

Council met in Regular Session.

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

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

The meeting was opened with an invocation by Pastor Aaron Ramsay, Messenger International.

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

Councilmember Gallagher called up Item Nos. 3-B-2, 3-B-3, 3-B-4 and 3-B-5 for separate consideration.

Doug Bruce called up Item Nos. 3-A-1, 3-A-2 and 3-A-3 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, 3-A-2, 3-A-3, 3-B-2, 3-B-3, 3-B-4 and 3-B-5 which were acted upon separately:

**SECOND PRESENTATION:**

- A-1. **SEE ACTION TAKEN LATER IN THE MEETING.**
- A-2. **SEE ACTION TAKEN LATER IN THE MEETING.**
- A-3. **SEE ACTION TAKEN LATER IN THE MEETING.**

**FIRST PRESENTATION:**

- B-1. Resolution No. 11-11 was presented: "A RESOLUTION APPROVING THE ACQUISITION OF PARCELS AFFECTING THE CONTINENTAL-HOOSIER TRANSMOUNTAIN DIVERSION SYSTEM".
- B-2. **SEE ACTION TAKEN LATER IN THE MEETING.**
- B-3. **SEE ACTION TAKEN LATER IN THE MEETING.**

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

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

B-6. Ordinance No. 11-5 entitled "AN ORDINANCE APPROVING THE CITY OF COLORADO SPRINGS PROCUREMENT RULES AND REGULATIONS" was introduced and read.

B-7. Resolution No. 12-11 was presented: "A RESOLUTION TO APPROVE ADDITIONAL FUNDS IN THE AMOUNT OF \$13,475 FOR THE VICTIMS OF CRIME ACT GRANT; AND, AUTHORIZING THE CHIEF OF POLICE TO EXECUTE THE CONTRACT TO SUPPORT THE VICTIM ADVOCACY UNIT".

B-8. Ordinance No. 11-6 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 10-103 (2011 APPROPRIATION ORDINANCE) BY INCREASING REVENUE AND EXPENDITURE APPROPRIATIONS IN THE AMOUNT OF \$236,112 FOR THE GENERAL FUND" was introduced and read.

Motion by Hente, second by Gallagher, that all matters on the Consent Calendar, with the exception of Item Nos. 3-A-1, 3-A-2, 3-A-3, 3-B-2, 3-B-3, 3-B-4 and 3-B-5 which were 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**

Resolution No. 13-11 was presented: "A RESOLUTION OF APPRECIATION TO RED ROBIN GOURMET BURGERS FOR THEIR GENEROUS DONATION DURING FIRE PREVENTION WEEK 2010".

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

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

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Resolution No. 14-11 was presented: "A RESOLUTION OF APPRECIATION TO MICHAEL GARMAN FOR HIS GENEROUS DONATION TO THE COLORADO SPRINGS FIRE DEPARTMENT IN SUPPORT OF THE FIREFACTOR PROGRAM".

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

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

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Resolution No. 15-11 was presented: "A RESOLUTION OF APPRECIATION FOR DARRYL GLENN FOR HIS SEVEN PLUS YEARS OF DEDICATED SERVICE TO THE COLORADO SPRINGS CITY COUNCIL".

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

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

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Jalen Almodovar, of Harrison High School, Phil Fisco, of Harrison High School, Abeni Claybrooks, of Harrison High School, Esteban Gaytan, of Harrison High School, and Ashley Bornschein, of Harrison High School, were introduced as representatives of the Mayor's 100 Teens.

**CITIZEN DISCUSSION**

Sam Masias, Miguel Lausell, Robert Lowery, Pat Masias, Glen Masias, Sarah Masias and Birdie Lowery shared experiences of racism in Colorado; acknowledged 2003 Resolution promoting goodwill and mutual respect and condemning racism and discrimination in Colorado Springs; spoke about family history and Mission Bell Inn; requested meaningful discussion about immigration, the legislation and implementation.

