



## Meeting Minutes - Draft

### City Council

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Monday, March 20, 2017

6:00 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 Pro Tem Bullock on Monday, March 20, 2017, at 6:05 p.m.*

*A motion was made by Council Member McEldowney, seconded by Council Member Amador, to excuse Mayor Ford and Council Member Teter from this meeting.*

*VOTE: 7 aye, 2 excused (Ford, Teter)*

**Present:** 7 - Council Member Jadie Carson, Mayor Pro Tem René Bullock, Council Member Crystal Elliott, Council Member Jason McEldowney, Council Member Steven J. Douglas, Council Member Andrew Amador and Council Member Paolo Diaz

**Excused:** 2 - Mayor Sean Ford and Council Member Rick A. Teter

#### 2. Pledge of Allegiance

*The Pledge of Allegiance was recited.*

#### 3. Executive Session

**17-16**

An executive session under CRS 24-6-402(4)(B) for the purposes of receiving legal advice on the application of Section 5.4 of the City Charter with respect to the enactment of an emergency ordinance to temporarily suspend the licensing of certain classes of marijuana businesses and the legal effect of such an ordinance

**A motion was made by Council Member Amador, seconded by Council Member Douglas, that an executive session, pursuant to CRS 24-6-402(4)(b), for the purpose of receiving legal advice on the application of Section 5.4 of the charter with respect to the enactment of an emergency ordinance to temporarily suspend the licensing of certain classes of marijuana businesses and the legal effect of such an ordinance. VOTE:**

**Aye:** 3 - Council Member Elliott, Council Member Douglas and Council Member Amador

**Nay:** 4 - Council Member Carson, Mayor Pro Tem Bullock, Council Member McEldowney and Council Member Diaz

**Excused:** 2 - Mayor Ford and Council Member Teter

#### 4. Audience Introduction

*The audience introduced themselves.*

## 5. Citizen Communication

*Fire Chief Vincel reported that the South Adams County Fire Department has achieved an ISO 2 rating.*

## 6. Approval of Minutes

### Min 17-18 Meeting Minutes of December 5, 2016

*A motion was made by Council Member McEldowney, seconded by Council Member Douglas, to allow Council Member Carson to abstain from voting on the minutes of December 5, 2016, because of her excused absence.*

*VOTE: 6 aye, 1 abstain (Carson), 2 excused (Ford, Teter)*

**A motion was made by Council Member Douglas, seconded by Council Member McEldowney, that the minutes be approved. VOTE:**

**Aye:** 6 - Mayor Pro Tem Bullock, Council Member Elliott, Council Member McEldowney, Council Member Douglas, Council Member Amador and Council Member Diaz

**Excused:** 2 - Mayor Ford and Council Member Teter

**Abstained:** 1 - Council Member Carson

## 7. Consent Agenda

*Council Member Douglas asked that Resolution 2017-30 be removed from the consent agenda for a separate discussion and vote.*

**A motion was made by Council Member McEldowney, seconded by Council Member Carson, to approve the consent agenda as amended. ROLL CALL VOTE:**

**Aye:** 7 - Council Member Carson, Mayor Pro Tem Bullock, Council Member Elliott, Council Member McEldowney, Council Member Douglas, Council Member Amador and Council Member Diaz

**Excused:** 2 - Mayor Ford and Council Member Teter

**Ord 2122** AN ORDINANCE AMENDING SECTION 21-4400(1) OF THE CITY OF COMMERCE CITY LAND DEVELOPMENT CODE BY ADOPTING THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S RECENT AND FUTURE UPDATED FLOOD INSURANCE STUDY AND ACCOMPANYING FLOOD INSURANCE RATE MAPS

**Res 2017-27** RESOLUTION APPROVING FOURTH AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES WITH CORE CONSULTANTS, INC. FOR THE TOWER ROAD WIDENING PROJECT

**Res 2017-30      RESOLUTION AUTHORIZING AWARD OF CONTRACT FOR CITYWIDE CUSTODIAL SERVICES TO ABM INDUSTRY GROUPS, LLC**

*Council Member Douglas asked if the city looked at creating jobs within the city instead of contracting janitorial services.*

*City Manager McBroom stated that the city has been contracting cleaning services for a very long time.*

