COLORADO SPRINGS, COLORADO
CITY COUNCIL CHAMBERS
CITY HALL - 107 N. NEVADA AVENUE
FEBRUARY 23, 2010 – 1:00 P.M.

Council met in Regular Session.

There were present: Mayor Rivera, Councilmembers Glenn, Hente, Herpin, Martin, Purvis and Small. Absent, Councilmembers Gallagher, Paige. Councilmembers Gallagher and Paige arrived during the meeting. Also present, City Manager Culbreth-Graft, City Attorney/Chief Legal Advisor Kelly and Deputy City Attorney Massey.

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1. **Invocation and Pledge of Allegiance.**

The meeting was opened with an invocation by Bernie Herpin, Councilmember.

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2. **Changes to Agenda/Postponement.**

Motion by Small, second by Hente, that Council give leave for immediate consideration of the Extra Item Agenda to be heard under New Business. The motion unanimously carried.

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Councilmember Hente called up Item No. 3-A-2 for separate consideration.

CONSENT CALENDAR

3. The following items were acted upon by unanimous consent of the members present, with the exception of Item No. 3-A-2, which was acted upon separately:

FIRST PRESENTATION:

A-1. Resolution No. 19-10 was presented: "A RESOLUTION GRANTING PERMISSION TO CLOSE TRANSACTIONS FOR THE ACQUISITION OF FOUR PROPERTIES FOR SOUTHERN DELIVERY SYSTEM PROJECT IMPROVEMENTS".

A-2. **SEE ACTION TAKEN LATER IN THE MEETING.**

A-3. Resolution No. 20-10 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE COLORADO DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF $231,000; AND, AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE THE CONTRACT, CONTRACT AMENDMENTS AND SUBSEQUENT OPTION LETTERS FOR THE INTERSECTION IMPROVEMENTS AT BRIARGATE PARKWAY AND VOYAGER PARKWAY, PROJECT SHE M240-127 (17607)".

A-4. Resolution No. 21-10 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE COLORADO DEPARTMENT OF TRANSPORTATION IN THE AMOUNT OF $138,048; AND, AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE THE CONTRACT, CONTRACT AMENDMENTS AND SUBSEQUENT OPTION LETTERS FOR THE INTERSECTION IMPROVEMENTS AT CAREFREE CIRCLE AND NEW CENTER POINT, PROJECT SHE M240-128 (17608)".

A-5. Resolution No. 22-10 was presented: "A RESOLUTION TO ACCEPT FEDERAL FUNDING FROM THE UNITED STATES DEPARTMENT OF JUSTICE IN THE AMOUNT OF $31,293 FOR THE BULLETPROOF VEST PARTNERSHIP (BVP) PROGRAM; AND, AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE CONTRACT FOR ACQUISITION AND REPLACEMENT OF BULLETPROOF VESTS TO MAINTAIN OFFICER SAFETY FOR THE MEN AND WOMEN OF THE COLORADO SPRINGS POLICE DEPARTMENT".

A-6. Resolution No. 23-10 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT) IN THE AMOUNT OF $4,000 FOR THE 2010 SUPER BOWL HIGH VISIBILITY ENFORCEMENT IMPAIRED DRIVING CAMPAIGN INITIATIVE; AND, AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE CONTRACT TO PERFORM OVERTIME ENFORCEMENT OF COLORADO'S IMPAIRED DRIVING LAWS".

A-7. Ordinance No. 10-12 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 09-148 (2010 APPROPRIATION ORDINANCE) IN THE AMOUNT OF $395,000 FOR THE REHABILITATION OF TAXIWAYS M AND F (PHASE I)" was introduced and read.

A-8. Ordinance No. 10-13 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 09-148 (2010 APPROPRIATION ORDINANCE) IN THE AMOUNT OF $655,000 FOR THE DESIGN PHASE OF A PORTION OF THE OVERALL REHABILITATION OF TAXIWAYS E, G AND H" was introduced and read.

