

**TOWN OF PARKER COUNCIL
MINUTES
NOVEMBER 6, 2023**

Mayor Jeff Toborg called the meeting to order at 6:00 p.m. All Councilmembers were present.

Town Attorney Kristin Hoffmann announced there was one topic for discussion in the Executive Session under C.R.S. § 24-6-402(4)(f) regarding the Town Manager evaluation. The second item for discussion, under C.R.S. § 24-6-402(4)(b), was about C.R.S. § 32-1-1004(8), Section V.A.3. of the Model Service Plan and Section 7 of the Model Intergovernmental Agreement concerning covenant enforcement and design review powers.

EXECUTIVE SESSION

Joshua Rivero moved and Todd Hendreks seconded to go into Executive Session at 6:01 p.m. to consider personnel matters under C.R.S. § 24-6-402(4)(f) and to hold a conference with the Town's Attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b).

Brandi Wilks moved and Joshua Rivero seconded to come out of Executive Session at 6:37 p.m.

The motion was approved unanimously.

Brandi Wilks moved and Joshua Rivero seconded to recess the Regular Meeting until 7:00 p.m.

The motion was approved unanimously.

REGULAR SESSION

Mayor Toborg reconvened the meeting at 7:00 p.m.

Mayor Toborg led the Council and audience in the Pledge of Allegiance.

SPECIAL PRESENTATION

Recognition of Parker Police Citizens Academy Graduates

Mayor Toborg and Commander Chris Peters recognized the citizens who graduated from the Fall Parker Police Citizens Academy.

PUBLIC COMMENTS

Harold McCloud, Aurora, appearing on behalf of two Rotary Clubs, requested that the Town run electricity to the gazebo in O'Brien Park.

REPORTS, ITEMS AND COMMENTS FROM MAYOR AND COUNCIL

Each Councilmember reported on meetings and activities they had attended since the last Town Council meeting.

CONSENT AGENDA**A. APPROVAL OF MINUTES - October 23, 2023****B. ORDINANCE NO. 1.567.2 - First Reading**

A Bill for an Ordinance to Adopt the 2023 Revised Budget for the Town of Parker and to Make Appropriations for the Same

Department: Finance, Mary Lou Brown & Christine Brookshire

Second Reading: November 20, 2023

C. POPE PROPERTY ZONING

Applicant: David Brehm, Plan West

Location: Southwest corner of Twenty Mile Road and Dransfeldt Road

Department: Community Development, Stacey Nerger

TRAKiT No.: Z22-032 & Z22-037

Second Reading: November 20, 2023

1. ORDINANCE NO. 3.364 - First Reading

A Bill for an Ordinance Zoning Certain Property Within the Town of Parker, Colorado, Known as the Pope Property to GD-Greater Downtown District, Market Center, Pursuant to the Town of Parker Land Development Ordinance and Amending the Zoning Ordinance and Map to Conform Therewith

2. ORDINANCE NO. 3.365 - First Reading

A Bill for an Ordinance Zoning Certain Property Within the Town of Parker, Colorado, Known as the Pope Property to A-Agricultural District Pursuant to the Town of Parker Land Development Ordinance and Amending the Zoning Ordinance and Map to Conform Therewith

3. ORDINANCE NO. 3.366 - First Reading

A Bill for an Ordinance Zoning Certain Property Within the Town of Parker, Colorado, Known as the Pope Property to OS-Open Space District Pursuant to the Town of Parker Land Development Ordinance and Amending the Zoning Ordinance and Map to Conform Therewith

4. ORDINANCE NO. 3.367 – First Reading

A Bill for an Ordinance Rezoning Certain Property Within the Town of Parker, Colorado, Known as the Pope I Remnant 1 Property from GD-Greater Downtown District to OS-Open Space District Pursuant to the Town of Parker Land Development Ordinance and Amending the Zoning Ordinance and Map to Conform Therewith

