COLORADO SPRINGS, COLORADO CITY COUNCIL CHAMBERS CITY HALL - 107 N. NEVADA AVENUE AUGUST 11, 2009 – 1:00 P.M.

Council met in Regular Session.

There were present: Mayor Rivera, Councilmembers Gallagher, Glenn, Heimlicher, Hente, Herpin, Martin, Purvis and Small. Also present, City Manager Culbreth-Graft and City Attorney/Chief Legal Advisor Kelly.

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1. <u>Invocation and Pledge of Allegiance.</u>

The meeting was opened with an invocation by Pastor Patrick Weaver, Calvary Bible Church.

2. Changes to Agenda/Postponement.

The City Clerk requested Item No. 3-A-1 be moved from the Consent Calendar to Unfinished Business.

Councilmember Hente called up Item No. 3-B-1 for separate consideration.

CONSENT CALENDAR

3. The following items were acted upon by unanimous consent of the members present, with the exception of Item Nos. 3-A-1 and 3-B-1, which were acted upon separately:

SECOND PRESENTATION:

A-1. SEE ACTION TAKEN LATER IN THE MEETING.

FIRST PRESENTATION:

- B-1. SEE ACTION TAKEN LATER IN THE MEETING.
- B-2. Ordinance No. 09-94 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 07-113, PERTAINING TO THE ART COMMISSION OF THE PIKES PEAK REGION BOARD MEMBER TERMS" was introduced and read.
- B-3. Ordinance No. 09-95 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 08-213 (2009 APPROPRIATION ORDINANCE) AND ORDINANCE NO. 08-212 (2009 TAX LEVY ORDINANCE) IN THE AMOUNT OF \$769,266 FOR GENERAL FUND PAYMENT OF AN ECONOMIC DEVELOPMENT INCENTIVE TO dpiX, LLC FOR QUALIFYING PURCHASES OF MACHINERY OR EQUIPMENT" was introduced and read.
- B-4. Resolution No. 172-09 was presented: "A RESOLUTION AUTHORIZING THE COLORADO SPRINGS FIRE DEPARTMENT TO PROVIDE FIRE DEPARTMENT SERVICES OUTSIDE OF THE CORPORATE LIMITS OF THE CITY".

- B-5. Resolution No. 173-09 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE STATE OF COLORADO, DEPARTMENT OF LOCAL AFFAIRS, DIVISION OF EMERGENCY MANAGEMENT IN THE AMOUNT OF \$10,000 FOR THE EMERGENCY MANAGEMENT PERFORMANCE GRANT AGREEMENT #9EM708H83A AND AUTHORIZING THE OFFICE OF EMERGENCY MANAGEMENT DIVISION MANAGER TO EXECUTE THE CONTRACT TO PURCHASE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) WEATHER RADIOS".
- B-6. Resolution No. 174-09 was presented: "A RESOLUTION TO ACCEPT GRANT FUNDS FROM AMENDMENT 1 TO THE 2007 EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) AWARD #7EM07L83 FROM THE STATE OF COLORADO, DEPARTMENT OF LOCAL AFFAIRS, DIVISION OF EMERGENCY MANAGEMENT IN THE AMOUNT OF \$5,930 AND AUTHORIZING THE OFFICE OF EMERGENCY MANAGEMENT DIVISION MANAGER TO EXECUTE THE CONTRACT TO SUPPORT EMERGENCY MANAGEMENT ACTIVITIES FOR THE CITY OF COLORADO SPRINGS".
- B-7. Resolution No. 175-09 was presented: "A RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$54,061 AND APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF COLORADO SPRINGS AND THE PIKES PEAK WORKFORCE CENTER (PPWFC) IN SUPPORT OF THE COLORADO SPRINGS POLICE DEPARTMENT (CSPD) RECRUIT TRAINING; AND, AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE AGREEMENT TO FUND EXPENSES TO SUBSIDIZE TRAINING AND TRAINING-RELATED MATERIALS FOR THE CURRENT RECRUIT CLASS THAT ARE NOT OTHERWISE COVERED BY THE BUDGET".
- B-8. Ordinance No. 09-96 entitled "AN ORDINANCE AMENDING PART 1 (GENERAL OFFENSES) OF ARTICLE 6 (OFFENSES AFFECTING PROPERTY) AND AMENDING SECTIONS 702 (DEFINITIONS), 704 (COMMENCEMENT OF PUBLIC NUSIANCE ACTIONS; PRIOR NOTIFICATION), 710 (AFFIRMATIVE DEFENSES) AND 711 (LIEN PROVISIONS), AND CREATING A NEW SECTION 719 (SUMMARY ABATEMENT BY THE CHIEF OF POLICE) ALL OF PART 7 (CIVIL ABATEMENT OF PUBLIC NUISANCES) OF ARTICLE 6 (OFFENSES AFFECTING PROPERTY) OF CHAPTER 9 (PUBLIC OFFENSES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO PUBLIC NUISANCES" was introduced and read.
- B-9. Ordinance No. 09-97 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 09-33 (2009 AMENDED APPROPRIATION ORDINANCE) FOR THE 2009 GENERAL FUND CIP BUDGET IN THE AMOUNT OF \$65,000" was introduced and read.
- B-10. Resolution No. 176-09 was presented: "A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN COLORADO SPRINGS UTILITIES AND COLORADO CENTRE METROPOLITAN DISTRICT FOR WATER DISTRIBUTION AND WASTEWATER COLLECTION, TREATMENT, AND DISPOSAL".