A-9. **4385 Oro Blanco Drive**

A9-A. CPC ZC 09-00100: (Quasi-Judicial Matter) Ordinance No. 10-14 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 0.36 ACRE LOCATED AT 4385 ORO BLANCO DRIVE" was introduced and read. (R-5/cr/AO to R-5/AO)

A9-B. **CPC DP 09-00101: (Quasi-Judicial Matter) Request by Bamar Ltd. for approval of the 4385 Oro Blanco Drive Development Plan consisting of 0.36 acre located at 4385 Oro Blanco Drive.**

A-10. **North Powers II**

A-10A. CPC ZC 09-00106: (Quasi-Judicial Matter) Ordinance No. 10-15 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 13 ACRES LOCATED SOUTHWEST OF THE INTERSECTION OF TUTT BOULEVARD AND SNOWY RIVER DRIVE" was introduced and read. (PIP-2/cr/AO to PBC/AO)

A-10B. **CPC CP 09-00107: (Quasi-Judicial Matter) Request by MacLeod & Associates, LLC on behalf of North Powers Properties II LLC, for approval of the North Powers II Concept**

Plan, consisting of 13 acres located southwest of the intersection of Tutt Boulevard and Snowy River Drive.

A-11. **5850 Championship View**

A-11A. CPC ZC 09-00131: (Quasi-Judicial Matter) Ordinance No. 10-16 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 3.26 ACRES LOCATED SOUTH OF BARNES ROAD AND WEST OF TUTT BOULEVARD, ADDRESSED AT 5850 CHAMPIONSHIP VIEW" was introduced and read. (PIP-2/AO/CU to PBC/AO)

A-11B. **CPC DP 09-00132: (Quasi-Judicial Matter) Request by Merrit General Contractors on behalf of Thomas Investments for approval of an amendment to a development plan consisting of 3.26 acres located at 5850 Championship View.**

A-12. **Banning Lewis Ranch Village One**

A-12A. **CPC MP 87-381-A8MN09: Request by Nolte Associates Inc. on behalf of Banning Lewis Ranch Development I & II LLC for approval of a minor amendment to the Village I for Banning Lewis Ranch Master Plan consisting of 27 acres located northeast of North Marksheffel Road and Dublin Boulevard.**

A-12B. CPC PUZ 09-00084: (Quasi-Judicial Matter) Ordinance No. 10-17 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 21.7 ACRES LOCATED NORTHEAST OF NORTH MARKSHEFFEL ROAD AND DUBLIN BOULEVARD" was introduced and read. (PUD/SS/AO/cr to PUD/SS/AO/cr)

A-12C. **CPC PUP 05-00142-A2MN-09: (Quasi-Judicial Matter) Request by Nolte Associates Inc. on behalf of Banning Lewis Ranch Development I & II LLC for approval of a minor amendment to the PUD Concept Plan consisting of 21.7 acres located northeast of North Marksheffel Road and Dublin Boulevard.**

A-12D. **CPC PUD 07-104-A2MN09: (Quasi-Judicial Matter) Request by Nolte Associates Inc. on behalf of Banning Lewis Ranch Development I & II LLC for approval of a minor amendment to the PUD Development Plan consisting of 21.7 acres located northeast of North Marksheffel Road and Dublin Boulevard.**

A-13. AR V 08-00436: (Quasi-Judicial Matter) Ordinance No. 10-18 entitled "AN ORDINANCE VACATING A PORTION OF THE FOREST MEADOWS FILING NO. 1 ALLEY PUBLIC RIGHTS-OF-WAY CONSISTING OF 1.26 ACRES LOCATED NORTHEAST OF BLACK FOREST ROAD AND WOODMEN ROAD" was introduced and read.

