



Commerce City

7887 E. 60th Ave.
Commerce City, CO 80022
c3gov.com

Meeting Minutes - Final City Council

Monday, June 18, 2012

5:30 PM

Council Chambers

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](#)

AN ORDINANCE REZONING FROM C-3 and R-2 TO I-2 ZONE DISTRICT THE PROPERTIES DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF, LOCATED AT 7021, 7055, AND 7065 EAST 54TH PLACE, COMMERCE CITY, COLORADO, AND AMENDING THE ZONING MAP OF THE CITY OF COMMERCE CITY, COLORADO TO REFLECT SAID REZONING.

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 72ND 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

Councilman Douglas moved to direct staff to make an amendment to Ordinance 1891 to look at greater setback around the arsenal than what it is right now: one mile.

THE MOTION FAILED FOR LACK OF A SECOND.

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 Run 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 Sporting Goods Park.

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.