5. ORDINANCE NO. 3.368 – First Reading

A Bill for an Ordinance Rezoning Certain Property Within the Town of Parker, Colorado, Known as the Town-Owned Pope I Remnant 2 Property from GD-Greater Downtown District to A-Agricultural District Pursuant to the Town of Parker Land Development Ordinance and Amending the Zoning Ordinance and Map to Conform Therewith

D. RESOLUTION NO. 23-084

A Resolution to Adopt the Town of Parker, Colorado, Three-Mile Area Plan

Department: Community Development, Jeremiah Fettig

E. RESOLUTION NO. 23-088

A Resolution Accepting the Conveyance of a Drainage Easement from Nacho Lands LLC, for Cottonwood Highlands Filing No. 6, Amendment 1, Lot 2-2B

Department: Engineering and Public Works, Michael Walton

F. CONTRACTS OVER \$100,000

1. Legally Blonde The Musical

Amount: Walkout Potential \$130,000

Contractor: Sasquatch Productions Ltd.

Department: Cultural, Carrie Glassburn

2. Lincoln Median Landscaping Project Contract Award

Amount: \$242,068

Contractor: Land Ethics of Colorado LLC

Department: Engineering and Public Works, Nathan Klass

3. North Parker Road Operational Improvements - Construction Management

Amount: \$398,625

Contractor: Felsburg, Holt & Ullevig

Department: Engineering and Public Works, Alex Mestdagh

4. 2024 Custodial Services Contract

Amount: \$600,000

Contractor: The Key People

Department: Engineering and Public Works, Jim Gilbert

G. PROCLAMATION - Small Business Saturday - Pam Woo

Joshua Rivero moved to approve Consent Agenda Items 5A through 5G.

Todd Hendreks seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Brandi Wilks - yes

Laura Hefta - yes

The motion was approved unanimously.

TOWN MANAGER REPORT

Town Manager Report - Autumn 2023

A written report from the Town Manager was supplied to the Town Council as part of the Council packet.

PUBLIC HEARINGS

A. ORDINANCE NO. 13.111.1 - Second Reading

A Bill for an Ordinance Approving the Exclusion of Certain Property From the Boundaries of the Downtown Parker Business Improvement District and Making Findings Related Thereto

Department: Town Attorney, Kristin Hoffmann

Mayor Toborg opened the Public Hearing at 7:19 p.m.

Town Attorney Kristin Hoffmann made the following statement:

"Tonight, the Town Council will consider "A Bill for an Ordinance Approving the Exclusion of Certain Property from the Boundaries of the Downtown Parker Business Improvement District, and Making Findings Related Thereto."

This ordinance describes certain real property that will be excluded from the District. Three Councilmembers previously disclosed in written disclosure statements filed with the Colorado Secretary of State and the Town Clerk that they operate businesses that are located within the District's boundaries. Specifically, Anne Barrington previously disclosed that she maintains a business address at 19402 E. Mainstreet; Josh Rivero previously disclosed that he maintains a business address at 19559 E. Mainstreet; and Brandi Wilks previously disclosed that she maintains a business address at 19590 E. Mainstreet.

Under Section 3.4 of the Home Rule Charter of the Town of Parker "No member of Council shall vote on any question in which he has a substantial personal or financial interest."

Additionally, Section 7.2 of the Home Rule Charter of the Town of Parker provides that "Every Ordinance shall require the affirmative vote of the entire council in order to be adopted." In other words, at minimum of four councilmembers must vote in the affirmative to pass an ordinance.

If these three Councilmembers are disqualified from voting because they have a personal or financial interest in the subject matter of the ordinance, then the Town Council will not be able to act on the ordinance.

Under C.R.S. Section 31-4-404(3) a Town Councilmember member may vote notwithstanding a personal or private interest in the matter proposed or pending before the Town Council, if the Councilmembers "participation is necessary to obtain a quorum or otherwise enable the body to act;" provided the Councilmember complies with the voluntary disclosure requirements under state law.

