

**COLORADO SPRINGS, COLORADO  
CITY COUNCIL CHAMBERS  
CITY HALL – 107 N. NEVADA AVENUE  
SEPTEMBER 27, 2011 – 1:00 P.M.**

Council met in Regular Session.

There were present: President Hente, President Pro Tem Martin, Councilmembers Bennett, Czelatko, Dougan, Herpin, Leigh, Snider and Williams. Also present, Acting Chief of Staff Johnson and City Attorney/Chief Legal Officer Kelly.

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

The meeting was opened with an invocation by Rajeev Shaw, Focus on the Family.

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2. **Changes to Agenda/Postponements.**

Colorado Springs Utilities Chief Executive Officer Forte requested Item No. 7 be postponed to the City Council meeting of October 11, 2011.

Motion by Snider, second by Bennett, that Item No. 7 be postponed to the City Council meeting of October 11, 2011. The motion unanimously carried.

President Pro Tem Martin called up Item No. 3-B-5 for separate consideration.

**CONSENT CALENDAR**

3. The following items were acted upon by the members present, with the exception of Item No. 3-B-5, which was called up for separate consideration:

**SECOND PRESENTATION:**

- A-1. Ordinance No. 11-76 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 10-103 (2011 APPROPRIATION ORDINANCE) IN THE AMOUNT OF \$315,000 FOR THE INTEGRATED OPERATIONS AND COMMUNICATION CENTER PROJECT AT THE COLORADO SPRINGS AIRPORT" was presented for final passage.
- A-2. Ordinance No. 11-77 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 10-103 (2011 APPROPRIATION ORDINANCE) IN THE AMOUNT OF \$286,000 FOR THE RELOCATION AND RECONFIGURATION OF ADMINISTRATIVE OFFICE AND CONFERENCE SPACE AT THE COLORADO SPRINGS AIRPORT" was presented for final passage

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**FIRST PRESENTATION:**

- B-1. Resolution No. 157-11 was presented: "A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND EL PASO COUNTY, COLORADO, FOR A TRANSIT TICKET VENDING MACHINE IN THE EL PASO COUNTY CITIZENS SERVICE CENTER AT 1675 GARDEN OF THE GODS ROAD".
- B-2. Resolution No. 158-11 was presented: "A RESOLUTION TO APPROVE AMENDMENT ONE TO THE 2011 SERVICE LEVEL AGREEMENT BETWEEN THE EL PASO COUNTY PUBLIC SERVICES DEPARTMENT AND THE CITY OF COLORADO SPRINGS".
- B-3. Resolution No. 159-11 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM COLORADO DEPARTMENT OF PUBLIC SAFETY, DIVISION OF CRIMINAL JUSTICE, EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT, IN THE AMOUNT OF \$22,100 FOR THE FORENSIC DIGITAL VIDEO RECOVERY SYSTEM; AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT".
- B-4. Resolution No. 160-11 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM U.S. DEPARTMENT OF JUSTICE (DOJ), OFFICE OF JUSTICE PROGRAMS (OJP), PAUL COVERDELL FORENSIC SCIENCE IMPROVEMENT GRANT PROGRAM, IN THE AMOUNT OF \$137,706; AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT".
- B-5. **SEE ACTION TAKEN LATER IN THE MEETING.**
- B-6. Resolution No. 161-11 was presented: "A RESOLUTION TO ENTER INTO AN AGREEMENT REGARDING SOUTHERN DELIVERY SYSTEM PROJECT ASSETS AND TO AMEND THE INTERGOVERNMENTAL AGREEMENT FOR CONSTRUCTION OF THE SOUTHERN DELIVERY SYSTEM".

Motion by Snider, second by Herpin, that all matters on the Consent Calendar, with the exception of Item No. 3-B-5 be passed, adopted and approved.

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

President Hente declared the motion carried.

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4. **Resolutions of Appreciation.**

Resolution No. 162-11 was presented: "A RESOLUTION OF APPRECIATION DESIGNATING OCTOBER AS DISABILITY AWARENESS MONTH".

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

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

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Resolution No. 163-11 was presented: "A RESOLUTION OF APPRECIATION FOR PATRICIA K. KELLY, CITY ATTORNEY AND CHIEF LEGAL OFFICER FOR HER DEDICATED SERVICE TO THE CITIZENS OF COLORADO SPRINGS AND THE PIKES PEAK REGION".