Mitch Christianson spoke about Memorial Health System (MHS); Strong Mayor issue - concerned about Mayor not having a voice in Colorado Springs Utilities (CSU) and MHS issues; new City Council should convene a Charter Convention to look at the Charter.

Bob Bighorn, MMJ business owner, stated his location at Airport Road and Academy Boulevard is 1,300 square feet with a grow facility; grow cannot supply demand, need larger facility and found location next door to current location; wants City Council's permission to rent space next door to current location with 35' of space between his location.

City Council directed the City Attorney's office to review for zoning clarification.

Mr. Bruce was confronting about the MHS deal; \$245 million is result of overly generous pension, could have saved 1/3 of funding with consultant by sending letter to PERA a year ago to find out pension buy-out amount; stop Southern Delivery System (SDS) and save taxpayers millions of dollars - \$10,000 a foot cost.

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5. Motion by Paige, second by Hente, that the Minutes of the Regular Council meeting of January 11, 2011 be approved as written. The motion unanimously carried.

**CONSIDERATION OF ITEMS CALLED UP FROM  
CONSENT CALENDAR SECTION**

3-A-1. Ordinance No. 11-1 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 10-103 (2011 APPROPRIATION ORDINANCE) FOR THE HUMAN SERVICES COMPLEX FUND IN THE AMOUNT OF \$1,200,000 AND THE SENIOR PROGRAMS SPECIAL FUND IN THE AMOUNT OF \$800,000 TO ALLOW PAYMENT OF FUNDS ASSOCIATED WITH THE TRANSFER OF THE HUMAN SERVICES COMPLEX AND THE COLORADO SPRINGS SENIOR CENTER TO THE HOUSING AUTHORITY OF THE CITY OF COLORADO SPRINGS" was brought up on second presentation.

Mr. Bruce spoke to transferring City-owned shopping center; should not be in a shopping center business when crying poverty; City Council too generous with taxpayers funds by giving away property; giving to Housing Authority against Charter and violates Issue 300.

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

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

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3-A-2. Ordinance No. 11-2 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 10-103 (2011 APPROPRIATION ORDINANCE) IN THE AMOUNT OF \$903,000 FOR THE SECURITY CHECKPOINT EXPANSION PROJECT AT THE COLORADO SPRINGS AIRPORT" was brought up on second presentation.

Mr. Bruce suggested use of the old Airport facility and 17 acres.

Councilmember Paige questioned control over type of scanner machines that can be used; Airport Staff to outline technical issues and send to City Council.

Mark Earle, Aviation Director, entered his appearance and answered questions.

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

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

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3-A-3. Ordinance No. 11-3 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 10-103 (2011 APPROPRIATION ORDINANCE) IN THE AMOUNT OF \$11,564,361 FOR THE CONSTRUCTION AND INSTALLATION OF THE CHECKED BAGGAGE INSPECTION SYSTEM AT THE COLORADO SPRINGS AIRPORT" was brought up on second presentation.

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

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

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3-B-2. Resolution No. 16-11 was presented: "A RESOLUTION GRANTING PERMISSION TO CLOSE CONSENSUAL TRANSACTIONS FOR THE ACQUISITION OF PROPERTIES FOR SOUTHERN DELIVERY SYSTEM PROJECT IMPROVEMENTS".

Mr. Bruce stated this is the next disaster waiting to happen; \$53,000 a mile or \$10,000 a foot cost to build SDS; de-annex Banning Lewis Ranch to save the taxpayers.

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

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

Mayor Rivera declared the motion carried.

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**Councilmember Hente was excused.**

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3-B-3. Resolution No. 17-11 was presented: "A RESOLUTION ESTABLISHING THE 2011 DRAINAGE BASIN FEES WITHIN THE CITY OF COLORADO SPRINGS".

Robin Kidder, Acting City Engineer, entered his appearance to answer questions about drainage basin fees; will share updated report on construction projects; Tom Bonifas, Engineering Specialist, explained cost recovery and fee calculations.

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

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

Mayor Rivera declared the motion carried.

