



# Commerce City

7887 E. 60th Ave.  
Commerce City, CO 80022  
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## Meeting Minutes - Final City Council

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Monday, June 18, 2012

5:30 PM

Council Chambers

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### 1. Call to Order/Roll Call

*A regular meeting of the City Council of the City of Commerce City was called to order by Mayor Ford on June 18, 2012, at 5:30 PM.*

**Present:** 9 - Mayor Sean Ford , Mayor Pro-Tem Dominick Moreno, Council Member Jim Benson, Council Member Jadie Carson, Council Member Ricky A. Teter, Council Member René Bullock, Council Member Crystal Elliott, Council Member Jason McEldowney and Council Member Steven J. Douglas

### 2. Executive Session

**A motion was made by Council Member Bullock, seconded by Council Member Douglas, to enter into the executive session pursuant to CRS 24-6-402 (4)(e) for the purpose of instructing negotiators concerning the Mile High Greyhound Park Development. VOICE VOTE: Unanimous, all present affirmed.**

### 3. Pledge of Allegiance

*The Pledge of Allegiance was recited.*

### 4. Audience Introduction

*The audience introduced themselves.*

### 5. Presentations & Proclamations

**Proc 12-011** Proclamation in special recognition and tribute to Ben Martinez Sr.

*Mayor Ford read a proclamation celebrating the life of Ben Martinez, Sr.*

**A motion was made by Mayor Pro-Tem Moreno, seconded by Council Member McEldowney, that this Proclamation be approved. VOICE VOTE: Unanimous, all present affirmed.**

**Proc 12-012** Brake for Bella Proclamation

*Mayor Ford read a proclamation recognizing the Brake for Bella Summer Safe Neighborhood Driving Awareness Campaign.*

**A motion was made by Council Member McEldowney, seconded by Council Member Bullock, that this Proclamation be approved. VOICE VOTE: Unanimous, all present affirmed.**

**Pres 12-119 Briefing by the Colorado Department of Public Health and the Environment (CDPHE) on the clean up efforts currently underway at Sand Creek.**

*Representatives from the Colorado Department of Public Health and the Environment appeared before Council to brief them on the cleanup efforts underway at Sand Creek. In 2008, Suncor and the health department entered into an operating agreement that directed the refinery to clean up any releases or spills and to contain their contamination onto their site. In February 2011, a release from an underground line was discovered. Prior to the seep into Sand Creek occurring in November of 2011, the health department issued Suncor a notice of additional work to implement stabilization measures on site, halt any off site migration from their property, investigate any locations where contamination may be off site, determine contamination sources on site and implement corrective clean up measures. Suncor implemented various stabilization measures that included: installation of various recovery wells, installation of sub-surface trenches and installation of underground dams.*

*After the release of contamination into Sand Creek in November 2011, the department of health issued Suncor an interim measure order to stop contaminants from migrating into the creek, perform bank inspections, sample surface water in the the creek and the Platte River, sample air and buildings on the Metro Wastewater property and mitigate any indoor air issues they had and investigate groundwater contamination. In December 2011, the department of health issued another interim measure order to install a recovery system along the Metro Wastewater property line, stop drinking water at the refinery, investigate their own water supply, sample and investigate water supply at the wastewater property.*

*In response to questions from Council, the department of public health representative believes Suncor has been very responsive in mitigating the contamination.*

**Pres 12-118 Presentation of the 2011 Comprehensive Annual Financial Report (CAFR)**

*Kim Higgins with EideBailly addressed Council regarding the independent auditors' opinion. Prior period adjustments were made, the total net assets decreased \$7.2 million from 2010, the city's net assets decreased \$7.2 million from 2010, total revenues decreased \$11.2 million from 2010, tax revenues decreased \$14.8 million from 2010, charges for services increased \$217,000 over 2010 and total expenses increased \$8.5 million over 2010.*

*Council members McEldowney and Bullock moved and seconded to accept the findings of the audit report.*

*VOICE VOTE: Unanimous; all present affirmed*

**6. Citizen Communication**

*There was no citizen communication.*

**7. Approval of Minutes**

**12-0521** Meeting Minutes of May 21, 2012

**A motion was made by Mayor Pro-Tem Moreno, seconded by Council Member McEldowney, that the minutes be approved. VOTE:**

**Aye:** 8 - Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott, Council Member McEldowney and Council Member Douglas

**Abstained:** 1 - Mayor Ford

## 8. Consent Agenda

## 9. Public Hearings

**ORD  
#Z-901-12** Rezoning of property located at 7065 E. 54th Place (formerly "Club 54") from R-2 and C-3 (currently split-zoned) to I-2.