B-11. Rio Grande Village Phase III

B-11A. CPC PUZ 09-00029: (Quasi-Judicial Matter) Ordinance No. 09-98 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO

- 2.1 ACRES LOCATED NORTHEAST OF SOUTH CORONA STREET AND EAST FOUNTAIN BOULEVARD" was introduced and read. (R-4 to PUD)
- B-11B. CPC PUD 09-00030: (Quasi-Judicial Matter) Request by NES, Inc. on behalf of the Colorado Springs Housing Authority for approval of the Rio Grande Village Phase 3
 PUD Development Plan consisting of 2.1 acres located northeast of South Corona Street and East Fountain Boulevard.
- B-11C. CPC V 09-00031: Ordinance No. 09-99 entitled "AN ORDINANCE VACATING A PORTION OF ALLEY PUBLIC RIGHT-OF-WAY CONSISTING OF 0.10 ACRE LOCATED NORTHEAST OF SOUTH CORONA STREET AND EAST FOUNTAIN BOULEVARD" was introduced and read.
- B-11D. CPC FP 09-00032: (Quasi-Judicial Matter) Request by NES, Inc. on behalf of the Colorado Springs Housing Authority for approval of a final subdivision plat for Rio Grande Subdivision No. 1 consisting of one lot on 2.1 acres located northeast of South Corona Street and East Fountain Boulevard.
- B-11E. AR R 09-00149: (Quasi-Judicial Matter) Request by NES, Inc. on behalf of the Colorado Springs Housing Authority for approval of Administrative relief to allow a reduction in parking from 67 spaces to 58 parking spaces consisting of 2.1 acres located northeast of South Corona Street and East Fountain Boulevard.
 - B-12. Friendship Assembly of God Church
- B-12A. CPC ZC 09-00023: (Quasi-Judicial Matter) Ordinance No. 09-100 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 5.92 ACRES LOCATED SOUTH OF NORTH CAREFREE CIRCLE AND EAST OF NEW CENTER POINT" was introduced and read. (A/AO and PBC/AO to PBC/AO)
- B-12B. DS DP 85-00162-A3MJ09: (Quasi-Judicial Matter) Request by The Larson Group, Inc. on behalf of Friendship Assembly of God Church for approval of a major amendment to the Friendship Assembly of God Church Development Plan consisting of 5.92 acres located south of North Carefree Circle and east of New Center Point.

Motion by Gallagher, second by Hente, that all matters on the Consent Calendar, with the exception of Item Nos. 3-A-1 and 3-B-1, which were acted upon separately, be passed, adopted and approved by unanimous consent of the City Council.

Ayes: Gallagher, Glenn, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small

Noes: None Absent: None

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4. Resolutions of Appreciation

There were no resolutions.