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

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

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Sarah Lyman, Discovery Canyon Campus, Juan Santibanez, Fountain-Fort Carson High School, Alexandra Hearrell, Pine Creek High School, McKenzie Thompson, Cheyenne Mountain High School, and Victorya Spiller, Fountain-Fort Carson High School, were introduced as representatives of the Mayor's 100 Teens.

**CITIZEN DISCUSSION**

Andrew Knauf spoke regarding an \$11,000 fee that Colorado Springs Utilities (CSU) is assessing to reconnect utilities service to a house he owns, but has not maintained service for several years; that CSU has indicated the fee is pursuant to the City Code which has been in effect since 1960; that the amount is excessive.

City Council recommended Mr. Knauf proceed with the appeal process of Colorado Springs Utilities relating to this issue.

Sherri White, The Organic Seed, Reza Hussani and Jane McDougall, American Wellness Center, Julie King, Green and Healthy Wellness, and Aaron Bluse, Altitude Organic Medicine, requested City Council approve changes of location of their medical marijuana businesses as pre-registered in 2010; and permit a new business to open an optional premises location; that each request was rejected by the City Clerk's office.

In response to questions from City Council, License Enforcement Officer Lee McRae stated each of the requests are outside the normal process as defined by ordinance and State law; that due to the process and prohibition of businesses changing locations, other pre-registered applicants decided to remain in their current pre-registered location or modify their current locations to meet the applicable requirements, with consideration given to demonstrated extenuating circumstances of hardship, but not economic benefit; that each application has been reviewed and rejected based on the current practice and criteria; that State law states that changes of location are dependent on local approval which is anticipated to take between

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three to five months; that the businesses today are requesting the changes be considered outside the completion of the processes.

President Hente stated in the past, City Council has authorized requests upon review and approval by the City Clerk's Office; that the applicants here today are appealing the decision of the City Clerk's Office to deny their requests.

City Council requested the City Clerk's Office provide specific details of each individual business, with any applicable city and state laws reviewed during the decision making process and report at its next meeting.

Interim City Clerk Cindy Conway stated the City Clerk's Office will accept the applications and delay any enforcement on the applications until Council receives specific information at its next meeting.

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**Councilmember Dougan was excused.**

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5. Councilmember Snider requested Item No. 10 of the September 13, 2011 Council minutes indicates Mark Snyder, FoRT member, be corrected to read Marc Snider, Chair of the FoRT committee.

Motion by Snider, second by Bennett, that the Minutes of the regular Council Meeting of September 13, 2011, be approved as written and corrected. The motion unanimously carried. Absent, Councilmember Dougan.

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6. **Mayor's Communications.**

There were none.

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**Councilmember Dougan returned.**

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

- 3-B-5. Resolution No. 164-11 was presented: "A RESOLUTION ACCEPTING THE 2010 FINANCIAL STATEMENT AUDIT REPORT FOR THE EL PASO COUNTY EMERGENCY SERVICES AGENCY".

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President Pro Tem Martin inquired if the Emergency Services Agency (ESA) is reviewing the recommendations of the Auditor's report.

ESA Business Administrator Eileen Gonzalez stated the report is being reviewed, and they are working with the County relating to the accounting function recommendation.

President Hente requested a report of final determination be forwarded to City Council.

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

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

**UTILITIES BUSINESS**

7. **Request to establish a public hearing date for the consideration of resolutions regarding certain changes to Utilities Rules and Regulations and setting electric and natural gas rates within the service areas of Colorado Springs Utilities.**

**SEE ACTION TAKEN EARLIER IN THE MEETING.**

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8. **Public hearing for the consideration of a resolution regarding certain changes to the Colorado Springs Utilities Tariff Electric Rate Schedules to establish a Community Solar Garden Bill Credit (Pilot Program) Electric Rate Schedule.**

City Attorney/Chief Legal Officer Pat Kelly read the Introductory Briefing and Request for Suspension of Part 4(1)(c) of the Rules and Procedures of City Council.

Motion by Herpin, second by Snider that Part 4(1)(c) of the Rules and Procedures of City Council be suspended. The motion unanimously carried.

CSU Energy Acquisition, Engineering and Planning General Manager John Romero gave a powerpoint presentation and an overview of the proposed Community Solar Garden program which will allow the addition of solar gardens to the Utilities electric service territory and to its tariff electric rate schedules. He stated the program offers a one-time rebate; that the rates will be evaluated annually.

Founder of SunShare David Amster-Olszewski, stated the item before Council today is an extremely innovative program, and if approved, Colorado Springs will be the first municipality in the country to approve such a program; that this is the future of Colorado Springs and he believes there is a lot of support for the market; requests the formula be included in the tariff as to how the credit is received; requests the program be considered for expansion in the future to include businesses.

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Manitou Springs City Councilmember Coreen Toll, President of Clean Energy Collective Paul Spencer, Program Director of Pikes Peak Sustainable Business Network Jennifer Elledge, Pete Lee, Joseph Luciano, Alicia Archibald, Joy Hughes, Sam Henderson, Gary Jacobs, and LeAnn Westphal spoke in support of the program; requested other municipalities be given an opportunity to participate in the program; request CSU consider implementing developer qualifications to protect customers.

President Hente declared the public hearing closed.

Resolution No. 165-11 was presented: "A RESOLUTION REGARDING CERTAIN CHANGES TO THE COLORADO SPRINGS UTILITIES TARIFF ELECTRIC RATE SCHEDULES TO ESTABLISH A COMMUNITY SOLAR GARDEN BILL CREDIT (PILOT PROGRAM) ELECTRIC RATE SCHEDULE".

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

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

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**President Pro Tem Martin was excused.**

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**UNFINISHED BUSINESS**

9. **City Council direction on Medical Marijuana Business Licensing Enforcement.**

Council Liaison Aimee Cox stated the recommendation before Council is to begin enforcement October 1, 2011 for businesses that have not applied for a license by September 30, 2011; that applicants who filed by the deadline will be provided an opportunity to cure deficiencies.

Police Commander Thor Eells stated after the September 30, 2011 deadline, those businesses that did not submit an application but continue to operate will be non-compliant and subject to enforcement.

Ms. Conway stated a 10 day period to cure any deficiencies will be allowed for an applicant who filed an application by the deadline.

In response to a question by City Council, Mr. McRae stated following the June 28, 2011 City Council meeting, each pre-registered business was mailed a letter of notification that September 30, 2011 was the deadline to submit an application; that notification was also provided in public hearings, a Cannabis Council forum, and on the City Clerk's Office webpage.

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Motion by Bennett, second by Leigh, that enforcement of Medical Marijuana businesses that did not submit an application for licensure by September 30, 2011, begin on October 1, 2011. The motion unanimously carried. Absent, President Pro Tem Martin.

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**President Pro Tem Martin returned.**

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**NEW BUSINESS**

10. Resolution No. 166-11 was presented: "A RESOLUTION APPROVING THE BUDGET FOR 2012 FOR THE EL PASO COUNTY EMERGENCY SERVICES AGENCY".

Ms. Gonzalez gave an overview of the proposed budget.

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

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

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11. Resolution No. 167-11 was presented: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO, APPROVING A SERVICE PLAN FOR THE VINEYARD METROPOLITAN DISTRICT".

Interim Comprehensive Planning Division Lead Carl Schueler gave a powerpoint presentation and overview of the proposed district of approximately 108 acres; that the applicant is also requesting the implementation of a public improvement fee.

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

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

**PUBLIC HEARINGS**

12. **Gold Hill Mesa Filing No. 3**

12A. **CPC CP 04-00127-A2MJ11: (Quasi-Judicial Matter) Public hearing on an appeal by Jim Shearer, President of the Villa de Mesa Homeowners Association, of Planning Commission's approval of a major amendment to the Gold Hill Mesa Concept Plan to reflect multiple changes in zoning boundaries, the addition of a new**

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**single-family residential area and the realignment of the internal road network located southeast of U.S. Highway 24 and South 21<sup>st</sup> Street.**

City Senior Planner Ryan Tefertiller gave an overview of the items and stated following the July 21, 2011 Planning Commission decision to approve the items, an appeal was filed by the Villa de Mesa Homeowners Association relating to the concept plan and development plan; that the appeal cites an objection to Note 17 of the concept plan relating to a wall adjacent to Villa de Mesa, and the construction height of the residential lots proposed on the southern property line of Villa de Mesa on the development plan. He stated since the Planning Commission meeting some modifications have been made; that after further negotiation, the applicant has agreed to delete Note 17 of the concept plan, and limit six of the residential lots provided on the development plan to single story homes which will require a note be added to that effect. He stated the parties are still negotiating the timeline for completion of the wall.