*Mayor Ford opened the public hearing.*

*Planner Brian Garner presented the case. The applicant, John Bachman, is seeking to subdivide the three lots currently zoned as R-2 and C-3 into one new lot zoned I-2. There is a single family residence on the property that would be demolished and re-graded with recycled asphalt. A lease has been signed by a major landscaper that would bring additional jobs to the city.*

*John Bachman, applicant, appeared to answer questions.*

*No one appeared before Council to speak in favor or opposition of the ordinance, and the public hearing was closed.*

*Council members McEldowney and Moreno moved and seconded to accept the findings and recommendations of the planning commission.*

*VOICE VOTE: Unanimous; all present affirmed*

**A motion was made by Council Member Benson, seconded by Council Member McEldowney, that this zoning ordinance be introduced by Council as seated and approved on first reading. VOTE:**

**Aye:** 9 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott, Council Member McEldowney and Council Member Douglas

**Res 2012-20** *RESOLUTION APPROVING SUBDIVISION PLAT IN CASE #S-587-12*

**A motion was made by Council Member McEldowney, seconded by Mayor Pro-Tem Moreno, that this resolution be approved. VOICE VOTE: Unanimous, all present affirmed.**

**Aye:** 9 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott, Council Member McEldowney and Council Member Douglas

**CU-96-12**      **CONDITIONAL USE PERMIT FOR OPERATION OF A WINDSHIELD REPAIR BUSINESS/LIGHT AUTO REPAIR BUSINESS**

*Mayor Ford opened the public hearing.*

*Planner Brian Garner presented the case. The applicant, Naim Kargar, is seeking to operate a glass/windshield repair and light auto repair business in the Derby District.*

*The applicant, Naim Kargar, appeared before Council to answer questions.*

*No one appeared before Council in favor or opposition to this permit, and the public hearing portion was closed.*

*Council members McEldowney and Moreno moved and seconded to accept the findings and recommendations of the planning commission.*

*VOICE VOTE: Unanimous; all present affirmed*

**A motion was made by Mayor Pro-Tem Moreno, seconded by Council Member McEldowney, that this Conditional Use Permit be approved VOTE:**

**Aye:** 9 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott, Council Member McEldowney and Council Member Douglas

## 10. Resolutions

**Res 2012-21**      **RESOLUTION AMENDING A SECTION 401(a) MONEY PURCHASE PLAN OF THE CITY OF COMMERCE CITY, COLORADO IDENTIFIED AS ICMA-RC PLAN NUMBER 108677**

*Council members McEldowney and Bullock moved and seconded to provide informational materials for employees to review upon application.*

*VOICE VOTE: Unanimous; all present affirmed*

**A motion was made by Council Member Bullock, seconded by Council Member McEldowney, that this resolution be approved. VOICE VOTE: Unanimous, all present affirmed.**

**Aye:** 9 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott, Council Member McEldowney and Council Member Douglas

**Res 2012-23 RESOLUTION APPROVING INTERGOVERNMENTAL AGREEMENT BETWEEN THE REGIONAL TRANSPORTATION DISTRICT AND THE CITY OF COMMERCE CITY REGARDING FUNDING FOR A 72<sup>ND</sup> AVENUE STATION AREA MASTER PLAN**

**A motion was made by Mayor Pro-Tem Moreno, seconded by Council Member McEldowney, that this resolution be approved. VOICE VOTE:**

**Aye:** 8 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Elliott, Council Member McEldowney and Council Member Douglas

**Nay:** 1 - Council Member Bullock

**Res 2012-24 RESOLUTION APPROVING AMENDMENT TO RESOLUTION NO. 2012-11 REGARDING THE NORTHEAST GREENWAY CORRIDOR ADVISORY COMMITTEE COMPREHENSIVE PLAN FOR ALLOCATING FUNDS FROM THE ROCKY MOUNTAIN ARSENAL NATURAL RESOURCE DAMAGES SETTLEMENT**

**A motion was made by Council Member McEldowney, seconded by Council Member Bullock, that this resolution be approved. VOICE VOTE: Unanimous, all present affirmed.**

**Aye:** 9 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott, Council Member McEldowney and Council Member Douglas

**Res 2012-25 RESOLUTION SETTING OIL AND GAS PERMIT APPLICATION FEE AND AMENDING DIRECTORY OF CITY FEES AND CHARGES**

**A motion was made by Council Member McEldowney, seconded by Council Member Bullock, that this resolution be approved. VOICE VOTE: Unanimous, all present affirmed.**

**Aye:** 9 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott, Council Member McEldowney and Council Member Douglas

## **11. Ordinances on 1st Reading**

**Ordinance  
1891** AN ORDINANCE AMENDING ARTICLES III, V AND XI OF THE CITY'S  
LAND DEVELOPMENT CODE TO REVISE AND ADD REGULATIONS  
RELATING TO SUBSURFACE EXTRACTION AND OIL AND GAS  
EXPLORATION