*Public Works Director D'Andrea responded that staff did not look at alternate delivery methods. The goal was to consolidate services and therefore seek better prices. Fourteen proposals were received.*

**A motion was made by Council Member McEldowney, seconded by Council Member Elliott, that this resolution be adopted. VOTE:**

**Aye:** 7 - Council Member Carson, Mayor Pro Tem Bullock, Council Member Elliott, Council Member McEldowney, Council Member Douglas, Council Member Amador and Council Member Diaz

**Excused:** 2 - Mayor Ford and Council Member Teter

## **8. Public Hearings**

*The following council members stated that they had received emails regarding this case, prior to the public hearing and they could act in a fair and unbiased manner:*

*Council Member Amador  
Council Member Carson  
Council Member Diaz  
Mayor Pro Tem Bullock  
Council Member McEldowney  
Council Member Elliott  
Council Member Douglas*

*Mayor Pro Tem Bullock opened the combined public hearings on Resolution 2017-34 and Resolution 2017-17.*

*Planning Manager Timms gave a presentation on the two cases. The applicant is requesting a consolidation plat to combine one existing lot and one existing tract into one lot to support a proposed transportation terminal. The overall boundaries will remain the same and together will form a 21.72 acre parcel. In regards to the development plan, the applicant is proposing to construct a 65,130 square foot terminal building with office space and a 11,200 square foot maintenance building. This application includes the following site improvements: extending both Lima Street and Newark Street to the south from 104th Avenue, installing a concrete drive & parking surfaces, landscape buffer to mitigate views from Highway 2 and executing a public improvement agreement for future lighting at Newark Street/Peoria Parkway and 104th.*

*In response to questions from council, Mr. Timms stated that the current traffic count on 104th is 11,000 vehicles daily.*

*Daniel Onifer appeared on behalf of the applicant. The applicant is a development company who would be leasing the property to Central Transportation who currently*

operates a 40-door terminal out of Denver. The tenant is looking to expand to a 100-door facility. Crown is offering a \$50,000 non-refundable contribution toward a traffic signal at 104th and Newark/Peoria.

*Public Input:*

Jason Jones, 11451 Ironton St., opposed  
Teri Ursini, 9775 Lima Cir., support  
Carly Seller, 10563 Joplin St., opposed  
Lela Jones, 11451 Ironton, opposed  
Abram Jewell, 10084 Quintero St., opposed  
Neb Asfaw, 13968 E. 106th Pl., opposed  
Guillermo Serna, 14122 E. 102nd Pl., no position stated

Mr. Onifer appeared again in front of council to state that this location is a use by right.

The public hearing was closed.

## **Res 2017-34      RESOLUTION APPROVING SUBDIVISION PLAT IN CASE S-662-17**

*A motion was made by Council Member McEldowney, seconded by Council Member Amador, to accept the findings and recommendations of the planning commission.*

*VOTE: 6 aye, 1 nay (Douglas), 2 excused (Ford, Teter)*

**A motion was made by Council Member McEldowney, seconded by Council Member Diaz, that this resolution be adopted. VOTE:**

**Aye:** 6 - Council Member Carson, Mayor Pro Tem Bullock, Council Member Elliott, Council Member McEldowney, Council Member Amador and Council Member Diaz

**Nay:** 1 - Council Member Douglas

**Excused:** 2 - Mayor Ford and Council Member Teter

## **Res 2017-17      D-305-17: CROWN ENTERPRISES, INC. IS REQUESTING CONSIDERATION OF A DEVELOPMENT PLAN FOR A TRANSPORTATION TERMINAL FOR THE PROPERTY LOCATED AT 10251 NEWARK STREET, ZONED I-2.**

*Council Member McEldowney: Mr. Mayor Pro Tem, I would move to approve, with condition, Resolution 2017-17. I would move that we approve the development plan in Case D-305-15, with the condition that the applicant mitigates significant adverse impacts to the traffic by contributing to the cost of a traffic signal in an amount roughly proportional to proposed development's impact on traffic conditions as established in the traffic study, and entering findings of fact consistent therewith.*

*Mayor Pro Tem Bullock: I have a motion. Mr. Diaz*

*Council Member Diaz: Second.*

*Mayor Pro Tem Bullock: I have a motion and a second. Any discussion?*

*Council Member Amador: Yes. I'd like to have some discussion on that. I guess one*

