COLORADO SPRINGS, COLORADO CITY COUNCIL CHAMBERS CITY HALL - 107 N. NEVADA AVENUE APRIL 27, 2010 – 1:00 P.M.

Council met in Regular Session.

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

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

The meeting was opened with an invocation by Reverend Terry McCray Hill, Payne Chapel AME Church.

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#### 2. Changes to Agenda/Postponement.

Mayor Rivera stated Item Nos. 8 and 7 will be reversed.

Councilmember Gallagher called up Item No. 3-A-4 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-4 which was acted upon separately:

#### **SECOND PRESENTATION:**

- A-1. 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 brought up on second presentation. (C-5 to PF)
- A-2. 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 brought up on second presentation. (PIP-2 to C-6)
- A-3. 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 brought up on second presentation.

#### A-4. SEE ACTION TAKEN LATER IN THE MEETING.

#### FIRST PRESENTATION:

- B-1. Resolution No. 47-10 was presented: "A RESOLUTION GRANTING PERMISSION TO CLOSE TRANSACTIONS FOR THE ACQUISITION OF TWENTY-SIX PROPERTIES FOR SOUTHERN DELIVERY SYSTEM PROJECT IMPROVEMENTS".
- B-2. Resolution No. 48-10 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT) IN THE AMOUNT OF \$4,900 FOR THE 2010 NIGHTTIME ENFORCEMENT "CLICK IT OR TICKET" CAMPAIGN; AND, AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE CONTRACT FOR SEATBELT ENFORCEMENT OVERTIME".
- B-3. Resolution No. 49-10 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 \$5,450 FOR THE EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) AGREEMENT #10EM709H83; AND, AUTHORIZING THE COLORADO SPRINGS FIRE DEPARTMENT, DIVISION OF THE FIRE MARSHAL/OFFICE OF EMERGENCY MANAGEMENT TO EXECUTE THE CONTRACT TO PROVIDE EDUCATION AND OUTREACH TO THE RESIDENTS OF COLORADO SPRINGS TO ADDRESS GRASS FIRE SAFETY AND EVACUATION MESSAGES".
- B-4. Resolution No. 50-10 was presented: "A RESOLUTION APPROVING A 2010 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND HARRISON SCHOOL DISTRICT 2 FOR FUNDING OF A SCHOOL ZONE PEDESTRIAN SAFETY PROGRAM".
- B-5. Resolution No. 51-10 was presented: "A RESOLUTION APPROVING A 2010 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND COLORADO SPRINGS SCHOOL DISTRICT 11 FOR FUNDING OF A SCHOOL ZONE PEDESTRIAN SAFETY PROGRAM".
- B-6. Resolution No. 52-10 was presented: "A RESOLUTION APPROVING A 2010 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND ACADEMY SCHOOL DISTRICT 20 FOR FUNDING OF A SCHOOL ZONE PEDESTRIAN SAFETY PROGRAM".
- B-7. Resolution No. 53-10 was presented: "A RESOLUTION APPROVING A 2010 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND CHEYENNE MOUNTAIN SCHOOL DISTRICT 12 FOR FUNDING OF A SCHOOL ZONE PEDESTRIAN SAFETY PROGRAM".
- B-8. Resolution No. 54-10 was presented: "A RESOLUTION APPROVING A 2010 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND FALCON SCHOOL DISTRICT 49 FOR FUNDING OF A SCHOOL ZONE PEDESTRIAN SAFETY PROGRAM".
- B-9. Resolution No. 55-10 was presented: "A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND THE BANNING LEWIS RANCH METROPOLITAN DISTRICT NO. 1 FOR PRIVATE MAINTENANCE OF A FENCE ALONG

DUBLIN BOULEVARD ADJACENT TO TOY RANCHES AND BANNING LEWIS RANCH FILING NO. 8".

#### B-10. Milton E. Proby Parkway Annexation

- B-10A. CPC A 09-00108: Request by the City of Colorado Springs for an annexation of the Milton E. Proby Parkway right-of-way consisting of 85.6 acres located south and east of the Milton E. Proby Parkway (formerly Drennan Road) and South Academy Boulevard intersection.
- B-10B. Ordinance No. 10-43 entitled "AN ORDINANCE ANNEXING TO THE CITY OF COLORADO SPRINGS THAT AREA KNOWN AS MILTON E. PROBY PARKWAY ADDITION AS HEREINAFTER SPECIFICALLY DESCRIBED IN EXHIBIT "A"" was introduced and read.
- B-10C. CPC ZC 09-00133: Ordinance No. 10-44 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 85.6 ACRES LOCATED SOUTH AND EAST OF THE MILTON E. PROBY PARKWAY AND SOUTH ACADEMY BOULEVARD INTERSECTION" was introduced and read. (PF/AO)

Motion by Hente, second by Purvis, that all matters on the Consent Calendar, with the exception of Item No. 3-A-4 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

Noes: None Absent: Small

# 4. Resolutions of Appreciation

Resolution No. 56-10 was presented: "A RESOLUTION OF APPRECIATION RECOGNIZING PAUL D. BUTCHER, DIRECTOR OF PARKS, RECREATION AND CULTURAL SERVICES, FOR 26 YEARS OF OUTSTANDING SERVICE TO THE COLORADO SPRINGS COMMUNITY".

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

Ayes: Gallagher, Glenn, Hente, Herpin, Martin, Paige, Purvis, Rivera

Noes: None Absent: Small

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Kelsie McKinney, of Wasson High School, was introduced as a representative of the Mayor's 100 Teens.

#### **CITIZEN DISCUSSION**

Charlene Pike expressed concern about the Express Inn, moved into Inn and had a problem with bed bugs and was infected; proceeded to hospital and receive treatment and letter not to

stay in the room. Management at the Inn kicked them out; wants the Health Department and pest control to inspect; wanted to make City Council aware.

The Mayor stated will have a report made from Bob Holmes.

Laura Ettinger stated her father, George Fisher, created sculpture on Highway 24; heard about funding issues at Pioneers Museum; memorabilia given to Museum and concerned about these items and the loss of them.

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5. Motion by Purvis, second by Martin, that the Minutes of the Regular Council meeting of April 13, 2010 be approved as written. The motion unanimously carried. Absent, Councilmember Small.

# CONSIDERATION OF ITEMS CALLED UP FROM CONSENT CALENDAR SECTION

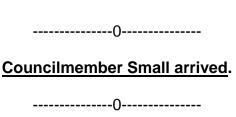
3-A-4. Ordinance No. 10-42 entitled "AN ORDINANCE AMENDING SECTIONS 103 (PERMITTED, CONDITIONAL AND ACCESSORY USES), AND 105 (ADDITIONAL STANDARDS FOR SPECIFIC USES ALLOWED IN RESIDENTIAL ZONES) OF PART 1 (RESIDENTIAL DISTRICTS) AND SECTION 203 (PERMITTED, CONDITIONAL AND ACCESSORY USES) OF PART 2 (COMMERCIAL 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 brought up on second presentation.

Motion by Purvis, second by Herpin, that the ordinance be finally passed.

Ayes: Glenn, Hente, Herpin, Martin, Paige, Purvis, Rivera

Noes: Gallagher Absent: Small

Mayor Rivera declared the motion carried.



#### **UTILITIES BUSINESS**

6. A public hearing for the consideration of a resolution establishing a large potable irrigator water conservation rate pilot program.

The City Clerk read Item Nos. 7 and 8 into the record for action.

<u>City Attorney/Chief Legal Officer Introductory Briefing:</u>

The City Attorney provided an Introductory Briefing.

City Attorney/Chief Legal Officer call for suspension of Part 4, City Council Procedural Rules:

City Attorney/Chief Legal Officer poll regarding ex parte material:

Mayor Rivera and Councilmember Purvis each received one phone call; one citizen email.

Effective date of water increase May 1, 2010, January 2011 and January 2012.

<u>Utilities Presentation for Large Potable Irrigator Water Conservation Rate Case:</u>

<u>Utilities Presentation for the Two-Year General Water Rate Case for 2011 and 2012:</u>

- a. Bruce McCormick, Colorado Springs Utilities (CSU) Chief Water Services Officer, reviewed the Water Conservation Pilot Program for Large Irrigators; two-year watering season program, for large potable irrigators with multiple meters, access to data of irrigated acreage for numerous sites, sites in geographically diverse locations, Site Managers available to verify information, public outreach communications; 2011 and 2012 Water Rate Case Filing maintenance of pipeline system, Southern Delivery System (SDS) is a regional project that will benefit Colorado Springs, Fountain, Security and Pueblo West, plan is to have SDS in service in 2016.
- b. Bill Cherrier, CSU Chief Planning & Financial Officer, discussed financing opportunities and the timeframe to acquire funding that lowers the cost to borrow and has the least risk to customers; bonds issued in 2010 will have a total savings range from \$19 \$49 million; critical balance --- financial metrics, rates and ensure operations.
- c. Jerry Forte, CSU Chief Executive Officer (CEO), gave a brief presentation; stated SDS will be an economic boost; 380 to 700 jobs, increased employment, long term economic vitality and provides water for the next five decades.

Doug Houston, George K. Baum & Associates Executive Vice President, discussed bonds and rating agencies, the market and interest rates.

Mr. Cherrier stated increase in 2011 is \$4.42; increase in 2012 is \$4.96; cumulative percentage increases; City Auditor Review states 78.5% support SDS; recommends development charge study and an annual update of financial projections; public outreach communication.

#### Public Questions/Comment regarding both water rate cases:

Stan Whites, Slash Car Wash, and Walter Lawson, spoke in opposition citing the following comments: last increase cost his business \$10,101.89 or 4.79%; had to lay-off an employee as a result; spending madness is going to hurt and run him out of business; a 69% increase is not acceptable; suggest a system similar to Denver whereby some parks are not charged for watering, create a permanent policy not just a pilot policy; \$100 million invested in SDS project; numerous hidden costs with this project;

Dan Stuart, Government Affairs Chamber Chair, Richard Skorman, Scott Bryan, Bryan Construction and Economic Development Council, Jan Doran, Council of Neighbors and Organizations (CONO), Judd Bryerly, Associated Landscapers of Colorado Board member and employee of Timberline Landscaping, Jerry Nester, High Country Pipeline, Roy Hill, Security Water District General Manager, Larry Patterson, Fountain Public Works Director, and Margaret Radford spoke in support citing the following comments: pleased SDS project is getting off the ground; phase approach best; long term effect outweighs the short term setbacks; good for his business, time is right; SDS viable and much needed in this community; supports approval of the SDS system; CONO passed resolution, positive momentum, especially now; supports; economic benefit is great; SDS needed; SDS adds needed water to help fulfill the new influx of Fort Carson troops to the Security area; project needed by 2016; economy will turn around; plan to use SDS water with ground water to produce even more water; raising rates in Fountain to accommodate this increase; spoke about commitment; need sufficient water supply in the future.

Leslie Hickey, Principal Auditor, gave a brief presentation; data for ten (10) year forecast was supported; how much of increase going to SDS, 75% SDS, 21.5% general water; supported by the model.

## Questions from City Council regarding both water rate cases:

City Council gave their list of guestions to Administration.

#### Utilities' Response for both water rate cases:

Mr. Cherrier stated the total cost for the capital project through 2016 is \$880 million; including operations and maintenances cost associated with this project through 2016 the total is \$941 million; in addition there is \$50 million in mitigation costs acquired through 1041for a total project cost through 2016 of \$1.2 billion including bond financing; NEPA costs are excluded; water conservation rate not intended to be rate neutral; protective covenants prevent free service to municipal government 20 years before implementation; 96% bond/debt funded; customer classes the same no matter where they are located; no partners included in rates today.

Gary Bostrom, CSU Planning & Engineering Resource Management General Manager, stated the water conservation programs to help businesses such as car wash, etc.; sharing capacity with Fountain, Security, Pueblo West, etc. is an operational trade; storage for droughts and infrastructure failures.

Mr. McCormick responded to remaining permits for the project; additional work will be entered into with the Bureau of Reclamation for contracts for the use of Pueblo Reservoir as part of SDS; full assessment will be provided at a later date.

Mr. Cherrier stated development charges need to be reviewed through the development charge methodology; intent is to make sure appropriate rates and analysis going into 2011 for the development charge; review by the Utilities Board with a hearing in October and the proposed rate increase would be implemented in January 1, 2011.

Identification of Issues for the Two-Year General Water Rate Case for 2011 and 2012:

- a. Is the multiple-year phase-in of rate revisions as proposed in Colorado Springs Utilities' March 23, 2010 filing appropriate for the years 2011 and 2012?
- b. Should the rates for the following Water Service Rate Schedules be revised as proposed to be effective January 1, 2011 and January 1, 2012?
  - 1) Residential Service Inside city limits
  - 2) Nonresidential Service Outside city limits
  - 3) Residential Service Outside city limits
  - 4) Nonresidential service Outside city limits
  - 5) Contract Service
  - 6) Temporary Service Hydrant Use
- c. Should CSU perform a study of Water Development Charges and then present that study to the City of Colorado Springs Utilities Board for further review and direction by the Board?

Council Deliberation and Direction regarding the Two-Year General Water Rate Case for 2011 and 2012:

Councilmember Gallagher spoke in opposition of Question a.

Councilmember Small spoke in support of Question c as follows: perform the study and as a result of the Utilities Board consideration and UPAC's participation, then make a decision if there would be a rate case. The way it was stated, CSU would study it and bring a rate case forward; was not presented that CSU would study and, if justified, bring the rate case forward; wants to be sure the process is followed.

Mayor Rivera suggested the following statement: "CSU has been directed to study development charges and bring back the presentation to the Utilities Board for further direction".

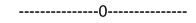
Council Deliberation and vote on Large Potable Irrigator Water Conservation Rate:

#### SEE ACTION TAKEN LATER ON ITEM NO. 7.

Establish further proceedings as necessary.

The City Attorney stated draft Decision and Order will be developed for the rate case, resolution adopting all the changes as City Council has indicated consent to and presented. The final changes will be presented at the Formal City Council meeting on May 11, 2010.

Mayor Rivera declared the Public Hearing closed.



Item No. 8 was taken out of order for consideration.

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8.	A public hearing for the consideration of a resolution regarding the setting of water	<u>ter</u>
	rates for 2011 and 2012 for Colorado Springs Utilities.	

SEE ACTION	<b>TAKEN</b>	<b>EARLIER</b>	IN	ITEM NO.	6.
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7. Resolution No. 57-10 was presented: "A RESOLUTION ESTABLISHING A LARGE POTABLE IRRIGATOR WATER CONSERVATION RATE PILOT PROGRAM AND SUSPENDING PART 4 (I) (C) OF THE RULES AND PROCEDURES OF CITY COUNCIL, POST-HEARING PROCEDURES".

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

Ayes: Gallagher, Glenn, Hente, Herpin, Martin, Paige, Rivera, Small

Noes: Purvis Absent: None

Mayor Rivera declared the motion carried.

### **UNFINISHED BUSINESS**

9. 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 brought up on second presentation.

Kim King, Parks Administration Manager, entered her appearance and answered questions.

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

Ayes: Gallagher, Herpin, Martin, Paige, Rivera, Small

Noes: Glenn, Hente, Purvis

Absent: None

Mayor Rivera declared the motion carried.

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10. 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 brought up on second presentation.

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

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

Noes: Gallagher, Paige

Absent: None

	Mayor Rive	ra declared the motion carried
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		Councilmember Hente was excused.
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11.	AMENDING 3.75 ACRE	8-00188: (Quasi-Judicial Matter) Ordinance No. 10-41 entitled "AN ORDINANCE THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO S LOCATED NORTHWEST OF BLACK FOREST ROAD AND EAST WOODMEN by brought up on second presentation. (A/AO to PF/AO)
	Motion by S	Small, second by Martin, that the ordinance be finally passed.
	Ayes: Noes: Absent:	Glenn, Herpin, Martin, Paige, Purvis, Rivera, Small Gallagher Hente
	Mayor Rive	ra declared the motion carried.
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		Councilmember Hente returned.
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12.		No. 58-10 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE TRANSIT ADMINISTRATION IN THE AMOUNT OF \$1.078.307 TO FUND

Ε D ELIGIBLE TRANSIT CAPITAL AND PLANNING PROJECTS".

Craig Blewitt, Interim Transit Services Manager, summarized the item and updated information regarding funding of bus service, sustaining current services, extending current service; adding another route for three (3) months; \$130,000 close to the amount that could be used for bus service.

Don Averson, Voice for Transit Riders, Andrea Tippon, Kevin Scott, Passenger Advisory Committee, and Ray Courgar, Springs City Coalition, spoke in support citing the following comments: supports the grant; sustainable funding source for transit; future economic development source; supports study; study may help in other transportation areas; Transportation working group with work with others.

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

Glenn, Hente, Herpin, Martin, Paige, Purvis, Rivera, Small Aves:

Gallagher Noes: None

Absent:

Mayor Rivera declared the motion carried.

#### **NEW BUSINESS**

13. Resolution No. 59-10 was presented: "A RESOLUTION TO APPROVE AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND MINING EXCHANGE GROUP, LLC".

Bob Cope, Economic Development Senior Analyst, gave a brief presentation; building to be restored to original granite exterior and new canopies, roof-top club, comedy club, spa and lobby bar; change to hotel higher costs than apartments; 1% General Fund sales tax sharing rate; 17 years to generate \$3 million (\$177,000/year); sales tax revenue sharing; reviewed project benefits.

Ron Butlin, Downtown Partnership Executive Director, spoke in support of the proposed resolution; another good asset and benefit to downtown.

Perry Sanders, Mining Exchange Group, LLC (MEG) co-owner, commented various Councilmembers came for extensive tour of this project; should be paradigm.

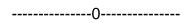
Motion by Martin, second by Gallagher, that the resolution be adopted.

Ayes: Gallagher, Glenn, Herpin, Martin, Paige, Small

Noes: Hente, Purvis, Rivera

Absent: None

Mayor Rivera declared the motion carried.



14. A resolution transferring administrative responsibility for Lot No. 4, Confluence Park South Subdivision, and authorizing the disposition "as is" of Lot No. 4, Confluence Park South Subdivision.

The City Attorney introduced and summarized the item.

Mayor Rivera stated the City is returning the building back to CSU for economic development contribution for urban renewal purposes.

Dave Padgett, CSU Environmental Services Manager, answered questions regarding contamination on this site and remediation.

Nancy Johnson, Assistant City Manager, will provide information regarding fund source for asbestos removal and demolition.

Jim Rees, Urban Renewal Authority, provided clarification; possibly bifurcate the v-cup and pull Lot No. 2, if necessary and proceed; possibility of Urban Renewal acquiring Lot No. 2.

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

Hente, Herpin, Rivera, Small Ayes:

Gallagher, Glenn, Martin, Paige, Purvis Noes:

Absent: None

Mayor Rivera declared the motion failed.

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At 5:30 P.M., motion by Paige, second by Glenn, that Council adjourn. The motion unanimously carried, and

COUNCIL ADJOURNED

Kathryn M. Young, CMC, CERA

City Clerk