A-14. CPC ZC 09-00109: (Quasi-Judicial Matter) Ordinance No. 10-19 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 5.25 ACRES LOCATED AT 5300 SOUTH CAREFREE CIRCLE" was introduced and read. (R1-6/AO to PK/AO)

A-15. CPC ZC 09-00110: (Quasi-Judicial Matter) Ordinance No. 10-20 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO

3.48 ACRES LOCATED AT 4540 FENTON ROAD" was introduced and read. (PK/R1-6/AO to PK/AO)

A-16. CPC ZC 09-00111: (Quasi-Judicial Matter) Ordinance No. 10-21 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 7.07 ACRES LOCATED AT 4585 WEST OLD FARM CIRCLE" was introduced and read. (R1-6/AO to PK/AO)

A-17. CPC ZC 09-00112: (Quasi-Judicial Matter) Ordinance No. 10-22 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 4.33 ACRES LOCATED AT 8320 BOXELDER DRIVE" was introduced and read. (R1-6/AO and R1-6/PUD/AO to PK/AO)

A-18. CPC ZC 09-00113: (Quasi-Judicial Matter) Ordinance No. 10-23 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 0.06 ACRE LOCATED AT 0 CRAYCROFT DRIVE" was introduced and read. (R1-6/DF to PK)

A-19. CPC ZC 09-00114: (Quasi-Judicial Matter) Ordinance No. 10-24 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 0.91 ACRE LOCATED AT 0 SUNCREST WAY" was introduced and read. (R-5/cr to PK)

A-20. CPC ZC 09-00115: (Quasi-Judicial Matter) Ordinance No. 10-25 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 4.53 ACRES LOCATED AT 1245 CARLSON DRIVE" was introduced and read. (PUD to PK)

A-21. **1070 Transit Drive**

A-21A. CPC ZC 09-00081: (Quasi-Judicial Matter) Ordinance No. 10-26 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 1.5 ACRES LOCATED AT 1070 TRANSIT DRIVE" was introduced and read. (M1/P to PF)

A-21B. **CPC DP 09-00082: (Quasi-Judicial Matter) Request by the City of Colorado Springs – Mountain Metropolitan for approval of the 1070 Transit Drive Development Plan consisting of 1.5 acres located at 1070 Transit Drive.**

Motion by Hente, second by Purvis, that all matters on the Consent Calendar, with the exception of Item No. 3-A-2 which was acted upon separately, be passed, adopted and approved by unanimous consent of the City Council.

Ayes: Gallagher, Glenn, Hente, Herpin, Martin, Paige, Purvis, Rivera, Small
Noes: None
Absent: None

4. **Resolutions of Appreciation**

There were none.

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Councilmember Gallagher arrived.

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Evie Peters, of Air Academy High School, was introduced as a representative of the Mayor's 100 Teens.

CITIZEN DISCUSSION

Paul Koslizlski, Campers Village representative, commented they are interested in a location at 1209 South Nevada Avenue; trying to get possession of property for homeless.

Bob Shields expressed concern for justification regarding mobile home parks in the city limits, Senate Bill No. 10-156 provides for protection for mobile homeowners; discussed aspects of this bill and some inequities and unreasonable requirements the bill puts on mobile homeowners; no help from the City regarding water and sewer; requests City Council's support of the Senate Bill along with support of three other cities.

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5. Motion by Purvis, second by Hente, that the Minutes of the Regular Council meeting of February 9, 2010 be approved as written. The motion unanimously carried. Absent, Councilmember Paige.

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Councilmember Hente was excused.

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CONSIDERATION OF ITEMS CALLED UP FROM CONSENT CALENDAR SECTION

3-A-2. Resolution No. 24-10 was presented: "A RESOLUTION ACCEPTING A GRANT FROM THE GOVERNOR'S ENERGY OFFICE OF THE STATE OF COLORADO".

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

Ayes: Gallagher, Glenn, Herpin, Martin, Purvis, Rivera, Small
Noes: None
Absent: Hente, Paige

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Councilmember Hente returned.
Councilmember Paige arrived.

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Item No. 9 taken out of order for consideration.

