

City of Greeley, Colorado
CITY COUNCIL PROCEEDINGS
November 15, 2022

1. Call to Order

Mayor Gates called the meeting to order at 7:00 p.m. in the City Council Chambers at 1001 11th Ave, Greeley, Colorado, with hybrid participation available via the City's Zoom platform.

2. Pledge of Allegiance

The pledge of Allegiance was held at the 6:00 p.m. Work Session.

3. Roll Call

Heidi Leatherwood, City Clerk, called the roll.

Present:

Mayor John Gates

Councilmember Tommy Butler

Councilmember Deb DeBoutez

Mayor Pro Tem Brett Payton

Councilmember Ed Clark

Councilmember Johnny Olson

Excused Absence - Councilmember Dale Hall

4. Approval of the Agenda

City Manager Lee announced that the applicant had requested Item 20 to be continued to the January 17, 2023, City Council meeting.

5. Recognitions and Proclamations

Mayor Gates read the Law Enforcement Records Personnel Week proclamation and presented it to Kelly French, City of Greeley Records and Evidence Manager for the Police Department.

Mayor Gates presented a proclamation for 16 Days of Activism to Heather Rehruk, President of Zonta Club of Greeley. Ms. Rehruk spoke to Council about the impact of Zonta's support for women and families. Zonta Club is working diligently to educate the public and provide more resources.

6. Citizen Input

1. Emmy Adams and James Boulian, students at the University of Northern Colorado (UNC) are with the Earth Guardians Club at UNC working toward climate and environmental justice solutions. The students presented their list of demands for a livable future in Greeley and a poster, which was given to the City Clerk.

2. Pastor David Meek wished the Mayor and Council a happy Thanksgiving.

7. Reports from Mayor and Councilmembers

Mayor Pro Tem spoke about the Veteran's Day celebration.

8. Initiatives from Mayor and Councilmembers

Councilmember DeBoutez asked for an initiative for the Public Works and the Police Departments to work together in finding a solution for the neighborhood nuisances, loud noises, speeding and running red lights. Councilor DeBoutez wanted staff to research utilizing software and technology consistent with other communities. Councilmember DeBoutez requested a Work Session to discuss options on the technology and include insights for options to close the tunnel under Highway 34 at night.

City Council consensus was to begin researching this issue.

Consent Agenda

9. Approval of the City Council Proceedings of October 18, 2022

10. Acceptance of the Report of the City Council Work Session of October 25, 2022

11. Consideration of a Resolution of the Greeley City Council ratifying the Appointment of certain nominees to the Board of Trustees of the Clearview Library District

This item was pulled from the Consent Agenda.

12. Consideration of a Resolution of the Greeley City Council ratifying the Appointment of certain nominees to the Board of Trustees of the High Plains Library District

13. Consideration of Resolution to support application for grant funding from the State of Colorado Department of Natural Resources State Trails program for planning and design of a new trailhead in Sheep Draw Natural Area

14. Consideration of a Resolution of the City Council of the City of Greeley, Colorado, authorizing City staff to enter into a settlement and release agreement with Christina Wiles resolving all claims against the City of Greeley, its officers, and employees

15. **Introduction and first reading of an Ordinance appropriating additional sums to defray the expenses and liabilities of the City of Greeley for the balance of the fiscal year of 2022 and for funds held in reserve for encumbrances through December 31, 2021**
16. **Introduction and First Reading of an Ordinance Amending Sections 6-998, 6-1000, 6-1002 through 6-1009, 6-1013 and 6-1015 the City of Greeley Municipal Code of Ordinances Relating to Development Impact Fees**

This item was pulled from the Consent Agenda.

Mayor Pro Tem Payton moved to approve the Consent Agenda Items 9, 10 and 12-15. Councilmember Butler seconded the motion. The motion passed 6-0 at 7:27 p.m. with Councilmember Hall absent.

End of Consent Agenda

17. Pulled Consent Agenda Items

Item 11. Consideration of a Resolution of the Greeley City Council ratifying the Appointment of certain nominees to the Board of Trustees of the Clearview Library District

Councilmember Butler asked if there was a Councilmember included in appointing the member to the Board of Trustees. In response to Councilmember Butler's question, Kelli Johnson, Chief of Staff, replied that according to the Clearview Library District's bylaws, individuals included in the interview process must reside within the District's boundaries. The Library District had reached out asking if Councilmember Hall would be available; however, his schedule did not align with the interview timeline. Councilmember Hall indicated he would like to be part of this process in the future.

