



CITY COUNCIL AGENDA
May 23, 2023, 6:00 P.M.
116 Main St., Fountain
Register to attend virtually @
www.fountaincolorado.org

Pre-Council Welcome Reception For Chief Cristiani 4:30pm, City Hall Lobby, 2nd Floor

- 1) **Call to Order**
- 2) **Pledge of Allegiance**
- 3) **Roll Call**
- 4.1) **Presentations**
 - Award Fountain Youth Council Scholarship To Maxwell Lamb (Detra Duncan 5 Min)
 - Presentation of Colorado City Manager of the Year Award to Scott Trainor (Mike Foreman, Town Manager of Monument 5 Min)
 - Announcement: American Public Power Association RP3 (Reliable Public Power Provider) Designation (Dan Blankenship 5 Min)
- 4.2) **Board/Commission/Committee**
- 5) **City Council Agenda Requests**

City Council shall use this time to request any items for future consideration
- 6) **Public to be Heard**

Citizens may address the Council on items that are not on the agenda. Council may not be able to provide an immediate answer but will direct staff to follow up. Out of respect for the Council and others in attendance, please limit your comments to three (3) minutes or less.
- 7) **Consent Agenda**

All items listed under the Consent Agenda are considered to be routine and will be approved with one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which case the item may be removed from the Consent Agenda and considered separately, at the discretion of Council. (Est. time-3 min)

 - A. Approval Of The May 9, 2023, City Council Meeting Minutes (S. Huffman)
 - B. Approval Of A Special Request To Allow Serving From Glass Bottles In The Park For The Field Of Drinks Event (J. Carneal)

8) Old Business

9) New Business

- A.** Consideration Of Items Removed From The Consent Agenda
- B.** Consideration Of A Nominee For Election To The CML Executive Board (City Council)
- C.** First Reading Of Ordinance 1788, An Ordinance Establishing A New Chapter (Chapter 9.72) Of Title 9 (Public Peace, Morals And Welfare), Of The Fountain Municipal Code, Relating To The Possession And Use Of Fireworks (T. Johnson 10 Min)
- D.** Resolution 23-023, A Resolution Requesting Inclusion Into The Pikes Peak Rural Transportation Authority (T. Johnson est. 20 Min)

10) Correspondence, Comments and Ex-Officio Reports

11) Announcement of Executive Sessions

In accordance with the City Charter and the Colorado Open Meetings Act, the City Council open session is to determine whether it will hold a Closed Executive Session. A Closed Executive Session may be held upon an affirmative vote of two-thirds of the quorum present. If consent to the closed Executive Session is not given, the items may be discussed in open session or withdrawn from consideration.

PURPOSE OF THE EXECUTIVE SESSION:

- Pursuant to C.R.S. Section 24-6-402(4) for the Purpose of Review, Approval, and Amendment of Executive Session Minutes.
- Pursuant to C.R.S. Section 24-6-402(4)(a) to discuss the purchase, acquisition, lease, transfer, or sale of real, personal, or other property interest

12) Adjourn

A (Administrative Action) QJ (Quasi-Judicial Action) L (Legislative Action)

NEXT REGULAR COUNCIL MEETING

June 6, 2023



Regular City Council Meeting

Consent –7A
Council Meeting Minutes

May 23, 2023

Summary Information

Title:

APPROVAL OF THE MAY 9, 2023, CITY COUNCIL MEETING MINUTES

Initiator : City Clerk Huffman

Presenter: City Clerk Huffman

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

The attached minutes were compiled as the result of the May 9, 2023, City Council Meeting Minutes

Attachments: Above Referenced Meeting Minutes

Background Information

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.**
- Diversify city financial resources and invest.**
- Provide reliable access to public safety services.**
- Improve the quality and availability of parks and recreation opportunities**

Recommendation

Staff recommends approval.

Proposed Motion

Motion to approve shall be included under the consent agenda.

CITY COUNCIL MEETING
May 9, 2023

1) Call to Order

Mayor Thompson called the meeting to order at 6:00P.M.

2) Pledge of Allegiance

The pledge of Allegiance was recited.

3) Roll Call

Roll call found the following members present:

Mayor Thompson

Mayor Pro Tem Estes

Council Member Cory

Council Member Rick (virtually)

Council Member Applegate

Council Member Duncan

Council Member Hinton

4 (1) Presentations

- **Proclamation Declaring That Henceforth, The Of The Friday Prior To Memorial Day As “Fountain Poppy Day” In Honor Of Our Fallen**

Mr. and Mrs. Langley of Post 38 gave a brief history on the meaning of National Poppy Day and read the proclamation into record.