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UNFINISHED BUSINESS

9. Ordinance No. 10-27 entitled "AN ORDINANCE ADDING A NEW ARTICLE 10 (INITIATED ORDINANCE PERTAINING TO ENTERPRISES) OF CHAPTER 14 (MUNICIPAL ENTERPRISES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO ENTERPRISES" was introduced and read.

Ms. Massey, Deputy City Attorney for Municipal Operations, summarized the item and answered questions; ballot item unclear, ordinance brings clarity to its interpretation.

Mark Grueskin, outside Counsel, stated the ordinance addresses real world interpretation to what the voters intended.

Douglas Bruce spoke in opposition; City would not allow Election notice to be sent to voters, City was not the proponent of this issue so it has no right to interpretation; Section 12-10 of City Charter cannot amend ordinance without vote of the people --- violation of Charter; Charter Section 13-90(b) states "the Council" may employ other attorneys, Mr. Grueskin's contract is illegal; $2.1 million spent on illegal contracts for one year; cannot consider Mr. Grueskin's contract or comments; gross violation of Charter; Section 13-20 of Charter, not what is actually occurring; Section 2-30 of Charter states Council has violated City Charter; City Attorney not complying with CORA requests going to Court for declaratory judgment to get the documents and Court opinion regarding violations of the Charter, not planning to file suit on new ordinance right away; have eight years to comply with voters and forget this ordinance.

Walter Lawson asked City Council to execute the law --- fulfill not kill the law; Staff proposed ordinance confusing; violates Charter, which states an Initiated ordinance can only be changed by a vote of the people; reviewed verbiage of Charter Section 6-40 and meaning of remaining surplus.

Councilmember Herpin stated the City must share services rather than hiring individual services for each Enterprise; common sense approach needed.

Motion by Herpin, second by Hente, that the ordinance be passed as introduced.

Councilmember Paige stated the City has made a valiant effort to be cooperative and understanding; ordinance is more convoluted and would not support ordinance.

Councilmember Hente supports the ordinance.

Councilmember Gallagher stated he would not support the ordinance; adds confusion; Issue 300 not crystal clear.

Mayor Rivera stated amendment of the Charter is a more rigorous process and Issue 300 attempts to change the Charter without going through the proper procedure; balance between ordinance and City Charter.

Vice Mayor Small stated laws must be documented; City Code substantiates the Charter --- supports ordinance; SWENT was primary concern of citizens, nothing about shared services or Payment in lieu of Taxes (PILT); Enterprises have benefit to the City.

Councilmember Martin commented good faith effort put forward to work with proponents of Issue 300; ordinance gives clarity to the vague ballot issue.

Councilmember Purvis supports the ordinance; provides clarity to Staff; explore and advise of declaratory judgment through Court of ordinance interpretation regarding PILT.

Councilmember Glenn stated Issue 300 came about because of policy made by City Council; concerned about future Councils; PILT should be put into a restrictive account for future distribution and refer a measure to the 2011 Election.

A vote being taken on the motion that the ordinance be passed as introduced:

Ayes: Hente, Herpin, Martin, Purvis, Rivera, Small
Noes: Gallagher, Glenn, Paige
Absent: None

Mayor Rivera declared the motion carried.

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6. Ordinance No. 10-9 entitled "AN ORDINANCE AMENDING SECTION 404 (CAMPING RESTRICTIONS) OF PART 4 (OFFENSES RELATING TO PERSONS) OF ARTICLE 9 (PARK OFFENSES) OF CHAPTER 9 (PUBLIC OFFENSES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO CAMPING RESTRICTIONS" was brought up on second presentation.

Ms. Kelly gave a brief presentation; ordinance complies with all Constitutional laws and standards not applicable to the First Amendment; applies equally to everyone; public safety, health and welfare issue; cruel and unusual punishment argument not applicable.

