

**COLORADO SPRINGS, COLORADO
CITY COUNCIL CHAMBERS
CITY HALL – 107 N. NEVADA AVENUE
MARCH 13, 2012 – 1:00 P.M.**

Council met in Regular Session.

There were present: President Hente, President Pro Tem Martin, Councilmembers Bennett, Czelatdko, Dougan, Herpin, Leigh, and Snider. Absent, Councilmember Williams. Also present, Mayor Bach, Chief of Staff Neumann, 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 Pastor Blain Derrick, Westside First Wesleyan Church.

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

There were none.

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Councilmember Dougan called up Item Nos. 3-B-1 and 3-B-2 for separate consideration.

President Hente called up Item No. 3-B-11 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-1, 3-B-2, and 3-B-11, which were called up for separate consideration:

SECOND PRESENTATION:

- A-1. Ordinance No. 12-7 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) FOR THE TOPS FUND IN THE AMOUNT OF \$325,000 FOR THE CONSTRUCTION OF THE MCREYNOLDS DAY-USE AREA AND MASON-BOEHMER TRAIL ON THE SOUTH SLOPE OF PIKES PEAK" was presented for final passage.
- A-2. Ordinance No. 12-8 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) IN THE AMOUNT OF \$118,000 FOR THE UPGRADE OF

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THE TELEPHONE SYSTEM AT THE COLORADO SPRINGS AIRPORT" was presented for final passage.

- A-3. Ordinance No. 12-9 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) IN THE AMOUNT OF \$100,000 FOR THE DESIGN OF THE SAND CREEK DRAINAGE REPAIR PROJECT AT THE COLORADO SPRINGS AIRPORT" was presented for final passage.
- A-4. Ordinance No. 12-10 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) FOR THE PSST FUND IN THE AMOUNT OF \$686,700 AND FOR THE GENERAL FUND IN THE AMOUNT OF \$40,644 FOR THE CONSTRUCTION OF STATION 21" was presented for final passage.
- A-5. Ordinance No. 12-11 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) FOR CAPITAL PROJECTS AT THE PIKES PEAK – AMERICA'S MOUNTAIN GATEWAY AND TOLLGATE FACILITIES IN THE AMOUNT OF \$350,000" was presented for final passage.

FIRST PRESENTATION:

- B-1. **SEE ACTION TAKEN LATER IN THE MEETING.**
- B-2. **SEE ACTION TAKEN LATER IN THE MEETING.**
- B-3. Resolution No. 41-12 was presented: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO, APPROVING THE APPOINTMENT OF DIRECTORS FOR THE DUBLIN NORTH METROPOLITAN DISTRICT NOS. 1-3".
- B-4. Resolution No. 42-12 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE STATE OF COLORADO, DEPARTMENT OF LOCAL AFFAIRS, IN THE AMOUNT OF \$8,062.20; AND, AUTHORIZING THE COLORADO SPRINGS OFFICE OF EMERGENCY MANAGEMENT TO EXECUTE A CONTRACT TO PROCEED WITH TRANSLATION OF THE COLORADO SPRINGS EMERGENCY PREPAREDNESS AND SAFETY GUIDE INTO THE SPANISH LANGUAGE".
- B-5. Resolution No. 43-12 was presented: "A RESOLUTION APPROVING A 2012 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND HARRISON SCHOOL DISTRICT 2 FOR FUNDING OF A SCHOOL ZONE PEDESTRIAN SAFETY PROGRAM".
- B-6. Resolution No. 44-12 was presented: "A RESOLUTION APPROVING A 2012 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND COLORADO SPRINGS SCHOOL DISTRICT 11 FOR FUNDING OF A SCHOOL ZONE PEDESTRIAN SAFETY PROGRAM".
- B-7. Resolution No. 45-12 was presented: "A RESOLUTION APPROVING A 2012 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS

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AND CHEYENNE MOUNTAIN SCHOOL DISTRICT 12 FOR FUNDING OF A SCHOOL ZONE PEDESTRIAN SAFETY PROGRAM".

B-8. Resolution No. 46-12 was presented: "A RESOLUTION APPROVING A 2012 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND ACADEMY SCHOOL DISTRICT 20 FOR FUNDING OF A SCHOOL ZONE PEDESTRIAN SAFETY PROGRAM".