Council Member Duncan made a motion to approve the proclamation, seconded by Council Member Hinton. All members voted yes (7-0); the motion carried.

Public Safety Director Heberer announced his retirement, noting that June 30, 2023 will be his last day with the City. He thanked Council and several staff members for their contributions to his success.

City Manager Trainor thanked Public Safety Director Heberer. He reported that the position has been opened and he has had the opportunity to speak with Commander Cristiani and is recommending his appointment to the City Council as Police Chief. He noted the role of Public Safety Director will not be filled at this time.

City Council gave their consent.

City Clerk administered the Oath of Office to Commander Cristiani.

Police Chief Cristiani thanked Council and reviewed some of his priorities in taking office.

- **Presentation of COS Creek Plan by Annie Berlemann, Colorado Springs Utilities**

Annie Berlemann, CSU, presented the Council with prototypes for the Fountain Creekside areas. She noted the passive recreational activities that are proposed for these areas.

Council Member Duncan stated her concern with the homeless population in these areas.

Mayor Pro Tem Estes asked what the benefit is to Fountain with these proposed improvements.

Mayor Thompson stated her discontent with the issues the creek has caused the city and asked how this plan anticipates mitigating those issues. She asked what stakeholders CSU has contacted for feedback on this project.

Ms. Berlemann reported that CSU is also concerned with homelessness. She stated the benefit to Fountain would be better water quality and she has been working with the Fountain Creek Watershed District but she is currently seeking input from the City of Fountain as this project is in its early stages.

Council Member Hinton stated that CSU will need to develop a plan with regional and local partners to address the homeless concern.

City Manager Trainor stated he would compile comments for a unified response back to CSU.

4 (2) Board/Commission/Committee Appointments

There were no appointments.

5) City Council Agenda Requests

Council Member Duncan asked for the CML board position to be considered prior to June.

6) Public to be Heard

Travis Baker, VFW, updated Council on the upcoming events scheduled at the VFW. He introduced the incoming Commander.

City Clerk Huffman asked to remove agenda item 7E from the consent agenda.

7) Consent Agenda

- A. Approval Of The April 25, 2023, City Council Meeting Minutes (S. Huffman)**
- B. Request By The City Clerk To Reschedule The Regular City Council Meeting Dates In June 2023 (S. Huffman)**
- C. Referral Of An Annexation Petition For School District 8 Arena Access Generally Located At 10535 Jimmy Camp Road (K. Martinez)**
- D. Resolution No. 23-022, A Resolution Of The City Council Of The City Of Fountain, Colorado Awarding The Contract For The 2022 Community Development Block Grant Construction To Concrete Experts, LLC (B. Sheets)**

E. Resolution 23-024, A Resolution Authorizing And Approving The Non-Exclusive Permanent Easement And Temporary Construction Easement Agreements Between The City Of Fountain, Fountain Colony 1933 LLC And Fountain Colony 1933 No. II LLC For Waterline Easements To Support The 36” SW/Link Transmission Main Project (T. Murphy)

Council Member Hinton made a motion to approve consent agenda items A-D, seconded by Council Member Cory. All members voted yes (7-0); the motion carried.

8) Old Business

A. Second Reading Of Ordinance 1787, An Ordinance Amending Chapter 15.05 (Public Safety Impact Fees) Of The Fountain Municipal Code

Fire Chief Graham reported that he is requesting one change to this ordinance. He asked for the title of Public Safety Director to be amended to Fire Chief. He stated that is the only recommendation on second reading as there have been no other changes to this ordinance since first reading.

Council Member Cory made a motion to approve Ordinance 1787 as amended, seconded by Mayor Pro Tem Estes. All members voted yes (7-0); the motion carried.

9) New Business

A. Consideration Of Items Removed From The Consent Agenda

There were no items removed.

B. Resolution 23-025, A Resolution Increasing The City Of Fountain Public Safety Impact Fee

Fire Chief Graham stated that this resolution will set the fee to match the CPI index and requested an amendment to change the title from Public Safety Director to Fire Chief.

Mayor Pro Tem Estes made a motion to approve Resolution 23-025 as amended, seconded by Council Member Hinton. All member voted yes (7-0); the motion carried.

