

**COLORADO SPRINGS, COLORADO
CITY COUNCIL CHAMBERS
CITY HALL - 107 N. NEVADA AVENUE
JULY 12, 2011 – 1:00 P.M.**

Council met in Regular Session.

There were present: President Hente, President Pro Tem Martin, Councilmembers Bennett, Czelatdko, Dougan, Herpin, Leigh, Snider and Williams. Also present, Chief of Staff 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 Thomas Carter, Agape Christian Fellowship.

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

Councilmember Dougan called up Item No. 3-B-2 for separate consideration.

Councilmember Williams called up Item No. 3-B-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-B-2 and 3-B-3, which were acted upon separately:

SECOND PRESENTATION:

- A-1. CPC V 11-00034: Ordinance No. 11-55 entitled "AN ORDINANCE VACATING A PORTION OF THE 7TH STREET PUBLIC RIGHT-OF-WAY CONSISTING OF 0.19 ACRE LOCATED AT THE SOUTH TERMINUS OF 7TH STREET SOUTH OF WEST CUCHARRAS STREET" was presented for final passage.

FIRST PRESENTATION:

- B-1. Resolution No. 121-11 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT) IN THE AMOUNT OF \$52,000 FOR THE HIGH-VISIBILITY ENFORCEMENT IMPAIRED DRIVING CAMPAIGN INITIATIVE; AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT TO PERFORM OVERTIME ENFORCEMENT TO SUPPORT COLORADO'S IMPAIRED DRIVING LAWS."
- B-2. **SEE ACTION TAKEN LATER IN THE MEETING.**
- B-3. **SEE ACTION TAKEN LATER IN THE MEETING.**

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Motion by Herpin, second by Bennett, that all matters on the Consent Calendar, with the exception of Item Nos. 3-B-2 and 3-B-3 be passed, adopted and approved by unanimous consent of the City Council.

Ayes: Bennett, Czelatdko, Dougan, Hente, Herpin, Leigh, Martin, Snider, Williams
Noes: None
Absent: None

3. **Resolutions of Appreciation.**

There were none.

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Councilmember Bennett announced that the USA Pro Cycling Challenge races will be held in Colorado Springs and the Downtown Partnership is hosting a community celebration to honor the race on August 21, 2011.

President Hente recognized the recent election of President Pro tem Martin to the Colorado Municipal League (CML) Executive Board. President Pro tem Martin announced Sean McGee, a Colorado Springs high school student, as one of the winners of a CML essay contest "If I Were Mayor." Sam Mamet, CML Executive Director, presented Mr. McGee with a certificate from the National League of Cities and a \$500 savings bond.

CITIZEN DISCUSSION

Bill Ensminger, Tom Roberts and Gary Walraven expressed concern of the deer population in the city which is destroying properties in their neighborhood; that deer have jumped fences, eaten flowers and plants in the yard, dug up ground around the homes, and worn noticeable paths in the yards; that as many as 15 to 20 deer have been on the property at one time; proposed that a committee be formed to address the issue and come up with viable solutions; that they have spoken with the Division of Wildlife to no avail.

In response to a question from President Hente, Corey Chick, Department of Wildlife stated while there is plenty of food outside of the residential neighborhoods, the deer are drawn to the flowers and plants in yards. He stated an ordinance prohibiting the feeding of wildlife and implementing enforcement of the prohibition may be beneficial in helping to address the situation.

Arlene Milner, Gay, Lesbian, Bisexual and Transgender (GLBT) organization; Reverend Roger Butts; Julia Mesnikoff; Charles Irwin, Executive Director of the Colorado Springs Pride Center; Ayden Merino; Nori Rost; Mark Shellhammer; Pastor Thomas Carter; Shanna Kempainen, Inside Out Youth Services; and Kathleen Ricker, spoke regarding the PrideFest and recent event involving a member of the gay and lesbian community; requested Council's support of the GLBT, the Mayor's attendance at the PrideFest and signing of a proclamation in support of the event; expressed appreciation to President

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Hente and President Pro tem Martin for signing a letter in support of the PrideFest, it is imperative for leaders of the City to support equality and denounce ignorance, abuse and hatred; requested Council take a stand to oppose hate in the community and support the diverse community; that the gay and lesbian community is being harassed and assaulted and Council should stand, educate and support the entire community to make it safer for all. A resolution condemning crimes of hate was presented to Council.

