

MINUTES
EVANS CITY COUNCIL
Regular Meeting
October 4, 2016

CALL TO ORDER

Mayor Morris called the meeting to order at 7:30 p.m.

PLEDGE

ROLL CALL

Present: Mayor Morris, Mayor Pro-Tem Rudy, Council Members Clark, Finn, Homann, Schaffer, and Speer

RECOGNITIONS

A. Citizens Police Academy Graduation

Chief Brandt, Evans Police Department, spoke about the Citizens' Police Academy, hosted by Evans PD. He thanked Officer McClatchey for organizing the Academy and introduced some of the graduates.

A few of the Academy graduates spoke about the program to the City Council.

Council Member Schaffer complimented Officer McClatchey for the program and a recent article in the Greeley Tribune highlighting the program. Council Member Schaffer spoke about the importance for the Evans PD to connect with residents.

AUDIENCE PARTICIPATION

Lynette Kilpatrick, 20487 County Road 33, LaSalle, CO, 80645, introduced herself as the Constitution Party's candidate for the District 3, Weld County Commissioner seat. Ms. Kilpatrick spoke about her experiences that makes her a qualified candidate to be County Commissioner.

APPROVAL OF AGENDA

Council Member Schaffer made the motion, seconded by Mayor Pro-Tem Rudy, to approve the Agenda. The motion passed with all voting in favor thereof.

CONSENT AGENDA

A. Approval of Minutes of the Regular Meeting of September 20, 2016

B. Resolution No. 34-2016 – Establishing the 2017 City Holidays for the City of Evans

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Council Member Schaffer made the motion, seconded by Council Member Clark, to approve the Consent Agenda. The motion passed with all voting in favor thereof.

NEW BUSINESS

A. Public Hearing – 2017 Operating and Capital Budget

- i. Resolution No. 33-2016 – Adoption of the 2017 Budget**
- ii. Ordinance No. 655-16 – City of Evans 2017 Budget (First Reading)**

Mayor Morris opened the public hearing at 7:46 p.m.

Jacque Trout, City Finance Manager, introduced the 2017 City of Evans Operating and Capital budget and five year projections, and thanked all of staff that helped contribute. The following information, from Ms. Trout's staff report, summarizes the 2017 budget:

“This budget is the result of many years of significant work on the part of the City Council and staff. While the economic conditions have remained improved since the Great Recession, we continue to focus on our commitment to conservative revenue estimates while staying focused on economic development opportunities working towards a sustainable community. Staying the course with the City Council budget philosophy, the 2017 budget is built conservatively with careful analysis based on the results of 2016 and projections for 2017.

The process to build sustainability into the financial future of the community began in 2010 with the reduction in force, continued into 2012 with the creation of the Evans Fire Protection District and focused on departmental assessments for several key service areas in 2013 and 2014. 2015 was focused on updating our strategic operating planning process to gain focus and commitment, accountability, transparency, and to accomplish measurable outcomes. 2016 has seen the fruits of our labor and resulted in accomplishment of several outcomes identified through that strategic planning process. The process continues to evolve, but the goal of making our own future remains.

Although this budget does not include any changes in levels of service, the commitment to match service level needs with available revenue remains strong. This process will continue into the future with a focus on building a sustainable and resilient community based on resident driven levels of service.

From a process perspective, we continue to focus on including staff in the budget process (and associated Long Range Plans), creating a higher level of awareness, knowledge, and accountability. Process teams were developed for revenue, payroll,

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supplies and services, asset management, and capital programs. These teams worked with the departments to review and prepare the budgets, providing for an independent review. The goal for each of these teams is to train the team for next year and each year increase the level of analysis that goes along with developing the financial plans. An additional benefit is the increased number of city employees who have a significantly greater understanding of the City finances and operations. The increased awareness usually leads to more accurate information in the community.

The Finance Committee provides oversight and recommendations to the budget process. Ultimately, it is the City Council that approves the annual budget based on the recommendations of the City Manager and input from residents.