10) Correspondence, Comments and Ex-Officio Reports

Fire Chief Graham thanked Public Safety Director Heberer and congratulated Chief Cristiani.

Administrative Service Director Trylch reported that the Memorial Day services will be on May 29, 2023 at 9 A.M. at Mayor’s park.

Council Member Duncan stated that there have been an influx of comments regarding garter snakes and asked the public to not kill them as they are harmless and a big part of our ecosystem. She reported on the Metcalfe Park ribbon cutting ceremony, the current landfill voucher event, the Autism night event, announcement of nurses and teachers’ week, and the legislative sessions have changed to an interim schedule.

Council Member Hinton reported if residents want more information on how your home’s fees are assessed to please visit the Tax Assessors’ website.

Council Member Cory congratulated Chief Cristiani.

Mayor Thompson thanked the Senate for the tribute for Officer Becerra. She attended the fourth judicial conference on specialized courts and gave examples, she also attended the ribbon cutting for the round-a-bout. She congratulated all high school seniors. She reported on the upcoming redistricting of the county boundaries and stressed the importance of this process that will be held on July 6, 2023.

11) Announcement of Executive Sessions

City Clerk Huffman requested the following executive sessions:

- **Pursuant to C.R.S. Section 24-6-402(4)(b) for the purpose of receiving legal advice on specific legal questions.**

Council Member Duncan made a motion to hold the executive session, seconded by Mayor Pro Tem Estes. All members voted yes (7-0); the motion carried.

12) Adjourn

There being no further business, Mayor Thompson declared the meeting adjourned at 7:40 P.M.

City Clerk

Mayor



Regular City Council Meeting

Consent – 7B

Special Request for Event

May 23, 2023

Summary Information

Title:

APPROVAL OF A SPECIAL REQUEST TO ALLOW SERVING FROM GLASS BOTTLES IN THE PARK FOR THE FIELD OF DRINKS EVENT.

Initiator: City Clerk

Presenter: Silvia Huffman, City Clerk

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments: special

The Fountain UP Committee would like to include wineries in the Field of Drinks event on July 1, 2023. Sec. 12.32.340. of the Fountain Municipal Code does not allow glass in the parks. The request is to allow wineries to bring their product in bottles into the event and pour their product into the exhibitor’s plastic cups.

Background Information

The City Council approved a Special Event Permit on March 28, 2023 for the second annual Field of Drinks Brew Fest. The committee would like to invite wineries to the event, and they would be pouring their products from bottles into the plastic cups of the exhibitors. The Fountain Municipal Code reads:

Sec. 12.32.340. Refuse, trash.

It shall be unlawful for any person to bring in or to dump, deposit or leave any bottles, broken glass, discarded vegetation, ashes, paper, boxes, cans, garbage, dirt, rubbish, waste or other trash in any park. No person shall place such refuse or trash anywhere on the ground of any park.

This has been discussed and approved with the Parks Department and a plan has been established on how the bottles will be contained, stored, and discarded during the entirety of the event. Only the staff of the wineries will be handling any bottles, and any that will be thrown away will be done solely by the parks department staff working the event.

Recommendation

Staff recommends approval.

Proposed Motion

Motion to approve shall be included under the consent agenda.



Regular City Council Meeting

New Business –9A

Items removed from Consent Agenda

May 23, 2023

Summary Information

Title:

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA

Initiator: City Clerk

Presenter: City Clerk

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

Any Items removed from the Consent agenda for further discussion shall be heard under this item

Previous Action by City Council:

Attachment:

Background Information

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Staff recommendations

Proposed Motion

"I move to approve"



Regular City Council Meeting

New Business –9B

Appointment

May 23, 2023

Summary Information

Title:

CONSIDERATION OF A NOMINEE FOR ELECTION TO THE CML EXECUTIVE BOARD

Initiator: Council Member Duncan

Council Action

Presenter: City Council

Council Information

Legal Review: Yes No

Report to Council

Summary Overview and List of Attachments:

Only one official shall be nominated to serve on the CML Board.

