he would approve making the report public.

Councilmember Gaebler remarked that she mostly agreed but did have an issue relative to per diem and mileage, how it was handled after the fact. She would consider some of the money being repaid. She believed this set a precedent. Councilmember Bennett agreed there was a procedural mistake.

Councilmember Martin stated the report also suggested that Council ask for an audit of the reimbursement policy and see how that has been handled in the past.

Councilmember Miller thanked the Independent Ethics Commission expressing appreciation for their work and volunteering their time to add a level of excellence that wouldn't be possible otherwise.

Councilmember Martin acknowledged the value of having these ethics matters brought forward for Council discussion and would like to see this engagement continue for future issues.

President King called for a voice vote to confirm Council's direction to accept the recommendation of the Independent Ethics Commission. Consensus was unanimous.

President King called for a voice vote to confirm Council's direction is to make the report a public document. Consensus was unanimous.

President King called for a voice vote to confirm Council's direction to the auditor to perform an audit of the reimbursement policy. Consensus was unanimous.

- B. Legal advice, consultation and negotiation strategy discussion with the City Attorney regarding the exercise of eminent domain to acquire property for the Southern Delivery System.

Consensus to enter into Closed Executive Session passed on a voice vote of 7-1

Councilmember Snider arrived

6. STAFF AND APPOINTEE REPORTS

- A. Agenda Planner – City Clerk Sarah Johnson

Mr. McRae stated three items had been added to the Work Session Planner: Work Session of July 22nd, Office of Emergency Management will present on the Black Forest Fire; on July 23rd in Regular Session, a Supplemental Appropriation for the Airport Capital Fund; and, for the August 12th Work Session Michael Sullivan will provide a presentation on the Benefit Plan.

Councilmember Knight & Miller asked that the first reading of the Airport Lounge ordinance be moved to the August 13th Regular meeting for first reading.

President Knight emphasized that it is important that agenda submissions follow the established calendar and be submitted accordingly. An agenda schedule is available and will be provided to those who would like to receive a copy.

- B. Ms. Massey described the Civil Action Committee's recommendation to defend pursuant to the Colorado Governmental Immunity Act. She stated if there is no objection, the City Attorney's office would like to proceed with defense in the two cases listed below. Council voiced no objection.
 - i. *Tyron D. Small v. Detective Huddleston, Detective Chacon and Officer Thompson; U.S. Dist. Ct., Civil Action No. 13-cv-01075.*
 - ii. *Robert C. Crouse v. The City of Colorado Springs, The City of Colorado Springs Police Department, Peter Carey, El Paso County, Dan May, Nick Bayne, and Unknown Members of the Colorado Springs Police Department, Case No. 2013 CV 2055, District Court, El Paso County, Colorado.*

7. PRESENTATIONS FOR GENERAL INFORMATION

- A. See report presented earlier in the meeting.
- B. Special District Legal Briefing

Division Chief – Corporate Attorney Britt Haley began with a legal overview of Council's authority for approving Special Improvement Districts. She stated the original recommendation was to update policy to include this authority. She clarified that it gives Council power that had been approved under state law, but had not been updated in the City's policy.

Councilmember Miller asked about Business Improvement Districts and whether Council has the power to limit that as a municipality. He requested a comprehensive look at the policy.

Councilmember Knight shared Councilmember Miller's concern and requested a list of all the Special Districts that currently reside in the City, and, if so, include if they received a tax assessment, and how many mils were designated for both reimbursement and operation.

Mr. Carl Schueler, Sr. Planner with Land Use Review, stated that the City currently has 80 districts and they can provide the information requested. He provided an overview of the history and statutory requirements for the multiple district types and offered to also provide additional information on the different district types.

Councilmember Miller recommended that when there are changes to the Model Service Plans, Council be given an opportunity to review them.

8. ITEMS FOR INTRODUCTION

A. Service Plan for Morningview Metro District

Mr. Schueler presented the details of the Morningview Metropolitan District Service Plan stating that it included the new SID language.

Councilmembers Knight and Miller asked multiple questions about fees, financial implications, structure of policy and approvals, whether limitations were imposed, and how fees may affect the end users. Mr. Schueler responded to their multiple questions. Mr. Peter Wysocki, Director of Planning and Development, assured Council that the policy is created to protect the end users, the homeowners.

B. Ordinance Amending Ordinance No. 12-108 CTF for Skyview Sports Complex.

Ms. Karen Palus, Director, Parks, Recreation & Cultural Services, first informed Council that there will be an item that will come to them for Work Session on 7/22, and to Regular Session on 7/23 which is necessary due to the timing for closing in August.