*of the things that I don't understand is what is the possible traffic light cost for staff? I'm going to make an alternative motion here. I don't understand what we're going to be asked to make some improvements to the intersection and what good that cost might look like. So that's one of my concerns and is part of my discussion. I have some concerns about the adverse effects of approving a development plan and the motion that is before us right now. Understanding that the planning commission, I'm gonna call it a tie vote at this point, or equal at that point. Yes or no, and so with that being said, I'd like to make an alternative motion when the discussion is over, or should I make an alternative motion now?*

*Mayor Pro Tem Bullock: Ok. First I got to see if there's anymore discussion and I've had a motion and a second and I would have to ask the motioner and the second if they don't mind if you make... Well, I mean, first you make the motion and then they can see if they object to it.*

*City Attorney Sheesley: Mayor Pro Tem I think it would be more appropriate to amend the prior motion or have a vote on the current motion rather than having two competing motions at the same time.*

*Mayor Pro Tem Bullock: Ok. Would you like to amend the prior motion?*

*Council Member Amador: I would like to amend the prior motion.*

*City Attorney Sheesley: I will just keep track of where we are in the process because I know there will be a vote on that amendment in a second.*

*Mayor Pro Tem Bullock: Ok. Go ahead with your amendment.*

*Council Member Amador: The amendment would be to tentatively deny the development plan in Case D-305-15, instruct staff to prepare a resolution and written findings of fact consistent with the record and the discussion, and continue the matter and public hearing to April 3, 2017.*

*Mayor Pro Tem Bullock: Ok. We have an amended motion. Do I have a second?*

*Council Member Carson: Second.*

*Mayor Pro Tem Bullock: I have a motion and a second. We're going to vote on the amended motion right now. All those in favor, signify by saying aye.*

*Council Member McEldowney: Sorry. Can you do a roll-call vote, please?*

*Mayor Pro Tem Bullock: Yea. Ok. I was going to suggest that too after I heard the aye.*

*City Attorney Sheesley: I would also note, this is a vote to amend the motion, not the motion to deny.*

*City Clerk Bauer: Can you give me a second?*

*Council Member McEldowney: Everybody's clear on that? I want to make sure folks don't come back and say they didn't understand this. Can you please clarify?*

*City Attorney Sheesley: There's a motion to approve, with conditions, that was seconded. There is a motion, to amend that motion, to change it, effectively, to a motion for a tentative denial, with a continuance, to the next meeting and that was*

seconded. So the next action will be on the amendment. The motion to amend which will make the motion, if successful, would make the next vote on whether or not to approve, tentatively denying it, and continuing it. If this amendment fails, the pending motion would be Mr. McEldowney's motion to approve with conditions. Is that clear for everyone?

Mayor Pro Tem Bullock: Do you have a question Ms. Carson?

Council Member Carson: I do. I do believe that I fully understand it. I just have a question. In Mr. Amador's motion, because I guess I didn't pay close enough attention, are we addressing the fact of traffic concerns? Is that the resolution you are asking for?

Council Member Amador: The resolution is a tentative denial. I did put my rationale behind it; however, it has to go to a vote to see if it will pass for a tentative denial which the motion right now is for approval with conditions.

Council Member Carson: So we're just voting?

Mayor Pro Tem Bullock: Yes; and if you vote yes that's for tentative denial of the motion now, and it will be a new motion drawn up, correct?

City Attorney Sheesley: If you vote yes on this, and it succeeds, the next vote will be on the new motion effectively which is denying tentatively.

Mayor Pro Tem Bullock: In order to replace this motion with Andrew's motion. Let's vote.

VOTE: 5 aye, 2 nay (Diaz, Bullock), 2 excused (Ford, Teter)

Mayor Pro Tem Bullock: Ok. It's five yeses and two noes to replace the motion. So now Andrew's motion is the motion that we're going to vote on next.

City Attorney Sheesley: If I can restate that motion. Please correct me if I'm wrong. It is a motion to tentatively deny the development plan in Case D-305-15, to instruct staff to prepare a resolution and written findings of fact consistent with the record and discussion, and continue the matter and public hearing to April 3rd.

Council Member Amador: Correct.

City Attorney Sheesley: Ok. Thank you.