B-9. Resolution No. 47-12 was presented: "A RESOLUTION APPROVING A 2012 INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS AND FALCON SCHOOL DISTRICT 49 FOR FUNDING OF A SCHOOL ZONE PEDESTRIAN SAFETY PROGRAM".

B-10. Resolution No. 48-12 was presented: "A RESOLUTION OF THE COLORADO SPRINGS CITY COUNCIL IN SUPPORT OF CANDIDATES FOR APPOINTMENT TO THE SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT BOARD OF DIRECTORS".

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

B-12. CPC ZC 12-00003: (Quasi-Judicial Matter) Ordinance No. 12-12 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 12.45 ACRES LOCATED SOUTHWEST OF FOUNTAIN BOULEVARD AND UNION BOULEVARD AND REFERRED TO AS THE OLYMPIAN BUSINESS CENTER" was introduced and read. (PBC/SS [Planned Business Center with Streamside Overlay] and PF [Public Facility] to PBC/SS [Planned Business Center with Streamside Overlay])

B-13. **Pikes Peak United Way.**

B-13-A. CPC ZC 11-00117: (Quasi-Judicial Matter) Ordinance No. 12-13 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 0.55 ACRE LOCATED AT 518 AND 524 NORTH NEVADA AVENUE" was introduced and read. (OR [Office Residential] and R-5 [Multi-Family Residential] to OR [Office Residential])

B-13-B. **CPC DP 11-00118: (Quasi-Judicial Matter) Request by N.E.S. Inc. on behalf of Pikes Peak United Way for approval of the Pikes Peak United Way Development Plan consisting of 0.55 acre located at 518 and 524 North Nevada Avenue.**

Motion by Herpin, second by Snider, that all matters on the Consent Calendar with the exception of Item Nos. 3-B-1, 3-B-2, and 3-B-11, which were acted upon separately, be passed, adopted, and approved by unanimous consent of the members present.

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

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4. **Resolutions of Appreciation**

There were none.

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Josh Terpak – Harrison H.S., Eryn Cassady – Sand Creek H.S., and Annie Lin – Rampart H.S., were introduced as representatives of the Mayor's 100 Teens.

Councilmember Dougan introduced student artists from District 20 and recognized their art work displayed in the Council Chambers.

CITIZEN DISCUSSION

Charles Barber spoke regarding the 2012 Budget.

Mary Gallivan, Dennis Bachoroski, Michael Crepeau, and Welling Clark spoke regarding criminal activity and law enforcement concerns of the westside community, between Old Colorado City and Manitou Springs; that they are working to establish an intergovernmental agreement with the law enforcement agencies.

Anthony Abdo and Eric Verlo spoke regarding hostility toward Occupy Colorado Springs participants and the right to free speech.

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5. Motion by Herpin, second by Bennett, that the Minutes of the regular Council Meeting of February 28, 2012, be approved as written. The motion unanimously carried. Absent, Councilmember Williams.

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6. **Mayor's Communications.**

6-A. **Housing Authority Board Confirmation.**

Mayor Bach introduced Brian Colvert as a candidate for the Housing Authority Board and requested confirmation of the appointment by Council.

Motion by Herpin, second by Martin, that Brian Colvert be confirmed as a member of the Housing Authority Board. The motion unanimously carried. Absent, Councilmember Williams.

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

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3-B-1. The Interim City Clerk reports that on January 30, 2012 there was filed with her a petition for the annexation of Hittle Addition. 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.

3-B-2. The Interim City Clerk reports that on January 30, 2012 there was filed with her a petition for the annexation of Hittle 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.

In response to a question by Councilmember Dougan, Steve Tuck, Sr. Planner, Land Use Review, stated the proposed annexation relates to an enclave parcel of approximately four acres.

Motion by Dougan, second by Martin, that petitions for annexation of Hittle Addition and Hittle Addition No. 2 be referred to City Administration. The motion unanimously carried. Absent, Councilmember Williams.

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President Hente was excused.
In the absence of President Hente, President Pro Tem Martin presided.