City Council will be included in the interviewing process moving forward.

Councilmember Butler moved to adopt the Resolution. Mayor Pro Tem Payton seconded the motion. The motion passed 6-0 at 7:31 p.m. with Councilmember Hall absent.

Item 16, Introduction and First Reading of an Ordinance Amending Sections 6-998, 6-1000, 6-1002 through 6-1009, 6-1013 and 6-1015 the City of Greeley Municipal Code of Ordinances Relating to Development Impact Fees

Finance Director John Karner spoke about the two types of changes included:

1. Economic adjustment, inflation factor every year and this does not need City Council's vote per The City's Ordinance.
2. Every five years a study is done to review the fees and if the City is in line with our neighboring Cities in fee costs.

Mr. Karner stated he would be back December 6, 2022, for additional discussion.

Mayor Pro Tem Payton stated he wanted to discuss this item further and intended on voting no.

Councilmember Butler spoke on the need to change the fees and wanted more information/options for tiered fees.

City Attorney, Doug Marek spoke about the options to move forward on this item.

Discussion ensued.

Councilmember Butler moved to introduce the ordinance and schedule the public hearing and second reading for December 6, 2022. Councilmember DeBoutez seconded the motion. The motion failed 3-3 at 7:39 p.m. with Mayor Pro Tem Payton and Councilmembers Clark and Olson voting nay and Councilmember Hall absent.

Council's direction was to set this item for a future Work Session and discuss further.

18. Public hearing and consideration of a Resolution of the Greeley City Council to decline participation in the State of Colorado paid Family Medical Leave Insurance (FAMLI) Program

Noel Mink, Human Resources (HR) Director introduced the item with a presentation at 7:45 p.m.

Communication was sent out to City employees October 26, 2022, and HR held a virtual conversation about FAMLI program on November 7, 2022, to address questions and concerns.

Benefits of opting out are:

- City employees can participate in FAMLI on their own by electing in and the cost to the employee is the same whether the City participates or not.
- The City has no financial responsibility for the premium.
- Most City employees receive a greater benefit from the City at no cost to the employee.

Employees can use both the City program and FAMLI.

Mayor Gates gave appreciation to the HR team in their thorough review of this matter and their diligence of informing the employees of this complex matter and giving them options for opting in themselves if they desire.

Councilmember Butler asked about the process for employees, specifically if employees can utilize the plan at any time? In response to the question, Ms. Mink

replied that employees can, but if they opt in, they cannot opt out for three years. Ms. Mink indicated that CML did a study of 45 other municipalities in the state and only 3 of those 45 are opting in at this point.

Mayor Gates indicated he also heard at a School Board meeting that school districts in the state are also not opting in for the same reasons.

The Public Hearing was opened at 7:51 p.m.

With no speakers, the Public Hearing was closed at 7:51 p.m.

Mayor Pro Tem Payton moved to adopt the Resolution. Councilmember Olson seconded the motion. The motion passed 6-0 at 7:52 p.m. with Councilmember Hall absent.

19. Public hearing and second reading of an Ordinance amending Title 12, Chapter 3 and Title 20, Chapter 3 and Chapter 4 of the Greeley Municipal Code Relating to the City of Greeley's Municipal Separate Storm Sewer System

Brian Hathaway, Stormwater Quality Administrator introduced the item with a presentation at 7:53 p.m.

The City's Municipal Separate Storm Sewer System permit is mandated by the Environmental Protection Agency (EPA) and administered by the Colorado Department of Health and Environment. Under the permit, enforcement provisions are required for construction sites, post-construction and illicit discharges.

In 2019, stormwater code underwent a comprehensive revision to ensure regulatory compliance, which included enforcement provisions. In 2022, the City Attorney's Office notified Public Works that the enforcement language adopted in 2019 had several crucial errors.

Councilmember Olson asked who the permit controller is when a developer is developing a property. In response to the question, Mr. Hathaway replied the City is the permit controller, and the state has the construction storm water permit, but the City must also inspect.

Councilor Olson asked if this change would have helped with the Rock Ridge development. In response to the questions, Mr. Hathaway replied that it would have helped.

The Public Hearing was opened at 7:56 p.m.

With no speakers, the Public Hearing closed at 7:56 p.m.

Councilmember Olson moved to adopt the Ordinance and publish with reference to title only. Councilmember Butler seconded the motion. The motion passed 6-0 at 7:57 p.m. with Councilmember Hall absent.

