

Council met in Regular Session.

1. **Call to Order.**

Deputy City Clerk Powell called the roll. Eight Councilmembers present; Councilmember Gaebler was excused.

2. **Invocation and Pledge of Allegiance.**

Pastor Jim Lynch of Pikes Peak Metropolitan Community Church led the invocation. Council President King led the Pledge of Allegiance.

3. **Changes to Agenda/Postponements.**

Council Administrator Gonzalez requested that Agenda Items 11 and 12 be moved up to immediately follow Item 8, Mayor's Business. Consensus of Council approved the request.

4. **Councilmember Comments.**

There were none.

**CONSENT CALENDAR**

5. The following items were acted upon by unanimous consent of the members present with the exception of Item A-2 which was called up for separate consideration:

**FIRST PRESENTATION:**

A-1. Approval of the Minutes of the regular Council Meeting of March 11, 2014.

A-2. See action taken later in the meeting.

A-3. **Dublin North Phase 6**

A-3A. CPC ZC 13-00122: (Quasi-Judicial Matter) Ordinance No. 14-19 entitled: "An Ordinance amending the zoning map of the City of Colorado Springs relating to 5.0 acres located north of the Dublin Boulevard and Sandy Ford Lane intersection from A/AO (Agricultural with Airport Overlay) to PUD/AO (Planned Unit Development: Detached Single-Family Residential, density 5.66 dwelling units per acre, maximum building height of 30 feet, with Airport Overlay)" was introduced and read.

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A-3B. CPC PUD 06-00108-A5MJ13: (Quasi-Judicial Matter) Request by Guman and Associates on behalf of Apaloosa Investments, LLC for consideration of a development plan amendment for the Dublin North (Phase 6) project to include this new area and add an additional 23 lots consisting of 5 acres located north of the Dublin Boulevard and Sandy Ford Lane intersection.

Motion by Bennett, second by Martin, that all items on the Consent Calendar, with the exception of Item A-2, be passed, adopted and approved by unanimous consent of the members present.

Ayes: Bennett, Collins, King, Knight, Martin, Miller, Pico, Snider  
Noes: None  
Absent: Gaebler

The motion passed unanimously on an 8-0-1 vote with Councilmember Gaebler excused.

### 6. **Recognitions.**

#### A. Child Abuse Prevention 2014

Councilmember Martin presented the Recognition to County Commissioner Sally Clark and District Attorney Dan May on behalf of their work with the “*Not One More Child*” Coalition for the prevention of Child Abuse in El Paso County. Consensus of Council supported the Recognition.

#### B. United States Air Force Academy Day April 1, 2014

Councilmember Miller presented the Recognition to Air Force Academy representatives Dave Cannon, Director of Communications, and Lt. Col Brus Vidal, Director of Public Affairs. Consensus of Council supported the Recognition.

### 7. **Citizen Discussion.**

Charles Barber spoke in opposition to the predominance of real estate interests driving the Colorado Springs economy.

Carl Strow and Charles Guy spoke against the *City for Champions* proposed projects.

Michael Chaussee and Jim Bensberg spoke regarding the Bear Creek closure and the need to consider alternative solutions.

Douglas Bruce spoke regarding concerns about a letter he had received entitled “Blight to Bright.”

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**8. Mayor's Business.**

A. Confirmation of three Colorado Springs Urban Renewal Authority (CSURA) Board Members

Mayor Bach described the interview process, interview panel, and subsequent selection of the three candidates chosen to fill the vacancy of three seats on the CSURA Board. He requested Council's confirmation of the three appointees.

David Neville, Chair of the CSURA, encouraged Council's support of the three candidates.

Councilmember Knight and Miller requested additional time to interview and learn more about the candidates and their positions on *City for Champions* and eminent domain.

Douglas Bruce and Charles Guy spoke to support the delay of the confirmation for two weeks.

Michael Sullivan, Human Resource Director, requested, in respect of those willing to volunteer their time, not to delay their confirmation.

Motion by Knight, second by Miller, to delay the confirmation process for two weeks.

Ayes: Collins, King, Knight, Miller, Pico  
Noes: Bennett, Martin, Snider  
Absent: Gaebler

The motion passed on a 5-3-1 vote with Councilmember Gaebler excused.

