

Arvada City Council Workshop, September 22, 2014

Notes taken by Susan Shirley

Tonight's workshop is for an update on the governance of the Arvada Center, and 2015-2016 budget presentations by six City departments. There was also a vote (following proper procedure to allow a vote during a workshop) on the appointment of three people to the Board of Adjustments, the Planning Commission, and the Citizens' Capital Improvement Committee.

All councilmembers were present.

Public attendance was approximately five people.

ARVADA CENTER GOVERNANCE

The Arvada Center is in the process of changing to an independent charity with no governmental control. A name change is proposed, from The Arvada Council for the Arts and Humanities, Inc., to Arvada Center for the Arts and Humanities.

Another, related pursuit is to negotiate an operating agreement between the City and the Arvada Center's governing board. Amendments proposed following the signing of that agreement are:

- * Eliminate membership provisions and voting control of City Council
- * Eliminate provisions requiring distribution of assets to the City of Arvada upon dissolution
- * Amend purposed provisions to eliminate advisory role of the charity to the City and to provide for an active management role
- * Revise and modify standing committees (currently executive committee and finance committee only)
- * Eliminate requirement that board of directors' meetings comply with the Colorado Open Meetings Statute
- * Eliminate references to adherence to policies of the City regarding conflicts of Interest and standards of conduct.

And here's a snafu which could get kind of interesting, potentially causing the IRS to get its knickers in a twist: There's a tax form called a Form 990, required of tax-exempt organizations with more than \$25,000 in annual revenue. In 2012, it was discovered that the Arts Council had not filed their Form 990 for "many years." To avoid what could have been significant penalties, the City persuaded the IRS to consider the charity a part of the City government and therefore exempt from filing the form. Now the City and the governing board will be asking to reverse that process, which could bring about complications.

Arvada Center Treasurer Stephanie Tuthill, who could easily be a great teacher but is instead an award-winning attorney, gave a brief tutorial on charitable organizations, which are here summarized:

A charitable organization, once formed, asks the federal government to recognize it as being entitled to tax-exempt status. It files an IRS form 1023, which tells the IRS what the organization does, how it is governed, and why it should be tax-exempt. Upon approval, the IRS sends a letter to the charity announcing the basis on which the tax is granted. This tax-exempt letter is what donors want to see when giving funds.

The most common type of charity is public-supported; another type is government-affiliated. As mentioned above, the Center's charity was considered public supported since its beginning in 1984, and then became government-affiliated in 2012. To ensure not having a gap in their tax exempt status, they intend to prepare all documents such as articles of incorporation and the bylaws, submit those to the IRS as plans only and not as signed, completed agreements, and ask the IRS to confirm that those are acceptable and won't affect the charity's tax-exempt status. If the IRS agrees, then the documents could be executed.

Councilmember Mark McGoff asked if those documents would be submitted to the IRS in draft form; Tuthill said that is correct. Councilmember Don Allard asked if the documents would be submitted before the City Council had given its approval of the transition and all operating agreements; Tuthill said that could not happen in that order, that Council and the Arvada Center governing board would first need to reach their agreements before anything could go to the IRS.

The Mission Statement language will be changed to say that, in case the charity is dissolved, its assets would go, not to the City as is currently the case, but to another charity, probably one that supports the arts. Councilmember Marriott asked if that is because of the de-linking. Tuthill said that, when donors contribute money, they want to know that the money or purchases will belong to a charity forever, and they do look for where the money will go if the charity fails.

Mayor Marc Williams pointed out that the Arvada Center's real property--the building and grounds--will continue to be owned by the City. Only the charity's philanthropic funds will go to another charity.

Councilmember Bob Fifer asked what would happen to the art belonging at the Center. Tuthill said that can be negotiated. City Manager Mark Deven said the draft partner agreement states that the art is a city-owned asset.

City Attorney Chris Daly asked about how the new entity would be handling openness to the public, for example, would they be following the open meetings law.