20. **Public hearing and second reading of an Ordinance changing the official zoning map of the City of Greeley, Colorado, from Holding-Agriculture (H-A) to Residential-High Density (R-H), changing the underlying land use designations for approximately 31.19 acres of property located north of and adjacent to 13th Street and the Fox Run Neighborhood, approximately 500' west of 59th Avenue, and approximately 580' south of 10th Street (ZON2021-0016) (13th Street Apartments Rezone)**

The applicant requested this item be continued to the January 17, 2023 City Council meeting. The applicant's Attorney Patrick Grooms was present and informed the City Council why the request was made.

Mayor Pro Tem Payton moved to continue the Public hearing and second reading of an Ordinance changing the official zoning map of the City of Greeley, Colorado, from Holding-Agriculture (H-A) to Residential-High Density (R-H), changing the underlying land use designations for approximately 31.19 acres of property located north of and adjacent to 13th Street and the Fox Run Neighborhood, approximately 500' west of 59th Avenue, and approximately 580' south of 10th Street (ZON2021-0016)(13th Street Apartments Rezone) to the January 17, 2023 City Council Meeting. Councilmember Butler seconded the motion. The motion passed 6-0 at 8:00 p.m. with Councilmember Hall absent.

21. **Appointment of applicants to the Housing Authority**

City Clerk Leatherwood read the appointment.

Housing Authority

- Juliana Kitten was appointed to a term of five years expiring 2027.

22. **Scheduling of Meetings, Other Events**

None.

23. **Consideration of a motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and any previous meetings, and authorizing the Mayor and City Clerk to sign all such resolutions, agreements and ordinances**

Mayor Pro Tem Payton moved to approve the motion. Councilmember Butler seconded the motion. The motion passed 6-0 at 8:01 p.m. with Councilmember Hall absent.

- 24. Consideration of a motion to go into executive session to request and receive legal advice from the City Attorney regarding qualifications of candidates for City office as set out in the Greeley Municipal Charter and the Colorado Constitution**

Councilmember Olson moved to approve the motion. Mayor Pro Tem Payton seconded the motion. The motion passed 6-0 at 8:02 p.m. with Councilmember Hall absent.

- 25. Adjournment**

Mayor Gates announced that Council will not be returning to the regular meeting and adjourned the meeting at 8:02 p.m.

Executive Session regarding qualifications of candidates for City office as set out in the Greeley Municipal Charter and the Colorado Constitution

Announcement made by mayor as presiding officer at the beginning of executive session, confirming that the meeting is being recorded:

"The time is 8:07 p.m. on November 15, 2022. For the record, this is City Attorney Doug Marek, and at the request of the Mayor, John Gates, and as required by Open Meetings Law this executive session is being electronically recorded. In addition, present at this executive session are the following persons: (Mayor Gates, Mayor Pro Tem Payton, Councilmembers Clark, Olson, DeBoutez and Butler, City Clerk Heidi Leatherwood, and City Manager Raymond Lee, III)."

"This is an executive session for the following purposes: receiving legal advice from the City Attorney regarding qualifications of candidates for City office as set out in the Greeley Municipal Charter and the Colorado Constitution as provided under C.R.S. 2-402(4)(b); and Greeley Municipal Code 2-151(2).

"I caution each participant to confine discussion to the stated purpose of the executive session, and no formal action may be taken during executive session. If at any point in this executive session any participant believes that the discussion is going outside of the proper scope of the executive session, please interrupt the discussion and make an objection."

Announcement by City Attorney:

As City Attorney, it is my opinion that the discussion of this matter is a privileged attorney-client communication. I am therefore recommending that the recording

of this executive session should stop and that no further record be kept until the privileged portion ends. Mayor Gates, may I turn off the recorder?

(recorder turned off)

Announcement by City Attorney

The time is now 8:34 p.m., and I have turned the recorder on because the confidential attorney-client privileged conversation is ended. This executive session is concluded. The recording of this executive session will be retained as provided in the City's Records Retention Policy and in conformity with the Colorado Open Meetings Law for a period of 90 days.

This time is 8:34 p.m. This executive session is concluded. The recording of this executive session will be retained as provided in the City's Records Retention Policy and in conformity with the Colorado Open Meetings Law for a period of 90 days.

John D. Gates, Mayor

Heidi Leatherwood, City Clerk