



Commerce City

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

Meeting Minutes - Draft

City Council

Monday, November 2, 2020

6:15 PM This meeting will be conducted electronically via Zoom.
There will be no physical meeting. Public access to this
meeting can be found in the agenda below. The meeting will
also be live on Channel 8 and c3gov.com/video

Regular Meeting via Zoom

Per Ordinance 2271 the City Manager is authorized to conduct this meeting via Zoom

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 Huseman on November 2, 2020, at 6:11 PM.

A motion was made by Council Member Grimes, seconded by Council Member Hurst, to excuse council members not present. VOTE: 7 - Aye, 2 - Excused (Guardiola, Noble)

Council Member Noble arrived at 6:13 PM.

Council Member Guardiola arrived at 6:24 PM.

Present: 9 - Mayor Benjamin Huseman, Mayor Pro Tem Nicole Frank, Council Member Oscar Madera, Council Member Jennifer Allen-Thomas, Council Member Susan Noble, Council Member Jose Guardiola, Council Member Craig Hurst, Council Member Meghan Grimes and Council Member Robyn Smith

2. Pledge of Allegiance

The Pledge of Allegiance was recited.

3. Citizen Communication

[20-90](#)

Citizen Communication - City Council will conduct this meeting virtually via Zoom as the Civic Center remains closed out of precaution for COVID-19. There will be the opportunity for public comment at the meeting during citizen communication and/or for each agenda item. Comments may be consolidated under the Citizen Comment part of the meeting. The public can submit their comments live during the meeting via Zoom or in advance using the online form or mail. Visit c3gov.com/council and click on "Meeting agendas" for the full meeting agenda and "Virtual Meeting and Public Comment Instructions" for instructions on how to submit live verbal and written comments. The deadline to register to comment and to submit written comments is noon on November 2.

Ben Martinez, with El Jardin restaurant, and Nick Hoover, with Colorado Restaurant Association, spoke in support for Ordinance 2300.

4. Presentations

[Pres 20-396](#)

COVID-19 Update

Interim City Manager Tinklenberg and Interim Deputy City Manager Blakeman provided an update on the city's response during the COVID-19 crisis.

[Pres 20-293](#)

Oil and Gas Monthly Update

Domenic Martinelli, environmental planner, provided the oil and gas monthly update.

5. Consent Agenda

Council Member Noble requested to pull minutes of September 21, 2020, and October 19, 2020, from the consent agenda.

A motion was made by Council Member Hurst, seconded by Council Member Allen-Thomas, to approve the consent agenda as amended. ROLL CALL VOTE:

Aye: 9 - Mayor Huseman, Mayor Pro Tem Frank, Council Member Madera, Council Member Allen-Thomas, Council Member Noble, Council Member Guardiola, Council Member Hurst, Council Member Grimes and Council Member Smith

[Min 20-166](#)

Minutes of the May 28, 2020 Special Meeting

[Min 20-167](#)

Minutes of September 21, 2020

Council Member Noble requested the minutes be pulled from the consent agenda to verify that they were the correct minutes for the stated meeting.

A motion was made by Council Member Noble, seconded by Council Member Madera, that the minutes be continued. VOTE:

Aye: 9 - Mayor Huseman, Mayor Pro Tem Frank, Council Member Madera, Council Member Allen-Thomas, Council Member Noble, Council Member Guardiola, Council Member Hurst, Council Member Grimes and Council Member Smith

[Min 20-168](#) Minutes of the September 29, 2020 Special Meeting

[Min 20-169](#) Minutes of October 5, 2020

[Min 20-170](#) Minutes of the October 12, 2020 Special Meeting

[Min 20-171](#) Minutes of October 19, 2020

Council Member Noble requested the minutes be pulled from the consent agenda to include language that stated there were no objections by council on the oil and gas financial assurances item.

A motion was made by Council Member Noble, seconded by Council Member Allen-Thomas, to amend the minutes to include language that stated there were no objections by council on the oil and gas financial assurances item. VOTE: 4 - Aye (Allen-Thomas, Guardiola, Madera, Noble) 5 - Nay (Frank, Grimes, Hurst, Huseman, Smith). Motion Failed.

A motion was made by Council Member Madera, seconded by Council Member Grimes, that the minutes be approved. VOTE:

Aye: 7 - Mayor Huseman, Mayor Pro Tem Frank, Council Member Madera, Council Member Guardiola, Council Member Hurst, Council Member Grimes and Council Member Smith

Nay: 2 - Council Member Allen-Thomas and Council Member Noble

[Ord 2295](#) AN ORDINANCE AMENDING THE COMMERCE CITY SALES AND USE TAX CODE, ARTICLE I OF CHAPTER 20 OF THE COMMERCE CITY REVISED MUNICIPAL CODE, TO EXEMPT THE PASSTHROUGH OF FEDERAL EXCISE TAX IMPOSED ON TRUCKS, TRAILERS, AND TRACTORS FROM TAXATION

[Ord 2296](#) AN ORDINANCE AMENDING THE 2020 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO BY THE RECOGNITION OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS IN THE AMOUNT OF \$419,175 AND THE AUTHORIZATION OF THE EXPENDITURE THEREOF.