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3-B-11. Resolution No. 49-12 was presented: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO, APPROVING A MINOR AMENDMENT OF THE WOODMEN HEIGHTS METROPOLITAN DISTRICT NOS. 1-3 SERVICE PLAN TO REDUCE THE MAXIMUM DEBT SERVICE MILL LEVY FOR DISTRICT NO. 3 FROM 50.0 TO 30.0 MILLS".

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

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

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President Hente returned.

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NEW BUSINESS

7. Ordinance No. 12-14 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) FOR THE GENERAL FUND IN THE AMOUNT OF \$425,000 IN SUPPORT OF A PARTNERSHIP AGREEMENT WITH THE YMCA OF THE PIKES PEAK REGION TO OPERATE SIX AQUATIC FACILITIES FOR THE CITY OF COLORADO SPRINGS" was introduced and read.

Kim King, Parks Administration Manager, gave a PowerPoint presentation and overview of the proposed agreement with operating concepts and terms of the YMCA of the Pikes Peak Region, to operate six of the seven City Aquatic facilities, excluding the Valley Hi facility. She stated the target date for implementation of the agreement is April, 2012 with anticipated opening on May 28, 2012.

Dan Dummermuth, YMCA President/CEO, spoke relating to programs, expectations and responsibilities, and the benefits to the community, the organization, and the City by implementing the proposed operating agreement.

In response to questions from Council, Mr. Dummermuth addressed rates, hours, membership, and senior programs offered.

Curt DeCapite, Procurement Services Manager, addressed sole source vendor standards.

President Hente requested the Parks Department provide a financial report and update of the operation within six months.

Deb Barry, President, Friends of Aquatics, supports operation of the pools, but expressed concern about the continuation of the therapeutic programs being conducted at the Cottonwood Creek facility for people with multiple disabilities, disorders, and the military, while keeping fees affordable for customers.

Rebecca Hale, President of the Free Thinkers of Colorado Springs and Vice President of The American Humanist Association, and Gary Betchan, stated while there is no issue with the YMCA managing the pools, there are concerns about the YMCA's enforcing Christian values at the City pool; wants to ensure the rights of non-Christian citizens of Colorado Springs are protected; that Christian signage should not be allowed in City facilities; expressed concerns of reduced fees for YMCA members to use the City pools in regard to Church/State separation; requested Council consider and specifically address these issues in the agreement.

Marjorie Smith requested the Valley Hi facility be reconsidered and included in the agreement.

In response to questions from Council, Ms. King stated attendance records from '2006 – 2008' of the pools, except for Prospect Lake, indicated Valley Hi had the lowest youth public swim participation rates all three years.

President Hente requested when the details of the contract are completed, a copy be provided to Council for review.

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

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

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Item No. 9 was taken out of order for consideration.

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PUBLIC HEARING

9. **Public hearing on a proposal to install and maintain surveillance cameras in downtown Colorado Springs.**

Pete Carey, Police Chief, gave an overview of the proposal to install surveillance cameras downtown. He identified the locations where 10 cameras will be installed following the bid process; that there will be restricted access, and the video recording will be stored a minimum of 30 days, consistent with the Colorado Municipal Records Retention Schedule for video of body-worn and car-mounted camera systems; that the cameras are not intended to replace law enforcement efforts, but has the objective to create a safer and more vibrant downtown; that this is a pilot project and will be reviewed on a regular basis to determine its effectiveness. He addressed training and monitoring procedures.

Chuck Murphy, member of the Downtown Solutions Team (DST), spoke in support of the surveillance cameras; that the DST met with the Downtown Partnership Executive Board and it unanimously supports the cameras; that they also met with the Council of Neighbors and Organizations (CONO) and out of 15 members, only one was opposed.

President Pro Tem Martin expressed she is not convinced cameras are going to increase economic vitality or stop undesirable activity, and inquired whether the DST considered other measures to improve downtown, and Mr. Murphy replied there have been several issues identified in the downtown area that need to be addressed, but he believes cameras will help contribute to a safer environment.

In response to a question from Councilmember Leigh, Steve Cox, Chief of Economic Vitality & Innovation, stated the Environmental Protection Agency (EPA), has federal mandates relating to maintenance of sidewalks to ensure environmental safety and hazardous substances are addressed; that the issues downtown involve more than just cameras and a sidewalk cleaner; that the Mayor's vision is to have a renaissance of downtown, which will be a long process, but there are projects currently being initiated; that there is a concern of downtown security, and City Administration supports the proposal.

