



Commerce City

7887 E. 60th Ave.
Commerce City, CO 80022
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Meeting Minutes

City Council

Monday, November 19, 2018

6:00 PM

Council Chambers

Regular Meeting

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 November 19, 2018, at 5:58 PM.

A motion was made by Mayor Pro Tem Teter, seconded by Council Member Frank, to excuse Council Member Elliott from the meeting. VOTE: 8 - Aye, 1 - Excused (Elliott)

Present: 8 - Mayor Sean Ford, Mayor Pro Tem Rick A. Teter, Council Member Steven J. Douglas, Council Member Benjamin Huseman, Council Member Jose Guardiola, Council Member Nicole Frank, Council Member Oscar Madera and Council Member Steve Davis

Excused: 1 - Council Member Crystal Elliott

2. Executive Session

[18-85](#)

An executive session pursuant to C.R.S. 24-6-402(4)(e) for the purpose of determining position relative to a matter that may be subject to negotiations concerning incentives for a potential economic development project within the city.

A motion was made by Council Member Madera, seconded by Council Member Davis, to enter into an executive session pursuant to C.R.S. 24-6-402(4)(e) for the purpose of determining position relative to a matter that may be subject to negotiations concerning incentives for a potential economic development project within the city. VOTE:

Aye: 7 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Nay: 1 - Council Member Huseman

Excused: 1 - Council Member Elliott

3. Pledge of Allegiance

The Pledge of Allegiance was recited.

4. Audience Introduction

The audience introduced themselves.

5. Proclamations and Recognitions

[Proc 18-25](#)

Proclamation Declaring November 30, 2018 as "Jaime White Day" in Commerce City

Mayor Ford asked the city attorney to read the proclamation.

The correct date of the proclamation should be December 14, 2018.

A motion was made by Council Member Douglas, seconded by Council Member Madera, that this proclamation be approved. VOTE:

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

6. Citizen Communication

Mike Ackerman, 15798 E. 108th Ave, expressed concern about pavement patching on Highway 2, Tower Road, and Chambers Road between 112th and 120th.

Vicki Kettler, 15722 E. 107th Ave, spoke on the issue of oil and gas development in the city.

The following individuals spoke on the issue of oil and gas

Erik Gudmunson, 11030 River Oaks Lane

Susan Noble, 10642 Olathe Street

Laurie Anderson, 3496 Vale Drive

Heidi Henkel, no address given

Guillermo Serna, 14122 E. 102nd Place

Therese Gilbert, no address given

Lauren Swaine, no address given

Jessica Abell, 1300 N. Pennsylvania, Denver

7. Consent Agenda

A motion was made by Council Member Huseman, seconded by Mayor Pro Tem Teter, to approve the consent agenda as presented. ROLL CALL VOTE:

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

Min 18-122	Minutes of October 1, 2018
Min 18-123	Minutes of October 15, 2018
Min 18-124	Minutes of November 5, 2018
Ord 2184	AN ORDINANCE REPEALING AND RE-ENACTING SECTION 12-5005 OF THE COMMERCE CITY REVISED MUNICIPAL CODE REGARDING PROHIBITED SOLICITATIONS
Res 2018-94	RESOLUTION APPROVING INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF MUNICIPAL COURT VIDEO SERVICES
Res 2018-95	RESOLUTION AMENDING THE DIRECTORY OF CITY FEES AND CHARGES
Res 2018-96	RESOLUTION APPROVING GRANT OF ACCESS EASEMENT TO FAIRMOUNT CEMETERY COMPANY AND RESCINDING PRIOR GRANT OF ACCESS EASEMENT
Res 2018-97	RESOLUTION REGARDING POSTING LOCATIONS FOR ORDINANCES AND PUBLIC MEETINGS
Res 2018-98	RESOLUTION CANCELLING CITY COUNCIL MEETINGS THAT FALL ON OFFICIALLY SCHEDULED CITY HOLIDAYS

8. Ordinances on 1st Reading

City planner Caitlin Hasenbalg-Long, presented on the nine ordinances concerning the city's Land Development Code. Ms. Hasenbalg-Long explained that the amendments were to add new definitions, modernize design standards, make the language in the code consistent and update requirements and restrictions for certain permits. Ms. Hasenbalg-Long gave a brief overview of each ordinance and the changes proposed.

Council Member Douglas asked for clarification on the hazaderous materials changes. Ms. Hasenbalg-Long clarified that the hazaderous materials changes dealt with the manufacturing of hazaderous materials.

A motion was made by Council Member Frank, seconded by Council Member Huseman, to approve the facts and findings of the planning commission. VOTE: 8 - Aye, 1 - Excused (Elliott)

[Ord 2158](#)

AN ORDINANCE AMENDING VARIOUS SECTIONS OF THE LAND DEVELOPMENT CODE, INCLUDING REQUIREMENTS FOR FLOODPLAIN DEVELOPMENT PERMITS, MINOR MODIFICATIONS TO PUD ZONE DOCUMENTS, REVOCATION OF LAND USE APPROVALS, CHILD CARE FACILITIES, BULK STANDARDS FOR ACCESSORY USES AND STRUCTURES, DRIVEWAY WIDTHS, ELECTRIC VEHICLE PARKING SPACES, ADMINISTRATIVE VARIANCES, SCREENING REQUIREMENTS FOR MECHANICAL EQUIPMENT, DEVELOPMENT STANDARDS FOR SINGLE-FAMILY DWELLING GARAGES, UTILITY UNDERGROUNDING EXCEPTIONS, FENCING AND WALL STANDARDS, AND RELATED DEFINITIONS.

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

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

[Ord 2185](#)

AN ORDINANCE AMENDING SECTION 21-3220 OF THE LAND DEVELOPMENT CODE RELATING TO HEIGHT EXCEPTIONS

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

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

[Ord 2186](#)

AN ORDINANCE AMENDING SECTIONs 21-5602, 21-5606 AND 21-11200 OF THE LAND DEVELOPMENT CODE AND ENACTING A NEW SECTION 21-5607 TO THE LAND DEVELOPMENT CODE RELATING TO SMALL CELL TELECOMMUNICATIONS FACILITIES IN THE RIGHT-OF-WAY

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

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

[Ord 2187](#)

AN ORDINANCE AMENDING SECTION 21-7238 OF THE LAND DEVELOPMENT CODE PROVIDING FOR MINOR MODIFICATIONS RELATING TO OFF-STREET PARKING REQUIREMENTS

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

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

[Ord 2188](#)

AN ORDINANCE ENACTING A NEW SECTION 21-7736 OF THE LAND DEVELOPMENT CODE RELATING TO COURTYARD WALL STANDARDS

A motion was made by Council Member Davis, seconded by Council Member Frank, that this ordinance be introduced by council as seated and approved on first reading. VOTE:

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

[Ord 2189](#)

AN ORDINANCE AMENDING SECTION 21-5200 OF THE LAND DEVELOPMENT CODE RELATING TO ALLOWABLE LAND USES IN CITY ZONING DISTRICTS

A motion was made by Council Member Frank, seconded by Council Member Guardiola, that this ordinance be introduced by council as seated and approved on first reading. VOTE:

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

[Ord 2190](#)

AN ORDINANCE AMENDING SECTIONS 21-5200 AND 21-11200 OF THE LAND DEVELOPMENT CODE AND ENACTING A NEW SECTION 21-5223 IN THE LAND DEVELOPMENT CODE RELATING TO BULK GRAIN TRANSFER FACILITIES

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

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

[Ord 2191](#)

AN ORDINANCE ENACTING A NEW SECTION 21-5239 TO THE LAND DEVELOPMENT CODE PROVIDING FOR SUPPLEMENTAL REGULATION OF HAZARDOUS MATERIALS

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

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

[Ord 2194](#)

AN ORDINANCE AMENDING SECTIONS 21-5200 AND 21-5254 OF THE LAND DEVELOPMENT CODE RELATING TO OUTDOOR STORAGE STANDARDS INCLUDING STANDARDS FOR MATERIAL PILES

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

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

[Ord 2192](#)

AN ORDINANCE AMENDING THE 2018 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO BY THE RECOGNITION OF THE COLORADO HEALTH FOUNDATION GRANT IN THE AMOUNT OF \$1,105,000 FOR THE HEALTHY PLACES COMMERCE CITY PROGRAM AND THE AUTHORIZATION OF THE EXPENDITURE THEREOF.

A motion was made by Council Member Madera, seconded by Council Member Davis, that this ordinance be introduced by council as seated and approved on first reading. VOTE:

Aye: 8 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Huseman, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Excused: 1 - Council Member Elliott

9. Ordinances on 2nd Reading

[Ord 2183](#)

AN ORDINANCE AMENDING SECTIONS 21-3200, 21-3425, 21-3216 AND 21-5266 OF THE LAND DEVELOPMENT CODE OF THE CITY OF COMMERCE CITY RELATING TO THE OIL AND GAS PERMITS AND SUBSURFACE EXTRACTION REQUIREMENTS AND RELATED PROCEDURAL MATTERS

City Attorney Sheesley discussed that after passage of the ordinance on first reading, public comment was received on certain sections of the ordinance. Staff received those comments and incorporated a portion of them into the seven proposed minor amendments to the ordinance. The city attorney provided the proposed amendments to council members at the dais and the public at the beginning of the meeting.

The following individuals spoke:

Susan Noble, 10642 Olathe Street.

Ryan Seastrum, representative from the Colorado Oil and Gas Association.

Julia Rye, outside counsel for the Colorado Oil and Gas Association.

Laurie Anderson, 3496 Yale Drive, Broomfield.

Guillermo Serna, 14122 E 102nd Avenue.

Lauren Swaine, Denver.

Council Member Douglas requested each amendment be voted on separately.

A motion was made by Council Member Madera, seconded by Council Member Guardiola, to approve the first amendment to Ordinance 2183 as follows: "to strike out Section 21-5266(3)(a)(vi) and (vii) (regarding requirements to submit mineral lessee and owner information) and renumber that section accordingly;". Vote: 8 - Aye, 1 - Excused (Elliott)

A motion was made by Council Member Madera, seconded by Council Member Davis, to approve the second amendment to Ordinance 2183 as follows: "to insert the words 'that are technically and economically practicable' after the word 'technologies' in Section 21-5266(6)(a) (regarding the requirement to implement the best available technologies to control odor and dust);". Vote: 7 - Aye, 1 - Nay (Huseman), 1 - Excused (Elliott).

A motion was made by Council Member Madera, seconded by Council Member Guardiola, to approve the third amendment to Ordinance 2183 as follows: "to insert the words 'that are technically and economically practicable; after the words 'technologies' in Section 21.5266(6)(b) (regarding the requirement to implement the best available technologies to control noise);". Vote: 6 - Aye, 2 - Nay (Douglas and Huseman), 1 - Excused (Elliott).

A motion was made by Mayor Pro Tem Teter, seconded by Council Member Madera, to approve the fourth amendment to Ordinance 2183 as follows: "to insert the words 'The City's inspectors will be properly trained or certified to conduct inspections in a safe manner or escorted by such a person.' at the end of Section 21-5266(12)(b) (regarding the City's right to inspect oil and gas operations;". Vote: 7 - Aye, 1 - Nay (Douglas), 1 - Excused (Elliott).

A motion was made by Council Member Madera, seconded by Mayor Pro Tem Teter, to approve the fifth amendment to Ordinance 2183 as follows: "to substitute Section 21-5266(14)(b) (regarding the City's temporary suspension of permitted activities) with the following; (b) Suspension of Oil and Gas Permit. In the event the City determines

that the Operator has violated any term or condition of this Code, the Oil and Gas Permit or the Extraction Agreement, or that one or more material changes to the Operations or Oil and Gas Facilities have been made without the express, written consent of the City, the Director may temporarily suspend the Oil and Gas Permit and order all Operations permitted by the City under the Oil and Gas Permit to cease. In such an event, the Operator shall cease all Operations as soon as possible to do so in a safe manner upon written notification by the Director of the violation or identification of the material change(s). The City will not order cessation of any activities subject to the sole jurisdiction of the Colorado Oil & Gas Conservation Commission." Vote: 8 - Aye, 1 - Excused (Elliott).

A motion was made by Council Member Madera, seconded by Mayor Pro Tem Teter, to approve the sixth amendment to Ordinance 2183 as follows: "to insert the words 'and the City prevails in such action' before the words 'Operator shall pay' in Section 21-5266(14)(f) (regarding the requirement to pay the City's costs and attorney fees in enforcement action);". Vote: 8 - Aye, 1 - Excused (Elliott).

A motion was made by Council Member Madera, seconded by Mayor Pro Tem Teter, to approve the seventh amendment to Ordinance 2183 as follows: "to strike out Section 8 of Ordinance 2183. [Note: the ordinance will be effective in accordance with Section 5.3(g) of the City Charter.]". Vote: 8 - Aye, 1 - Excused (Elliott).

A motion was made by Council Member Douglas, seconded by Council Member Huseman, to amend Ordinance 2183 to include the requirement of a mile setback from Barr Lake State Park and the Rocky Mountain Wildlife Refuge.

A motion was made by Council Member Madera, seconded by Council Member Huseman, to enter into executive session pursuant to C.R.S. 24-6-402(4)(b) for the purpose of receiving legal advice relative to the motion to establish oil and gas setbacks. Vote: 8 - Aye, 1 - Excused (Elliott)

Council consented to allow Council Member Douglas to withdraw his motion to amend Ordinance 2183.

A motion was made by Council Member Madera, seconded by Mayor Pro Tem Teter, that this ordinance be approved on second and final reading as amended. VOTE:

Aye: 6 - Mayor Ford, Mayor Pro Tem Teter, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Nay: 2 - Council Member Douglas and Council Member Huseman

Excused: 1 - Council Member Elliott

10. Presentations

[Pres 18-336](#)

Introduction and overview by Extraction Oil and Gas

Staff from Extraction Oil and Gas presented on the overview of their company and their plans for oil and gas extraction within Commerce City.

11. Administrative Council Business

A motion was made by Council Member Guardiola, seconded by Council Member Huseman, to approve a letter to the State Board of Education regarding Adams 14 District. Vote: 8 - Aye, 1 - Excused (Elliott)

Council Member Frank reminded council to nominate Commerce City residents for the Commerce City Civic Academy.

12. Reports

Deputy City Manager Smith highlighted items presented in the city managers weekly report provided to council earlier.

The mayor and council reported on their attendance at various meetings and events.

13. Executive Session

[18-84](#)

An executive session pursuant to C.R.S. 24-6-402(4)(b) and (e) for the purpose of determining positions and instructing negotiators relative to a potential annexation agreement for the property south of 104th Avenue and west of Highway 85, also known as Commerce Place, and receiving legal advice relating to the same.

A motion was made by Council Member Madera, seconded by Council Member Davis, to enter an executive session pursuant to C.R.S. 24-6-402(4)(b) and (e) for the purpose of determining positions and instructing negotiators relative to a potential annexation agreement for the property south of 104th Avenue and west of Highway 85, also known as Commerce Place, and receiving legal advice relating to the same. VOTE:

Aye: 7 - Mayor Ford, Mayor Pro Tem Teter, Council Member Douglas, Council Member Guardiola, Council Member Frank, Council Member Madera and Council Member Davis

Nay: 1 - Council Member Huseman

Excused: 1 - Council Member Elliott

14. Adjourn

The meeting adjourned at 10:20 p.m.

Respectfully submitted by:

Dylan A. Gibson, Deputy City Clerk