Previous Action by City Council:

Attachment:

Background Information

Strategic Plan Priority (if applicable):

- Transportation Infrastructure
- Telecommunications Technology and Capabilities.
- Distribution of Public Safety Resources
- Improve the Availability of Venues Which Support Community Activities

Recommendation

Staff recommendations: N/A

Proposed Motion



Regular City Council Meeting

New Business –9C

Fireworks

May 23, 2023

Summary Information

Title:

FIRST READING OF ORDINANCE 1788, AN ORDINANCE ESTABLISHING A NEW CHAPTER (CHAPTER 9.72) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE), OF THE FOUNTAIN MUNICIPAL CODE, RELATING TO THE POSSESSION AND USE OF FIREWORKS

Initiator: Matthew Racine, Fountain PD

Presenter: Troy Johnson, City Attorney

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

This Ordinance creates a new Chapter of the Fountain Municipal Code, creating municipal violations related to the possession, use, and sale of fireworks.

Background Information

Fireworks are becoming an increasingly controversial subject in the City of Fountain and the State of Colorado. This ordinance seeks to clarify the City position on what Firework activity is allowed and what firework activity is prohibited. It also creates the ability to enforce the provisions through municipal violations with mandatory minimum fines.

Strategic Plan Priority (if applicable):

Transportation Infrastructure

Telecommunications Technology and Capabilities.

Distribution of Public Safety Resources

Improve the Availability of Venues Which Support Community Activities

Recommendation

Staff makes no recommendation.

Proposed Motion

“I move to approve Ordinance NO. 1788 on First Reading”

ORDINANCE NO. 1788

AN ORDINANCE ESTABLISHING A NEW CHAPTER (CHAPTER 9.72) OF TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE), OF THE FOUNTAIN MUNICIPAL CODE, RELATING TO THE POSSESSION AND USE OF FIREWORKS

WHEREAS, the State of Colorado has established rules regarding the possession, sale, and use of certain fireworks; and

WHEREAS, the City of Fountain is tasked with the preservation of health and safety and for the protection of public welfare; and

WHEREAS, the City of Fountain seeks clarity of the expectations of what is allowed within the City of Fountain regarding fireworks; and

WHEREAS, the City of Fountain would like to create enforcement measures against anyone violating the laws set forth herein, to include liability for anyone hosting the use of illegal fireworks; and

WHEREAS, the City of Fountain hereby adopts the following ordinance to accomplish this foregoing purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FOUNTAIN, COLORADO:

Section 1. The Fountain Municipal Code is hereby amended by establishing Chapter 9.72 (Fireworks), in Title 9 (Public Peace, Morals and Welfare) attached hereto.

Section 2. All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Safety Clause. The City Council hereby finds, determines and declares that this Ordinance is promulgated under the home rule authority of the City of Fountain, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 4. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 5. Effective Date. This Ordinance shall become effective five days from the date of final publication subsequent to passage on second reading by the City Council.

Introduced, read by title, and passed this 23rd day of May 2023, by the City Council, City of Fountain, Colorado, signed by the Mayor, and ordered published by title with a summary written by the City Clerk together with a statement that the ordinance is available for public inspection and acquisition in the office of the City Clerk in the Gazette, a newspaper of general circulation in the City of Fountain.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

Introduced, read by title, and passed on second and final reading on the _____ day of 2023, signed by the Mayor and ordered published by title in the Gazette, a newspaper of general circulation in the City of Fountain, Colorado, in accordance with the City Charter.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

TITLE 9 (PUBLIC PEACE, MORALS AND WELFARE)

CHAPTER 9.72 FIREWORKS

9.72.010 Sale and use of Fireworks Prohibited.

- A. Except as specifically provided in this Chapter, it is unlawful for any person to offer for sale, expose for sale or sell any Fireworks or to have Fireworks in their possession with the intent to offer said items for sale.
- B. Except as specifically provided in this Chapter, it is unlawful for any person to possess, store, handle, use or ignite any Fireworks.
- C. It shall be unlawful for any person to knowingly furnish to any person who is under sixteen years of age, by gift, sale, or any other means, any Fireworks, including those defined as permissible fireworks as stated in this Chapter.
- D. The use and sale of all Fireworks is prohibited during a Stage 1 or Stage 2 burn ban, during issued "Red Flag" warnings or when deemed to be a public safety hazard by the Fire Chief, or designee.

9.72.020. Exceptions.

- A. The retail sale of Permissible Fireworks with an approved license issued by the city, shall only take place between the dates of May 31st to July 6th.
- B. The possession, use, storage, handling or ignition of Permissible Fireworks shall only take place between the dates of May 31 to July 6th.
- C. Except if the person under sixteen years of age is possessing, using, handling or igniting Permissible Fireworks only between dates of May 31st to July 6th, and while in the presence of, or under the supervision of another over the age of eighteen.