**NEW BUSINESS Items 11 & 12 – called up to follow Mayor's Business**

11. Ordinance No. 14-20 entitled: "An Ordinance confirming the Mayor's appointment of the City Attorney and setting the salary of the City Attorney" was introduced and read.

Mayor Bach described Wynetta Massey's 24 years of experience and dedicated service to the City of Colorado Springs. He encouraged Council's confirmation of her appointment as City Attorney/Chief Legal Officer.

Ms. Massey explained her ethical commitment as guided by the American Bar Association's Rules of Professional Conduct. She explained her legal service and her loyalty are focused towards what is best for the City as a whole, which includes the legal guidance given to the Mayor, the City Council and to City Enterprises.

Councilmembers acknowledged her extraordinary depth of legal knowledge relevant to the City of Colorado Springs. However, Councilmember Collins was not supportive of the recommended salary.

Kanda Calef spoke regarding separation and balance of powers.

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Douglas Bruce spoke against the recommended salary.

Deputy City Attorney Florczak and other legal and administrative representatives of the City Attorney's Office were present to support Ms. Massey's confirmation.

Councilmember Miller read a statement and described his great respect for Ms. Massey; however, he does not support the appointment indicating his perspective is that the City Attorney should be an elected position. Councilmember Miller's statement is reproduced below:

*"I have tremendous respect for the professional experience, insights and the personal attributes of Wynetta Massey that would make a very qualified City Attorney. However, I believe there are some unresolved issues. Consequently, I will not be voting for confirmation for primarily two reasons: 1) When City Council passed a budget ordinance and overrode a mayoral veto last December, that ordinance was attested by the city clerk and became law. The mayor went on television and publicly stated he would disregard the law because he doesn't feel it complies with the charter. We live in a land of laws. Any middle school civics class student will tell you that conflicts between the executive and legislative branches are resolved through the courts—not by executive fiat. The rule of law must be upheld. Maybe the mayor's argument would prevail—but he is not the authority to resolve such issues. The ordinance is the law of the land until it is repealed by the Council or overturned BY THE COURT SYSTEM. I have been asking how the CAO plans to proceed if the mayor follows through on his promise to break the law and demand that his employees break the law since December 19<sup>th</sup>—FOR THREE MONTHS. No answer has been given. In fact, on the occasion of a subsequent veto, certain members of Council were told by the mayor that he would ignore that law too even if it was overridden. He feels like has the ability to ignore whatever laws he wants because of the inaction of the CAO.*

*The second reason is because of recent work product from the CAO. Not simply because I disagree with the outcome of the draft resolution that will bind the city to the state, and the opinions rendered about C4C issues, but because, although the only authority to appoint outside legal counsel in the charter is given to City Council, the City Attorney's Office has allowed unfettered access to outside counsel for the executive branch for council-requested opinions and not allowing the same access to City Council. There needs to be equity to give ideas from both the executive and the legislative branches independently. I would have to feel confident such equity will be honored. Perhaps this is also the time to consider a city attorney that serves the people and that is elected by the people"*

Motion by Bennett, second by Snider, that the Ordinance be passed as introduced.

Ayes: Bennett, King, Knight, Martin, Pico, Snider  
Noes: Collins, Miller  
Absent: Gaebler

The motion passed on a 6-2-1 vote with Councilmember Gaebler excused.

12. Resolution No. 29-14 was presented: "A Resolution confirming the Mayor's appointment of Director of Aviation."

Mayor Bach introduced his request for confirmation of Dan Gallagher as the Aviation Director. He described Mr. Gallagher's long history of airport experience, his relevant degrees (a

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Master's in Business Administration and Bachelors of Science in Aviation), as well as the impact his skills and expertise have brought to the administration of the airport.

Mr. Gallagher expressed his appreciation for the consideration and acceptance of the appointment.

President King and Councilmembers Bennett, Martin, and Snider spoke in support of Dan Gallagher's confirmation.

Douglas Bruce described his concerns relative to the appointment. Mayor Bach responded to issues raised by Mr. Bruce regarding the bonding, designated salary, and to the airport rule regarding marijuana.

Councilmember Collins described her disagreement with the City salary schedules.

