

COLORADO SPRINGS, COLORADO  
CITY COUNCIL CHAMBERS  
CITY HALL – 107 N. NEVADA AVENUE  
FEBRUARY 26, 2013 – 1:00 P.M.

Council met in Regular Session.

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

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

The meeting was opened with an invocation by Gary Bishop, Woodmen Valley Chapel.

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

Aimee Cox, City Council Administrator, identified an extra item to be added for discussion and consideration of a Joint Resolution on Regional Flood Control and Stormwater Management between El Paso County, the City of Colorado Springs, and Community Partners.

Motion by Herpin, second by Dougan, to postpone this extra item to the Council Meeting of March 12, 2013.

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

President Hente declared the motion passed unanimously.

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President Pro Tem Martin called up Item No. 3-B-8 for separate consideration.

Councilmember Leigh called up Item No. 3-B-7 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-7 and 3-B-8, which were called up for separate consideration.

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### **SECOND PRESENTATION:**

- A-1. ORDINANCE NO. 13-5 entitled: "AMENDING ORDINANCE NO. 12-108 (2013 APPROPRIATION ORDINANCE) FOR A SUPPLEMENTAL APPROPRIATION TO THE AIRPORT CAPITAL FUND IN THE AMOUNT OF \$16,334,000 FOR CONSTRUCTION PHASE OF THE REHABILITATION OF TAXIWAYS E, G AND H (PHASE IV) AT THE COLORADO SPRINGS AIRPORT" was presented for final passage.

### **FIRST PRESENTATION:**

- B-1. Resolution No. 13-13 was presented: "A RESOLUTION SUPPORTING A LOCAL GOVERNMENT PARK AND OUTDOOR RECREATION CONSTRUCTION GRANT APPLICATION TO GREAT OUTDOORS COLORADO FOR THE MOUNT MANITOU INCLINE."
- B-2. Resolution No. 14-13 was presented: "A RESOLUTION APPROVING THE 2013 JOINT FUNDING AGREEMENT BETWEEN THE U.S. GEOLOGICAL SURVEY AND THE CITY OF COLORADO SPRINGS FOR A CONTINUATION OF THE FOUNTAIN CREEK DRAINAGE BASIN MONITORING PROGRAM."
- B-3. Ordinance No. 13-7 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 12-108 (2013 APPROPRIATION ORDINANCE) FOR A SUPPLEMENTAL APPROPRIATION TO THE AIRPORT CAPITAL FUND IN THE AMOUNT OF \$180,000 FOR SECURITY CHECKPOINT EXPANSION AT THE COLORADO SPRINGS AIRPORT" was introduced and read.
- B-4. Resolution No. 15-13 was presented: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING A FIRST AMENDMENT OF THE 2003 WOODMEN ROAD METROPOLITAN DISTRICT INTERGOVERNMENTAL AGREEMENT."
- B-5. AR V 12-00518: Ordinance No. 13-8 entitled "AN ORDINANCE VACATING A PORTION OF EAST COLORADO AVENUE PUBLIC RIGHT-OF-WAY CONSISTING OF 2,682 SQUARE FEET LOCATED SOUTH OF EAST PIKES PEAK AVENUE AND SOUTH CORONA STREET INTERSECTION" was introduced and read.
- B-6. Resolution No. 16-13 was presented: "A RESOLUTION APPROVING THE GREEN MOUNTAIN RESERVOIR ADMINISTRATIVE PROTOCOL AGREEMENT BETWEEN COLORADO SPRINGS, THE UNITED STATES OF AMERICA, DENVER WATER, THE COLORADO RIVER WATER CONSERVATION DISTRICT, THE NORTHERN COLORADO WATER CONSERVANCY DISTRICT, THE MIDDLE PARK WATER CONSERVANCY DISTRICT, THE GRAND VALLEY WATER USERS ASSOCIATION, THE ORCHARD MESA IRRIGATION DISTRICT, THE GRAND VALLEY IRRIGATION COMPANY, THE PALISADE IRRIGATION DISTRICT, CLIMAX MOLYBDENUM COMPANY, THE UTE WATER CONSERVANCY DISTRICT, AND THE COLORADO DIVISION OF WATER RESOURCES."

