COLORADO SPRINGS, COLORADO
CITY COUNCIL CHAMBERS
CITY HALL - 107 N. NEVADA AVENUE
APRIL 13, 2010 – 1:00 P.M.

Council met in Regular Session.

There were present: Mayor Rivera, Councilmembers Gallagher, Glenn, Herpin, Martin, Paige, Purvis and Small. Absent, Councilmember Hente. Also present, City Manager Culbreth-Graft and Deputy City Attorney Massey.

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

The meeting was opened with an invocation by Marva Black Elk, Native American Shaman.

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

Motion by Small, second by Purvis, that Council give leave for immediate consideration of the Extra Item Agenda. The motion unanimously carried. Absent, Councilmember Hente.

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Councilmember Glenn called up Item Nos. 4-B-4 and 4-B-5 for separate consideration.

Councilmember Gallagher called up Item Nos. 4-B-2, 4-B-10, 4-B-12 and 4-B-13 for separate consideration.

EXTRA ITEM AGENDA

Extra Item
No. 1 Resolution No. 37-10 was presented: "A RESOLUTION APPOINTING STEVEN W. COX AS INTERIM CITY MANAGER FOR THE CITY OF COLORADO SPRINGS AND PROVIDING FOR COMPENSATION IN THIS POSITION".

Motion by Small, second by Purvis, that the resolution be adopted.

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

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3. **Oath of Office for Interim City Manager, Steven Cox.**

Mayor Rivera administered the Oath of Office to Steven W. Cox, as Interim City Manager for the City of Colorado Springs.

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City Manager Culbreth-Graft made the following statement: "With the swearing-in of my replacement I am hereby stepping down as your City Manager. I would like to thank you for the privilege of serving the City of Colorado Springs. I do consider this constructive termination of my contract and will leave you in the very capable hands of Steve Cox".

CONSENT CALENDAR

4. The following items were acted upon by unanimous consent of the members present, with the exception of Item Nos. 4-B-2, 4-B-4, 4-B-5, 4-B-10, 4-B-12 and 4-B-13, which were acted upon separately:

SECOND PRESENTATION:

A-1. Ordinance No. 10-31 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 09-148 (2010 APPROPRIATION ORDINANCE) IN THE AMOUNT OF $8,788,893 FOR THE GRANTS FUND TO FUND ELIGIBLE TRANSIT OPERATIONAL AND CAPITAL PROJECTS FOR CY2010" was brought up on second presentation.

A-2. CPC ZC 09-00136: (Quasi-Judicial Matter) Ordinance No. 10-32 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 33.48 ACRES LOCATED AT 91 SOUTH MARLAND ROAD" was brought up on second presentation. (establishing an A/HS zone)

A-3. CPC ZC 09-00469: (Quasi-Judicial Matter) Ordinance No. 10-33 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 0.55 ACRE LOCATED AT 506 AND 514 NORTH CASCADE AVENUE" was brought up on second presentation. (R-5/HR/UV to OC/HR)

A-4. CPC ZC 07-00301: (Quasi-Judicial Matter) Ordinance No. 10-35 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 3.67 ACRES LOCATED EAST OF NEVADA AVENUE AND POLK STREET" was brought up on second presentation. (M-1 and C-6 to M-1)

FIRST PRESENTATION:

B-1. Resolution No. 38-10 was presented: "A RESOLUTION APPROVING A LAND EXCHANGE BETWEEN THE CITY OF COLORADO SPRINGS AND THE LAURA JANELL BUTLIN REVOCABLE TRUST".

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

B-3. Resolution No. 39-10 was presented: "A RESOLUTION APPROVING THE ANNUAL RENEWAL OF THE $1,000,000 LOAN AGREEMENT AND PROMISSORY NOTE BETWEEN THE GREAT OUTDOORS COLORADO TRUST FUND (GOCO) AND THE CITY OF COLORADO SPRINGS".

B-4. **SEE ACTION TAKEN LATER IN THE MEETING.**

B-5. **SEE ACTION TAKEN LATER IN THE MEETING.**

B-6. The City Clerk reported that on January 20, 2010 there was filed with her a petition for the annexation of MJRIO Annexation No. 1 and No. 2. She stated that she had examined or caused to be examined the above mentioned petition and had determined that the petition was in substantial compliance with Section 31-12-107(1), C.R.S. The City Clerk herewith communicated such to City Council and recommended that the petition be referred to the City Administration for review and recommendation.

B-7. Resolution No. 40-10 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT) IN THE AMOUNT OF $11,880 FOR THE 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".