Mayor Bach stated he supports groups from all of the community but not in the role of Mayor.

President Hente stated a resolution was adopted eight years ago condemning racism and discrimination in the City.

Chief Meyers stated the Police Department works with the GLBT and is committed to stopping any type of hate crime; that details of the referenced investigation are not disclosed, and the victims have requested to remain anonymous; that this is a solvable case, and until such time as a legal determination is made this is not considered a hate crime; that the victims are being cooperative; that the Police Department will provide more details when it is appropriate.

Councilmember Herpin stated he is a member of the Senior Advocacy Group and seniors have also been victimized in the past; that hate crimes will not be tolerated in the community.

Councilmember Czelatdco stated she resents the perpetuation of statements that the city is intolerant; that she thinks it is inappropriate to present a request for proclamation to the Mayor for an exclusive event; that this is not the place for the proclamation to be presented for City Council representation.

Councilmember Leigh stated this is not the appropriate venue for this proclamation, as well as other proclamations that have been presented.

Mayor Bach stated the City will not tolerate discrimination or violence in the community.

President Hente stated Councilmember Leigh is correct in that some efforts or proclamations are not appropriate for Council; that any Councilmember may write a letter to any organization as they see appropriate.

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5. Motion by Herpin, second by Martin, that the Minutes of the Regular Council meeting of June 28, 2011 be approved as written. The motion unanimously carried.

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6. **Mayor's Communications.**

There were none.

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

- B-2. Ordinance No. 11-56 entitled "AN ORDINANCE AMENDING SECTION 117 (CHILD RESTRAINT SYSTEMS; MANDATORY USE) OF ARTICLE 23 (MISCELLANEOUS RULES OF THE ROAD) OF CHAPTER 10 (MOTOR VEHICLES AND TRAFFIC) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO CHILD RESTRAINTS" was introduced and read.

Councilmember Dougan questioned why the proposed action was necessary.

City Attorney Kelly stated Councilmember Dougan's inquiry was forwarded to the Prosecution Division of the Attorney's Office and it was determined that the proposed ordinance affects vehicles within a designated weight category; that School Districts 11 and 20 do not have buses with a gross vehicle weight of less than 10,000 pounds; that the ordinance is drafted to match State law for the safety of children in this community.

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

Ayes: Bennett, Hente, Herpin, Leigh, Martin, Snider, Williams
Noes: Czelatdko, Dougan
Absent: None

President Hente declared the motion carried.

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B-3. **South Academy Commons**

B-3A. CPC ZC 11-00050: (Quasi-Judicial Matter) Ordinance No. 11-57 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 7.97 ACRES LOCATED BETWEEN ACADEMY BOULEVARD AND ZEBULON DRIVE, NORTH OF CHELTON ROAD" was introduced and read. (PBC/AO and OC/AO to PBC/AO)

B-3B. **CPC CP 11-00051: (Quasi-Judicial Matter) Request by Galloway & Company Inc. on behalf of Academy & Zebulon LLC for approval of the South Academy Commons Concept Plan consisting of eight (8) acres located between Academy Boulevard and Zebulon Drive, north of Chelton Road.**

In response to questions from Councilmember Dougan, City Planner II Mike Schultz, stated the fuel station is south of the housing area, however, the applicant has pulled that from the plan so it is no longer an issue.

Mike Thibault, T-Bone Construction, spoke in support of the plan; that a retail store for the South Academy Boulevard area has been secured; that the project will be a great addition to the city, and urged Council's approval.

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

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Ayes: Bennett, Czelatdko, Dougan, Hente, Herpin, Leigh, Martin, Snider, Williams
Noes: None
Absent: None

President Hente declared the motion carried.

Then, motion by Herpin, second by Czelatdko, that the South Academy Commons Concept Plan be approved. The motion unanimously carried.

UNFINISHED BUSINESS

7. Motion by Herpin, second by Martin, that Suzanne Casagrande be reappointed to a term as a member of the Art Commission of the Pikes Peak Region, said term expiring August 1, 2014. The motion unanimously carried.

Motion by Herpin, second by Martin, that Carl Tatum and John Scorsine be reappointed to terms as members of the Emergency Services Agency (ESA), said terms expiring August 20, 2014 and September 20, 2014, respectively. The motion unanimously carried.