An unidentified citizen, Theresa McLaughlin, Homeless Outreach representative, George Brown, Darryl Fortner, Dundee Tree Service, Rita Ague, legal assistant, Eric Verlo, Jimmy Gilpin and Scott Meacham spoke in opposition citing the following comments: War heroes tracked and given tickets; take a moral ground; living in these times is difficult; homeless should not be pursued and given tickets; homeless are your constituents too; ordinance takes away people's rights, do the right thing and do not pass ordinance; ordinance should be put on hold; problems at camps with drugs and violence; need to address these issues before putting ordinance in effect; allow homeless camping to continue, if homeless is put into a bungled up place more problems will occur; put into a sanctioned area and give them something to do put them to work doing things around the city; hold off on ordinance; cannot pass ordinance; do not know whose property they are on; need survey to determine whose property they occupy --- suing City; world of difference between Colorado Springs and Florida; lives and existence of

these people are at stake, get humane and appreciate everyone's right to exist; main concern of squatter can be dealt with through services the City must provide; burden should not be put on the homeless; morale issue; jobless with no where to go; does not condone defacing public property --- read a commentary; sleeps under bridge at Bijou Street and I-25; brings in food and takes out trash, goes to Day Labor and works if it is available;

Mr. Bruce made the following comments: supports concept of ordinance; does not pass legal test; not enforceable and is defective; squatter will invalidate this ordinance; nothing about being asked to leave a location in order to violate trespassing laws; must have this exception or will be a gaping loophole for enforcement; must give notice of what is unlawful in order to be enforced; if arrested, what happens to the homeless person's property; what is the City's liability for this property; must define camping; ordinance currently constitutionally vague.

Councilmember Paige questioned definition of public property and appropriate governmental authority.

Ms. Massey stated a clearer definition is needed and answered questions.

Chief Meyers, Colorado Springs Police Department (CSPD), entered his appearance and answered questions.

Councilmember Gallagher stated he is not supporting the ordinance; people of this city should be terrified; no compassion in ordinance.

Councilmember Herpin commented a lot of good has come out of this discussion; Boarding house at Colorado College for persons needing an address, phone and place to shower so they can look for work.

Mayor Rivera stated 92 people have moved into facilities that would not have otherwise benefited from this process.

Motion by Hente, second by Small, that the ordinance be finally passed; directed City Staff to provide a six-month review of Standard Operating Procedure (SOP) for enforcement, include performance of local providers for effective use of provided services.

Ayes: Glenn, Hente, Herpin, Martin, Paige, Purvis, Rivera, Small
Noes: Gallagher
Absent: None

Mayor Rivera declared the motion carried.

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7. Ordinance No. 10-10 entitled "AN ORDINANCE CREATING A NEW SECTION 109 (CAMPING ON PUBLIC PROPERTY PROHIBITED) OF PART 1 (GENERAL OFFENSES) 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 CAMPING RESTRICTIONS ON PUBLIC PROPERTY" was brought up on second presentation.

Motion by Hente, second by Small, that the ordinance be finally passed; directed City Staff to provide a six-month review of Standard Operating Procedure (SOP) for enforcement, include performance of local providers for effective use of provided services.

Ayes: Glenn, Hente, Herpin, Martin, Paige, Purvis, Rivera, Small
Noes: Gallagher
Absent: None

Mayor Rivera declared the motion carried.

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Councilmember Gallagher was excused.

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8. Ordinance No. 10-11 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 09-148 (2010 APPROPRIATION ORDINANCE) FOR THE GRANTS FUND IN THE AMOUNT OF $1,519,517 FOR THE OPERATION OF THE FRONT RANGE EXPRESS (FREX) BUS SERVICE" was brought up on second presentation.

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

Ayes: Glenn, Hente, Herpin, Martin, Purvis, Rivera, Small
Noes: Paige
Absent: Gallagher

Mayor Rivera declared the motion carried.

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9. **SEE ACTION TAKEN EARLIER IN THE MEETING.**

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Councilmember Gallagher was excused.

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10. Motion by Hente, second by Small, that Jay Patel and Peggy James be appointed to terms as members of the Citizens' Commission on Ownership and Governance of Memorial Health System, said terms expiring April 19, 2011, respectively. The motion unanimously carried. Absent, Councilmember Gallagher.