Motion by Bennett, second by Martin, that the confirmation of Dan Gallagher as Airport Director be adopted.

Ayes: Bennett, King, Knight, Martin, Pico, Snider

Noes: Collins, Miller

Absent: Gaebler

The motion passed on a 6-2-1 vote, with Councilmember Gaebler absent.

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**ITEMS CALLED OFF CONSENT CALENDAR**

A-2. Appointments to various Boards and Commissions.

Councilmember Miller stated that he believed the City does not need the Downtown Review Board due to other City planning entities that exist.

Motion by Bennett, second by Martin, that the appointments be approved.

Ayes: Bennett, King, Knight, Martin, Pico, Snider

Noes: Miller, Collins

Absent: Gaebler

The motion passed on a 6-2-1 vote with Councilmember Gaebler excused.

**UTILITIES BUSINESS**

9. Ordinance No. 14-21 entitled: “An Ordinance amending Section 108 (Utilities Contracts) of Article 1 (General Provisions) of Chapter 12 (Utilities) of the Code of the City of Colorado Springs 2001, as amended, pertaining to contract authority” was introduced and read

Bill Cherrier, CSU’s Chief Planning and Finance Officer, provided an overview of the Ordinance amending the City Code to establish clarity for contracting authority between the Executive Director for Utilities and the Mayor.

Douglas Bruce described an inability to amend the Charter by Ordinance.

Motion by Bennett, second by Snider, that the Ordinance be passed as introduced.

Ayes: Bennett, Collins, King, Knight, Martin, Miller, Pico, Snider

Noes: None

Absent: Gaebler

The motion passed unanimously on an 8-0-1 vote, with Councilmember Gaebler excused.

10. Public hearing for consideration of a Resolution modifying the Water Shortage Tariff.

Chris Bidlack, City Attorney - Utilities, described the procedural guidelines for the 2014 Water Shortage Tariff Rate Case Hearing.

Councilmember Miller described the Finance Committee’s review of the rate case and their recommendation which was also presented as an alternative consideration.

Bill Cherrier, Utilities Chief Planning and Finance Officer, reviewed details of the rate case filing, the proposed rate changes, and customer outreach that had been performed.

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Denny Nester, City Auditor, described the Auditor's review of the rate filing and confirmed the methodology encourages conservation and maintains revenue.

Public Comment: There was none.

City Council questions/comments:

Councilmembers Miller and Knight described the Finance Committee's proposed alternative which was approved 2-1 by the Finance Committee and encouraged consideration of the alternative proposal.

Councilmember Knight requested CSU staff relook at their recommended rate calculations and stressed revenue neutrality. He expressed concern relative to the calculations presented by staff and requested updated information be received before the next presentation.

Both Councilmembers Collins and Knight expressed frustration at receiving a large packet of information from CSU the day of the Council meeting.

Motion by Miller, second by Knight, to amend the staff recommendation for the Water Shortage Tariff using the proposed formula presented by the Finance Committee

Ayes: Collins, King, Knight, Miller  
Noes: Bennett, Martin, Pico, Snider  
Absent: Gaebler

The motion failed on a vote of 4-4-1 with Councilmember Gaebler excused.

Motion by Snider, second by Martin, to approve the Water Shortage Tariff presented by Staff

Ayes: Bennett, Martin, Pico, Snider  
Noes: Collins, King, Knight, Miller  
Absent: Gaebler

The motion failed on a vote of 4-4-1 with Councilmember Gaebler excused.

Due to lack of consensus, it was requested that Mr. Bidlack prepare the decisions and orders summarizing today's meeting and bring the two options forward for Council's consideration at the Work Session on April 7<sup>th</sup>. Based on Council's choice of direction during the Work Session presentation, orders will be prepared and scheduled for first presentation the following day at the Regular Council meeting on April 8<sup>th</sup>.

### **UNFINISHED BUSINESS**

There was no unfinished business.

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**NEW BUSINESS (Continued, Items 11 & 12 heard earlier)**

13. Ordinance No. 14-22 entitled “An Ordinance creating a new Section 450 (Sales or Use Tax in a Commercial Aeronautical Zone) of Part 4 (Exempt Transactions, Commodities, and Persons; Deductions) of Article 7 (Sales and Use Tax) of Chapter 2 (Business Licensing, Liquor Regulation and Taxation) of the Code of the City of Colorado Springs 2001, as amended, pertaining to a Sales or Use Tax exemption within a Commercial Aeronautical Zone” was introduced and read.