Councilmember Czelatdko stated she believes Council should have representation in the revitalization process.

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Sam Eppley, owner of Sparrow Hawk Cookware and President of the Downtown Partnership; Luke Travins, downtown business owner and member of the Downtown Solutions Team; Carolyn McDole, Executive Director of Ecumenical Social Ministries; Chris Jenkins, downtown property owner; and Dave Munger, President of the Council of Neighbors and Organizations (CONO) spoke in support of surveillance cameras citing the problems downtown are community problems; that Acacia Park has ceased to be family friendly; that there is drug activity in the Park and they believe cameras will help deter that, as well as trespassing and aggressive panhandlers; that the Colorado Department of Transportation (CDOT) has traffic cameras throughout the City and several downtown business owners have cameras on their premises, and the addition of a few more would not infringe upon civil liberties; that they believe cameras are a deterrent to crime and employees feel safer; that with a limited number of Police Officers, the cameras will assist with safety, as an additional presence; that the Police Department has researched the matter and product prior to the proposal before Council and the results can be measured to determine its effectiveness.

John Stoner, Michael Clifton, Ed Billings, Raven Martinez, Daniel Cisneros, Kenneth Noe, Loring Wirbel, George Rapko, Gary Fornander, Chuck Ball, and Anthony Daniels spoke in opposition to surveillance cameras citing intrusion of a citizen's right to privacy in violation of the Constitution; there is no conclusive evidence that cameras will help decrease crime; police presence should be increased; costs are extensive, and taxpayers should not incur the cost for just the downtown area; money for the cameras could be invested in other programs; that Council should require more research to gather solid evidence of the need and effectiveness of surveillance cameras before implementation; will cause an increase in civil and class action lawsuits, as well as CORA requests; other efforts should be considered before installing cameras.

Jason Hand, strategic development consultant, and Law Enforcement Professional of the Year, addressed strategic development and inquired whether a return-on-investment analysis was done, to determine whether surveillance cameras is the best way to spend taxpayers' money; that the City of Colorado Springs is on a tight budget and there other things the requested \$188,000 could be put toward and see quantifiable benefits.

Marjorie Smith expressed concern in the source of funding; that she does not want to use contingency funding to support the proposed ordinance.

In response to the public comments, Chief Carey stated research on the effectiveness of surveillance cameras shows mixed results, and it is difficult to say with certainty that the cameras in and of themselves will prevent or reduce crimes; that the two foot-patrol officers and the four downtown area response team officers currently assigned downtown will be retained; that activity reports will be reviewed in 3-month, 6-month, 9-month, and one-year increments, and citizen satisfaction surveys will be used to determine measurable outcomes; that there will be an RFP process; that light-duty officers and volunteers will be trained to monitor the cameras, and will be held to the same level of accountability as regular police officers.

Chris Melcher, City Attorney/Chief Legal Officer, stated as a home-rule municipality, the City has the authority to install and utilize closed circuit television surveillance cameras to provide,

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regulate, conduct, and control the enforcement of fines and penalties for the violation of the City Charter or City Ordinances; that City powers must not be exercised so as to violate the United States or Colorado Constitution; that the U.S. Supreme Court holds, that these types of cameras do not violate the Fourth Amendment, because there is no reasonable expectation of privacy in public spaces; that Denver, Fort Collins, and other Colorado municipalities have implemented surveillance cameras and there have been no challenges to date; that usage of these type cameras in public places has been widely adopted throughout the United States and there has been no court that has struck down the use of these cameras.

Councilmember Herpin stated surveillance cameras could not only assist law enforcement efforts, but could also be useful as an aid in exonerating an innocent person of a crime they did not commit.

President Hente stated a public announcement will be made when the proposed ordinance is scheduled for formal consideration by Council.

President Hente declared the public hearing closed.

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8. CPC CA 11-00113: Ordinance No. 12-15 entitled "AN ORDINANCE REPEALING AND REORDAINING PART 4 (SIGN REGULATIONS) OF ARTICLE 4 (SITE DEVELOPMENT STANDARDS) OF CHAPTER 7 (PLANNING, DEVELOPMENT AND BUILDING) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO SIGN REGULATIONS" was introduced and read.