[Ord 2297](#) AN ORDINANCE AMENDING THE 2020 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO, BY REAFFIRMING CERTAIN PRIOR APPROPRIATIONS, FOR A TOTAL AMOUNT OF \$1,463,242.55 AND AUTHORIZING THE EXPENDITURES THEREOF.

[Ord 2299](#) AN ORDINANCE AMENDING THE 2020 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO BY APPROPRIATING \$25,000 FROM THE GENERAL FUND TO COVER INITIAL EXPENSES RELATED TO THE RFP FOR ENVIRONMENTAL CONSULTING SERVICES AND AUTHORIZATION OF THE EXPENDITURE THEREOF.

[Res 2020-79](#) RESOLUTION AUTHORIZING AWARD OF CONTRACT FOR INSTALLATION OF THREE EMERGENCY STANDBY GENERATORS FOR THE MUNICIPAL SERVICES CENTER COMPLEX TO COLORADO ELECTRIC & POWER SYSTEMS, INC.

[Res 2020-86](#) RESOLUTION AUTHORIZING INTERGOVERNMENTAL AGREEMENT WITH MILE HIGH FLOOD DISTRICT, CITY AND COUNTY OF DENVER, AND ADAMS COUNTY REGARDING FUNDING OF MAJOR DRAINAGEWAY PLANNING AND FLOOD HAZARD AREA DELINEATION FOR SECOND CREEK TRIBUTARIES

[Res 2020-87](#) RESOLUTION AUTHORIZING AND RATIFYING RENEWALS OF PROFESSIONAL SERVICES AGREEMENT WITH EIDE BAILLY LLP FOR AUDIT SERVICES

6. Public Hearings

[Res 2020-27](#) RESOLUTION ADOPTING THE BUDGET FOR THE CITY OF COMMERCE CITY, COLORADO FOR THE YEAR 2021 AND PROVIDING FOR 2020 COMMERCE CITY TAX LEVY

Mayor Huseman reopened the public hearing.

No public testimony was received.

Mayor Huseman closed the public hearing.

A motion was made by Mayor Pro Tem Frank, seconded by Council Member Allen-Thomas, that this resolution be adopted. VOTE:

Aye: 9 - Mayor Huseman, Mayor Pro Tem Frank, Council Member Madera, Council Member Allen-Thomas, Council Member Noble, Council Member Guardiola, Council Member Hurst, Council Member Grimes and Council Member Smith

[CU-123-20](#)

Metro Wastewater Reclamation District is requesting a Conditional Use Permit for a 6.4 mile long wastewater pipeline project, along Second Creek, known as the Second Creek Interceptor (Extends from E. 81st Ave. and Tower Rd to E. 120th and Wheeling Street) and the extension of the existing Sand Creek Interceptor an additional 0.8 miles (near E. 64th Ave. and York St.).

Mayor Huseman reopened the public hearing.

Miles Graham and Mickey Conway, with Metro Wastewater Reclamation District, gave the applicant presentation for case # CU-123-20. Mr. Graham and Mr. Conway provided an update on the agreement between the Metro District and FRICO, existing infrastructure for the pipeline, the long term regional system planning, and the benefits the pipeline will provide for Commerce City.

Jenny Axmacher, Principal Planner, gave the City's presentation. Ms. Axmacher provided an update on the revised construction method, the Planning Commissions' recommendation to approve with conditions, an overview of those proposed conditions, and staffs' recommendation to approve the intergovernmental agreement.

No public testimony was received.

A motion was made by Mayor Pro Tem Frank, seconded by Council Member Grimes to accept the findings and recommendations of the planning commission. VOTE: 8 - Aye, 1 - Nay (Noble).

A motion was made by Mayor Pro Tem Frank, seconded by Council Member Madera, that this conditional use permit be approved. VOTE:

Aye: 9 - Mayor Huseman, Mayor Pro Tem Frank, Council Member Madera, Council Member Allen-Thomas, Council Member Noble, Council Member Guardiola, Council Member Hurst, Council Member Grimes and Council Member Smith

[CU-127-20](#)

Monroe Street Partners West is requesting a Conditional Use Permit to develop a metal recycling facility located at 5400 Monroe Street, zoned I-3 (Heavy Intensity Industrial District).

Mayor Huseman opened the public hearing for case #s CU-127-20 & CU-128-20 concurrently.

Jenny Axmacher, Principle Planner, made the City's presentation. Ms. Axmacher presented on the history of the proposed site, the applicant's request for both conditional use permits, the proposed use of the east and west facilities, environmental benefits, the Planning Commission's recommended conditions, and the Planning Commission's recommendation for approval with conditions.

Edward Dolan made the applicant presentation. Mr. Dolan presented on the company's experience and regulatory oversight.