Tuthill said that a private charity is not required to comply with the open meetings or open records law; however, in the charitable world there is a lot of transparency required. Councilmember John Marriott asked for a comparison of openness in government vs. in a publicly supported charity. Tuthill said that charities file a form 1023, which is a very lengthy document stating how the charity is governed, who is on its board, showing its financial statements, and so on; also, the Form 990 shows everything the charity did in the past year, contributions, expenditures, and board members. Many charities also choose to make other documents available online or by request.

Private donor information, however, is always confidential.

City Manager Deven said that the next steps will be to do more work on the Articles of Incorporation and Bylaws, then begin negotiations. He said it will definitely take awhile to finalize all the agreements.

PRESENTATION OF BUDGETS FOR 2015-2016:

* AEDA:

The Mission of the Arvada Economic Development Department is to provide business and commercial development services to new and existing businesses so they can grow and expand to create jobs, increase revenues and make capital investments.

The 2015 estimated budget for AEDA is \$784,897. For 2016 it is \$812,824. They expect to have four full-time equivalent persons.

Strategic results:

By year end 2019, \$350 million in new commercial private sector capital investments will be made in Arvada

Steady job growth by 2019, evidenced by 1,000 new jobs created

800 new non-retail jobs in medical, manufacturing, R&D, bio-science, energy, enabling technologies, and professional services

By 2015, \$250,000 in additional annual sales tax revenues from new retail businesses

Other goals include fifty new business prospects annually, 100% of new Arvada businesses made aware of AEDA services within 60 days of issuance of their business license, and 100 Arvada clients accessing the Jefferson County Business Resource Center.

* ARVADA CENTER:

The Mission of the Arvada Center is to provide Arts and Humanities to patrons and visitors near and far so they can be engaged, challenged, and personally inspired to experience their world in new ways.

The 2015 budget for the Arvada Center is \$10,045,134. For 2016 it is \$10,351,591. For both years they expect 39.25 full-time equivalent personnel.

Key strategic results include:

By 2017, 12.5% of Arvada households will be engaged with the Arvada Center as paying patrons on an annual basis

10% of Arvada Center operating budget is derived from charitable donations, by 2019

The Arvada Center will complete its transition to a nonprofit organization, and be financially responsible and well-managed, as well as nationally recognized for excellence in the arts and humanities. It will diversify its programs so that all major art and humanities forms are represented.

Arvada Center Executive Director Philip Sneed said that there will be one new request in 2015 and 2016, which is for a survey to collect audience data, process feedback, and assess the emotional and social impact of the arts on patrons.

Councilmember Don Allard asked for clarification on what is meant by "humanities." Sneed said that would include such things as history, philosophy, and economics, and that in his opinion the focus should be more evenly upon arts and humanities rather than mostly on the arts. He said that arts appeal more to emotions, humanities more to the intellect, but that both are an important part of the work of the Arvada Center.

Sneed also spelled out his intention that strong efforts will be made in upcoming years to make many of the programs and activities at the Arvada Center available and affordable to everyone, regardless of income.

* CITY ATTORNEY'S OFFICE

The Mission of the City Attorney's Office is to provide legal services to the City Council, Boards and Commissions and Administrative Staff so they can enforce the law, avoid or mitigate risks associated with City operations and protect the legal interests of the City of Arvada.

Councilmember Bob McGoff said that the term "Administrative Staff" in that mission statement seems to rule out other staff members. City Attorney Chris Daly agreed.

The City Attorney's budget for 2015 is \$2,006,840, and for 2016 it is \$2,073,124. They expect to have staff levels of 13 full-time equivalent persons.

Key strategic results:

By 2016, City departments will be supported by legal counsel who are up to date with their knowledge of technology being used by the City and the legal implications of that technology.

By 2016, the City will experience successful avoidance, reduction, and/or mitigation of risk.

The City's investments in strategic infrastructure and asset development will be preserved and protected without loss through interpretation and enforcement of contracts established or to be established for key projects.