The 2017 General Fund budgeting started five years ago, a benefit to our long term perspective on managing the finances of the City. Although the City made significant reductions to long term operating expenses in 2010 in response to the Great Recession and structural gap, the City and the City's management team has been able to maintain a balanced operating budget. As we moved into the official 2017 budgeting season, the 2016 sales tax revenues are showing slight declines over prior years, due primarily to the slowdown in oil and gas drilling activity in the area. The historical challenge of budgeting in the General Fund remains projecting this revenue source as it accounts for the major source of revenue in the fund and is influenced by numerous factors out of our control. The City has identified areas of our sales tax collections which are more volatile and we consider those as one-time revenue sources. In order to mitigate the risk of funding long term fixed costs based on these one-time increases in revenue, we have taken an approach in the last several years' budgets that programs in a portion of the revenue related only to one-time expenditures. This method allows us to remain ultra-conservative in increasing our long term fixed costs.

The 2009 restructuring of the financial management of the Water Fund has proven to be an effective tool for managing enterprise funds. The attached budget includes higher revenues based on increasing the base rate from \$18.00 per month to \$18.50 per month in the Water Fund with the goal of funding major maintenance at the level of annual depreciation of the system. In 2013, we started the process of reevaluating the results of the increases and assessing the future needs of the water enterprise. This work resulted in a recommendation to update the 2005 water master plan. This project is on target to be completed in 2016. Long term, the funding of a major water storage project, NISP-Glade Reservoir, and the potential of additional options for water treatment face the City as we move into the future.

The restructuring of the Waste Water Fund took place in late 2011 and was implemented in 2012. Similar to the issues identified in the Water Fund, the Waste Water Fund was not recovering its costs on the operational side and did not have a

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mechanism in place to fund system maintenance. The waste water master plan update was completed in 2013 and implementation began in 2014 with the City Council's decision to consolidate waste water treatment facilities into one location. 2015 was focused on the design of the new facilities and construction began in 2016 and is expected to continue until 2019.

The final City enterprise fund, Storm Drainage, also requires an in-depth analysis to assure that these operations are self-sustaining as required by law. A master plan update on this utility was started in 2015 and was completed in 2016.

The attached budget book includes information intended to answer the most frequently asked questions. To accomplish the purpose of being useful on an everyday basis, the budget book does not attempt to answer every conceivable question (ultimately leading to a document that is too cumbersome).

Although the economic future is uncertain, the City has the systems and resources in place to manage these challenges. This is an accomplishment that puts Evans in an elite group of cities and towns. We are definitely among the municipal leaders in Colorado with regard to how we financially plan and manage our budgets.

In summary, the budget is a flexible and living document with constant monitoring and management. With adoption of the 2017 budget, the staff will move to close out 2016 and identify fund balances that can be used to fund one-time projects in 2017. By constantly updating and discussing the budget, we have eliminated the antiquated once a year budget model and moved to a more fluid financial management system. Thank you for your continued leadership, trust and support."

Council Member Schaffer asked about the requirement to present a balanced budget each year, and applauded staff for their efforts on the 2017 budget. He spoke about the importance of long range planning (LRP) and the overall improvements to the budget process.

Ms. Troutd explained the City's annual Operating Budget needs to be balanced for 2017.

Council Member Clark asked about the LRP for additional employees in 2017 and beyond and wanted to know if FTEs will shrink or grow in future years.

Ms. Troutd discussed the SLARF process to add additional FTEs on a year-by-year basis.

Council Member Clark asked about the budgets for consultants in 2017.

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Ms. Troudt explained that contract costs are incorporated into the Supplies & Services budgets by each department.

Council Member Clark asked about seasonal staffing levels to ensure parks and grounds are maintained in the spring and summer of 2017.

Ms. Troudt discussed the 2017 budget for full time versus seasonal employees and the ability for the City Parks Staff to shift time and seasonal employees to reach a desired level of service.

Council Member Speer asked about expenses in the City Council's 2017 budget.

Ms. Gonifas explained that the majority of expenses in the Council's budget comes from contracted services, such as legal counsel.

Council Member Speer asked about expenses for the Evans Pool and the 2017 costs for a survey and video of the Evans Ditch.

Ms. Trout explained the respective costs in the budget.

Council Member Speer asked about the cost of being a "Playful City USA".

Ms. Gonifas explained that there was not cost connected to this program.

Council Member Speer thanked staff for the balanced budget, but voiced her opposition to the payroll increases due to the current economic condition of the oil and gas industry.

Mayor Morris thanked staff for their work on the budget, talked about how the process has improved immensely, and was happy that the debt for the Riverside Library is getting paid off.

