

COLORADO SPRINGS, COLORADO
CITY COUNCIL CHAMBERS
CITY HALL – 107 N. NEVADA AVENUE
OCTOBER 9, 2012 – 1:00 P.M.

Council met in Regular Session.

There were present: President Hente, President Pro Tem Martin, Councilmembers Bennett, Herpin, Leigh, Snider, and Williams. Absent Councilmembers Czelatdtko and Dougan. Councilmember Dougan arrived during the meeting. Also present, 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 Graham Baird, Sr. Pastor, First Presbyterian Church.

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

Aimee Cox, City Council Administrator requested consideration of an Extra Item Agenda relating to a resolution opposing Amendment 64.

Motion by Herpin, second by Bennett, that Council give leave for immediate consideration of the Extra Item Agenda to be heard under New Business.

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

President Hente declared the motion carried.

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President Hente called up Item No. 3-B-2 for separate consideration.

CONSENT CALENDAR

3. The following items were acted upon by unanimous consent of the members present, with the exception of Item No. 3-B-2, which was called up for separate consideration:

SECOND PRESENTATION:

- A-1. Ordinance No. 12-79 entitled, "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) FOR CITY-FUNDED CIP IN THE AMOUNT OF \$50,000 TO

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CONSTRUCT THE DUBLIN AND SHIMMERING CREEK TRAFFIC SIGNAL PROJECT" was presented for final passage.

- A-2. Ordinance No. 12-80 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) IN THE AMOUNT OF \$165,074 FOR TERMINAL IMPROVEMENTS AT THE COLORADO SPRINGS AIRPORT" was presented for final passage.
- A-3. Ordinance No. 12-81 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) IN THE AMOUNT OF \$150,000 FOR AIRFIELD PAVEMENT IMPROVEMENTS AT THE COLORADO SPRINGS AIRPORT" was presented for final passage.
- A-4. Ordinance No. 12-82 entitled "AN ORDINANCE CREATING A NEW SECTION 120 (ROADSIDE SALE OF ANIMALS PROHIBITED) OF ARTICLE 7 (REGULATION OF ANIMALS – GENERAL PROVISIONS) OF CHAPTER 6 (NEIGHBORHOOD VITALITY/COMMUNITY HEALTH) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO ROADSIDE SALE OF ANIMALS" was presented for final passage.
- A-5. Ordinance No. 12-83 entitled "AN ORDINANCE AMENDING SECTION 102 (PERSONNEL POLICIES AND PROCEDURES) OF PART 1 (EMPLOYEE RULES AND REGULATIONS) OF ARTICLE 4 (CITY EMPLOYEES) OF CHAPTER 1 (ADMINISTRATION, PERSONNEL AND FINANCE) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO ACCEPTANCE OF CHANGES TO THE PERSONNEL POLICIES AND PROCEDURES MANUAL" was presented for final passage.

FIRST PRESENTATION:

- B-1. Resolution No. 122-12 was presented: "A RESOLUTION APPROVING A VEHICLE TRANSFER AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE CITY OF COLORADO SPRINGS".
- B-2. **SEE ACTION TAKEN EARLIER IN THE MEETING.**
- B-3. 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 for 2013 within the service areas of Colorado Springs Utilities.
- B-4. Resolution No. 123-12 was presented: "A RESOLUTION APPROVING AN AGREEMENT TO ANNEX AND TO PROVIDE WATER SERVICE OUTSIDE THE CITY LIMITS AT 5030 SILVER DRIVE IN THE ENCLAVE OF PARK VISTA ESTATES".
- B-5. Resolution No. 124-12 was presented: "A RESOLUTION MODIFYING A PLAT RESTRICTION ON LOT 5, MOUNTAIN SHADOWS FILING NO. 11"
- B-6. Resolution No. 125-12 was presented: "A RESOLUTION DELETING A PLAT RESTRICTION FROM LOT 2, CENTRAL BANK SUBDIVISION NO. 1 LOCATED SOUTHEAST OF MEADE AVENUE AND BOULDER STREET AND ADDRESSED AS 1725 EAST BOULDER".

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Motion by Snider, second by Bennett, that all matters on the Consent Calendar with the exception of Item No. 3-B-2, be passed, adopted, and approved by unanimous consent of the members present.