Mayor Pro Tem Bullock: Ok. Go ahead and vote.

Council Member Diaz: Can I have discussion on it real quick?

Mayor Pro Tem Bullock: Oh, Ok. Discussion. Mr. Diaz.

Council Member Diaz: City Attorney Sheesley, I'm just trying to clarify the reason why we would tentatively deny and go to a public hearing on April 3, 2017. That would allow two other council people to join us, as well as really gathering the facts and gaining the records; but at the same time, since we would still be in public hearing, does that mean that we will not be allowed to talk to others in public about this as they approach us?

City Attorney Sheesley: Yes. There are a couple of items in there. First off, the two

*absent council members would not be able to participate unless they review the entire record. However, the reason the public hearing would be continued would be to prevent, if additional evidence was to be introduced, or requested at some point, it wouldn't have to be re-noticed. What we could do alternatively, is simply continue the decision on the resolution that would be provided to the next council meeting without continuing the public hearing. So that would not re-open as well.*

*Council Member Diaz: Thank you.*

*Council Member McEldowney: Mr. Mayor.*

*Mayor Pro Tem Bullock: Mr. McEldowney.*

*Council Member McEldowney: But to get further clarification on your last comment, that would effectively close the public hearing. So any new information wouldn't be immediately admissible into that public hearing when we regroup without being renoticed.*

*City Attorney Sheesley: Yes. There would not automatically be a public hearing scheduled for the next meeting. It would only be re-opened if desired.*

*VOTE: 5 aye, 2 nay, (Bullock, McEldowney), 2 excused (Ford, Teter)*

## 9. Ordinances on 1st Reading

### Ord 2126

AN ORDINANCE AMENDING THE 2017 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO BY APPROPRIATING A PORTION OF THE DESIGNATED RETAINED EARNINGS IN THE INFORMATION TECHNOLOGY FUND IN THE AMOUNT OF \$500,000 FOR SERVER, STORAGE AND BACKUP UPGRADE SERVICES INCLUDING THE PROVISION OF RELATED HARDWARE AND SOFTWARE AND AUTHORIZING THE EXPENDITURE THEREOF.

**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:** 7 - Council Member Carson, Mayor Pro Tem Bullock, Council Member Elliott, Council Member McEldowney, Council Member Douglas, Council Member Amador and Council Member Diaz

**Excused:** 2 - Mayor Ford and Council Member Teter

## 10. Presentations

### Pres 17-150

Presentation to discuss a request for city fee waivers and rebate of non-dedicated sales and/or use tax on North Range Crossings, an affordable housing project.

*Deputy City Manager Tinklenberg gave a presentation regarding a tax waiver for North Range Crossing. Mr. Tinklenberg stated that the project includes 216 income qualified residential units to be located at 104th & Sable Blvd. The partnership is between the Commerce City Housing Authority and Dominion Management. Low*

*income housing tax credit was approved in 2016; however, the market has changed dramatically resulting in a funding gap. The total project cost is \$57 million and the funding sources come to \$55,600,000. The city is being asked to fund \$983,000 through taxes and fees.*

*A motion was made by Council Member McEldowney, seconded by Council Member Carson, to bring forward a resolution.*

*VOTE: 7 aye, 2 excused (Ford, Teter)*

## **11. Administrative Council Business**

*City Manager McBroom stated that during the March 6, 2017, meeting, council had been looking at the best date to convene a URA meeting. It appears that the best option is to convert the May 8, 2017, study session to a URA meeting and discuss establishing a regular meeting schedule moving forward. He also believes council would like to add a marijuana licensing moratorium discussion to the next study session.*

*Council Member Douglas asked to have the traffic signals monitored at 96th & Chambers, Highway 2 & Quebec and a modification to the turn lanes at 104th & Landmark.*

*Council Member Amador has received complaints about the road conditions at 87th & Willow.*

*Council Member Elliott expressed concern over the safety of panhandlers at 60th & Hwy 85. She also reported on receiving complaints about an arcade set up somewhere across from the recreation center.*

## **12. Reports**

*City Manager McBroom highlighted items off his weekly report emailed to council earlier.*

## **13. Adjourn**

*The meeting adjourned at 10:22 p.m.*

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

*Respectfully Submitted By:*

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*Laura Bauer, City Clerk*