Mayor Morris asked for any public comments for or against the budget—there was none.

Mayor Morris closed the public hearing at 8:30 p.m.

Council Member Clark discussed his support for the 2017 budget and complimented the work of the City Finance Committee.

Council Member Schaffer made the motion, seconded by Council Member, to move to adopt Resolution No. 34-2016 and approve Ordinance No. 655-16 on first reading. The motion passed with all voting in favor thereof.

B. Ordinance No. 656-16 – Adding 4th Degree Arson (First Reading)

Council Member Homann asked about being recused from voting or participation on the issue, since the request was from his employer, the Evans Fire Protection District (EFPD).

Mr. Krob, City Attorney, explained that it was important to acknowledge his employment with EFPD, but that he could participate and vote on the matter.

Ron Pristera, Fire Chief, Evans Fire Protection District, provided some history about the ability to prosecute arson at the local level. Adding the 4th degree arson language to the City of Evans Municipal Code will allow either EFPD or Evans Police Department to prosecute the offence in Municipal Court, instead of at the County level. According to Chief Pristera, resolving these matters in the Evans Municipal Court makes it easier for EFPD and EPD to use the statute to discourage this type of recklessness and increase the potential for restitution to the affected property owners.

He explained that the Ordinance adopts the same language from state code, which makes 4th Degree Arson an offense under City Code. The existing Colorado statutes that address Fourth Degree Arson (C.R.S. 18-4-105), specifically states:

A person who knowingly or recklessly starts or maintains a fire or causes an explosion, on his own property or that of another, and by so doing places another in danger of death or serious bodily injury or places any building or occupied structure of another in danger of damage commits fourth degree arson.

- Fourth degree arson is a class 4 felony if a person is thus endangered.
- Fourth degree arson is a class 2 misdemeanor if only property is thus endangered and the value of the property is one hundred dollars or more.
- Fourth degree arson is a class 3 misdemeanor if only property is thus endangered and the value of the property is less than one hundred dollars.

Council Member Clark asked if this was common in other municipalities.

Chief Pristera explained that it isn't common, but more cities and towns are addressing the issue locally.

Council Member Clark asked about why it makes sense to prosecute these types of crimes at the local level.

Chief Pristera explained that County courts are overwhelmed and why arson is

difficult to prosecute.

Council Member Clark asked if there have been specific cases of arson in the City.

Chief Pristera explained that there were two local cases that could have been simplified.

Council Member Schaffer asked Mr. Krob about the types and volume of cases currently being settled in the City's Municipal Court.

Mr. Krob explained that municipal court only handles misdemeanors, not felonies, which would not over-burden the current workload of Evans Municipal Court.

Mayor Morris asked about what is being repealed with the new language.

Mr. Krob explained that any current language in the City Code would be superseded by the amendment.

Council Member Speer made the motion, seconded by Mayor Pro-Tem Rudy, to approve Ordinance No. 656-16 on first reading. The motion passed with all voting in favor thereof.

C. Public Hearing – Consideration of a Variance Request by the Evans Fire Protection District Regarding Above Ground Fuel Storage Tanks at Hillside Rental

Mayor Morris opened the public hearing at 8:39 p.m.

Chief Pristera discussed the fire code violations that the EFPD discovered during a fire inspection of the Hillside Rental business, located at 1310 40th Street. EFPD discovered a local modification to the IFC that prohibits above ground storage tanks, and Hillside Rental has two of them onsite. This may have been the first time the Fire District has inspected this business, since no records from the Municipal Fire Department era show any inspections.

According to Chief Pristera, above ground storage tanks can be a fire hazard, the authors of the IFC did not believe they are a significant enough hazard to ban. In fact, in situations where tanks are properly constructed, installed and maintained, they should be safer than the routine transfer of liquids, since repeated transfer (filling, moving and using smaller containers) involves numerous steps, all of which present the possibility of failure. The EFPD has verified with the City Planning Department that Hillside Rental falls within one of the zoning classifications (Commercial) that is eligible to receive a variance for this code requirement.