9.72.030. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated herein:

- A. *Authorized Enforcement Officer* shall mean and include any police officer, Fire Chief or designee and code enforcement officer of the City of Fountain.
- B. *Fireworks* means any composition or device designed to produce a visible or audible effect by combustion, deflagration, or detonation, and that meets the definition of articles pyrotechnic, permissible fireworks, or display fireworks. *Fireworks* does not include:
 - i. Toy caps, party poppers, and items similar to toy caps and party poppers that do not contain more than sixteen milligrams of pyrotechnic composition per item and snappers that do not contain more than one milligram of explosive composition per item;
 - ii. Highway flares, railroad fuses, ship distress signals, smoke candles, and other emergency signal devices;
 - iii. Educational rockets and toy propellant device type engines used in such rockets when such rockets are of nonmetallic construction and utilize replaceable engines or model cartridges containing less than two ounces of propellant and when such engines or model cartridges are designed to be ignited by electrical means;
 - iv. Fireworks which are used in testing or research by a licensed explosives laboratory.

- C. *Permissible fireworks* means the following small fireworks devices designed to produce audible or visual effects by combustion, complying with the requirements of the United States consumer product safety commission as set forth in 16 CFR 1500.1 to 1500.272 and 1507.1 to 1507.12, and classified as consumer fireworks UN0336 and UN0337 pursuant to 49 CFR 172.101:
- i. Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five grams each for a single tube or, when more than one tube is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;
 - ii. Cone fountains, total pyrotechnic composition not to exceed fifty grams each for a single cone or, when more than one cone is mounted on a common base, a total pyrotechnic composition of no more than two hundred grams;
 - iii. Wheels, total pyrotechnic composition not to exceed sixty grams for each driver unit or two hundred grams for each complete wheel;
 - iv. Ground spinner, a small device containing not more than twenty grams of pyrotechnic composition venting out of an orifice usually in the side of the tube, similar in operation to a wheel, but intended to be placed flat on the ground;
 - v. Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed two hundred grams each;
 - vi. Dipped sticks and sparklers, the total pyrotechnic composition of which does not exceed one hundred grams, of which the composition of any chlorate or perchlorate shall not exceed five grams;
 - vii. Any of the following that do not contain more than fifty milligrams of explosive composition:
 - a) Explosive auto alarms;
 - b) Toy propellant devices;
 - c) Cigarette loads;
 - d) Strike on box matches; or
 - e) Other trick noise makers
 - viii. Snake or glow worm pressed pellets of not more than two grams of pyrotechnic composition and packaged in retail packages of not more than twenty five units;
 - ix. Fireworks that are used exclusively for testing or research by a licensed explosives laboratory;
 - x. Multiple tube devices with:
 - a) Each tube individually attached to a wood or plastic base;
 - b) The tubes separated from each other on the base by a distance of at least one half of one inch;
 - c) The effect limited to a shower of sparks to a height of no more than fifteen feet above the ground;
 - d) Only one external fuse that causes all of the tubes to function in sequence; and
 - e) A total pyrotechnic composition of no more than five hundred grams.
- D. *Permissible fireworks* do not include any aerial devices or audible ground devices, including, but not limited to, firecrackers.
- E. *Display fireworks* means large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation and includes, but is not limited to, salutes containing more than one hundred thirty milligrams of explosive material, aerial shells containing more than forty grams of pyrotechnic compositions, and other display pieces that exceed the limits of explosive materials for classification as consumer fireworks as defined in 16 CFR 1500.1 to

1500.272 and 16 CFR 1507.1 to 1500.12 and are classified as fireworks UN0333, UN0334, or UN0335 pursuant to 49 CFR 172.101, as amended, and including fused set pieces containing components that exceed fifty milligrams of salute powder.

