

Parks, Recreation and Cultural Services



PR&CS Administration
1401 Recreation Way
Colorado Springs, CO 80905

Agenda

Parks and Recreation Advisory Board

Please silence your phone during the meeting.

Thursday, August 11, 2016

7:30 am

Palmer Room

Call to Order

Citizen Discussion

Time for any individual to bring before the Parks and Recreation Advisory Board any matter of interest they wish to discuss that is not elsewhere on the agenda. Comments are restricted to three (3) minutes; you will hear an alarm when your time is up. Please contact PR&CS staff no later than the last Wednesday of the month prior if you wish to place a longer presentation on the agenda.

Approval of Minutes- July 14, 2016

Minutes are posted no later than 5:00 pm on the Tuesday before the meeting at:

<http://parks.coloradosprings.gov/explore-play/get-involved/boards-committees/parks-and-recreation-advisory-board>

Action Item

Colorado Springs Utilities – Utility Access at University Village

Chris Lieber

Presentation

Legacy Loop Update

Sarah Bryarly

Gateway at Boulder Crescent – (Michelson Property)

Chris Lieber

Staff Report

Pickleball Update

Steve Bodette

Manitou Incline – Phase II Update

Sarah Bryarly

Adjournment

Closed Executive Session

In accord with the City Charter Art. III, §3-60(d) and the Colorado Open Meetings Act, C.R.S. § 24-6-402(4) (a, b and e), the Parks and Recreation Advisory Board, in Open Session, is to determine whether it will hold a Closed Executive Session. The issues to be discussed involve receipt of legal advice and determining positions relative to matters that may be subject to

Parks, Recreation and Cultural Services

negotiations, developing strategy for negotiations and instructing negotiators regarding a land acquisition matter. The Chair shall poll the Park and Recreation Advisory Board members, and, upon consent of two-thirds of the members present, may hold a closed executive session. If consent to the closed executive session is not given, the item may be discussed in open session or withdrawn from consideration.

COLORADO SPRINGS PARKS AND RECREATION DEPARTMENT

PARKS AND RECREATION ADVISORY BOARD

Date: August 11, 2016

Item Number: Action Item #__1__

Item Name: Request by Colorado Springs Utilities to for a Public Utility Corridor across the Pikes Peak Greenway at North Nevada Avenue and University Village

SUMMARY: The Parks and Recreation Department has received a request from Colorado Springs Utilities for a public utility corridor across the Pikes Peak Greenway Trail at North Nevada Avenue and University Village. The proposed public utility corridor is necessary for the construction of underground utilities to serve to benefit the University of Colorado at Colorado Springs (UCCS) and other developments along the corridor. If approved by the Parks and Recreation Advisory Board, Park staff will pursue an Executive Agreement with Colorado Springs Utilities for use of this corridor.

PREVIOUS BOARD ACTION: None

BACKGROUND: Representatives from Colorado Springs Utilities will provide a presentation on the proposed utility corridor. The attached Executive Agreement and legal description outlines specific provisions and responsibilities of each party.

FINANCIAL IMPLICATIONS: There will be no cost to the Parks Department. Colorado Springs Utilities will be responsible for all costs associated with the establishment of the Executive Agreement and construction of the proposed utilities.

RECOMMENDATION:

Approval of the request from Colorado Springs Utilities for a public utility corridor across the Pikes Peak Greenway Trail at North Nevada Avenue and University Village

ALTERNATIVE:

Deny approval or modify request

PROPOSED MOTION:

Move approval of the request from Colorado Springs Utilities for a public utility corridor across the Pikes Peak Greenway Trail at North Nevada Avenue and University Village.

PARTIES NOTIFIED OF THIS MEETING:

Colorado Springs Utilities

EXECUTIVE AGREEMENT
(Secondary Use)
Colorado Springs Utilities Wastewater Main
On Park City Property along Monument Creek

This **Executive Agreement** (“Agreement”) effective _____, 2016, is in connection with the City of Colorado Springs owned real property identified as El Paso County Tax Schedule Number 6319402072, located at 0 N Nevada Avenue, Colorado Springs, and this Agreement is by and between the City of Colorado Springs Parks, Recreation and Cultural Services Department (“Controlling Department”), whose address is 1401 Recreation Way, Colorado Springs, Colorado 80905, and the Colorado Springs Utilities (“Non-Controlling Department”) whose address is P.O. Box 1103, Colorado Springs, Colorado, 80947-0930. Both Controlling Department and Non-Controlling Department hereinafter are individually referred to as “Party” and collectively referred to as “Parties.”