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

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4. **Resolution of Appreciation.**

Resolution No. 126-12 was presented: "A RESOLUTION OF SINCERE APPRECIATION AND RECOGNITION FOR MARCY MORRISON, CURTIS BROWN, DEBORAH CHANDLER, DIRK DRAPER, JIM JOHNSON, DOUG STIMPLE, AND JANICE WEILAND, FOR THEIR DEDICATED SERVICE AS BOARD OF TRUSTEES FOR MEMORIAL HEALTH SYSTEM (MHS)".

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

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

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Councilmember Dougan arrived.

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CITIZEN DISCUSSION

Joseph Connery spoke regarding differentiating between taxes and fees.

Welling Clark spoke regarding the multimedia campaign against panhandling.

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5. **Approval of Minutes.**

Motion by Bennett, second by Martin, that the Minutes of the regular Council Meeting of September 25, 2012, be approved as written. The motion unanimously carried. Absent Councilmember Czelatdko.

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6. Mayor's Communications.

Laura Neumann, Chief of Staff, stated the 2013 Budget will be presented to Council October 11th and 12th, and a public hearing will be held on October 18, 2012, in Council Chambers. She also stated the Public Hearing for the 2012 Preliminary Redistricting Plan is Saturday, October 13th, 2012, at the Hillside Community Center, and that there have been approximately 45 applicants for the new MHS Local Board which will be reviewed next week, with interviews of the finalists the week of October 22nd, 2012.

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

3-B-2. Resolution No. 127-12 was presented: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING THE DISSOLUTION OF THE CITY INFRASTRUCTURE METROPOLITAN DISTRICT".

Kyle Campbell, Interim Director of Planning, stated there were misunderstandings that the currently proposed item is one that was previously pulled, as it is not. He requested Council approve the proposed resolution.

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

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

NEW BUSINESS

7. Resolution No. 128-12 was presented: "A RESOLUTION APPROVING THE BUDGET FOR 2013 FOR THE EL PASO COUNTY EMERGENCY SERVICES AGENCY".

Eileen Gonzales, El Paso County Emergency Services Agency Contract Administrator, approached to answer questions from Council.

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

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

PUBLIC HEARINGS

Item Nos. 8-A through 8-F were considered together.

8. Hittle Addition and Hittle Addition No. 2 Annexation

8-A. CPC A 12-00012: Public hearing on a request by Nine Design Ltd. on behalf of Steven and Linda Hittle for consideration of the Hittle Addition and the Hittle Addition No. 2

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annexation consisting of 5.2 acres located on the north corner of Dalby Drive and Dublin Boulevard, approximately 800 feet west of Powers Boulevard.

Steve Tuck, Senior Planner, gave a brief presentation, stating the property mentioned is part of a larger enclave surrounded by the City and that there are two annexation plats in order to meet the Contiguity State Statute requirement; that there are two phases to the project, the first of which is a miniature golf course and batting cages, and the second phase is in a concept plan; that there is a signed Annexation Agreement by all parties.

David Moore inquired as to what is being done to accommodate traffic.

Kathleen Krager, Transportation Manager, stated traffic in that area is a problem and improvements have been put on the PPRTA Extension List, so that if developers do not come along, the City will be able to go forward and make those improvements using PPRTA funds; that when developers do come in, the City can get a reimbursement for PPRTA with the developers money; that in the meantime, there will be some small improvements in the area.

There being no further comment, President Hente declared the Public Hearing closed.

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- 8-B. Resolution No. 129-12 was presented: "A RESOLUTION SETTING FORTH FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED THEREON AND DETERMINING THE STATUS OF THE TERRITORY KNOWN AS HITTLE ADDITION AND HITTLE ADDITION NO. 2 ANNEXATION.

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

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

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- 8-C. Ordinance No. 12-84 entitled "AN ORDINANCE ANNEXING TO THE CITY OF COLORADO SPRINGS THAT AREA KNOWN AS HITTLE ADDITION AND HITTLE ADDITION NO. 2." was introduced and read.

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

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

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- 8-D. Ordinance No. 12-85 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 4.2 ACRES LOCATED AT THE NORTH CORNER OF DUBLIN BOULEVARD AND DALBY DRIVE, APPROXIMATELY 800 FEET WEST OF POWERS BOULEVARD" was introduced and read. (Establishing a PBC/AO zone)

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

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

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- 8-E. CPC NV 12-00068: (Quasi-Judicial Matter) Request by Nine Design Ltd. on behalf of Steven and Linda Hittle for consideration of a nonuse variance to Section 7.3.404 of the Zoning Code to allow five structures within the 25-foot setbacks of the proposed PBC (Planned Business Center) zone. The structures range in height from six feet to 22 feet and are shown within the miniature golf course holes. Three of the structures (6, 12 and 16 feet in height) are located within the 25-foot rear setback and two structures (8 and 22 feet in height) are located in the front setback along Dalby Drive.

