COLORADO SPRINGS, COLORADO
CITY COUNCIL CHAMBERS
CITY HALL – 107 N. NEVADA AVENUE
JANUARY 24, 2012 – 1:00 P.M.

Council met in Regular Session.

There were present: President Hente, President Pro Tem Martin, Councilmembers Bennett, Czelatdko, Herpin, Snider and Williams. Absent, Councilmembers Dougan and Leigh. Councilmember Dougan arrived during the meeting. Also present, Mayor Bach, Deputy Chief of Staff Johnson, and City Attorney/Chief Legal Officer Melcher.

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

The meeting was opened with an invocation by Chaplain Paul Darrow, VFW Post 4051.

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

City Council Liaison Aimee Cox, requested consideration of an Extra Item Agenda to be heard under Consent Calendar as Item No. 3-B-12.

Motion by Martin, second by Herpin, that Council give leave for immediate consideration of the Extra Item Agenda to be heard under Consent Calendar as Item No. 3-B-12. The motion unanimously carried. Absent, Councilmembers Dougan and Leigh.

Councilmember Czelatdko called up Item No. 3-B-11 for separate consideration.

CONSENT CALENDAR

3. The following items, with the addition of Extra Item No. 3-B-12, were acted upon by unanimous consent of the members present, with the exception of Item No. 3-B-11, which was called up for separate consideration:

SECOND PRESENTATION:

A-1. Ordinance No. 12-1 entitled, "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) BY INCREASING REVENUE AND EXPENDITURE APPROPRIATIONS IN THE AMOUNT OF $255,422 FOR THE DEVELOPMENT REVIEW ENTERPRISE FUND" was presented for final passage.

A-2. Ordinance No. 12-2 entitled, "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 6.1 ACRES LOCATED ON THE SOUTH SIDE OF FLYING HORSE CLUB DRIVE BETWEEN THE PROPOSED POWERS BOULEVARD AND

BAROSSA DRIVE" was presented for final passage. (PUD [Planned Unit Development – Residential] to OC [Office Complex])

FIRST PRESENTATION:

B-1. Resolution No. 8-12 was presented: "A RESOLUTION TO ACCEPT $524,514 IN GRANT FUNDING FROM THE FEDERAL TRANSIT ADMINISTRATION FOR OPERATING AND CAPITAL PROJECTS IN THE JOB ACCESS/REVERSE COMMUTE AND NEW FREEDOM PROGRAMS".

B-2. Resolution No. 9-12 was presented: "A RESOLUTION TO ACCEPT $32,666 GRANT FUNDING FROM THE COLORADO DEPARTMENT OF TRANSPORTATION FOR METRO RIDES BUSINESS PLAN DEVELOPMENT".

B-3. Resolution No. 10-12 was presented: "A RESOLUTION APPROVING THE THIRD AMENDMENT TO THE 2009 INTERGOVERNMENTAL AGREEMENT FOR HUMAN SERVICES BETWEEN THE CITY OF COLORADO SPRINGS AND EL PASO COUNTY, COLORADO, AS IT PERTAINS TO TRANSIT SERVICES".

B-4. Resolution No. 11-12 was presented: "A RESOLUTION APPROVING THE ANNUAL RENEWAL OF THE $1,000,000 LOAN AGREEMENT AND PROMISSORY NOTE BETWEEN THE GREAT OUTDOORS COLORADO TRUST FUND (GOCO) AND THE CITY OF COLORADO SPRINGS".

B-5. Resolution No. 12-12 was presented: "A RESOLUTION APPROVING A 2012 JOINT FUNDING AGREEMENT BETWEEN THE U.S. GEOLOGICAL SURVEY AND THE CITY OF COLORADO SPRINGS FOR A CONTINUATION OF THE WET WEATHER MONITORING PROGRAM OCCURRING WITHIN THE FOUNTAIN CREEK AND MONUMENT CREEK DRAINAGE BASINS".

B-6. Resolution No. 13-12 was presented: "A RESOLUTION APPROVING THE CONVEYANCE OF REAL PROPERTY TO MCDONALD'S REAL ESTATE COMPANY AS ONE LOGICAL POTENTIAL PURCHASER".

B-7. Resolution No. 14-12 was presented: "A RESOLUTION APPROVING AMENDMENTS TO THE CITY OF COLORADO SPRINGS PROCEDURE MANUAL FOR THE ACQUISITION AND DISPOSITION OF REAL PROPERTY INTERESTS".

B-8. Ordinance No. 12-3 entitled "AN ORDINANCE VACATING A PORTION OF VINCENT DRIVE PUBLIC RIGHT-OF-WAY CONSISTING OF 8,614 SQUARE FEET LOCATED ON THE EAST SIDE OF VINCENT DRIVE AND APPROXIMATELY 150 FEET SOUTH OF THE INTERSECTION OF VINCENT DRIVE AND DUBLIN BOULEVARD" was introduced and read.

B-9. CPC PUZ 11-00096: (Quasi-Judicial Matter) Ordinance No. 12-4 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 52.2 ACRES LOCATED SOUTH OF THE EXISTING TERMINUS OF OLD NORTHGATE ROAD AND NORTH OF THE WESTERN TERMINUS OF VINE CLIFF HEIGHTS" was introduced and read. (A [Agricultural] to PUD [Planned Unit Development])

B-10. **The Interim City Clerk reports that on January 6, 2012 there was filed with her a petition for the annexation of Fontana Addition No. 2. She states that she has examined or caused to be examined the above mentioned petition and has determined that the petition is in substantial compliance with Section 31-12-107(1), C.R.S. The Interim City Clerk herewith communicates such to City Council and recommends that the petition be referred to the City Administration for review and recommendation**.

B-11. **SEE ACTION TAKEN LATER IN THE MEETING.**

B-12. **CPC PUD 11-00097: (Quasi-Judicial Matter) Request by NES, Inc. on behalf of Classic Development – Flying Horse, LLC for approval of the Flying Horse Parcel No. 8 PUD Development Plan consisting of 52.2 acres located south of the existing terminus of Old Northgate Road and north of the western terminus of Vine Cliff Heights**.

Motion by Herpin, second by Martin, that all matters on the Consent Calendar with the exception of Item No. 3-B-11 and the addition of Extra Item No. 3-B-12, be passed, adopted, and approved by unanimous consent of the members present.

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

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Councilmember Dougan arrived.

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4. **Resolution of Appreciation**

Julie Smith, Communications Specialist and Sister Cities Liaison, announced 2012 as the 50th Anniversary of the Colorado Springs and Fujiyoshida, Japan Sister City relationship; that in celebration of the anniversary, a replication of the Yoshida (Fire) Himatsuri Festival, one of Japan's most unique historical commemorations, will be held in August 2012. A Kimono Art Panel was presented for display at City Hall, as part of a Community Art Initiative of which sponsored panels will be auctioned to help fund the festival, and a tapestry was presented as a gift from the City of Fujiyoshida which will be on display at the Colorado Springs Pioneer's Museum as part of an exchange program between the two cities.

Consul General Ono, Fujiyoshida, Japan, spoke relating to the Sister City relationship and upcoming celebration.

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Resolution No. 15-12 was presented: "A RESOLUTION RECOGNIZING COLORADO WATER 2012 AND PROCLAIMING 2012 AS THE YEAR OF WATER IN COLORADO SPRINGS".

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

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

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Caitlin Johnson – Doherty H.S., Hannah Pirzadeh – Liberty H.S., Ryan Russell – Cheyenne Mountain H.S., and Jesse James – Mesa Ridge H.S. were introduced as representatives of the Mayor's 100 Teens.

CITIZEN DISCUSSION

Dr. Jim Null, University of Colorado – Colorado Springs, recognized French students in attendance at the meeting, who are visiting his class and the University campus.

Kevin Dessart, owner of Swim Colorado, contractor/operator of City aquatic facilities, spoke regarding the termination of the contract with the City on December 31, 2011, due to what the City alleges was a breach of contract; that he will continue managing two facilities that will remain open this summer.

President Hente stated Council has requested a Staff presentation relating to this issue in the near future.

Raven Martinez, spoke on behalf of Occupy Colorado Springs, and expressed appreciation to Councilmember Leigh for meeting with them.

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5. Motion by Martin, second by Bennett, that the Minutes of the regular Council Meeting of January 10, 2012, be approved as written. The motion unanimously carried. Absent, Councilmember Leigh.

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6. **Mayor's Communications.**

A. Resolution No. 16-12 was presented: "A RESOLUTION CONFIRMING THE MAYOR'S APPOINTMENT OF CHIEF OF POLICE".

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

Ayes: Bennett, Czelatdko, Dougan, Hente, Herpin, Martin, Snider, Williams

Noes: None
Absent: Leigh

CONSIDERATION OF ITEMS CALLED UP FROM CONSENT CALENDAR SECTION

3-B-11. Resolution No. 17-12 was presented: "A RESOLUTION TO APPROVE A COOPERATION AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND THE COLORADO SPRINGS URBAN RENEWAL AUTHORITY".

Mayor Bach stated comments have been made that he does not support the proposed project, which is untrue; that he became concerned of the project, however, when the Urban Renewal Authority (URA) proposed a $1.25 Million fee for itself over 25 years, on a construction cost of $3.2 Million; that after further discussion, the URA proposed $410,000 and finally settled at $250,000 which the developer has accepted. He stated had the City not intervened, $1 Million may have been extracted from the project which is now available for project infrastructure; that further review will be made to better understand URA and its operations.

President Hente stated during the URA presentation at the January 23, 2012 Informal Council meeting, statements were made that future project fees would be looked at more closely.

Jim Kin, Urban Renewal Authority Board member, stated at the request of the developer and after reviewing the project size, the fees were re-evaluated and adjusted; that the URA will look at a system for reallocating fees and report back to Council. He stated property tax increments were authorized to be collected when the Ivywild Neighborhood Plan was adopted in 2011.

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

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

UTILITIES BUSINESS

7. Resolution No. 18-12 was presented: "A RESOLUTION SETTING THE GAS COST ADJUSTMENT EFFECTIVE FEBRUARY 1, 2012".

Bill Cherrier, Utilities Chief Planning Finance Officer, gave an overview of the proposed resolution.

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

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

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8. **Request to establish a public hearing date for the consideration of a resolution regarding certain changes to Utilities Rules and Regulations**.

Mr. Cherrier stated Colorado Springs Utilities is requesting a public hearing date of February 28, 2012, to consider proposed changes to the Utilities Rules and Regulations, specifically, a method for setting rates applicable to water development charges for large commercial meters.

Motion by Herpin, second by Bennett, that a hearing date of February 28, 2012, be set. The motion unanimously carried. Absent, Councilmember Leigh.

UNFINISHED BUSINESS

9. Motion by Herpin, second by Bennett, that John Schwab be reappointed to a term as a member of the City/County Drainage Board, said term expiring March 12, 2015. The motion unanimously carried. Absent, Councilmember Leigh.

Motion by Herpin, second by Bennett, that Amanda Mountain be appointed to an unexpired term as a member of the Colorado Springs Downtown Development Authority (DDA), said term expiring July 30, 2012. The motion unanimously carried. Absent, Councilmember Leigh.

NEW BUSINESS

10. Ordinance No. 12-5 entitled, "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) FOR THE TOPS FUND IN THE AMOUNT OF $60,000 FOR THE ACQUISITION OF APPROXIMATELY FIVE ACRES OF REAL PROPERTY KNOWN AS THE IRON MOUNTAIN PROPERTY WITHIN MANITOU SPRINGS" was introduced and read.

Kurt Schroeder, Park Operations and Development Manager, gave a PowerPoint presentation and overview of the proposed ordinance. He stated expending the funds will not negatively impact any other areas of the TOPS Program.

Bill Koerner, Trails and Open Space Coalition, and Mayor Marc Snyder of Manitou Springs, Colorado, spoke in support of the acquisition.