B-8. Resolution No. 41-10 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE IN THE AMOUNT OF $23,303 FOR THE 2009 PROJECT SAFE NEIGHBORHOOD PROGRAM; AND, AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE CONTRACT TO INCREASE THE NUMBER OF FEDERAL AND STATE PROSECUTIONS FOR GUN AND GANG VIOLENCE REDUCTION".

B-9. Resolution No. 42-10 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT IN THE AMOUNT OF $66,267 FOR THE PROVISION OF SUPPORTIVE SERVICES FOR CHRONICALLY HOMELESS INDIVIDUALS AND OPERATING SUPPORT FOR HARBOR HOUSE; AND, AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE THE CONTRACT FOR ACCEPTANCE OF THE GRANT TO ASSIST CHRONICALLY HOMELESS INDIVIDUALS".

B-10. **SEE ACTION TAKEN LATER IN THE MEETING.**

B-11. Resolution No. 43-10 was presented: "A RESOLUTION ACKNOWLEDGING AN IN-KIND DONATION FROM SE/PDI ACQUISITION CORPORATION (CURRENT USA) TO THE CITY FOR THE ACQUISITION OF PROPERTY NEEDED FOR VINCENT DRIVE, LOCATED NORTH OF DUBLIN BOULEVARD".

B-12. **SEE ACTION TAKEN LATER IN THE MEETING.**

B-13. **SEE ACTION TAKEN LATER IN THE MEETING.**

B-14. **<u>Fire Station No. 4</u>**

B-14A. CPC ZC 10-00012: (Quasi-Judicial Matter) Ordinance No. 10-36 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 0.81 ACRE LOCATED AT 2280 SOUTHGATE ROAD" was introduced and read. (C-5 to PF)

B-14B. **CPC DP 10-00013: (Quasi-Judicial Matter) Request by the City of Colorado Springs Fire Department for approval of the Fire Station No. 4 Development Plan consisting of 0.81 acre located at 2280 Southgate Road.**

B-15. **Global Collision**

B-15A. CPC ZC 10-00007: (Quasi-Judicial Matter) Ordinance No. 10-37 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 1.52 ACRES LOCATED AT 720 GARDEN OF THE GODS ROAD" was introduced and read. (PIP-2 to C-6)

B-15B. **CPC DP 10-00008: (Quasi-Judicial Matter) Request by Land Development Consultants on behalf of Minette Investment Properties LLC for approval of the Global Collision Development Plan located north of Garden of the Gods Road and east of Forge Road, addressed as 720 Garden of the Gods Road.**

B-15C. **CPC WR 10-00009: (Quasi-Judicial Matter) Request by Land Development Consultants on behalf of Minette Investment Properties LLC for approval of a waiver of replat located north of Garden of the Gods Road and east of Forge Road, addressed as 720 Garden of the Gods Road.**

B-15D. **CPC NV 10-00010: (Quasi-Judicial Matter) Request by Land Development Consultants on behalf of Minette Investment Properties LLC for approval of a non-use variance to the Code of the City of Colorado Springs 2001, as amended, Section 7.4.203 – Parking, to allow 75 parking spaces where 109 are required. The subject property is located north of Garden of the Gods Road and east of Forge Road, addressed as 720 Garden of the Gods Road.**

Motion by Gallagher, second by Small, that all matters on the Consent Calendar, with the exception of Item Nos. 4-B-2, 4-B-4, 4-B-5, 4-B-10, 4-B-12 and 4-B-13 which were acted upon separately, be passed, adopted and approved by unanimous consent of the City Council.

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

5. **Resolutions of Appreciation**

There were no resolutions.

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Amanda Jones and Franklin Bennett, of Mesa Ridge High School, were introduced as representatives of the Mayor's 100 Teens.

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Mayor Rivera recognized Chris Galvadon and Isaac Cardona, of the One Springs Boxing Program, who were both awarded championship belts at the Colorado Golden Glove Boxing tournament in Denver, Colorado, on March 27, 2010.

CITIZEN DISCUSSION

Sam Masias spoke on behalf of the Native American Community Center stating it is an honor that Marva Black Elk was invited to provide today's Invocation; thanked Parks, Recreation and Cultural Services staff for its excellent job of park maintenance at the Garden of the Gods.

Charles Barber expressed concerns to the quality of life in the community and stated he is offended by citizens who have turned Colorado Springs Government upside down.

United States Air Force Academy Cadets Lance Casey and Chris Beck, requested a waiver of the fee required to reserve Acacia Park; that a community service event has been scheduled on Saturday, April 24, 2010.

Paul Butcher, Parks, Recreation and Cultural Services approved a waiver of the park reservation fee at Council's authorization and based on the nature of the event.

Helen Dunn expressed concerns regarding a streetlight that has been turned off in her neighborhood; that she lives in a lower income neighborhood with a high crime rate, and feels it is unsafe to not have a streetlight; that she has contacted City Staff to petition for the streetlight to be turned on.