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Councilmember Gallagher returned.

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Motion by Hente, second by Small, that Stephen Hook be appointed to a term as a member of the Colorado Springs Pioneers Museum Advisory Board, said term expiring June 25, 2013. The motion unanimously carried.

Motion by Hente, second by Small, that Battalion Chief Tommy Smith be appointed to a term as a member of the Emergency Services Agency (ESA), unexpired term. The motion unanimously carried.

Motion by Hente, second by Small, that Curtis Miller be appointed to a term as a member of the Regional Building – Mechanical Committee, said term expiring March 1, 2013. The motion unanimously carried.

Motion by Hente, second by Small, that Joshua Boddie, Alan Forester and Vernita Hare be reappointed to terms as members of the Woodstone Special Improvement Maintenance District, said terms expiring December 12, 2012. The motion unanimously carried.

NEW BUSINESS

11. Ordinance No. 10-28 entitled "AN ORDINANCE CREATING THE CITIZENS' COMMISSION ON OWNERSHIP AND GOVERNANCE OF MEMORIAL HEALTH SYSTEM" was introduced and read.

Mayor Rivera briefed City Council on the proposed ordinance; kick-off meeting for the committee is scheduled for Thursday, February 25, 2010, at 2:30 p.m. at City Hall in the Pikes Peak room.

Motion by Small, second by Hente, that the ordinance be passed as introduced.

Ayes: Gallagher, Glenn, Hente, Herpin, Martin, Paige, Purvis, Rivera, Small
Noes: None
Absent: None

EXTRA ITEM AGENDA

Extra Item
No. 1

A resolution relating to medical marijuana uses within the city of Colorado Springs.

Ms. Kelly entered summarized the item and answered questions.

Mayor Rivera stated the proposed resolution was requested to protect neighborhoods.

Vice Mayor Small stated he is not in deference to Task Force efforts; Senate Bill No. 10-109 defines Doctor/Patient relationship; House Bill No. 10-1284 deals with dispensaries as medical marijuana centers, includes local approval and local control; imposes one (1) year moratorium and licensure within one year; current City zoning does not permit dispensaries; resolution establishes minimal guidelines.

Councilmember Herpin expressed concern with the language of the resolution, hold steady until State figures it out.

Councilmember Martin stated the resolution was too restrictive for those currently established and in business.

Mayor Rivera made comparison of dispensaries and a pharmacy.

There are 64 marijuana dispensaries in the city.

Motion by Gallagher, second by Paige, that the resolution be withdrawn from consideration.

Mayor Rivera gave a brief summary of the Rules of City Council and process for withdrawal of an item and its meaning.

Councilmember Gallagher withdrew his motion.

Amy Daniels, Bernie Sergen, Robert Childress, John Tracy, Ann DeVeer, Tim O'Connor, Richard Duhane and Steve _____ spoke in support citing the following comments: sent correspondence to City Council regarding the illegal background of the owner at the former Mission Inn that is attempting to open a dispensary within 200' of a residential home; wants a moratorium on future dispensaries, wants fees to be enough to pay for Police to enforce the laws; wants a stop put on the dispensary and prevented from opening; concerned with legality of dispensaries; Task Force for Marijuana Medical Dispensaries are in conflict; ignoring legal status does not make them legal; felt blindsided with this dispensary, was not notified this was being considered; need governed guidelines and neighborhood involvement; not against distribution of medical marijuana; need zoning laws and regulations in place like bars or liquor stores; no grandfather clauses, all should fall under same guidelines; wants moratorium for six (6) months; petitions started in her area opposing dispensaries in neighborhoods; wants protection in the Brookwood area; wants non Council of Neighbors and Organizations (CONO) neighborhoods to be included in the discussions regarding this ordinance; wants to protect properties; detriment to crime rate and property values; not debating legal marijuana; debating land use violations, wants moratorium; blindsided about purpose of resolution, thought it was for a moratorium; wants a six (6) month moratorium on future dispensaries; 1,000' too excessive, this is illegal land use; go forward with proposed ordinance.