No public testimony was received.

Mayor Huseman closed the public hearing.

A motion was made by Mayor Pro Tem Frank, seconded by Council Member Hurst, to accept the findings and recommendations of the Planning Commission in case # CU-127-20. VOTE: 9 - Aye

A motion was made by Mayor Pro Tem Frank, seconded by Council Member Grimes, that this conditional use permit be approved. VOTE:

Aye: 9 - Mayor Huseman, Mayor Pro Tem Frank, Council Member Madera, Council Member Allen-Thomas, Council Member Noble, Council Member Guardiola, Council Member Hurst, Council Member Grimes and Council Member Smith

[CU-128-20](#)

Monroe Street Partners West is requesting a Conditional Use Permit to develop a demolition debris recycling facility located at 5400 Monroe Street, zoned I-3 (Heavy Intensity Industrial District).

A motion was made by Mayor Pro Tem Frank, seconded by Council Member Madera, to accept the findings and recommendations of the Planning Commission for case # CU-128-20. VOTE: 9 - Aye

A motion was made by Mayor Pro Tem Frank, seconded by Council Member Grimes, that this conditional use permit be approved. VOTE:

Aye: 9 - Mayor Huseman, Mayor Pro Tem Frank, Council Member Madera, Council Member Allen-Thomas, Council Member Noble, Council Member Guardiola, Council Member Hurst, Council Member Grimes and Council Member Smith

7. Resolutions

[Res 2020-78](#)

RESOLUTION APPROVING INTERGOVERNMENTAL AGREEMENT
WITH THE METRO WASTEWATER RECLAMATION DISTRICT FOR
THE SECOND CREEK INTERCEPTOR PROJECT

A motion was made by Council Member Hurst, seconded by Council Member Grimes, that this resolution be adopted. VOTE:

Aye: 8 - Mayor Huseman, Mayor Pro Tem Frank, Council Member Madera, Council Member Allen-Thomas, Council Member Guardiola, Council Member Hurst, Council Member Grimes and Council Member Smith

Nay: 1 - Council Member Noble

8. Ordinances on 1st Reading

[Ord 2300](#)

AN ORDINANCE ENACTING A NEW ARTICLE IV IN CHAPTER 9 OF
THE COMMERCE CITY REVISED MUNICIPAL CODE TO ESTABLISH
A TEMPORARY MAXIMUM FEE THAT CAN BE CHARGED FOR
THIRD-PARTY FOOD DELIVERY SERVICES IN THE CITY OF
COMMERCE CITY, COLORADO

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

Aye: 9 - Mayor Huseman, Mayor Pro Tem Frank, Council Member Madera, Council Member Allen-Thomas, Council Member Noble, Council Member Guardiola, Council Member Hurst, Council Member Grimes and Council Member Smith

9. Ordinances on 2nd Reading

[Ord 2291](#)

AN ORDINANCE OF THE CITY OF COMMERCE CITY, COLORADO
ESTABLISHING ELECTRONIC AND EMERGENCY MEETING
PROCEDURES AND AUTHORIZING THE REMOTE CONDUCT OF
MEETINGS FOR THE CITY OF COMMERCE CITY DURING CERTAIN
DECLARED DISASTERS AND EMERGENCIES AND REPEALING
ORDINANCE 2271

A motion was made by Council Member Hurst, seconded by Council Member Allen-Thomas, that this ordinance be approved on second & final reading. VOTE:

Aye: 9 - Mayor Huseman, Mayor Pro Tem Frank, Council Member Madera, Council Member Allen-Thomas, Council Member Noble, Council Member Guardiola, Council Member Hurst, Council Member Grimes and Council Member Smith

10. Administrative Council Business

[20-86](#)**City Council Meeting Cancellations**

Council heard recommendations from Interim City Manager Tinklenberg on possible meeting cancellations for the remainder of 2020. No action was taken.

[20-88](#)**Litigation Settlement - Storniolo v. Commerce City et al.**

A motion was made by Mayor Pro Tem Frank, seconded by Council Member Hurst, to authorize the City Attorney to execute a settlement agreement in the lawsuit as described. VOTE: 9 - Aye

[20-89](#)**Interim City Manager Advisory Opinion**

Council heard Interim City Manager Tinklenberg's advisory opinion regarding a possible conflict of interest.

11. Council Reports

Interim City Manager Tinklenberg highlighted items presented in his weekly report provided to council earlier. The Mayor and Council reported on their attendance at various meetings and events.

12. Executive Session[20-87](#)

An executive session of the City Council, with its staff and attorneys, pursuant to C.R.S. 24-6-402(4)(b) to receive legal advice relative to pending and potential litigation.

Executive session was not held.

13. Adjourn

The meeting adjourned at 8:48 PM.

In accord with the city charter, the city clerk read the title to all ordinances and resolutions adopted by Council at this meeting.

Respectfully submitted by:

Jordan D. Roberts, Deputy City Clerk