Michael Rigg, Vice President of the Villa de Mesa Homeowners Association stated the applicant and association have agreed to delete Note 17 of the concept plan and limit the construction heights of lot numbers 4, 7, 10, 12, 14 and 16 to single story on the development plan, which addresses the appeal.

Tim Siebert, NES, Inc. stated they have agreed to the modifications, and will continue working with the association to resolve the issue relating to the wall construction.

Motion by Herpin, second by Martin, that the decision of the Planning Commission be upheld, the appeal be denied, and the Gold Hill Mesa Concept Plan be approved with the modification that Note 17 be deleted. The motion unanimously carried.

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- 12B. CPC ZC 11-00015: (Quasi-Judicial Matter) Ordinance No. 11-79 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 5.18 ACRES LOCATED SOUTHEAST OF U. S. HIGHWAY 24 AND SOUTH 21<sup>ST</sup> STREET" was introduced and read. (PBC (Planned Business Center) and PUD (Planned Unit Development) to TND (Traditional Neighborhood Development)).

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

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

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- 12C. CPC ZC 11-00016: (Quasi-Judicial Matter) Ordinance No. 11-80 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 82.15 ACRES LOCATED SOUTHEAST OF U. S. HIGHWAY 24 AND 21<sup>ST</sup> STREET" was introduced and read. (PBC/SS (Planned Business Center



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with Streamside Overlay), PUD (Planned Unit Development) and TND (Traditional Neighborhood Development) to PBC/SS (Planned Business Center with the Streamside Overlay)).

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

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

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- 12D. CPC ZC 11-00017: (Quasi-Judicial Matter) Ordinance No. 11-81 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 1.22 ACRES LOCATED SOUTHEAST OF U. S. HIGHWAY 24 AND SOUTH 21<sup>ST</sup> STREET" was introduced and read. (PBC (Planned Business Center) and TND (Traditional Neighborhood Development) to PUD (Planned Unit Development – type, height and density to match the existing Villa de Mesa PUD))

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

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

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- 12E. CPC V 11-00018: Ordinance No. 11-82 entitled "AN ORDINANCE VACATING THE VILLA DE MESA DRIVE PUBLIC RIGHT-OF-WAY CONSISTING OF 1.03 ACRES LOCATED SOUTHEAST OF U. S. HIGHWAY 24 AND SOUTH 21<sup>ST</sup> STREET" was introduced and read.

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

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

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- 12F. **CPC DP 11-00019: (Quasi-Judicial Matter) Public hearing on an appeal by Jim Shearer, President of the Villa de Mesa Homeowners Association, of Planning Commission's approval of a development plan for 20 single-family lots located southeast of U.S. Highway 24 and South 21<sup>st</sup> Street.**

Motion by Herpin, second by Snider, that the decision of the Planning Commission be upheld, the appeal be denied and the development plan be approved with the

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modification that Lots 4, 7, 10, 12, 14 and 16 be restricted to single-story. The motion unanimously carried.

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- 12G. **CPC NV 11-00232: (Quasi-Judicial Matter) Request by N.E.S. Inc. on behalf of Gold Hill Mesa Partners, LLC and Golden Cycle Investments, LLC for approval of four non-use variances to various sections of the City Code, for property located southeast of U.S. Highway 24 and South 21<sup>st</sup> Street.**

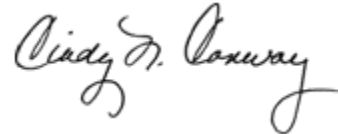
Motion by Herpin, second by Leigh, that the ordinance be passed as introduced.

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

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At 4:55 P.M., motion by Herpin, second by Bennett, that Council adjourn. The motion unanimously carried, and

COUNCIL ADJOURNED



Cindy N. Conway, CMC  
Interim City Clerk