CITIZEN DISCUSSION

Emma Jean Floore received comments from friends and citizens who expressed concerns about the Colorado Springs Police Department (CSPD) to get more Police Officers so they could respond to violations in neighborhoods.

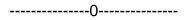
David Munger, Council of Neighbors and Organizations (CONO) invited City Council to a series of economic forums beginning next week; hope to have an impact on furthering the economic situation of the community.

Jay Patel requested that taxpayers decide on tax increases, wants to rally community to support this effort.

John Weiss questioned City Councilmember Glenn about comments regarding TABOR from the Informal City Council meeting of August 10, 2009.

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5. Motion by Herpin, second by Gallagher, that the Minutes of the Regular Council meeting of July 28, 2009 and Special Called Session of July 31, 2009 be approved as written. The motion unanimously carried.



CONSIDERATION OF ITEMS CALLED UP FROM CONSENT CALENDAR SECTION

3-A-1. Ordinance No. 09-93 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 09-33 (2009 AMENDED APPROPRIATION ORDINANCE) FOR THE GENERAL FUND IN THE AMOUNT OF \$430,000 FOR THE REFUND OF 2008 PROPERTY TAX REVENUE COLLECTED IN EXCESS OF THE TABOR REVENUE LIMIT" was presented for final passage.

The City Clerk stated the item had dissenting votes at the previous Formal City Council meeting; item should have been placed under Unfinished Business.

Motion by Small, second by Gallagher, that the ordinance be finally passed.

Ayes: Glenn, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small

Noes: Gallagher Absent: None

Mayor Rivera declared the motion carried.

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3-B-1. Resolution No. 177-09 was presented: "A RESOLUTION SUPPORTING A GRANT APPLICATION FOR A LOCAL PARKS AND OUTDOOR RECREATION PLANNING GRANT

FROM THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND FOR THE MT. MANITOU INCLINE".

Motion by Hente, second by Herpin, that the resolution be adopted.

Ayes: Gallagher, Glenn, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small

Noes: None Absent: None

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Vice Mayor Small requested bifurcation of Item Nos. 6 and 7.

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NEW BUSINESS

6. Resolution No. 178-09 was presented: "A RESOLUTION TO APPROVE A SETTLEMENT AGREEMENT AND MUTUAL RELEASE SETTLING THE COMPLAINT FILED IN UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO, ENTITLED LANDCO EQUITY PARTNERS, LLC ET AL V. THE CITY OF COLORADO SPRINGS, COLORADO".

Mike Anderson, Assistant City Manager, summarized the four (4) agenda items relating to the United States Olympic Center (USOC) agreement and use of funds; City Staff responses include: the lease purchase scheduled for Certificates of Participation (COP's) and hiring a construction management firm for the USOC Headquarters building with an estimated cost of \$250,000-\$300,000, too prohibitive to the city; Section 3.2 of the Economic Development agreement (EDA) regarding gas leaks to the NGB Building and environmental concerns; change word in Section 3.2(c) "affect" from agreement to "effect"; Section 2.8 --- entities or individuals donating \$30,000 or more will receive a recognition display at the USOC, (changed to \$10,000).

Francine Martinez, Ms. Floore, Patrick Malloy, McCloskey Motors, Lindsey Fisher, Naomi Walsh and Robert Laing spoke in opposition citing the following comments: concerned with this deal, City Budget and loss of Police and Fire; must have adequate Police and Fire to prevent jeopardizing the citizens and quest coming to the city; questioned Grandfather clause regarding construction and Code upgrades; essentialities and COPs, City will sell the Police Operations Center (POC) to the Colorado Springs Public Facilities Authority (PFA) and pay lease payments to the PFA, questioned additional Deeds of Trust; referred to letter in the newspaper and asked that questions be answered, which were answered "yes" --- additional \$1.5 million needs to be raised by year-end, renovation of Gas building deadline, interior construction completed and \$3 million to be raised within 25 months; prideful to see athletes training at the USOC; must think of money in the City budget and loss of Police and Fire; no resources to keep the USOC here, must look at responsibilities; does not support.