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**B-7. SEE ACTION TAKEN LATER IN THE MEETING.**

**B-8. SEE ACTION TAKEN LATER IN THE MEETING.**

Motion by Bennett, second by Dougan, that all matters on the Consent Calendar with the exception of Item Nos. 3-B-7 and 3-B-8 be passed, adopted, and approved by unanimous consent of the members present.

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

President Hente declared the motion passed unanimously.

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**4. Resolutions of Appreciation.**

Resolution No. 17-13 was presented: "A RESOLUTION OF APPRECIATION DESIGNATING FEBRUARY AS NATIONAL THERAPEUTIC RECREATION MONTH."

This resolution is to increase public awareness of therapeutic recreation and leisure opportunities for persons with disabilities. The Therapeutic Recreation Program (TRP), as part of the Parks, Recreation and Cultural Services Department, has been serving citizens since the 1970's to provide opportunities for people with disabilities to acquire skills that enable them to participate in outdoor adventure, arts and culture, social enrichment, community integration, leisure education sports, fitness and aquatics.

Motion by Herpin, second by Dougan, that City Council designates February as National Therapeutic Recreation Month and appreciates and values each citizen with a disability.

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

President Hente declared the motion passed unanimously.

Councilmembers Herpin and Martin presented the Resolution to Diane Ritterhoof, Supervisor of the Therapeutic Recreation Program, and stated that they were proud to be the home of Military Veterans suffering injuries and were happy to reach out to them.

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**Councilmember Czelatdko arrived.**

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Resolution No. 18-13 was presented: "A RESOLUTION OF APPRECIATION FOR AL BRODY REGARDING HIS TIRELESS EFFORTS TO BRING UNESCORTED CYCLING TO PIKES PEAK – AMERICA'S MOUNTAIN."

Al Brody began pursuing the idea of allowing unescorted bicyclists year round on the Pikes Peak Highway by stating that he believed avid cyclists from the Pikes Peak Region and around the world would come to experience the challenge and beauty that America's Mountain has to offer. Mr. Brody worked with Parks, Recreation and Cultural Services Staff and its Advisory Board to develop and implement a pilot program in September 2012 that received overwhelmingly positive input and agreement from the U.S. Forest Service. As of January 1, 2013 it was approved that unescorted are to ride up the Pikes Peak Highway year round.

Motion by Czelatdko, second by Dougan, that City Council expresses gratitude to Al Brody for his passion for cycling and his willingness to pursue the idea for the Pikes Peak Region that increased awareness and access to a truly unique recreational experience.

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

President Hente declared the motion passed unanimously.

Councilmember Czelatdko presented the Resolution to Al Brody.

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Councilmember Williams presented the 2102 Civic Innovator of the Year Award to Dick Sievers, Executive Director of the Westside Community Center, and Kim King, City Liaison and Parks Administration, Recreation and Cultural Services Manager for the groundbreaking partnership.

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**Councilmembers Dougan and Herpin were excused.**

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**CITIZEN DISCUSSION**

Michael Oakes, Jeremy Sprague, Wesley Lipes, Christopher Gay, Eric Verlo, and George Lansburg all spoke on homeless issues regarding advocacy, employment opportunities, enforcement of the camping ban and vehicle locations, and utilization of vacant properties.

Robin Kissinger, Scott Harvey, Mark Kissinger, Joyce Cheney, Elaine Doudna, Eric Verlo, Dave Gardner, Elise Rothman, Walter Lawson, Mark Slaugh, and Jack Sample all spoke about oil and gas and fracking issues regarding the desire for a more public process and hearings, public safety and environment concerns, lease interests and economic concerns, alternate utilizations of existing resources, and the regulatory process.

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Scott Anderson spoke on requiring recycling and deposits for recyclable containers as is accomplished in other states.

Charles Irwin, of Colorado Springs Pride, on behalf of LGBT Citizens, spoke about a 2003 resolution on goodwill being reaffirmed and updated by the City Council and Mayor.

Jack Sample spoke in support of the Therapeutic Recreation Program.

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**Councilmembers Dougan, Herpin returned, and Snider arrived.**

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**5. Approval of Minutes.**

Motion by Williams, second by Czelatdko, that the Minutes of the regular Council Meeting of February 12, 2012, be approved as written. The motion unanimously carried.

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**6. Mayor's Communications.**

Mayor Steve Bach requested that the Council table the El Paso County joint resolution on stormwater, pending consultation and discussion on alternative funding mechanisms and seating of a new Council. Mayor Bach stated that it is imperative to work closely with other jurisdictions on this important issue with an open public process, that the City has a 76% share in the currently identified \$800 million in regional needs, and that a Request for Proposal has been issued to obtain outside expert opinion for the scope and priorities for a solution, with a projected July 2013 timeframe for presentation.