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

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

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11. **Calhan Acceptance to the PPRTA Board.**

Kathleen Krager, Senior Traffic Engineer, Land Use Review, gave an overview of the item stating the Town of Calhan is requesting approval to join the PPRTA; that to be a party to the PPRTA intergovernmental agreement, two criteria must be met: 1) a majority of voters of the joining entity must approve; and 2) members of the PPRTA must unanimously approve the

addition. She stated staff recommends approval of the request with the condition that the City is able to redistribute votes at the PPRTA Board for a more equitable share for the City; that other alternatives could be considered to accept Calhan as a non-voting member until such time as the IGA could be changed; or postpone its inclusion until the IGA could be changed to make it fairer to communities involved.

In response to a question from Councilmember Herpin, Ms. Krager stated PPRTA funds are distributed based on population.

Councilmember Dougan stated it appears that the intent of the IGA was to allow additional members and she supports accepting Calhan as a full voting member.

President Pro Tem Martin stated while 70% of the population within the PPRTA reside in the City, it has only 30% of the voting power; that she supports the option that Calhan not be accepted into the PPRTA until the Board discusses, at greater length, a fairer voting relationship.

Cindy Tompkins, Town Clerk of Calhan, Colorado stated a unanimous vote from the member governments is required in order to be included as a PPRTA member, and if each member government approves, it goes before the town voters. She requested Calhan be accepted to the PPRTA Board.

Mayor Pro Tem Keith McCaffrey, Ramah, Colorado, and PPRTA Board member, spoke in support of accepting Calhan as a voting member of the PPRTA.

Motion by Dougan, second by Bennett, that the Town of Calhan be accepted as a full voting member of the PPRTA Board.

Ayes: Bennett, Czelatdko, Dougan, Hente, Herpin, Snider, Williams
Noes: Martin
Absent: Leigh

President Hente declared the motion carried.

PUBLIC HEARING

12. **Public hearing on an appeal by Jeff Clarke of the administrative denial of a revocable permit for the encroachment of a basketball hoop within City right-of-way. The subject property is located northwest of Blackcloud Loop and Silverado Trail at 6380 Silverado Trail**.

Dick Anderwald, Planning and Development Manager, introduced the item.

Sue Matz, Revocable Permit Coordinator, stated the appeal relates to denial of a revocable permit for a basketball hoop in the public right-of-way; that the revocable permit application was filed following a complaint; that the Code Enforcement Office directed Mr. Clarke to either obtain a revocable permit or remove the basketball hoop; that Traffic Engineering denied the request based on safety and liability concerns.

In response to questions from Councilmember Herpin, Justin Schaeffer, Senior Traffic Engineer, stated the denial was based on concern of pedestrians in the roadway, vehicular traffic, and the pole's location in the clear zone and City right-of-way; that an elementary school with a full basketball court is approximately 530 feet from the property.

In response to questions from Council, Tom Wasinger, Code Enforcement Officer, stated when the complaint was investigated, it was determined the basketball hoop violated City Code Section 3.2.217, Obstruction on Public Ways.

Karen Amos stated she filed the initial complaint based on the fact that it is a City Code violation; that additionally, because the hoop sits on the street, it should be accessible to everyone, but Mr. Clarke has denied access, stating it was his property.

Jeff Clarke, appellant, stated the basketball hoop was there when he purchased the property in March, 2003, and there has never been a complaint; that the Code Enforcement Office told him that because he did not install the basketball hoop, there would be no repercussions toward him; that he has denied the children use of the basketball hoop because of the damage to his property. He showed pictures of the neighborhood activity and kids playing in the street; that the permit denial also cited it was due to the liability of children playing in the street; that he feels the real problem is not the hoop, but the lack of parental supervision and parents not taking responsibility for damage caused by their children.

Motion by Czelatdko, second by Snider, to deny the appeal and uphold the administrative denial of the revocable permit for the public encroachment of a basketball hoop within the City right-of-way; that the basketball hoop is ordered to be removed within 45 days.

Ayes: Bennett, Czelatdko, Dougan, Hente, Herpin, Martin, Snider
Noes: Williams
Absent: Leigh

President Hente declared the motion carried.

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At 3:50 P.M., there being no further business to come before City Council,

COUNCIL ADJOURNED

Cindy N. Conway, CMC
Interim City Clerk