Dan Gallagher, Aviation Director, introduced Dick Janitell of the Westside Operators’ Group who spoke to encourage support for the ordinance to stimulate business growth and opportunities within the Commercial Aeronautical Zone.

Councilmember Miller read a prepared statement regarding the ordinance giving consideration to specific types of businesses and requested a broader scope to include other business types. Councilmember Collins agreed with Councilmember Miller’s request.

President King described his support and sponsorship of the Commercial Aeronautical Zone Ordinance.

Motion by Bennett, second by Martin, that the Ordinance be passed as introduced.

Ayes: Bennett, King, Knight, Martin, Pico, Snider  
Noes: Collins, Miller  
Absent: Gaebler

The motion passed on a 6-2-1 vote with Councilmember Gaebler excused.

14. CPC MP 04-00280-A1MJ13: Master Plan Amendment Design Guidelines for the North Nevada Urban Renewal area.

Legislative Counsel Andrews described there was a need for a Resolution to be included in the presentation and respectfully requested the item be postponed.

Councilmember Knight described his prior request to reach out for input from more than those within the 1,000 ft. parameter. He indicated the effort had been delayed prompting him to send out e-mails to several homeowner associations. He stated he heard back from two out of the six who indicated they were in favor of the design guidelines amendment.

Gary Dearing asked to confirm that the design guidelines are only an advisory document to be used by CSURA and confirmed with Peter Wysocki that the guidelines only apply if the footprint, or use type, of an existing building is changed. Mr. Wysocki also clarified that the requirements are suggestive rather than prescriptive city zone requirements and further that UCCS, as a state institution, is exempt from local zoning controls.

Walter Lawson requested to not enshrine the guidelines as the epitome of design qualities and requested further consideration.

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Councilmember Miller commented about the need for equity and consistency throughout the City.

Motion by Bennett, second by Pico, to postpone the item to April 8<sup>th</sup>.

Ayes: Bennett, King, Knight, Martin, Miller, Pico, Snider  
Noes: Collins  
Absent: Gaebler

The motion passed on a 7-1-1 vote with Councilmember Gaebler absent.

15. Resolution No. 30-14 was presented: “A Resolution recognizing the Colorado Springs City Council Engagement Program.”

Councilmember Martin introduced County Commissioner Eric Phillips who described the proposed engagement program goals and objectives to stimulate citizen and minority involvement with the City’s Boards and Commissions.

Councilmember Miller asked procedural questions, yet expressed his support of the concept.

Councilmember Collins read a statement and expressed her opposition.

Motion by Snider, second by Martin, that the Resolution be adopted.

Ayes: Bennett, King, Knight, Martin, Miller, Pico, Snider  
Noes: Collins  
Absent: Gaebler

The motion passed on a 7-1-1 vote with Councilmember Gaebler excused/

### **PUBLIC HEARING**

16. CPC AP 14-00002: (Quasi-Judicial Matter) Public hearing on an appeal by the City of Colorado Springs Administration regarding the Planning Commission’s action on February 20, 2014, approval of an appeal of the Notice and Order issued against Studio A64 located at 332 E. Colorado Avenue.

Peter Wysocki described the request for postponement to April 8<sup>th</sup>, at which time it will be at Council’s discretion to postpone for an additional two weeks if necessary.

Motion by Bennett, second by Martin, to postpone to the April 8<sup>th</sup> meeting.

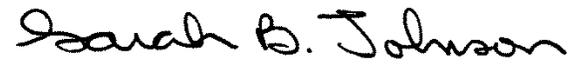
Ayes: Bennett, Collins, King, Knight, Martin, Miller, Pico, Snider  
Noes: None  
Absent: Gaebler

The motion passed unanimously on an 8-0-1 vote with Councilmember Gaebler absent.

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At 5:21, there being no further business to come before City Council,

COUNCIL ADJOURNED

A handwritten signature in black ink that reads "Sarah B. Johnson". The signature is written in a cursive style with a large, prominent initial 'S'.

Sarah B. Johnson  
City Clerk