Councilmember Bob Fifer said that it would be nice if the 2014 budget numbers were included for comparison with the projected 2015 and 2016 numbers. He also asked if the increase from 2015 to 2016 was because of salary increases; Daly said that was correct.

* INNOVATION & TECHNOLOGY MANAGEMENT:

The Mission of the Innovation and Technology Management Department is to provide collaborative research analysis, software, hardware and project management services to City of Arvada Departments so they can serve our community.

Their 2015 budget is \$7,298,215 and for 2016 it is \$6,599,521. The staffing is 29 full-time equivalent people.

The service desk of this departments handles over 500 calls a month. The size and cost of Arvada's IT department is comparable to that of other area cities of similar size.

Key strategic results:

By 2019, 90% of urban centers and corridors will have high-speed internet connectivity available to residents, businesses and visitors.

By 2019, 97% of the geographic area of the City will have wired or mobile high speed network connectivity for City employees who provide City services.

*MUNICIPAL COURT

The Mission of the Municipal Court is to provide judicial and court record services to victims, defendants, court participants and the general public so they can have a fair and impartial process for determining the consequences of illegal behavior.

Their budget for 2015 is \$1,226,999 and for 2016 it is \$1,322,467, with a full-time equivalent staff of 11.

Key strategic results:

By 2015, 90% of juvenile offenders will not be repeat offenders in Arvada Municipal Court within two years

By 2015, 100% of attendees will be screened prior to entering the courtroom

By 2015, 75% of defendants will complete the following court ordered items within 120 days of sentencing: community service, education classes, and intake/evaluation for counseling

New requests are for an additional \$1,000 for the Juvenile Assessment Center; \$2,500 to pay additional court appointed attorneys (a new law makes all jailable offenses eligible for court-appointed council); \$50,000 for relief judges--there is an additional courtroom operating approximately two days a week; technology; and a probation study

An upcoming workshop will feature a presentation from Boulder's probation department to give ideas and options for Arvada to develop its own municipal court probation program.

* PUBLIC WORKS

The Mission of the Public Works Department is to provide engineering, Geo Data and infrastructure services to the City and Community of Arvada so they can experience a safe, vibrant and prosperous community.

Public Works' budget for 2015 is \$21,722,195; for 2016 it is \$21,837,386. Staffing levels for both years are 91.5 full-time equivalent.

Strategic Results:

By end of 2015, Public Works will partner with RTD to provide 300 parking spaces at the Sheridan Transit Station, 400 at the Olde Town Transit Station, 150 spaces at the Arvada Ridge Transit Station, and 300 additional parking spaces in Olde Town.

By 2019, 70% of street pavement conditions rated as "fair" or better

By end of 2014, a conceptual plan and location for a new Justice Center will be completed

New requests are for additional de-icing material, and another building maintenance person, where there currently is only one and he is on call 24/7. Another person would allow for greater proactivity, prolonging the life of existing equipment.

Public Works Director Bob Manwaring said that projects this year have included building 2500 linear feet of sidewalk, and replacing about six miles (out of 20) of conduit under the streets. He also talked about a grant from the Air Quality Council which will enable the department to place GPS units in the snow clearing equipment. Mayor Williams noted that that will come in handy when people call up wondering if their street has had any attention following a snowstorm.

APPOINTEES: After the budgets were presented, Councilmembers voted to invoke the rules allowing them to make appointments during a workshop. The following people were appointed, each in a 7 to 0 vote by council:

Cindi Kreutzer will be a member of the Board of Adjustments, filling a vacancy for the unexpired term ending in 2016, and subject to reappointment.

Julie Rasmussen will be on the Citizens' Capital Improvement Committee, taking the place of another appointee who had a time conflict.

The appointment to the Planning Commission was unclear and as soon as that information is available, I will put it in the comments.

With all business concluded, the meeting was adjourned at 8:03.