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

**3-B-7. Request to establish a public hearing date for the consideration of a resolution regarding certain changes to the Colorado Springs Utilities Electric Rate Schedules to expand the Community Solar Garden Bill Credit Program.**

Councilmember Leigh requested that the Council receive a presentation from Colorado Springs Utilities staff justifying the need for a solar garden subsidy, absent a mandate for the program, and why it would be a good deal for the general ratepayer.

Stella Chan, Manager of Financial Planning and Pricing for Colorado Springs Utilities, stated that today's request is to set the public hearing date and all of the requested information will be presented at that time.

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Jerry Forte, Utilities Chief Executive Officer, stated that from the time of the filing to the set hearing date, a public process as directed by the Council could be accomplished, and that the current mandate for renewable energy has been met until approximately 2017.

Councilmember Dougan stated that a postponement is in order to obtain more information and have a new Council consider the item.

Motion by Williams, second by Martin, to approve Item 3-B-7 as presented, and to establish a public hearing date of April 9, 2013.

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

President Hente declared the motion carried on a 6-3 vote.

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3-B-8. Ordinance No. 13-9 entitled; "AMENDING ORDINANCE NO. 11-95 (2012 APPROPRIATION ORDINANCE) FOR A SUPPLEMENTAL APPROPRIATION TO THE STORMWATER ENTERPRISE FUND IN THE AMOUNT OF \$15,258,000 FOR THE PURPOSE OF CLOSING THE FUND AND TRANSFERRING THE REMAINING ASSETS TO THE GENERAL FUND" was introduced and read.

President Pro Tem Martin requested clarification information on this item.

Kara Skinner, Chief Financial Officer, stated that this is a 2012 year supplemental appropriation transaction to account for the General Fund taking over the former Stormwater Enterprise responsibilities, and is a housekeeping transaction and not any transfer of cash, but rather transfers of infrastructure assets from capital improvements generated by the Enterprise, and as it is an asset transfer, there is no applicable TABOR cap.

Doug Bruce stated that he believes that this transaction is in violation of Ballot Issue 300 as passed by the voters in November of 2009, is a gift, and that those assets should be sold off and refunded to the taxpayers.

City Attorney/Chief Legal Officer Melcher stated that this item has been reviewed and was determined to not be a gift, but as the Enterprise is being dissolved, the obligations of managing stormwater by the City remains, that the transfer of assets is an in-kind transfer in return for the obligations of the former Enterprise, all assets will be utilized for stormwater management, and does not violate the Charter or Ballot Issue 300.

Paul Kleinschmidt requested to know if part of the assets being discussed today includes the original purchase of equipment for the Stormwater Enterprise.

President Hente requested that the Council be provided an itemized asset list included in this item.

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Ms. Skinner stated that the Stormwater Enterprise fund remains in existence due to various referenced code provisions, has no revenue or source of funds, and these assets could also remain in the fund, however a clear accounting of assets utilized in the management of Stormwater in the General Fund should be made.

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

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

President Hente declared the motion unanimously carried.

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**Item No. 8 was taken out of order for consideration.**

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**8. Proposed modifications to the Civilian Personnel Policies and Procedures Manual.**

Mike Sullivan, Human Resources Director, recommended changes to employee Civilian Policy #37, Standard of Conduct and #38, Workplace Harassment and Violence. Mr. Sullivan stated that these changes are related to allowing employees to carry a concealed firearm in the workplace, except in Colorado Springs Police Department facilities, so long as the employee is in compliance with carry permit requirements and state and local laws, and that this policy also follows existing El Paso County policy.

Motion by Dougan, second by Bennett, to approve the requested changes to the Civilian Personnel Policies and Procedures Manual.

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

President Hente declared the motion carried on a 7-2 vote.

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**Councilmember Czelatdko was excused.**

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**UTILITIES BUSINESS**

7. Ordinance No. 13-10 entitled: "AN ORDINANCE AMENDING PART 13 (WATER SHORTAGE) OF ARTICLE 4 (WATER CODE) OF CHAPTER 12 (UTILITIES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO WATER SHORTAGE" was introduced and read.