Jay Patel and Mike Kazmierski, Economic Development Corporation vice president, Ron Butlin, Downtown Partnership, Norm Bellingham, USOC chief operating officer, Jim Morley, Terry Sullivan, Experience Colorado Springs at Pikes Peak president (aka Convention Visitors Bureau) and Tom Osborne, Sports Corporation, spoke in support citing the following comments: most citizens want the USOC to stay and thanked City Council for keeping them

here; great deal for the city, branding exercise moving forward because of USOC; this is an investment that benefits the City and this community; proud of City Council's efforts; positive impact on community; thanked City Council for the USOC's ability to stay here, excited they will stay for another 30 years, positive step for Olympic Committee, looking forward to moving the Headquarters in the Spring; benefits to USOC being here; must spend money to make money; wants to figure out a way to work with Colorado Springs Utilities (CSU) and Southern Delivery System (SDS) and offer \$12 million to the USOC; great moment for Colorado Springs, as a Sports Corporation board member, excited that the Sports business will continue in this community because of the USOC partnership; 90% of Olympic participants train in Colorado Springs; Colorado Springs' welcome sign will hold the Olympic rings as a reminder to visitors of the partnership; USOC gives a lot back to NGB events, thanked City Council for supporting this effort.

Mr. Anderson answered questions poised by Ms. Walsh; agreement will take additional efforts from the City, Staff and community for fundraising purposes and support; POC is a sale lease back to generate cash.

Bob Irvin, Kutak Rock Bond Counsel, reviewed the COP appropriations and their legality citing legal case law to support the use of COP's in the state of Colorado; addressed questions about the Deed of Trust and ownership.

Vice Mayor Small spoke to title companies, deadlines and issuing COP's.

Councilmember Purvis spoke about construction management.

Jeff Litchfield, City Auditor, hired two Construction Auditors on staff and prepared to monitor this project, if approved.

Ms. Kelly reviewed the lawsuit filing, the City's financial responsibility and why settlement was feasible.

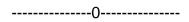
Jerry Forte, CSU Chief Financial Officer, was approached by Morley & Company, exploring analysis of property Mr. Morley is proposing.

Motion by Heimlicher, second by Gallagher, that the resolution be adopted.

Ayes: Gallagher, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small

Noes: Glenn Absent: None

Mayor Rivera declared the motion carried.



7. Resolution No. 179-09 was presented: "A RESOLUTION TO APPROVE AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND THE UNITED STATES OLYMPIC COMMITTEE REGARDING USOC FACILITIES IN COLORADO SPRINGS".

Motion by Hente, second by Martin, that the resolution be adopted.

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	Ayes: Noes: Absent:	Gallagher, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small Glenn None	
	Mayor Rivera	a declared the motion carried.	
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	AMENDED A OF \$746,708	lo. 09-101 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 09-33 (2009) APPROPRIATION ORDINANCE) FOR THE GRANTS FUND IN THE AMOUNT 8 FOR THE RENOVATION OF THE PROPERTY AT 30 CIMINO DRIVE FOR FTHE UNITED STATES OLYMPIC COMMITTEE" was introduced and read.	
	Motion by He	ente, second by Gallagher, that the ordinance be passed as introduced.	
	Ayes: Noes: Absent:	Gallagher, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small Glenn None	
	Mayor Rivera	a declared the motion carried.	
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Resolution No. 180-09 was presented: "A RESOLUTION AUTHORIZING ABANDONMENT OF A USOC PEDESTRIAN SKYBRIDGE PROJECT (\$675,000) AND TRANSFER OF \$675,000 INTO A USOC HEADQUARTERS AND NGB BUILDING ACCOUNT".			
Motion by Hente, second by Gallagher, that the resolution be adopted.			
	Ayes: Noes: Absent:	Gallagher, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small Glenn None	
	Mayor Rivera	a declared the motion carried.	
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	At 3:21 P.M unanimously	I., motion by Hente, second by Gallagher, that Council adjourn. The motion carried, and	
		COUNCIL ADJOURNED	
		Kathren M. Young	

Kathryn M. Young, CMC, CERA City Clerk