Here, Councilmembers Barrington, Rivero and Wilks have complied with the voluntary disclosure requirements. As a result, they are authorized to vote on the ordinance in order to maintain a quorum to conduct business.

This is what is commonly referred to as the rule of necessity."

On September 25, 2023, a petition for exclusion from the Downtown Parker Business Improvement District (the "District") was filed with the Town. On October 2, 2023, the Town Council adopted a resolution setting the public hearing date for November 6, 2023.

Exclusion of property from the boundaries of a business improvement district is initiated through the filing of a petition by the owners of the proposed property requesting that the property be excluded from the District. The property owned by the petitioners, and sought to be excluded from the District, is described in the attached petition and ordinance. The Town Clerk caused notice of the filing of the petition to be given and published. The notice informed all persons having objections to appear at the hearing and show cause why the petition should not be granted.

The Town Council shall hear the petition and all objections that may be presented by any person showing cause why the petition should not be granted. The failure of any interested person to show cause shall be deemed an assent to the exclusion of the property.

If the change of boundaries of the District does not adversely affect the District and if the petition is granted, the governing body shall adopt an ordinance and file a certified copy with the county clerk and recorder. The property shall then be excluded from the District.

Presentation from Perry Becky, Centennial, on behalf of petitioner Bonbeck Parker, LLC.

Public Comments: Omar Castillo, Parker, and Tony Mango, Parker, spoke about the potential impacts of the exclusion of this property from the District.

Mayor Toborg closed the Public Hearing at 7:44 p.m.

Joshua Rivero moved to approve Ordinance No. 13.111.1 on second reading.

Todd Hendreks seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - no

Todd Hendreks - no

John Diak - no

Brandi Wilks - yes

Laura Hefta - no

The motion failed on a 2-4 vote, with Councilmembers Barrington, Hendreks, Diak and Hefta opposing.

John Diak moved to direct the Town Attorney to draft findings, consistent with the failure to adopt Ordinance No 13.111.1, for Council action at the Council meeting on December 4, 2023.

Joshua Rivero seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Brandi Wilks - yes

Laura Hefta - yes

The motion was approved unanimously.

B. ORDINANCE NO. 1.593 - First Reading

A Bill for an Ordinance to Adopt the 2024 Budget and to Make Appropriations for the Same

Department: Finance, Mary Lou Brown & Christine Brookshire

Second Reading: November 20, 2023

Mayor Toborg opened the Public Hearing at 8:05 p.m.

Internal work on the 2024 Town of Parker budget began in mid-July and was followed by a Council budget retreat on October 6, 2023 and a Council study session on October 23, 2023. The 2024 Budget was posted to the internet on Monday, October 9, 2023, in advance of the legal deadline of October 15, 2023. Tonight is the first public hearing for the 2024 Budget, and the second public hearing is scheduled for November 20, 2023.

The 2024 Budget was prepared in conjunction with seven overall guidelines:

- Meet the General Fund required cash balance percentage
- Calculate the Cultural and Recreation Fund cash balances in the same manner as the General Fund
- Sustain level of funding for community programs
- Maintain repair and maintenance programs at the current activity levels
- Plan for potential compensation study recommendations
- Fund performance pay and PD officer step plans in line with other area agencies
- Contain growth in discretionary expense items

The sales tax growth rate has experienced considerable volatility from the 2021 and 2022 rates of 18.4% and 11.1%, respectively, to the 2023 projection of 4.0%. Based on this history, the sales tax growth rate for 2024 is budgeted at 5%.

In the General Fund, which is the main operational fund of the Town, expense growth is 14% percent due to twelve and a half additional employees being added to the Police Department and four in Public Works, \$1.13M added in Capital Outlay, and inflationary growth in most categories.

Public Comments: None.

Mayor Toborg closed the Public Hearing at 8:36 p.m.

Todd Hendreks moved to approve Ordinance No. 1.593 on first reading and to schedule second reading for November, 20, 2023.