Recitals

WHEREAS, the City of Colorado Springs is owner in fee simple of the real property known as El Paso County Tax Schedule Number 6319402072 (“Property”), and the Non-Controlling Department is requesting a portion of the property for the purpose of utility use, and specifically a wastewater main; and

WHEREAS, the Controlling Department has determined that the installation of a subsurface wastewater main for utility purposes is compatible and will not interfere with the operation of the Property; and

WHEREAS, the Parties do not intend to establish new standards, but rather to set forth the terms and conditions under which the Parties may continue to use the Property for their respective operations.

NOW, THEREFORE, in consideration of the promises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

Covenants

1. **Administration and Enforcement**: The Controlling Department shall have the management responsibilities for the Property. The Controlling Department hereby grants to the Non-Controlling Department permission to enter, occupy and use a portion of the Property for utility purposes, and specifically the installation of a subsurface wastewater main. The Non-Controlling Department shall obtain the written approval of the Controlling Department prior to any proposed installation and repair of the Property for the purpose of utility construction or maintenance contemplated by the Non-Controlling Department. The Controlling Department’s approval shall not be unreasonably withheld. The provisions of this Agreement shall be administered and enforced for by the Controlling Department.
2. **Property**: The Property is identified as El Paso County Tax Schedule Number 6319402072, and is shown on Exhibit A, attached hereto and incorporated herein by reference.
3. **Utility Area**: The utility area is described and shown on Exhibit B and Exhibit C, attached hereto and incorporated herein by reference. The Parties shall notify each other as soon as reasonably possible in the event of any significant change to the current use or proposed major modifications that may impact the

EXECUTIVE AGREEMENT

uses of utility area as set forth in this Agreement. If in the future the utility area on the Property is not required by the Non-Controlling Department, this Agreement shall automatically terminate.

4. **Purpose and Use:** The Controlling Department shall permit the Non-Controlling Department to use and occupy the utility area to add, construct, reconstruct, install, use, operate, maintain, repair, patrol, replace, upgrade, modify, alter, or remove their present and future wastewater main, respectively, and which are incidental to and necessary to operate and maintain the Controlling Departments operation.

The Non-Controlling Department will coordinate the installation of the wastewater main with an independent contractor, and the title to that wastewater main will be held by the Non-Controlling Department.

5. **Parties' Responsibilities:**

The Controlling Department shall not have the responsibility and obligation to perform the duties associated with the construction, installation, or maintenance of the wastewater main or utility area.

The Non-Controlling Department shall have the responsibility and obligation to perform the duties associated with utilities as it may relate to the Property. Additionally, the Non-Controlling Department agrees that the wastewater main and its maintenance and repair will be the obligation of the Non-Controlling Department at its sole expense.

6. **Ingress and Egress:** The Parties shall have the perpetual right of reasonable ingress and egress in, to, through, over, under, and across the Property for access to and from any roads or any other point to the Property, in order to perform the Party's rights with respect to the utility area. To the maximum practicable extent, the Parties shall use existing gates, roads, or trails to avoid disruption of the other Parties' operations.

7. **Modifications and Alterations to the Property:** The Parties shall have the right to add, construct, reconstruct, install, use, operate, maintain, repair, patrol, replace, upgrade, modify, alter or remove (modifications and alterations) at any time or from time to time, their respective existing and future facilities or improvements and appurtenances thereto within the Property. Such right shall be perpetual, and each Party shall not stop, hinder, or impede modifications and alterations of such improvements or limit the same within the Property. However, any modifications or alternations of improvements any of the Parties shall be reviewed and approved by the other Parties; such approval shall not be unreasonably withheld. Each Party, at its expense, shall protect their respective improvements and structures on the Property.

8. **Consideration:** The consideration could be addressed through the annual budget process and cost allocation of funds provided to the City of Colorado Springs by the Colorado Springs Utilities.

9. **Controlling Departments' Rights Unaffected:** the Controlling Department shall retain the right to make full use of the Property, except for such use as might endanger or interfere with the rights of the Non-Controlling Department.

10. **Restoration of Property and Improvements:** In the construction, reconstruction, use, operation, maintenance, repair, patrol, replacement, upgrading, or removal of each Parties improvements and structures, the Parties shall promptly restore, replace, or repair such improvement and structure as close to its condition immediately prior to such work as may be reasonably possible.