Motion by Herpin, second by Martin, that the request be approved.

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

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- 8-F. CPC CU 12-00042: (Quasi-Judicial Matter) Request by Nine Design Ltd. on behalf of Steven and Linda Hittle for consideration of a conditional use for an outdoor sports and recreation facility (miniature golf, batting cages) consisting of 2.6 acres located on the north corner of Dublin Boulevard and Dalby Drive, approximately 800 feet west of Powers Boulevard.

Motion by Herpin, second by Martin, that the request be approved.

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

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Item Nos. 9-A and 9-B were considered together.

9. **The Arena Indoor Sports & Recreation Facility**

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Councilmember Leigh was excused.

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- 9A. Ordinance No. 12-86 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 7.48 ACRES LOCATED AT 4005 THROUGH 4035 NORTH WEBER STREET" was introduced and read. (R-5/CR [Multi-Family Residential with Conditions of Record] and R-5 to PBC/CR [Planned Business Center with Conditions of Record])

Steve Tuck, Senior Planner, Douglas Goldberg, Odyssey Development LLC and owner of the property, and Daniel Sievers, Design Renaissance, gave a presentation and overview of the proposed zone change and a revised development plan for the Arena Indoor Sports and Recreation Facility; it was stated the concerns of the Planning Commission have been addressed, which were reviewed, and they are recommending approval.

Austin Hilton spoke in support of the applicant.

Donna Mast stated she is not opposed to the proposed project, but spoke on behalf of the Cragmor area regarding a significant increase in crime and deterioration of the neighborhoods due to the growth of UCCS and influx of college residents and absentee landlords. She stated currently, there is a lack of Police and Code Enforcement resources to establish a reasonable quality of life and is concerned what the impact of the proposed development plan will have in addition to the problems that already exist.

Donald Magill, Colorado Springs Planning Commission, spoke regarding the process for appealing a Planning Commission decision and expressed concerns about granting industrial zoning in a residential area and whether the proposed development plan meets the City's comprehensive plan.

Patricia Spiral, Diane Swain, Robert Swain, property owner and retired Architect and Community Planner, BJ Ates, and Tim Emmick, spoke against the proposed zone change and development plan, citing the following: it will be an encroachment on the surrounding neighborhoods and risky with the possibility of the proposed facility failing; the site is inappropriate relative to context, compatibility, and design; there has been a systematic encroachment on the Cragmor neighborhood; the Planning Commission made it clear the proposed property sits in a residential sector within the City of Colorado Springs' Comprehensive Plan; in the last several years, there has been a breakdown in the Cragmor area/neighborhoods, of community, and the proposed project will contribute to existing problems, as well as create new ones with traffic in a residential area; the development plan is too massive.

In response to comments, Mr. Goldberg stated the suggested options to build apartment buildings or homes on the proposed property would attract an unknown clientele, but most likely would be college students, as that would be the natural progression with

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UCCS; that the clientele for the proposed facility will be primarily athletes from the ages of 5 years old to college-age and they will be very involved with UCCS, CSCS and the like; that the facility will not be a "hang-out" facility, but will be a destination facility for elite and recreational athletes to train; that in terms of traffic, there will be an entrance from the parking lot and 170+ parking spaces on the facility grounds; that there will be a no parking zone on Weber Street; that the hours of operation would be 8:00 a.m. to 10:00 p.m. during the summer and 12:00 noon to 10:00 p.m. in the winter; that this will not be a gym, but an indoor baseball/softball/soccer/la crosse and other field-sport facility; that they will not be lighting the fields outside; that it is about having a place for children to train and develop and will have a positive impact on the community; that it will contribute to the City with property taxes, sales taxes, new jobs, and community partnerships.

Mr. Tuck stated a 7.5-acre lot is approximately 320,000 square feet and the total lot coverage, including the proposed and existing buildings, is about 20 %, which is not out of range with what is found with the single-family and other surrounding properties; that there are also a number of uses that would be prohibited in the PBC zone, to address the concerns of the neighbors.