*The following individuals addressed Council regarding this ordinance:*

*Andrew Casper, Colorado Oil and Gas Association  
Teresa Foster, 712 Thornwood Way, Longmont  
Dan Stapleton, 9954 Telluride Street  
Ana Stapleton, 9954 Telluride Street  
Kristi Douglas, 10970 Unity Pkwy  
Jodee Bacon, 17087 E. 106th Ave.  
Beth Barta, 10094 Telluride Street  
Ashley Collins, 10094 Telluride Street  
Jana Vogel 10231 Rifle St.  
Kathy McIntyre, 17503 E. 104th Wy.  
Tori Petersen, 10107 Telluride Street  
Pat Dunn, 12568 E. Alaska Pl., Aurora  
Randy Web, 12854 E. Villanova Dr., Aurora  
Robert Winkler, 3001 63rd Ave., Greeley  
Harvest Thomas, 7110 E. 60th Way  
Judy Nicholaisen, 13160 Kearney St., Thornton  
Marsha Miller, 4074 S. Quince St. Denver  
Phillip Doe, 7140 S. Depew St. Littleton  
Guillermo Serna, 14122 E. 102nd Place*

*Council members Moreno and Benson moved and seconded to direct staff to prepare an amendment for second reading of Ordinance 1891 that allows residence within the notice area of a pending oil and gas permit to appeal to the administrative judge.*

*VOICE VOTE: Unanimous; all present affirmed*

**A motion was made by Council Member McEldowney, seconded by Council Member Douglas, that this Ordinance be introduced by council as seated and approved on first reading. VOTE:**

**Aye:** 9 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott, Council Member McEldowney and Council Member Douglas

**Ordinance  
1915** AN ORDINANCE TO REPEAL ORDINANCE 1881 AND AMEND THE  
FRANCHISE BETWEEN THE CITY OF COMMERCE CITY AND  
PUBLIC SERVICE COMPANY OF COLORADO d/b/a XCEL ENERGY

**A motion was made by Council Member McEldowney, seconded by Mayor Pro-Tem Moreno, that this ordinance be introduced by council as seated and approved on first reading. VOTE:**

**Aye:** 9 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott, Council Member McEldowney and Council Member Douglas

**12. Ordinances on 2nd Reading**

**Ordinance 1894** AN ORDINANCE amending chapter 8 of the commerce city revised municipal code to provide for the licensing and regulation of medical marijuana businesses

**A motion was made by Council Member McEldowney, seconded by Council Member Bullock, that this Ordinance be approved on second & final reading.**

**VOTE:**

**Aye:** 8 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott and Council Member McEldowney

**Nay:** 1 - Council Member Douglas

**Ordinance 1897** AN ORDINANCE amending section 21-5249, section 21-11200, and table v-1 of the city of commerce city's land development code

**A motion was made by Council Member McEldowney, seconded by Council Member Bullock, that this ordinance be approved on second and final reading.**

**VOTE:**

**Aye:** 9 - Mayor Ford, Mayor Pro-Tem Moreno, Council Member Benson, Council Member Carson, Council Member Teter, Council Member Bullock, Council Member Elliott, Council Member McEldowney and Council Member Douglas

**14. Executive Session**

**A motion was made by Mayor Pro-Tem Dominick Moreno, seconded by Council Member Jason McEldowney, that the executive session be continued. VOICE**

**VOTE: Unanimous; all present affirmed.**

### 13. Administrative Council Business

*Council members Bullock and Benson moved and seconded to approve paying alternates, on the paying boards and commissions, one-half the pay of regular members.*

*VOICE VOTE: Unanimous; all present affirmed*

*In response to questions from Council, the city clerk described the current practice for filling board and commission vacancies. She also stated that it would be difficult to schedule Council interviews for board and commission applications every four to six weeks based on scheduling challenges with Council. Ms. Bauer offered a possible solution by recommending Council form a sub-committee of members to conduct interviews.*

*Council members Benson and McEldowney moved and seconded to name a team of council members and allocate \$100 per team member for the Relay for Life Event.*

*VOICE VOTE: 8 aye, 1 excused (Teter was out of the room at the time of the vote)*

*Mayor Ford and Councilman McEldowney moved and seconded to name the entire Council as a Relay of Life team.*

*VOICE VOTE: Unanimous; all present affirmed*

*Councilman Douglas would like students, from Prairie View High School and Adams City High School, who play golf, to have free use of the Buffalo Run Golf Course.*

*Mayor Ford expressed concern over the cost being charged to the Commerce City Rotary for hosting their tournament at the Buffalo Rung Golf Course.*

*Mayor Ford and Councilman McEldowney moved and seconded to direct the communication staff to conduct a marketing campaign on the prohibition of fireworks in the city and promotion of the Fourth of July event at Dick's*

*VOICE VOTE: Unanimous; all present affirmed*

### 15. Reports

*Mayor and Council reported on attending various meetings and events. City Manager McBroom outlined the contents of his weekly report to Council.*

### 16. Adjourn

*The meeting adjourned at 12:02 a.m.*