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**Councilmember Hente returned.**

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3-B-4. Resolution No. 18-11 was presented: "A RESOLUTION PERTAINING TO 2011 LICENSING FEES FOR CATS AND DOGS".

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

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

Mayor Rivera declared the motion carried.

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3-B-5. Ordinance No. 11-7 entitled "AN ORDINANCE AMENDING SECTIONS 105 (REDEMPTION; ANIMALS OTHER THAN HOOFED ANIMALS) AND 106 (REDEMPTION; HOOFED ANIMALS) OF ARTICLE 10 (REGULATION OF ANIMALS-IMPOUNDMENT, REDEMPTION AND DISPOSAL OF ANIMALS) OF CHAPTER 6 (NEIGHBORHOOD VITALITY/COMMUNITY HEALTH) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO BOARDING FEES FOR IMPOUNDED ANIMALS" was introduced and read.

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

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

Mayor Rivera declared the motion carried.

**UTILITIES BUSINESS**

6. **A resolution authorizing the use of eminent domain to condemn certain rights of way for southern delivery system project improvements.**

Dan Higgins, CSU Construction Project Manager for SDS, reviewed the history of SDS approvals, Utilities Board approvals, land acquisition, construction design, 133 properties in construction corridor agreements reached on 118 properties, 18 properties not willing to negotiate; all efforts made to work with the property owners, trying to acquire the unimproved portion of land.

Adam Underhill, 1097 Kirkwood Drive, Pueblo West, CO, Herb Walsh, 1131 Kirkwood Drive, Dwain Maxell, 123 Kirkwood Drive, Salvatore Ginnetto, 1073 Kirkwood Drive, and Doug Bruce spoke in opposition citing the following comments: asked how his land would be restored, dust and debris and respected; improvements put on land, told two weeks before Christmas, land would be requested for eminent domain; paid 80¢ per square foot for land CSU offered 32¢ a square foot because it is undeveloped land; restricted as to what kind of improvements can be made to the property after CSU obtains the easement; no concrete answers or concrete planning; does not want them on his land, wife works nights and will have to put up with noise, dust and debris from construction; told water truck would come once a day --- not enough, lives on a dirt road and knows dust level; CSU has said would pay 19¢ per square foot; \$2,200 not enough to pay for use of property; will talk and listen but will not budge off of the amount;

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asked for contract but has not received anything; does not want spotlight on back of house and trucker noises, treat right for property; feels \$10,000 is fair price for his land; showed copies of bid, asked for something in writing he would get something back; feels \$2,100 is not adequate; deny until CSU officials do a better job and stop ripping off people; private citizens do not need aggravation of getting attorneys and going to Court.

Mr. Higgins responded to questions regarding communication and contact with homeowners; easement of 50' permanent and a temporary easement.

John Fredell, CSU General Manager for SDS, entered his appearance and answered questions.

Motion by Small, second by Purvis, that this matter be continued to the City Council meeting of February 22, 2011; relook at classification and re-characterization of structures and reasonable values to replace; work with 18 properties and bring settlement back to City Council and landscape vegetation on easement allowed, leave door open to allow reasonable negotiations for differing situations; find common ground and flexibility.

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

Mayor Rivera declared the motion carried.