Anne Barrington seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Brandi Wilks - yes

Laura Hefta - yes

The motion was approved unanimously.

C. Shopping Center Assistance Program Agreement for Kings Point Retail, LLC

Department: Economic Development, Weldy Feazell

Mayor Toborg opened the Public Hearing at 8:40 p.m.

Kings Point Retail LLC, is the land owner and developer of the 8-acre site. The proposed project consists of a shopping center with three buildings, a 40,000-square-foot building leased to Whole Foods, and two 2,500-square-foot retail buildings. A site plan for the Whole Foods building has been submitted and is currently going through the referral process. The location of the project and its proximity to the future connection of Aurora Parkway and Kings Point Way will provide an additional gateway into the Town for the residents coming from Aurora. The development location does present some extraordinary off-site and on-site infrastructure costs, primarily to compensate for stormwater and utility relocations.

Kings Point has submitted a request for financial assistance in the amount of \$3.2 million to offset a portion of the infrastructure and development cost associated with the project. Retail sales from the project are estimated to be \$36.6 million in year one and grow to \$59 million by year 10. Whole Foods operations can reasonably be anticipated to employ 50+ individuals when fully operational. Construction is anticipated to begin late in 2023 or early 2024.

The Kings Point development meets the following criteria pursuant to Section 4.10.040 of the Code to participate in the program:

1. The proposal includes the development of buildings as part of the proposed shopping center that are commercial in nature and located within areas of the Town's Master Plan that are identified as Community or Neighborhood Commercial Centers or are otherwise located in zones or areas identified as commercial in nature;
2. The proposal provides for the development of two or more commercial buildings with a collective gross floor area (GFA) of not less than thirty thousand (30,000) square feet within the Town that will be constructed as part of the proposed shopping center;
3. The proposal will identify types of retailers and establish a minimum threshold of fifty percent (50%) of leasable space as "retail sales tax generating business" for participation in sales tax share back as identified elsewhere in this section;
4. The proposal will anticipate an aggregate employment of not less than fifty (50) employees (full-

time equivalent employees);

5. The proposal provides that the applicant has made, or be contractually obligated to make, all public improvements required in either the Town's zoning or subdivision ordinances;
6. Participation in the Program shall be based on the applicant's ability to provide for significant public or quasi-public improvements as referenced in Paragraph 4.10.090(2) of this Chapter;
7. Any proposed shopping center that meets or exceeds each of the criteria set forth herein may apply to the Town for a rebate of taxes and fees generated by the proposed shopping center as follows:
 - a. A percentage of fees not to exceed fifty percent (50%), as defined elsewhere in this Section, for a period not to exceed ten (10) years; and
 - b. A percentage of sales taxes not to exceed fifty percent (50%), as defined elsewhere in this Section, generated by the proposed shopping center, for a period not to exceed ten (10) years and payable as outlined in Section 4.10.070 of this Chapter. The Finance Director may conduct an annual audit to determine if the proposed shopping center meets or exceeds the criteria contained in this Section during the term of the Agreement.

The project meets the criteria contained in Section 4.10.090 of the Code based upon the following:

- Development of a high-quality retail-supported commercial center
- Represents retail diversity\
- Represents diversity of jobs and employment opportunities
- Develops public or quasi-public improvements associated with the project
- Creates new sales tax

Public Improvements identified in the application and verified by staff as required for the development total \$2,700,900 and include the following:

- Sidewalks (along Cottonwood and Kings Point South): \$41,000
- Curbs and Gutter and Cross Pans: \$11,500
- Pedestrian Plaza and Canopy: \$26,500
- Water and Sewer line extension/loop: \$385,000
- Drainage Way excavation and fine grading: \$49,500
- Drainage Facilities (piped): \$314,200
- Drainage Facilities (pond, pond walls, railing): \$1,025,600
- Drainage Facilities Drop Structure: \$96,200
- Drainage Storm Outfall Structure: \$92,400
- Decorative Structure (corner element): \$125,000
- Public Art (pad): \$11,000
- Identification Sign (Sign Base): \$9,300
- EV Charging Stations conduit: \$12,700
- Architectural Enhancements (Building Canopies): \$295,300
- Relocation, Extension and Improvements of existing utility lines: \$486,000