Laura Martin, Bruce Carter, Michael Lee, Cliff Black, Joe Scaggio, Steve Anderson, Charles Howton, Jamal Patterson, Sara Patty, Tad Howard, Kyle Winlyn, Marcus Holcolmb, Richard Libbey, _____, Mark Echert, Carl Evans, Danielle Boots, John Stoner and Connie Garduno spoke in opposition citing the following comments: body is immune to hard core drugs like Oxycontin and Vicodin, needs marijuana; less harmful than alcohol; need to educate people, not cause fear; no zone against dispensaries; pays $26,000/monthly in sales tax, has $1 million to fight City; City is co-conspirators with dispensaries because of sales tax paid to the City; raided by Drug Enforcement Administration (DEA) but left alone because his business is legal; resolution incorrect about legal aspects of Amendment 20; if patient has right to use marijuana, has right to use it and grow it; cannot circumvent Constitution; teens can buy alcohol, cannot buy marijuana from a dispensary; no use on premise allowed and limited signage; suspicious of Council's objections with this resolution; process not fair; back door process used by bringing this resolution forward; 1000' prohibition is unfair, people's lively hoods are at stake; owns two (2) dispensaries; use Denver model and grandfather in existing businesses, moratorium on new dispensaries; opposed to moratorium; people upset about what is going on today; on Task Force for expertise in land use issues; need valid standards,

industry deserves respect; wants to be a good neighbor; against moratorium; has needs for medical marijuana; wants to open a dispensary --- obtained sales tax license from State and City, has insurance and security; blindsided with resolution; dispensaries not open to the public, favors moratorium; cannot get permit from Planning, not in favor of moratorium; limiting access to patients promotes cartel activity; 250' is far enough away, 1,000' too far; moratorium that limits patient access not in favor of; Constitution allows dispensaries, cannot overdose on marijuana; cannot be sold to young people and they do not have access to a dispensary; distance requirements not necessary; fearful of being shut down; take time, do not be hasty; was taking prescription drugs, caregiver for six (6) people, moving to Fountain; has life back with marijuana use; dispensary that is a wellness clinic offers massages, acupuncture, spas --- has a thriving business; worked hard putting forward the draft ordinance, met with CONO and willing to compromise in areas; educating CONO members; putting a moratorium elevates the price; uses proposed ordinance as guidelines for new dispensaries, moratorium hurts business; wants to continue to be part of this process.

Motion by Purvis, second by Small, that this item be postponed to the City Council meeting of March 9, 2010; Centennial lawsuit information provided by the City Attorney; scrub draft of proposed ordinance with City departments and report back on March 9, 2010.

Ayes: Glenn, Martin, Purvis, Small
Noes: Gallagher, Hente, Herpin, Paige, Rivera
Absent: None

Mayor Rivera declared the motion failed.

Then, motion by Gallagher, second by Paige, that this item be withdrawn from the agenda.

Ayes: Gallagher, Herpin, Paige, Rivera
Noes: Glenn, Hente, Martin, Purvis, Small
Absent: None

Mayor Rivera declared the motion failed.

Then, motion by Small that the resolution be approved as amended: compliant with Liquor Code distance requirements for residential school distance of 500'.

The motion died for lack of a second.

Then, motion by Paige, second by Gallagher, that this item be withdrawn from the agenda; Regional Building Department (RBD) to enforce RBD existing codes.

Ayes: Gallagher, Hente, Herpin, Martin, Paige, Rivera, Small
Noes: Glenn, Purvis
Absent: None

Mayor Rivera declared the motion carried.

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At 8:53 P.M., motion by Herpin, second by Martin, that Council adjourn. The motion unanimously carried, and

COUNCIL ADJOURNED

Kathryn M. Young, CMC, CERA
City Clerk