### **UNFINISHED BUSINESS**

7. Ordinance No. 10-82 entitled "AN ORDINANCE AMENDING SECTION 201 (DEFINITIONS) OF PART 2 (DEFINITIONS); SECTIONS 702 (WASTEWATER DISCHARGE; PROHIBITIONS), 703 (WASTEWATER DISCHARGE; LIMITATIONS), 704 (POINT OF DISCHARGE; LIMITATIONS), 705 (SILVER SOURCE CONTROL), 706 (MERCURY SOURCE CONTROL) AND 707 (BEST MANAGEMENT PRACTICES) OF PART 7 (PROHIBITIONS-LIMITATIONS ON WASTEWATER DISCHARGE); SECTIONS 801 (REGULATORY ACTIONS; GENERAL POWERS OF THE EXECUTIVE DIRECTOR), 802 (REGULATORY ACTIONS; SPECIFIC POWERS OF EXECUTIVE DIRECTOR), 805 (ADMISSION TO PROPERTY) AND 806 (ACCIDENTAL DISCHARGE, PROTECTION FROM) OF PART 8 (CONTROL OF PROHIBITED WASTES); SECTIONS 901 (REPORTING REQUIREMENTS), 903 (INSPECTION SAMPLING AND ANALYSIS) AND 906 (TRADE SECRETS, CONFIDENTIALITY OF) OF PART 9 (INDUSTRIAL WASTEWATER MONITORING AND REPORTING); SECTIONS 1001 (DISCHARGE REQUIREMENTS), 1002 (MANIFEST SYSTEM), 1003 (REPORTING REQUIREMENTS), 1004 (VEHICLE MAINTENANCE REQUIREMENTS), 1005 (FINANCIAL ASSURANCE REQUIREMENTS) AND 1006 (SAMPLING AND RECORDS) OF PART 10 (LIQUID WASTE HAULER REQUIREMENTS) AND SECTIONS 1101 (SIGNIFICANT INDUSTRIAL USER; DISCHARGE PERMIT REQUIRED), 1104 (SIGNIFICANT INDUSTRIAL USER DISCHARGE PERMIT; CONDITIONS), 1105 (APPLICANT TO BE NOTIFIED OF PROPOSED PERMIT CONDITIONS; RIGHT TO OBJECT), 1106 (DISCHARGE PERMIT; DURATION), 1111 (INDUSTRIAL USER INDIVIDUAL AND GENERAL CONTROL MECHANISMS), 1112 (MODIFICATION OF PERMITS AND CONTROL MECHANISMS) AND 1113 (DENIAL OF PERMITS AND CONTROL MECHANISMS) OF PART 11 (PERMIT AND CONTROL MECHANISM SYSTEM); SECTIONS 1203 (ADMINISTRATIVE ENFORCEMENT REMEDIES-

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FORMAL), 1204 (ADMINISTRATIVE HEARING PROCEDURES), 1205 (JUDICIAL ENFORCEMENT REMEDIES), 1206 (SUPPLEMENTAL ENFORCEMENT REMEDIES) AND 1208 (DISPOSITION OF FINES AND PENALTIES) OF PART 12 (ENFORCEMENT), ALL OF ARTICLE 5 (WASTEWATER TREATMENT CODE) OF CHAPTER 12 (UTILITIES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO WASTEWATER PRETREATMENT" was brought up on second presentation.

Dave Padgett, CSU Environmental Safety Health General Manager, entered his appearance and answered questions.

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

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

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8. Ordinance No. 11-4 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 10-103 (2011 APPROPRIATION ORDINANCE) FOR THE TOPS FUND IN THE AMOUNT OF \$189,150 FOR THE ACQUISITION OF 75.664 ACRES OF REAL PROPERTY KNOWN AS THE ANDERSON PROPERTY LOCATED WITHIN THE CORRAL BLUFFS AREA AND IN THE AMOUNT OF \$2,000 FOR THE RIGHT OF FIRST REFUSAL ON THE ADJACENT 5.74-ACRE CELL TOWER SITE" was brought up on second presentation.

Mr. Bruce stated the City spends too much time wasting taxpayer money to buy land of this type with TOPS funds; City asked voters to expend TOPS funding to maintain parks; show discipline and stop spending.

Kurt Schroeder, Parks, Trails and Open Space (TOPS) Manager, stated the agreement stands as first negotiated with Mr. Anderson.

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

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

Mayor Rivera declared the motion carried.

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9. Motion by Hente, second by Purvis, that Max Stafford be re-appointed and Ingrid Richter be appointed to terms as members of the Fountain Creek Watershed, Flood Control and Greenway District, said terms expiring January 31, 2013, respectively. The motion unanimously carried.

Motion by Hente, second by Purvis, to release the Members of the Citizens Commission for Memorial Health System, effective immediately. The motion unanimously carried.