- F. *Display retailer* means a person, including a manufacturer, who is licensed as a display retailer under the provisions of the Chapter and who sells, delivers, consigns, gives, or otherwise furnishes display fireworks or articles pyrotechnic to a person authorized by the City to discharge fireworks in Fountain.
- G. *Articles pyrotechnic* means pyrotechnic special effects materials and pyrotechnic devices for professional use that are similar to consumer fireworks in chemical composition and construction but are intended for theatrical performances and not intended for consumer use. “Articles pyrotechnic” shall also include pyrotechnic devices meeting the weight limits for consumer fireworks but are not labeled as such and are classified as UN0431 or UN0432 pursuant to 49 CFR 172.101, as amended.
- H. *Pyrotechnic operator* includes an individual who, by experience and training, has demonstrated the required skill and ability to safely set up and discharge articles of pyrotechnics.
- I. *Retailer* means any person who sells, delivers, consigns, or furnishes permissible fireworks to another person not for resale.
- J. *Proper Storage* means the possession of fireworks for safe custody, where the safekeeping is the principal object of deposit, and not the consumption or sale. All storage of fireworks shall be in accordance with the building and fire codes adopted by the City of Fountain in accordance with the version of the International Fire Code then in effect.
- K. *Government-sponsored or Co-sponsored* shall mean the City of Fountain, State of Colorado, or any political subdivision of the state or the federal government or an agency thereof.
- L. *Host* means a person who either:
 - i. Is in charge of private property, including, but not limited to, an owner, tenant, landlord, or property manager of the property; or
 - ii. Organizes, supervises, officiates, conducts, controls, or is otherwise in charge of the activity on the property.

9.72.040. Fireworks Displays.

Fireworks displays are allowed in the City only for government sponsored or co-sponsored events. Permitting of any such fireworks displays shall be done in accordance with Fountain Municipal Code and the International Fire Code then in effect.

9.72.050. Host Liability.

- A. Except as may be permitted by this Chapter or as provided in G(i) of this Section, it is unlawful for any individual to permit, allow, aid or abet any illegal discharge or use of

fireworks, if such person either knows or reasonably should know that an individual is discharging or using fireworks on his or her private property, or property under his or her control.

- B. A person who permits, allows, aids, or abets any illegal discharge or use of fireworks on a property under their possession or control as a “Host”, shall be deemed to have actual or constructive knowledge that fireworks have been discharged or used if the person has not taken all reasonable steps to prevent to discharge or use of fireworks, as discussed in G(ii) of this Section.
- C. Any person who permits, allows, aids, or abets any illegal discharge or use of fireworks from their property as a “Host” shall be rebuttably presumed to have actual or constructive knowledge that individuals have discharged or used fireworks if such person is present at the premises at any time that the discharge or use of fireworks is to have occurred.
- D. Upon identification of an illegal discharge or use of fireworks, an authorized enforcement officer may issue a written warning notice to all identifiable responsible persons not present at the time of the illegal discharge or use of fireworks that a fireworks violation has occurred and that further violations may result in a summons to appear in court.
- E. It is the duty of any person who permits, allows, aids, or abets any illegal discharge or use of fireworks on his or her private property, or property under his or her control to take all reasonable steps to prevent the illegal discharge or use of fireworks at the premises.
- F. No “Host” shall permit, allow, aid or abet another person’s violation of a provision of this Chapter in a public right-of-way adjacent to the “Host’s” property. A host aids and abets another person’s unlawful purpose violation of a provision of this Chapter if he or she knows of the other person’s unlawful purpose and the host specifically intends to, and does in fact, aid, facilitate, promote, encourage, or instigate the other person’s commission of that violation.
- G. It shall be an affirmative defense to an offense committed under this section if:
 - i. The possession, storage, display, sale, discharge, and use of permitted fireworks during the dates of May 31st to July 6th and while in compliance with Burn Ban and Red Flag restrictions.
 - ii. A host who initiates contact with law enforcement or fire officials to assist in removing any person from that property or terminating the activity in order to comply with this Chapter, if the request for assistance is made before any other person contacts law enforcement or fire officials to complain about a violation of this Chapter.

9.72.060. Seizure of Fireworks.

Any authorized enforcement officer of the City shall be authorized to seize, take and remove at the expense of the violator, all stocks of fireworks or combustibles offered or exposed for sale, or otherwise possessed, held or stored in violation of the Chapter.

9.72.070. Penalties.

- A. It shall be unlawful for any person to violate any provision of this Chapter. A violation of this Chapter shall be a criminal offense, punishable as provided in section 1.12.010, with the exception that under no circumstances shall an offense under this Chapter be punishable by imprisonment. .
- B. Any violation of this Chapter shall also be deemed a public nuisance within the meaning contained in Title 8, as well as the general right of entry provisions of Title 8.
- C. Mandatory Minimum Penalty. Any person who pleads guilty or is found guilty shall be subject to the following mandatory minimum penalties:
 - i. A mandatory minimum fine of \$400.00 for a first violation;
 - ii. A mandatory minimum fine of \$800.00 for a second violation within a two-year period; and;
 - iii. A mandatory minimum fine of \$1,600.00 for a third violation within a two-year period.