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Chief Pristera requested that the City Council confirm the Zoning Board's Approval of the variance request for the following reasons:

1. The tanks have been in place without incident since the inception of this business, to date the owners have received no indication their use is prohibited and to do so now constitutes an undue burden on the operators.
2. The surrounding areas are commercial, with a variety of equipment and material stored in yards. This presents a different aesthetic expectation than a residential neighborhood.
3. If the tanks are ordered removed and the business continues to operate, the need to fuel equipment remains, forcing the operators to transfer fuel in smaller containers that present more of a fire risk.
4. The property qualifies for a variance based on its current zoning.

Mayor Morris asked about keeping the same limit on the number of tanks onsite.

Chief Pristera explained that the variance would only be for the two existing tanks and the Ordinance would prohibit any additional tanks.

Mayor Morris explained that he would like the variance to only allow two existing tanks onsite.

Mayor Morris asked about propane tanks on a property.

Chief Pristera explained that above ground propane tanks don't require a variance.

Tom Hamblin, Evans resident, explained that he was representing the applicant. Mr. Hamblin talked about the need for the variance, discussed the current tanks, and limiting the number of tanks to two.

Mayor Morris agreed that the language should limit the site to two tanks.

Mayor Morris asked about the timeline for having the tanks installed.

Mr. Hamblin explained that the tanks could be installed within the next 90-days.

Mayor asked for public comment for or against the variance—there was none.

Mr. Krob discussed the need to clarify the language to limit the site to two above ground storage tanks.

Discussion ensued concerning the amendment language.

Mayor Morris closed the public hearing at 8:49 p.m.

The Council members discussed the variance and the amendment.

Council Member Clark made the motion, seconded by Mayor Pro-Tem Rudy, as amended with:

- the variance only applying to the existing tanks; and
- removal and replacement of the tanks be no larger (in capacity) than the current tank.

The motion passed with all voting in favor thereof.

D. Public Hearing – Eastwood Village Appeal: Consideration of an Appeal by the Owner of the Eastwood Village Manufactured Home Park

Mayor Morris called the meeting to order at 8:52 p.m.

Mr. Sean Wheeler, City Planner, discussed the application from the owners of the Eastwood Village (EWV) Manufactured Home Park for approval to reopen the Eastwood Village Manufactured Home Park, as it operated prior to the 2013 flood disaster. The property is approximately 19.9-acres located at 200 37th Street in east Evans.

According to Mr. Wheeler, the applicant had applied for several variance requests related to several standards in the Municipal Code. Staff determined the application is incomplete, and therefore the variance requests cannot be processed without additional information. Mr. Wheeler explained that the applicant is appealing the decision by staff, and that the consideration of the merits of the variance are not under review. He reminded the City Council that this hearing is to determine if the applicant provided sufficient documentation and information for a review of the variance requests.

Mr. Wheeler also discussed the public hearing on September 13, 2016 where this matter was considered by the Evans Zoning Board of Appeals (ZBA), where the ZBA voted 3 to 0 in favor of staff's recommendation to deny the appeal by the owner of the Eastwood Village Manufactured Home Park.

Mr. Wheeler discussed the completeness determination that was made by staff based on the provisions found in Title 19.58 stating the City can require additional supporting evidence. According to Mr. Wheeler, staff determined the application to be incomplete for the following reasons:

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1. The applicant did not provide any evidence they have contacted neighboring property owners;
2. The applicant did not provide site plan information other than a single aerial photograph; and
3. The applicant did not specifically address the District Court's determination that a "proposal for rebuilding the mobile home park that will satisfy Evans' safety concerns."

Mr. Ryan Sugden and Mr. Rob Singer, were present to represent the owners of EWV.

Mr. Sugden provided some history of EWV and spoke about the intentions of EWV to re-open as a mobile home park. He spoke about the variances requested by EWV, according to a letter dated May 19, 2016. He discussed the different requirements for a variance or a Planned Unit Development (PUD) and whether the application from EWV should be a PUD.

Mayor asked legal counsel to speak to Mr. Sugden's concerns.

Mr. Krob explained the three reasons the application was determined to be incomplete, and clarified that these matters were under consideration by the City Council.

Mr. Sugden discussed the three concerns raised in the staff report. He also spoke to the City Council about the attempts by the applicant to satisfy the requirements of the application with the intent of moving forward with the variance request.

The applicants responded to questions from City Council about public notice of the variance request, contacting surrounding property owners, or receiving any letters of support for the request.