**NEW BUSINESS**

10. **A resolution transferring administrative responsibility for Lot No. 4, Confluence Park South Subdivision to Colorado Springs Utilities and authorizing uses thereof.**

The Mayor stated there is a \$2.6 million debt from the City of Colorado Springs to CSU; one lot, City not in position to give to Colorado Springs Urban Renewal Authority (CSURA), better served giving back to CSU.

James Kin and Chuck Miller, CSURA Board Members, commented that southwest development is critical to downtown; this parcel is to key to the southwest, need commercial development to augment public infrastructure; City Council responsible for working the CSURA not CSU.

Chuck Murphy and Rich Guy spoke in opposition citing the following comments: stated he purchased property from the Colorado Avenue bridge to the Bijou Street bridge; committed to downtown, willing to take chances with new Mayor; continue with ownership as is; relied on City's commitment when property was purchased; Advocate for downtown; giving back to CSU is step backwards; keep as is and deal with later.

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

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

Mayor Rivera declared the motion failed.

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11. **Referred April 2011 General Municipal Election ballot questions.**

11A. Ordinance No. 11-8 entitled "AN ORDINANCE SUBMITTING A CHARTER AMENDMENT TO THE ELECTORS OF THE CITY FOR THE GENERAL MUNICIPAL ELECTION TO BE HELD APRIL 5, 2011 RELATING TO THE DISTRICTS OF CITY COUNCIL, PROVIDING FOR THE FORM OF BALLOT TITLE, PROVIDING FOR CERTAIN MATTERS WITH RESPECT TO THE ELECTION AND PROVIDING THE EFFECTIVE DATE OF THIS ORDINANCE" was introduced and read.

The Mayor stated the Strong Mayor form of government should have more District representatives, districts too large now.

Councilmember Purvis stated the form of District seats will result in more deal making to occur in backrooms and potential with Strong Mayor.

Mr. Bruce commented vote swapping occurs with having more At-Large seats; have 7 or 9 district seats; technical comment not to list any provisions of the City Charter --- who decides "in conflict therewith"; City Council candidates conflict with what seat they are running for, should not have affect on those Candidates running this year.

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The Mayor stated restricting the Mayor from all meetings of City Council is not fair since the City Attorney and Mayor's staff can attend.

Walter Lawson cited the public has no access to the Mayor under Charter, have to come twice to Mayor and City Council; proposed differing verbiage about Mayor's attendance and meetings with citizens; Mayor should have specified duties identified in the City Charter and be held accountable.

Motion by Glenn, second by Herpin, that the ordinance be passed as amended: Section 3. 4<sup>th</sup> line of question --- change "candidates" to "candidate".

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

Mayor Rivera declared the motion carried.

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- 11B. Ordinance No. 11-9 entitled "AN ORDINANCE SUBMITTING A CHARTER AMENDMENT TO THE ELECTORS OF THE CITY FOR THE GENERAL MUNICIPAL ELECTION TO BE HELD APRIL 5, 2011 RELATING TO THE ATTENDANCE OF THE MAYOR AT ALL SESSIONS OF COUNCIL; PROVIDING FOR THE FORM OF BALLOT TITLE, PROVIDING FOR CERTAIN MATTERS WITH RESPECT TO THE ELECTION AND PROVIDING THE EFFECTIVE DATE OF THIS ORDINANCE" was introduced and read.

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

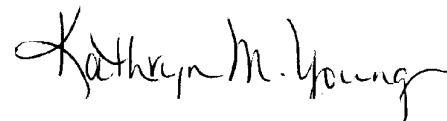
Ayes: Glenn, Hente, Herpin, Paige, Rivera  
Noes: Gallagher, Martin, Purvis, Small  
Absent: None

Mayor Rivera declared the motion carried.

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At 6:46 P.M., motion by Glenn, second by Gallagher, that Council adjourn. The motion unanimously carried, and

COUNCIL ADJOURNED



**Kathryn M. Young, CMC, CERA  
City Clerk**