Motion by Herpin, second by Martin, that Rosemarie Venezia be reappointed to a term as a member of the Urban Renewal Authority, said term expiring April 1, 2016. The motion unanimously carried.

PUBLIC HEARING

8. **Scholl Annexation No. 1**

- 8A. **CPC A 09-00071: Public hearing on a request by Classic Consulting Engineers & Surveyors on behalf of Randal Construction, Inc. for approval of the Scholl Annexation No. 1 consisting of 9.91 acres located south and west of the present termination of Cedarmere Drive, and north and west of the intersection of Copper Drive and Emerald Drive.**

Senior Planner Steve Tuck gave an overview of the request stating the annexation consists of approximately 10 acres; that the project will provide approximately 25 single-family residential lots on 12.26 acres with a gross density of 2.04 dwelling units per acre; that the easterly 2.35 acres of the site is within the City and the westerly 9.91 acres are vacant and require annexation.

Senior Traffic Engineer Kathleen Krager stated she has reviewed the site and after reviewing a traffic impact study, she agrees with the two proposed access points; that the project includes more than one contractor.

Acting City Engineer Tim Mitros presented the drainage design plan.

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Mr. Tuck stated the first phase is at Cedarmere and the second is Wisteria; that the annexation agreement is standard; that the development plan revisions include sidewalks on one side of the street only; that Staff supports the Planning Commission decision.

Marc Whorton, Classic Consulting, reviewed the project history; plan makes it difficult for no-residential persons to cut through neighborhoods to access city or state roads.

John Nuwer, Austin Bluffs HOA President and Mark Lauer spoke in support of the project.

Marilyn Morgan spoke in opposition stating excessive traffic, no lights in the area and cut through traffic will be problems with this development.

President Hente declared the public hearing closed.

8B. Resolution No. 122-11 was presented: "A RESOLUTION SETTING FORTH FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED THEREON AND DETERMINING THE STATUS OF THE TERRITORY KNOWN AS SCHOLL ANNEXATION NO. 1."

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

Ayes: Bennett, Dougan, Hente, Herpin, Leigh, Martin, Snider, Williams
Noes: Czelatdko
Absent: None

President Hente declared the motion carried.

8C. Ordinance No. 11-58 entitled "AN ORDINANCE ANNEXING TO THE CITY OF COLORADO SPRINGS THAT AREA KNOWN AS SCHOLL ANNEXATION NO. 1" was introduced and read.

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

Ayes: Bennett, Dougan, Hente, Herpin, Leigh, Martin, Snider, Williams
Noes: Czelatdko
Absent: None

President Hente declared the motion carried.

8D. CPC ZC 10-00032: Ordinance No. 11-59 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 12.26 ACRES LOCATED SOUTH AND WEST OF THE PRESENT TERMINATION OF CEDARMERE DRIVE AND NORTH AND WEST OF THE INTERSECTION OF COPPER DRIVE AND EMERALD DRIVE" was introduced and read. (Establishing a PUD/HS/AO zone)

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

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Ayes: Bennett, Dougan, Hente, Herpin, Leigh, Martin, Snider, Williams
Noes: Czelatdko
Absent: None

President Hente declared the motion carried.

8E. **CPC DP 10-00033: (Quasi-Judicial Matter) Request by Classic Consulting Engineers & Surveyors on behalf of Randal Construction, Inc. for approval of the Austin Ridge Hillside Development Plan consisting of 12.26 acres located south and west of the present termination of Cedarmere Drive, and north and west of the intersection of Copper Drive and Emerald Drive.**

Motion by Herpin, second by Snider, that the Austin Ridge Hillside Development Plan, be approved.

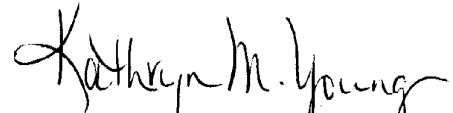
Ayes: Bennett, Dougan, Hente, Herpin, Leigh, Martin, Snider
Noes: Czelatdko, Williams
Absent: None

President Hente declared the motion carried.

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At 4:00 P.M., motion by Dougan, second by Williams, that Council adjourn. The motion unanimously carried, and

COUNCIL ADJOURNED



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