EXECUTIVE AGREEMENT

11. **Maintenance of Each Parties Improvements:** Each Party shall be responsible for the maintenance of their respective improvements and structures. Each Party shall have the perpetual right, but not the obligation, to remove obstructions which injure or interfere with each Party's use, occupation or enjoyment of the Property.

12. **Waiver:** The failure of either Party to insist, in any one or more instances, upon a strict performance of any of the obligations, covenants, or agreements herein contained, or the failure of either Party in any one or more instances to exercise any option, privilege, or right here in contained, shall in no way be construed to constitute a waiver, relinquishment or release of such obligations, covenants, or agreements, and no forbearance by the either Party of any default hereunder shall in any manner be construed as constituting a waiver of such default.

13. **No Third Party Beneficiaries:** Except as expressly provided otherwise, this Agreement is intended to be solely for the benefit of the Parties and shall not otherwise be deemed to confer upon or give to any other person or third party any remedy, claim, cause of action or other right.

14. **Notice.** Any notice provided in accord with this Agreement, shall be in writing to any Party's address as shown ("Notice"). Such Notice shall be effective upon the date received and acknowledged by signature of the Party that receives Notice. Either Party may change its address to which any Notice is to be delivered under this Agreement by giving Notice as provided herein.

If to Controlling Department:

City of Colorado Springs
Parks, Recreation and Cultural Services Department
1401 Recreation Way
Colorado Springs, CO 80905
Attn: Karen Palus, Director
719-385-6501

If to Non-Controlling Department:

Colorado Springs Utilities
Utilities Development Services
P.O. Box 1103
Colorado Springs, CO 80947

15. **Entire Agreement:** This Agreement represents the entire agreement between the Parties with respect to the Property and no additional or different oral representation, promise or agreement, oral or otherwise, shall be binding on any of the Parties hereto with respect to the subject matter of this instrument, unless stated in writing explicitly referring to this Agreement and signed by the Parties.

16. **Assignment:** This Agreement may not be assigned by any Party.

17. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed original and all of which together shall constitute one and the same instrument. Facsimile copies of signatures shall be permitted for purposes of the binding nature of this Agreement.

EXECUTIVE AGREEMENT

Each of the undersigned represents that he or she has full authority to bind their respective entity with regard to the matters contained herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY OF COLORADO SPRINGS
Parks, Recreation and Cultural Services Department

By: _____
Karen Palus, Director

COLORADO SPRINGS UTILITIES
Development Review Services Division

By: _____
Brian Whitehead

Exhibit A – Property

Platted: Tract B, University Village Colorado, Filing No. 1, recorded at Reception
Number 208712737, El Paso County, Colorado

Exhibit B

Legal Description of Utility Area

That portion of Tract B, University Village Colorado Filing No. 1, City of Colorado Springs, El Paso County, Colorado described as follows:

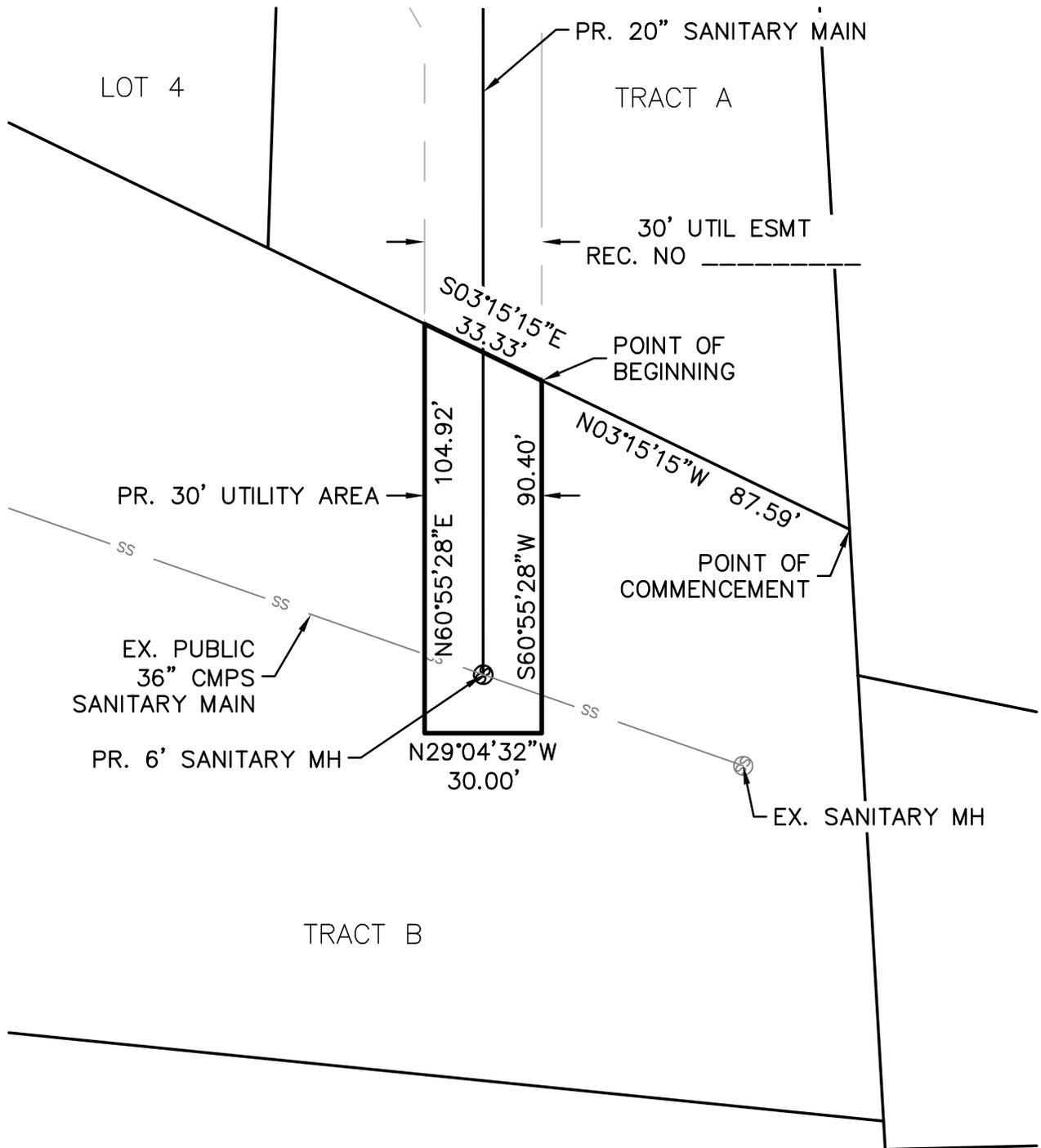
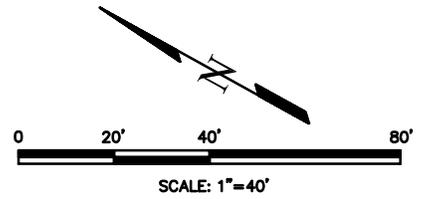
Commencing at a southwesterly corner of Tract, said University Village Colorado Filing No. 1 (said point also being a corner of Tract B); thence North 03 degrees 15 minutes 15 seconds West, along an easterly line of said Tract B, a distance of 87.59 feet to the point of beginning;

1. Thence South 60 degrees 55 minutes 28 seconds West, 90.40 feet;
2. Thence North 29 degrees 04 minutes 32 seconds West, 30.00 feet;
3. Thence North 60 degrees 55 minutes 28 seconds East, 104.92 feet;
4. Thence South 03 degrees 15 minutes 15 seconds East, along easterly line of said Tract B, to the Point of Beginning.

Containing a calculated area of 2,930 square feet (0.0673 acres), more or less.

This legal description and exhibit were not prepared by a licensed Professional Surveyor and are to be used only for reference.

EXHIBIT C



125 N. WAHSATCH AVENUE
 COLORADO SPRINGS, CO 80903

OFFICE: 719-635-6422
 FAX: 719-635-6426
 www.tnesinc.com

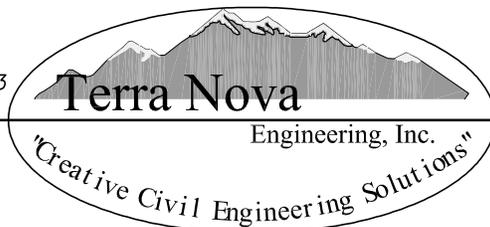


EXHIBIT C
 UCCS OFFSITE SANITARY SEWER
 2016.06.23
 1414.00