Regular City Council Meeting

New Business-9D

Requesting Inclusion PPRTA

May 23, 2023

Summary Information

Title:

RESOLUTION 23-023, A RESOLUTION REQUESTING INCLUSION INTO THE PIKES PEAK RURAL TRANSPORTATION AUTHORITY

Initiator: City Council

Presenter: Troy Johnson, City Attorney

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

The purpose of this action item is for City Council to consider the preliminary step of formally asking permission for the City of Fountain to join the PPRTA.

Background Information

The City conducted a survey and held a public discussion regarding Fountain joining the PPRTA. There are many steps along the process, but the first step would be to communicate the City's interest in joining. Following approval of the resolution, PPRTA and its member governments will consider their position on Fountain's inclusion. If approved, the City could then move forward with a ballot measure in the November election.

Strategic Plan Priority (if applicable):

Transportation Infrastructure

Telecommunications Technology and Capabilities.

Distribution of Public Safety Resources

Improve the Availability of Venues Which Support Community Activities

Recommendation

Staff makes no recommendation.

Proposed Motion

"I move to approve Resolution 23-023."



RESOLUTION 23-023

A RESOLUTION REQUESTING INCLUSION INTO THE PIKES PEAK RURAL TRANSPORTATION AUTHORITY

WHEREAS, the City of Fountain (the “City”) desires to join the Pikes Peak Rural Transportation Authority (the “PPRTA”), a regional transportation authority organized pursuant to C.R.S. § 43-4-601, *et seq.*;

WHEREAS, the PPRTA is governed by the Fifth Amended and Restated Intergovernmental Agreement Among El Paso County, Colorado, the City of Colorado Springs, the City of Manitou Springs, the Town of Green Mountain Falls, the Town of Ramah, and the Town of Calhan For Creation of the Pikes Peak Rural Transportation Authority (the “Establishing IGA”);

WHEREAS, the Establishing IGA and C.R.S. §§ 43-4-603(1)(h) and 43-4-605(2) control how new territory and members may be added to the PPRTA;

WHEREAS, before the City can be added to the PPRTA, voters within the City will need to approve the City becoming a member of the PPRTA, including the territory within the City limits within the boundaries of PPRTA, and imposing the PPRTA sales and use tax within the City;

WHEREAS, if approved by the PPRTA members, the City expects to place a ballot question on the ballot at the Colorado Coordinated Election on November 7, 2023;

WHEREAS, also before the City can be added to the PPRTA, the Establishing IGA may need to be amended to include the City as a party; and

WHEREAS, the City desires to take the preliminary step of requesting being added as a party to the Establishing IGA and having its territory included into the PPRTA boundaries.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fountain, Colorado, as follows:

Section 1. In accordance with Sections 12.1 and 12.2 of the Establishing IGA, the City hereby states that it is a municipality as defined by C.R.S. § 31-1-101(6) and formally requests to be added as a new member of the PPRTA, a party to the Establishing IGA, and to have the territory within the City limits included into the boundaries of the PPRTA.

Section 2. In accordance with C.R.S. § 43-4-605(2)(a) the City Council hereby consents to the inclusion of the territory within the City limits being included into the boundaries of the PPRTA.

Section 3. If determined necessary by the Board of Directors of the PPRTA or one of the current parties to the Establishing IGA, the City hereby requests an amendment to the Establishing IGA to effectuate its addition as a party to the Establishing IGA and member of the PPRTA.

Section 4. The City Council further requests confirmation from the Board of Directors of the PPRTA that it intends to cooperate in the addition of the City as a new member of the PPRTA, a party to the Establishing IGA, and to have the territory within the City limits included into the boundaries of the PPRTA, subject to City voter approval and provided that all legal requirements therefore are met and provided the necessary unanimous consent from all of the present members of the PPRTA is obtained as required by Section 12.3 of the Establishing IGA.

Section 5. The Mayor and City staff are hereby authorized to take such additional steps as may be necessary to pursue addition of the City as a new member of the PPRTA, a party to the Establishing IGA, and to have the territory within the City limits included into the boundaries of the PPRTA.

Done this 23rd day of May 2023.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk