COLORADO SPRINGS, COLORADO
PLAZA OF THE ROCKIES, SOUTH TOWER
5th FLOOR, BLUE RIVER BOARD ROOM
NOVEMBER 17, 2010 – 1:00 P.M.

Council met in Special Called Session.

There were present: Councilmembers Gallagher, Glenn, Hente, Herpin, Martin, Paige, Purvis and Small. Absent, Mayor Rivera. In the absence of Mayor Rivera, Vice Mayor Small presided. Also present, City Manager Cox and City Attorney/Chief Legal Advisor Kelly.

NEW BUSINESS

A. Resolution No. 211-10 was presented: "A RESOLUTION OF THE CITY OF COLORADO SPRINGS, COLORADO; APPROVING AND AUTHORIZING THE PURCHASE OF A 50% MEMBERSHIP INTEREST IN FRONT RANGE POWER COMPANY, LLC".

Bill Cherrier, Utilities Chief Planning & Finance Officer, gave a presentation and stated Items A through E are related to the purchase of Mesquite Colorado Holdco, LLC's 50% interest in Front Range Power Company, LLC, in the amount of $92,688,000, of which Utilities currently owns 50% membership interest; that the facility is a combined cycle natural gas fired electric generation operation. He stated the purchase causes the need for a bond issue; that while the bond ordinance provides a maximum principal amount not to exceed $325,000,000, actual costs are anticipated at approximately $267,000,000.

Motion by Gallagher, that Items A through E be postponed to the Council meeting of November 23, 2010; that no detail of the purchase transaction was provided until today, and was not posted for public review on the City website. The motion was seconded by Councilmember Paige.

Mr. Cherrier stated a postponement would defer the ability close the bond issuance transaction in 2010; that issuing the bonds in 2011 may cause a higher interest rate; that public notice and education were provided about 60 days prior to the meeting through media, Utilities Connection, and the web.

Walter Lawson stated the purchasing details were not on the website and requested the items be postponed to allow public review.

A vote being taken on the motion to postpone Items A through E:

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

Vice Mayor Small declared the motion failed.

Councilmember Hente stated once the purchase is completed, electric rates are anticipated to be lower, and inquired if there was any way to approximate the rates and incorporate them in next month's rate case, and Mr. Cherrier stated the intent is to implement the rate adjustment immediately.

Councilmember Paige inquired what costs are associated with integration, and if that were part of the budget, and Mr. Cherrier stated Utilities is already operating the plant on behalf of Front Range; that he does not anticipate any additional administrative staff.

Councilmember Gallagher commented that he believes the investment into this plant is much larger than $325,000,000.

Utilities Chief Executive Officer Jerry Forte stated Front Range Power is an asset; that the plant is used to sell power into the market and today's items relate to whether Utilities should purchase the plant, and three appraisals were received; that purchasing the plant will save taxpayers approximately $10,000,000 annually.

Councilmember Gallagher stated he will support this item because the plant does not have to continually operate.

Motion by Herpin, second by Paige, that the ordinance be introduced, read and passed as an emergency.

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

Vice Mayor Small declared the motion carried.

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B. Ordinance No. 10-88 entitled “AN EMERGENCY ORDINANCE OF THE CITY OF COLORADO SPRINGS, COLORADO; PROVIDING FOR THE ACQUISITION OF AN ELECTRIC GENERATION FACILITY FROM FRONT RANGE POWER COMPANY, LLC AS AN ADDITION TO THE CITY OF COLORADO SPRINGS UTILITIES SYSTEM; PROVIDING FOR THE ISSUANCE AND SALE OF THE CITY OF COLORADO SPRINGS, COLORADO, UTILITIES SYSTEM REVENUE BONDS, SERIES 2010D-1, SERIES 2010D-2, SERIES 2010D-3 AND SERIES 2010D-4 IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED $325,000,000 PAYABLE SOLELY OUT OF THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF THE UTILITIES SYSTEM; AUTHORIZING THE EXECUTION BY THE CITY OF A BOND PURCHASE AGREEMENT AND AN OFFICIAL STATEMENT; PROVIDING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY" was introduced and read.

Councilmember Gallagher stated the $325,000,000 expenditure is not budgeted for 2010, and he will not support the ordinance.

In response to a question from Councilmember Paige, Mr. Cherrier stated delaying this ordinance would require a supplemental appropriation in 2011.

Attorney Kurt Kaufmann of Sherman & Howard, entered his appearance and stated there is flexibility to issue the bonds in 2010 or 2011, however, if the Build America Program is cancelled, the bonds would just be issued as tax exempt bonds; that the principal amount of the bonds would not change.

Motion by Herpin, second by Martin, that the ordinance be introduced, read and passed as an emergency.

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

Vice Mayor Small declared the motion carried.

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C. Resolution No. 212-10 was presented: "A RESOLUTION OF THE CITY OF COLORADO SPRINGS, COLORADO; APPROVING AND AUTHORIZING THE CREATION OF CSHCO, INC., A COLORADO CORPORATION, THE ARTICLES OF INCORPORATION AND BYLAWS OF SUCH CORPORATION AND APPOINTING THE INITIAL BOARD OF DIRECTORS OF SUCH CORPORATION; RATIFYING CERTAIN ACTION HERETOFORE TAKEN".

Mr. Kaufmann stated there will be some advantage in tax laws to change ownership to this corporation; that Utilities would retain 99.9% ownership and .01% would be transferred to CSHCO, Inc.; that there is no increased exposure.

Mr. Gallagher stated he opposes this item due to lack of public review of the by-laws.

Vice Mayor Small stated he agrees with Councilmember Gallagher about adequate public notice and review, and inquired if there were any ramifications if this item were postponed to the Council meeting of November 23, 2010, and Mr. Kaufmann stated it could be postponed but the corporation must be in place before the transaction is closed.

Motion by Gallagher, that this item be postponed to the Council meeting of November 23, 2010.

The motion died for lack of a second.

Then, motion by Martin, second by Herpin, that the resolution be adopted.

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

Vice Mayor Small declared the motion carried.

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D. Ordinance No. 10-89 entitled "AN EMERGENCY ORDINANCE APPROVING A REVISED ANNUAL BUDGET FOR COLORADO SPRINGS UTILITIES AND APPROPRIATING MONIES FOR THE PURPOSE NAMED IN THE ANNUAL BUDGET FOR COLORADO SPRINGS UTILITIES FOR THE YEAR ENDING DECEMBER 31, 2010" was introduced and read.

Motion by Martin, second by Purvis, that the ordinance be introduced, read and passed as an emergency.

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

Vice Mayor Small declared the motion carried.

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E. Ordinance No. 10-90 entitled "AN EMERGENCY ORDINANCE AMENDING THE ANNUAL SOURCES OF FUNDS FOR COLORADO SPRINGS UTILITIES FOR THE YEAR ENDING DECEMBER 31, 2010" was introduced and read.

Motion by Martin, second by Purvis, that the ordinance be introduced, read and passed as an emergency.

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

Vice Mayor Small declared the motion carried.

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At 2:15 P.M., motion by Martin, second by Herpin, that Council adjourn until the regular City Council meeting of November 23, 2010. The motion unanimously carried, and

COUNCIL ADJOURNED

Cindy N. Conway

Cindy N. Conway, CMC
Deputy City Clerk