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

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

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- 9B. CPC DP 12-00045: (Quasi-Judicial Matter) Public hearing on an appeal by Douglas Goldberg on behalf of Design Renaissance and Odyssey Development, LLC regarding the Planning Commission action of August 16, 2012 denying the development plan for the Arena Indoor Sports and Recreation Facility located at 4005 through 4035 North Weber Street.

Motion by Herpin, second by Snider, that the amended development plan for the Arena Indoor Sports and Recreation Facility located at 4005 through 4035 North Weber Street be approved.

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

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Councilmember Leigh returned.

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Councilmember Dougan was excused.

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GENERAL IMPROVEMENT DISTRICTS

President Hente recessed City Council and reconvened as the Board of Directors of the Colorado Springs Marketplace at Austin Bluffs General Improvement District for action on the following item:

1. Request permission to set the date of November 27, 2012, for consideration of adoption of the proposed 2013 Colorado Springs Marketplace at Austin Bluffs General Improvement District Budget and to advertise as required by law.

Motion by Director Herpin, second by Director Martin, that the date of November 27, 2012, be set for consideration of adoption of the proposed 2013 Colorado Springs Marketplace at Austin Bluffs General Improvement District Budget. The motion unanimously carried. Absent, Directors Czelatdko and Dougan.

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Following adjournment of the Board of Directors of the Colorado Springs Marketplace at Austin Bluffs General Improvement District, City Council reconvened as the Board of Directors of the Cottonwood General Improvement District for action on the following item:

1. Request permission to set the date of November 27, 2012, for consideration of adoption of the proposed 2013 Colorado Springs Cottonwood General Improvement District Budget and to advertise as required by law.

Motion by Director Herpin, second by Director Martin, that the date of November 27, 2012, be set for consideration of adoption of the proposed 2013 Colorado Springs Cottonwood General Improvement District Budget. The motion unanimously carried. Absent, Directors Czelatdko and Dougan.

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Following adjournment of the Board of Directors of the Cottonwood General Improvement District, City Council reconvened as the Board of Directors of the Colorado Springs Spring Creek General Improvement District for action on the following item:

1. Request permission to set the date of November 27, 2012, for consideration of adoption of the proposed 2013 Colorado Springs Spring Creek General Improvement District Budget and to advertise as required by law.

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Motion by Director Herpin, second by Director Martin, that the date of November 27, 2012, be set for consideration of adoption of the proposed 2013 Colorado Springs Spring Creek General Improvement District Budget. The motion unanimously carried. Absent, Directors Czelatdtko and Dougan.

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Following adjournment of the Board of Directors of the Colorado Springs Spring Creek General Improvement District, City Council reconvened as the Board of Directors of the Colorado Springs Briargate General Improvement District for action on the following item:

1. Request permission to set the date of November 27, 2012 for consideration of adoption of the proposed 2013 Colorado Springs Briargate General Improvement District Budget and to advertise as required by law.

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Director Dougan returned.

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Motion by Director Herpin, second by Director Martin, that the date of November 27, 2012, be set for consideration of adoption of the proposed 2013 Colorado Springs Spring Creek General Improvement District Budget. The motion unanimously carried. Absent, Director Czelatdtko.

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Councilmember Williams was excused.

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City Council reconvened to consider the Extra Item Agenda as New Business.

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Extra Item
No. 1

Resolution No. 130-12 was presented: "A RESOLUTION OPPOSING AMENDMENT 64, LEGALIZATION OF MARIJUANA LIKE ALCOHOL ACT OF 2012".

Jo McGuire, Lynette Crow Iverson, Dr. Leo Nasenbean, Dan May, District Attorney, Jennifer West, spoke in support of the proposed resolution, expressing concerns that Amendment 64 will have a negative impact on the community.

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Joel Aigner, Bob Wiley, Tanya Gardino, Daniel Cole, Bridgette Boyd, and Derek Aker, spoke in opposition to the proposed resolution, citing reasons how Amendment 64 can help the community.

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Councilmember Leigh was excused.

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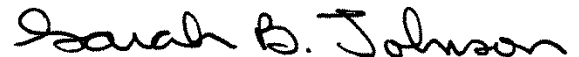
Motion by Bennett, second by Herpin, that the resolution be adopted.

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

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At 5:25 P.M., there being no further business to come before City Council,

COUNCIL ADJOURNED



Sarah B. Johnson
City Clerk