City Council directed her to continue working with City Staff regarding her concern.

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Mayor Rivera made the following statement: "I do want to point out something, Mr. Cox you're officially not the City Manager yet, you're still the Interim. I'll just assume that the City Manager asked you to sit in because she had other things to do. Her contract doesn't end until April 16th, and that's when you pick up as the Interim City Manager. I just had to say that for the record. I didn't want you to get ahead of yourself or anything".

Councilmember Purvis made the following statement: "Just to add to that --- nor do I view your being sworn in effective April 16th as constructive termination of her contract at any time".

Mayor Rivera responded: "And I think that's important for us to get on the record".

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6. Motion by Herpin, second by Purvis, that the Minutes of the Regular Council meeting of March 23, 2010 be approved as written. The motion unanimously carried. Absent, Councilmember Hente.

CONSIDERATION OF ITEMS CALLED UP FROM CONSENT CALENDAR SECTION

4-B-2. Resolution No. 44-10 was presented: "A RESOLUTION FINDING A PUBLIC PURPOSE IN LEASING A CITY BUILDING AT HARLAN WOLFE PARK TO THE PIKES PEAK COMMUNITY FOUNDATION".

In response to a question from Councilmember Gallagher, Mr. Butcher stated there is no lease payment for the facility; that the facility will be utilized as storage space by Pikes Peak Urban Gardens, a nonprofit community initiative of the Pikes Peak Community Foundation.

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

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

Mayor Rivera declared the motion carried.

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4-B-4. Ordinance No. 10-38 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 09-148 (2010 APPROPRIATION ORDINANCE) FOR THE PARKS, RECREATION AND CULTURAL SERVICES DEPARTMENT IN THE AMOUNT OF $1,110,034" was introduced and read.

Terri Velasquez, Chief Financial Officer, entered her appearance and answered questions.

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

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

Mayor Rivera declared the motion carried.

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4-B-5. Ordinance No. 10-39 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 09-148 (2010 APPROPRIATION ORDINANCE) FOR THE THERAPEUTIC RECREATION FUND IN THE AMOUNT OF $33,524" was introduced and read.

Mr. Butcher entered his appearance and answered questions.

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

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

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4-B-10. **A resolution to accept a grant from the Federal Transit Administration in the amount of $1,078,307 to fund eligible transit capital and planning projects.**

Interim Transit Services Division Manager Craig Blewitt stated the proposed grant will fund a study for regional transit governance and funding structure, as well as other eligible transit capital and planning projects.

Mayor Rivera questioned what the implication would be if the money were allocated elsewhere; that there is not much detail of the projects and associated costs, and requested a more detailed presentation.

Motion by Small, second by Purvis, that this matter be continued to the City Council meeting of April 27, 2010. The motion unanimously carried. Absent, Councilmember Hente.

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4-B-12. AR V 09-00568: Ordinance No. 10-40 entitled "AN ORDINANCE VACATING A PORTION OF THE EL PARQUE PUBLIC RIGHT-OF-WAY CONSISTING OF 0.43 ACRE LOCATED ALONG THE WEST SIDE OF EL PARQUE AND NORTH OF FONTANERO STREET" was introduced and read.

Senior Planner Steve Tuck stated the proposed vacation originated through a request by the property owner to the west of the right-of-way; that the property owner will absorb a portion of the 50 foot wide right-of-way and replat their property; that the remaining portion will be deeded to the Old North End Neighborhood Association; that because the property was dedicated to the City and it is no longer required for public purpose, the property will be relinquished at no cost; that per State law, the City does not sell right-of-way.

Mayor Rivera stated if the ownership is transferred to the property owner, and the property is developable, the property value is then increased.

Deputy City Attorney Wynetta Massey because the property was a dedicated right-of-way, if the City is no longer using it, the owner that originally transferred the property to the City may regain possession; that there is no exchange of value.

Motion by Purvis, second by Martin, that the ordinance be passed as introduced.

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

Mayor Rivera declared the motion carried.

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4-B-13. CPC ZC 08-00188: (Quasi-Judicial Matter) Ordinance No. 10-41 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 3.75 ACRES LOCATED NORTHWEST OF BLACK FOREST ROAD AND EAST WOODMEN ROAD" was introduced and read. (A/AO to PF/AO)

Planner 1, Erin McCauley, entered her appearance to answer any questions.

Councilmember Gallagher inquired why the City is considering this matter now since there is no current bus service to the area, and Interim Transit Services Division Manager Craig Blewitt stated there is no pressing matter, but it could function later as part of the development plan for a Park and Ride; that the property has already been purchased.