Ms. Palus then described the background and purpose of the request for the appropriation from the Conservation Trust Fund. She confirmed the appropriation had gone through the TOPS committee and Parks Advisory Board review, however, due to some changes in the accounting processes, it had not gotten into the 2013 Budget document for Council's approval.

C. Ordinance prohibiting smoking in parks.

Ms. Karen Palus, Director, Parks, Recreation & Cultural Services, stated the intent of the proposed ordinance is to reduce second hand smoke, reduce litter, and protect city properties from potential harm of fire. She stated it would be a general ban in all parks with some exemptions for cemeteries and golf courses.

Councilmember Bennett asked when they anticipate the ordinance will come back for 1st reading? Ms. Palus responded it will come back on July 23rd.

Councilmember Gaebler asked about enforcement and fines. Ms. Palus stated that there will be enforcement, but at first it will be focused towards education, information, and will be officer friendly. There will be fines associated, but the intent is to curb the behavior.

Councilmember Miller asked about the exemptions for cemeteries and golf courses and why they are not included in the ban. Ms. Palus responded that they had researched this and clarified that cemeteries and golf courses are more developed areas with receptacles available in these well managed settings.

(Council Recessed for a 10 minute break)

D. Amendment 64

City Attorney Kyle Sauer described the options available to Council.

President King asked for Councilmembers to provide direction for which option they wished to pursue.

Councilmember Knight asked about limitations on retail sales of marijuana.

Councilmember Bennett stated he believed the responsible decision was to ban retail sales of marijuana based on input from the military and from the business community.

Councilmember Gaebler stated she believed it was important to honor the voice and vote of the people of Colorado Springs. She proposed a thoughtful perspective, stepping forward to do the job well and give direction that will honor the vote of the people of our City.

Councilmember Martin described her history having worked with the development of the medical marijuana program. She stated she believed that if Council develops stringent regulations, it can be controlled successfully. She agreed with Councilmember Gaebler that the people have made their voice heard and supports moving forward with regulating retail sales of marijuana.

Councilmember Snider asked about emergency regulations and what happens when those expire, what the options would then be, and asked what would happen if we opt-in and the tax ballot measure did not pass, how that would work to support supplementing the cost of enforcement. Mr. Sauer responded that the City would have the ability to put a local tax on the ballot. Councilmember Martin added there are other mechanisms to supplement local funds for enforcement and regulation.

President King stated he would support retail sales as long as it follows restrictions and that it has to be taxed. He indicated there needs to be a way of monitoring the cost of the program and the way to cover those costs needs to be factored in. President King would like to see a moratorium in effect through the November election process, at least six months, and perhaps nine to twelve months, as the tax issue is resolved.

Councilmember Miller suggested that perhaps one way to honor the will of the voters, perhaps by resolution stating the City is forming a task force to research what other states and jurisdictions have done, evaluate the pros and cons of opting-in and regulate, or for opting-out.

Councilmember Pico described that, although he has taken an open and honest view of this subject, he remains unconvinced that it is something to press forward

with. He stated he preferred to have a moratorium while issues are worked through, or opt-out.

Councilmember Collins spoke to military personnel taking an oath to not consume controlled substances and stated her desired timeline to move forward is July 23rd.

President King directed City Staff to prepare two draft ordinances for first presentation on July 23rd: one to opt-out; and, the second for a moratorium.

9. ITEMS UNDER STUDY

1. Councilmember Pico provided a brief update for equipping police with fire vests. He stated they are still reviewing the costs.

10. COUNCILMEMBER REPORTS AND OPEN DISCUSSION

1. Councilmember Gaebler described her work looking at options to allow goats on appropriate properties to support personal homesteading and self-sufficiency. President King confirmed that Councilmember Gaebler could continue her work on a proposed ordinance to bring forward for Council's consideration.
2. Councilmember Knight provided a presentation on "City Council's Confirmation and Salary Approval Process for Mayoral Appointees." He described the purpose of the presentation is to seek Council's direction on whether they want to craft expanded language to the City Code to delineate hiring and salary setting responsibilities.

All Councilmembers participated in active dialogue about the interim appointment guidelines. The predominant opinion of Councilmembers was that there should be clarification for the length of time for an interim assignment and at what point it should convert to a permanent appointment which then comes before Council for confirmation. As to the salary setting component included in the presentation, concern was expressed that Council should not micromanage Administrative responsibilities for recruitment and salary setting.

It was determined that a legal opinion on these responsibilities will be presented to Council on July 22nd.

President King asked to confirm the date from which the 30 days will be counted for the current Interim Public Works Director's assignment. Ms. Neumann stated July 1st was the assigned start date.

3. Councilmember Bennett reported on a tour he had in the Northfield burn area and described that spectacular columbines were growing in the middle of the burned area.

11. ADJOURN

There being no further business, Council adjourned at 5:49 p.m.