Quasi-Public Improvements which are part of the application and total \$1,511,600 include:

- Streets (asphalt, patch for utility tie-in includes sanitary main and water line in Kings Point): \$121,500

- Handicap Parking Symbols, Striping and Posts: \$3,500
- Site Lighting (poles, pole bases): \$169,700
- Landscaping: \$274,400
- Site Accessories (Benches, Bike Racks, Trash Receptacles): \$15,000
- Building Facades (assumed 40% of total cost): \$647,200
- Architectural Enhancements (Building Canopies): \$295,300

The total project cost is estimated at \$18,000,000, and anticipated food and beverage sales over a ten-year period are projected to total \$468,800,000.

The anticipated Town revenues over 10 years are projected as follows:

- Parker Sales Tax (Parks & Recreation): \$2,344,000
- Parker Sales Tax (General Fund): \$11,720,000
- Total Anticipated Revenues (Direct only): \$14,064,000

Tom George, Denver, attorney on behalf of the property owner, was available to answer questions from the Council.

Public Comments: None.

Mayor Toborg closed the Public Hearing at 8:52 p.m.

Brandi Wilks moved to approve the Shopping Center Assistance Program Agreement with Kings Point Retail, LLC.

Laura Hefta seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Anne Barrington - yes

Todd Hendreks - yes

John Diak - yes

Brandi Wilks - yes

Laura Hefta - yes

The motion was approved unanimously.

CONTRACTS OVER \$500,000

Jordan Road - Cedar Gulch Parkway Traffic Signal (CIP 22-056)

Amount: \$870,312

Contractor: Sturgeon Electric Company Inc.

Department: Engineering and Public Works, Chris Hudson & Nathan Klass

The Town opened competitive bids on October 3, 2023 for the Jordan Road & Cedar Gulch Parkway Traffic Signal project. Work includes, but is not limited to, caissons, signal poles for a new traffic signal, ADA ramps for street crossings, and reworking the east side pavement/curb line for improved circulation.

The Town received bids from six (6) contractors with Sturgeon Electric Company Inc. being the lowest responsible bidder. Sturgeon Electric Company Inc. has completed previous traffic signal projects with Town staff in the past with good results as both a subcontractor and general contractor. Two references were contacted and gave positive reviews. Town staff recommends moving forward with the contract award.

Public Comments: None.

Anne Barrington moved to approve the staff recommendation as part of the regular agenda.

Brandi Wilks seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes
Anne Barrington - yes
Todd Hendreks - yes
John Diak - yes
Brandi Wilks - yes
Laura Hefta - yes

The motion was approved unanimously.

ADJOURNMENT

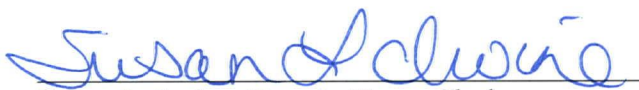
Laura Hefta moved to adjourn the meeting at 9:06 p.m.

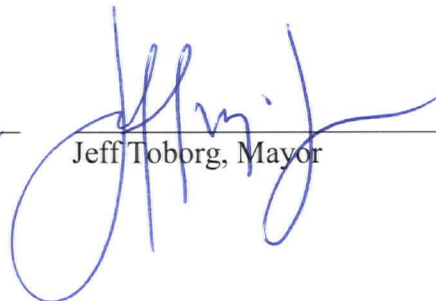
Brandi Wilks seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes
Anne Barrington - yes
Todd Hendreks - yes
John Diak - no
Brandi Wilks - yes
Laura Hefta - yes

The motion was approved on a 5-1 vote with Councilmember Diak opposing.


Susan L. Irvine, Deputy Town Clerk


Jeff Toborg, Mayor