Meggan Herrington, Planner II, Land Use Review Division, gave a PowerPoint presentation and overview of the proposed ordinance which repeals and reordains the sign code pertaining to the criteria for display and placement of on-premise commercial signage. She stated the ordinance was drafted in collaboration with a diverse stakeholder working group, and other communities were also researched for their sign standards. She stated staff also evaluated Electronic Message Centers (EMC's), and recommended that EMC's be permitted for on-premise, commercial advertising only. She reviewed the recommended criteria for the signage and proposed sign enforcement program. She stated the Planning Commission recommended approval of the proposed ordinance with the exception of the EMC component, but allowing time, date, and temperature; that some commissioners expressed concerns of enforcement and visual clutter; that all commissioners agreed a strong enforcement program is necessary; that as requested by Council, two proposed ordinances are being submitted for review, one which excludes the EMC component, and one which includes EMC's; that staff recommends approval of the proposed ordinance with the EMC component.

Gary Bradley, spoke in opposition to the proposed ordinance with an EMC component; and Larry Barrett, Board of Directors, Scenic Colorado, gave a PowerPoint presentation and spoke in opposition to the proposed ordinance that includes an EMC component, citing concerns of increased distraction by drivers when EMC's are installed; that he supports the Planning Commission recommendation to approve the ordinance that omits the EMC component, except for time, temperature, and date.

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Steve Heieck, YESCO Custom Electric Signs, gave a PowerPoint presentation and spoke in support of the proposed ordinance with the EMC component citing EMC's provide better visibility to all tenants of a center; reduces sign clutter and increases marketability of shopping center retail space.

Ed Aubrey, Marine Corp League of Colorado Springs and member of The Retired Enlisted Association (TREA); Mark Hetzler, Walgreens; Ralph Braden, Nor'Wood Development Group, and on behalf of Fred Veitch, Housing and Building Association (HBA); Tim Walkefield; Mark Gebhart, El Paso County Development Services; Hal Ward, Lamar Outdoor Advertising; Gary Fennerman, Phil Long Ford; Chase Wasnewsky, Watchfire Signs; James Carpentier, Colorado Sign Association and International Sign Association; and Jeff Cahill, Quality Signs, spoke in support of allowing EMC's, stating they are beneficial for advertising community events; that many other communities in the State authorize stores the use of reader boards; that EMC's are effective, attractive, and clean, and can aid in amber alerts, as well as other community announcements; that having the ability to display messages of several businesses on one sign cuts down on the number of signs currently displayed on buildings; that the County allows EMC's, to include billboards and has not received any complaints; businesses that produce the signs should be held accountable as well as the individual store owner who purchases a sign; that Council should consider a minimum of 50% window coverage allowance versus the recommended 25%. Mr. Carpentier offered the services of his associations to assist with educating the public on the new EMC Code and enforcement program if adopted.

Dick Anderwald, Planning and Development Manager, stated citation authority of Code Enforcement Officers would be established in a subsequent action to adoption of the ordinance before Council today, which could include a broader look at code enforcement in general, but the Planning Commission recommendation is specific to signs.

Rick Hoover, Council of Neighbors and Organizations (CONO) stated regardless of Council's decision, CONO believes enforcement is the main issue.

Robert Shonkwiler, Planning Commissioner, stated the Planning Commission was enthusiastic and supportive of improving code enforcement and revising the sign code, however, the Planning Commission wants to focus on enforcement and cleaning up what already exists before introducing new technology; that there was no support by the Planning Commission to increase the 25% window space allowance; that the visual impact of EMC's were also considered.

Motion by Bennett, second by Leigh, that the proposed ordinance including the Electronic Message Centers (EMC's), and presented as option B, be passed as introduced; that the Planning Commission recommendation to evaluate the amendments in two years following adoption be upheld.

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

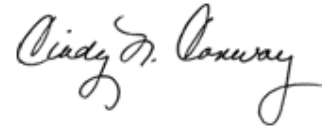
President Hente declared the motion carried.

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At 7:30 P.M., there being no further business to come before City Council,

COUNCIL ADJOURNED

A handwritten signature in cursive script that reads "Cindy N. Conway". The signature is written in black ink and is positioned above the printed name.

Cindy N. Conway, CMC
Interim City Clerk