Discussion ensued between the Council Members and the applicant concerning the completeness of the application.

Discussion ensued about the requirements under the Evans Municipal Code for a site plan and the building requirements in the flood plain.

Discussion ensued concerning about safety issues in EWV and the City's floodplain designation. The City Council specifically discussed the third requirement that the applicant did not specifically address the District Court's determination that a "proposal for rebuilding the mobile home park that will satisfy Evans' safety concerns."

Malcolm Murray, City legal counsel, explained the court ruling and spoke about the floodplain standards that were implemented following the flood disasters of 2013. Mr.

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Murray explained that, according to the court, the applicants needed to show that the safety concerns of the court had been satisfied.

Discussion ensued concerning the site plan submitted by the applicants.

Mayor Morris asked if the applicants submitted any letters of support.

The Council received a letter of support from Jim Feehan, supporting the EWV project.

Mayor asked for public comment in support of the EWV project.

Mr. Justin O'Streel, from Evans, spoke in support of the applicant.

Mr. Tony Collins, from Greeley, spoke in support of the applicant, and felt that the City Council should have the information they need for the application. Mr. Collins spoke about the variance request and the letter to notify neighboring property owners.

Mayor Morris asked for testimony opposed to the EWV project—there was none.

Mr. Sugden made closing comments and thanked the City Council for their time.

Mayor Morris closed the public hearing at 10:14 p.m.

The Council Members discussed the matters of the application and talked about the application being resubmitted once it satisfied the three issues raised by staff.

Council Member Schaffer made the motion, seconded by Council Member Clark, to deny the request by the owner of the Eastwood Village Manufactured Home Park, that they be allowed to apply for variances for public hearing review, without having to provide any additional information.

The motion passed with all voting in favor thereof.

E. Amendment to Development Agreement – Tuscany Subdivision Filing 1, Phase II

Mr. Starr discussed the amendment to the Tuscany development agreement. He explained that this proposed Amendment to the Development Agreement was intended to be the type of agreement contemplated by Section 16 of the Development Agreement and to delineate/allocate the obligations of the Developers for the improvements of the Developers' Phase II Lots.

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According to Mr. Starr, the proposed amendment identifies specific obligations and commitments to be made by the various parties listed in the agreement which the City believes will allow construction and development of certain properties owned by the various parties.

Mayor Morris asked how many lots would be impacted by the amendment.

Mr. Starr explained that 100 lots were impacted with the property owner is paying \$80,000 for 80 lots, with an additional dollar amount to be determined for the remaining 20 lots.

Mr. Krob explained that the City reserves the right to charge lot owners or homeowners an additional development fee.

Mr. Nick Francis, from Greeley, spoke about his frustration with the amendment to the agreement, talked about developing the property, and his experience with other property development in the area.

Mayor Morris thanked Mr. Francis for working with the City and agreed that the agreement was an uncommon solution.

Council Member Speer explained that she wanted to abstain from voting, since she didn't have a complete background on the subdivision or the agreement.

Council Member Clark made the motion, seconded by Council Member Finn, to approve and authorize the Mayor to sign the Amendment to Development Agreement Tuscany Subdivision – Filing 1, Phase II.
The motion passed 6-0 with Council Member Speer abstaining.

F. Approval of Contract Amendment with Colorado Department of Local Affairs (DOLA) EIAF 7633 – Evans Staffing Assistance – Flood Recovery

Nancy Salazar, Flood Recovery Manager, introduced the Contract Amendment concerning the Colorado Department of Local Affairs (DOLA) EIAF 7633 – Evans Staffing Assistance – Flood Recovery. According to Ms. Salazar, the City and the Department of Local Affairs (“DOLA”) entered into a contract, in 2014, to provide funds to the City for salary and benefits to hire two full-time and one part-time staff positions to assist the City with flood recovery efforts. The Contract initially funded up to 2.5 FTE (Project Manager – 1; Accountant – 1; and Emergency Manager - .5) through 12/31/16.

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Due to the large amount of work still left to do on the recovery projects and the inability of long term staff to fill the necessary roles, this summer, staff applied to DOLA requesting a grant extension for all three of the positions through June 30, 2018 – due to financial constraints, DOLA was only able to approve an extension on 2.0 of the 2.5 FTE—the Project Manager and the Accountant.