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

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

Mayor Rivera declared the motion carried.

UNFINISHED BUSINESS

7. Ordinance No. 10-34 entitled "AN ORDINANCE DECLARING A TEMPORARY MORATORIUM OF CERTAIN CITY CODE PROVISIONS THAT RESTRICT OUTSIDE-CITY WATER SERVICE" was brought up on second presentation.

Attorney Mark Shea, City Attorney's Office – Utilities Division, entered his appearance and answered questions.

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

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

Mayor Rivera declared the motion carried.

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8. Motion by Small, second by Purvis, that Dr. Pat Boone be appointed to a term as a member of the Asset Naming Board, said term expiring December 12, 2010. The motion unanimously carried. Absent, Councilember Hente.

Motion by Small, second by Purvis, that John Scorsine be appointed to a term as a member of the Emergency Services Agency (ESA), said term expiring September 26, 2011. The motion unanimously carried. Absent, Councilmember Hente.

Motion by Small, second by Purvis, that Cycily Harding and E. Roland Laning be reappointed to terms as members of the Housing Authority Board, said terms expiring April 1, 2015. The motion unanimously carried. Absent, Councilmember Hente.

Motion by Small, second by Purvis, that Paul Johnson be appointed to a term as a member of the Pikes Peak Area Council of Governments Community Advisory Committee, said term expiring December 31, 2012. The motion unanimously carried. Absent, Councilmember Hente.

Motion by Small, second by Purvis, that Jim Kent be appointed to a term as a member of the Woodstone Special Maintenance Improvement District, said term expiring December 12, 2013. The motion unanimously carried. Absent, Councilmember Hente.

NEW BUSINESS

9. Resolution No. 45-10 was presented: "A RESOLUTION DIRECTING THE CHIEF EXECUTIVE OFFICER OF COLORADO SPRINGS UTILITIES TO EXECUTE AN AGREEMENT FOR SHORT-TERM WATER SERVICE WITH CHEROKEE METROPOLITAN DISTRICT".

CSU Water Supply Resources Manager Wayne Vanderschuere, stated the proposed resolution authorizes an agreement with Cherokee Metropolitan District for short-term water service.

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

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

Mayor Rivera declared the motion carried.

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10. Resolution No. 46-10 was presented: "A RESOLUTION TO OPEN THE SOUTH SLOPE WATERSHED FOR RECREATIONAL ACCESS".

CSU Water Services Officer Bruce McCormick stated the proposed resolution authorizes the opening of the South Slope Watershed for recreational purposes; that Utilities will support the management of the watershed; that Utilities will not fund any trails in the area.

Councilmember Paige stated he will not support Utilities getting into the Park service, but will support the design work.

Mayor Rivera stated Utilities will still have a responsibility and obligation to protect the watershed.

Councilmember Paige stated he feels there should be private funding and a partnership for collection of user fees.

Parks Open Space Manager Kurt Schroeder stated it is Utilities watershed and it will have the final say in how it will be managed; that guided tours will be offered into the watershed; that the initial construction will rely on grants or other funds available.

Mr. McCormick stated Utilities intends to provide some funding for recreational facilities.

Motion by Purvis, second by Small, that the resolution be adopted; that the only funding being authorized by this resolution is for design of the plan for the recreational uses.

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

Mayor Rivera declared the motion carried.

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Mayor Rivera was excused.
In the absence of Mayor Rivera, Vice Mayor Small presided.

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11. Ordinance No. 10-42 entitled "AN ORDINANCE AMENDING SECTIONS 103 (PERMITTED, CONDITIONAL AND ACCESSORY USES), AND 105 (ADDITIONAL STANDARDS FOR SPECIFIC USES ALLOWED IN RESIDENTIAL ZONES) OF PART 1 (RESIDENTIAL DISTRICTS) AND SECTION 203 (PERMITTED, CONDITIONAL AND ACCESSORY USES) OF PART 2 (COMMERCIAL DISTRICTS) OF ARTICLE 3 (LAND USE ZONING DISTRICTS) OF CHAPTER 7 (PLANNING, DEVELOPMENT AND BUILDING) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO HUMAN SERVICE ESTABLISHMENTS" was introduced and read.

Senior Planner Ryan Tefertiller made a presentation and stated the proposed ordinance will amend the zoning code to allow specific human service establishments, as permitted or conditional uses, in Form-Based Zone (FBZ) districts. He stated the Downtown Review Board and City Planning Commission recommends approval of the ordinance.

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

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

Vice Mayor Small declared the motion carried.

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At 2:45 P.M., motion by Glenn, second by Martin, that Council adjourn. The motion unanimously carried, and

COUNCIL ADJOURNED

Cindy N. Conway, CMC
Deputy City Clerk