The grant award was approximately \$165,000 (80%) with \$41,000 (20%) match—to fund 2.0 FTE, which would also require a budget amendment to the 2017 budget. The recommended funding source is excess fund balance within the General Fund which is projected to have an ending fund balance on 12/31/2016 of \$6,371,301. Ms. Salazar recommended that the City Council approve the grant extension.

Council Member Homann asked if the City was keeping all 2.5 FTEs.

Ms. Salazar and Ms. Gonifas confirmed that one position is going to part time.

Council Member Homann asked if the Emergency Managers position was going to part time.

They confirmed that it was the Emergency Management position.

Council Member Homann made the motion, seconded by Mayor Pro-Tem Rudy, to approve the contract amendment with DOLA for flood recovery staffing and a preliminary 2017 budget revision in the amount of \$206,047.

The motion passed 6-0 with Council Member Speer abstaining.

G. Award of Bid – Fence Replacement in Riverside Park

Gary Wilson, Flood Project Manager, discussed the award of bid for permanent fencing at Riverside Park. According to Mr. Wilson, perimeter fencing around Riverside Park was destroyed by the 2013 flood. Three years have passed since the 2013 flood, and the proposed permanent fencing will provide better security for both Riverside Park and owners of adjacent private property. The proposed permanent fencing would be installed along the boundary of the park adjacent to the ballfields and along a trail adjacent to Aguilar's Concrete yard (see attached diagrams).

Mr. Wilson explained the Scope of Work, which included demolition and clean-up of any remaining parts of the old fence and installation of new fence to match the pre-flood fencing in the same locations. Both fences will be chain link.

The total quote of B&B Local Construction is \$65,850, and \$2,014 (3%) higher than Town and Country Fence (\$63,836). However, the City's purchasing policies allow for preference to be given to local businesses and B&B is located in the City of

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Evans and has an established positive track record on a number of City projects, including the temporary fence at Riverside Park. Mr. Wilson recommended the award of the contract to this B&B Local Construction.

Mayor Morris asked about the current fence on the site.

Mr. Wilson explained that the current fence would be re-evaluated for remaining on the site or re-use.

Mayor Morris asked about the FEMA funds for this project.

Mr. Wilson explained that bids were \$35,000 lower than original estimates, and the City did not submit the small dollar amount to federal FEMA to avoid the federal procurement requirements.

Council Member Speer explained that she would not be voting on this matter, since she was an adjacent property owner. She did ask for clarification about the current fencing being rented and ongoing problems with trespassing and vandalism.

Council Member Homann asked if the fence would be removed when the park is rebuilt.

Mr. Wilson spoke to their concerns.

Mayor Morris asked when the fencing would be installed.

Mr. Wilson stated that it would be installed by the end of the year.

Mayor Pro-Tem Rudy made the motion, seconded by Council Member Clark, to approve the contract for the Riverside Park permanent fence replacement to B&B Local Construction. The motion passed 6-0 with Council Member Speer abstaining.

REPORTS

A. City Manager

Ms. Gonifas, discussed the communication improvements from staff to the City Council Members through a new weekly update as well as improvements to the Monitoring Report.

She talked about the dates set for fall clean-up, the Quarterly Government Agencies Meeting, and the Town & County dinner at the end of the October.

Council Member Speer complimented the new format for City Manager updates.

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B. City Attorney

Mr. Krob provided an update about meeting with Nolan Ulmer concerning his disagreement with the City regarding Equivalent Residential Units (EQRs).

AUDIENCE PARTICIPATION

There was no audience participation.

EXECUTIVE SESSION

A. To Determine Positions Relative to Matters that May Be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators, Pursuant to C.R.S. 24-6-402(4)(e)

Council Member Schaffer made the motion, seconded by Council Member Clark, to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, pursuant to C.R.S. 24-6-402(4)(e).

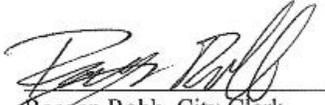
The City Council adjourned into executive session at 10:53 p.m.

The executive session concluded at 10:58 p.m.

Mr. Krob entered into the record that the matters discussed in executive session were subject to attorney-client privilege and within the scope of the referenced state statutes.

ADJOURNMENT

The regular meeting concluded at 10:59 p.m.


Raegan Robb, City Clerk

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