Ann Seymour, CSU Water Conservation Manager, proposed this ordinance as an amendment to the 2002 Water Shortage Ordinance to address the ongoing drought situation and to achieve demand reductions in order to not go below the one year water storage goal, and that these changes give the Council more flexibility in declaring future Stage shortages as well as flexibility in assessing fines and penalties.

Paul Kleinschmidt spoke in support of the ordinance and requested that Code Enforcement Officers be used to enforce stage restrictions.

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

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

President Hente declared the motion carried.

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**Councilmember Czelatdko returned.**

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**NEW BUSINESS**

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

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9. Resolution No. 19-13 was presented: "A RESOLUTION RESCINDING RESOLUTION 191-09 AND ESTABLISHING THE DEVELOPMENT APPLICATION FEES AND CHARGES FOR THE LAND USE REVIEW DIVISION OF THE PLANNING AND DEVELOPMENT DEPARTMENT."

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

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Peter Wysocki, Planning and Development Director, stated that this ordinance essentially reduces some first step types of application fees by approximately 50%, that these are Land Use fees only and Development Review Enterprise fees will be reviewed in the future, that there is no anticipation of staff reductions as a result of the fee reductions, but reflect an alignment of pricing to actual staff hours currently being spent on the application reviews, and that the projected revenue reduction will be approximately \$200,000 annually.

President Pro Tem Martin stated that she believes that department will eventually suffer from reduced fees with the already lower fees and staffing as compared to other jurisdictions of similar size.

Mark Slaugh spoke about concerns regarding underfunding a department when these cuts are enacted.

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

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

President Pro Tem Martin declared the motion carried on a 7-1 vote.

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**President Hente returned.**

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10. Resolution No. 20-13 was presented: "A RESOLUTION APPROVING AN AMENDED BUDGET FOR 2013 FOR THE EL PASO COUNTY EMERGENCY SERVICES AGENCY."

Eileen Gonzales, Business Administrator for the El Paso County Emergency Services Agency, presented the request for the amended 2013 budget approval which the IGA requires be adopted by both the Board County Commissioners and City Council, that these funds are already in a reserve fund and this transfer would accommodate possible future expenditure.

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

President Hente declared the motion carried unanimously.

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**Item Nos. 11 and 12 were considered together.**

11. An ordinance amending Section 206 (Possession of Cannabis) of Part 2 (Other Dangerous Weapons and Substances) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to possession of marijuana, and providing penalties for the violation thereof.
12. An ordinance creating new sections 207 (Consumption of Marijuana in Public Prohibited) and 208 (Consumption of Marijuana in Vehicles Prohibited) of Part 2 (Other Dangerous Weapons and Substances) of Article 7 (Dangerous Weapons and Substances) of Chapter 9 (Public Offenses) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the consumption of marijuana in public, and providing penalties for the violation thereof.

Laura Neumann, Chief of Staff, requested that these items be postponed to the Council Meeting of March 12, 2013.

Mark Slauch spoke on the need to be clear on these issues and requested to be a part of the discussion on these efforts.

Councilmember Williams requested to get a presentation from the City Attorney on Amendment 64 and these related ordinance changes at the next informal meeting.

Motion by Bennett, second by Herpin, that Item Nos. 11 and 12 be postponed to the Council Meeting of March 12, 2013.

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

President Hente declared the motion carried unanimously.

**PUBLIC HEARINGS**

**Item Nos. 13A through 13D were considered together.**

13. **Park Vista Addition No. 4**
  - 13A. **CPC A 12-00013: Public hearing on a request by CTR Engineering, Inc. on behalf of Twin Birch, LLC for annexation of the area known as Park Vista Addition No. 4 consisting of 0.57 acre located on the north side of the intersection of Hamlet Road and Siferd Boulevard.**
  - 13B. Resolution No. 21-13 was presented: "A RESOLUTION SETTING FORTH FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED THEREON AND DETERMINING THE STATUS OF THE TERRITORY KNOWN AS PARK VISTA ADDITION NO. 4 ANNEXATION."

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13C. Ordinance No. 13-11 entitled: "AN ORDINANCE ANNEXING TO THE CITY OF COLORADO SPRINGS THAT AREA KNOWN AS PARK VISTA ADDITION NO. 4" was introduced and read.

13D. **CPC ZC 12-00083: Public hearing on a request by CTR Engineering, Inc. on behalf of Twin Birch, LLC for the establishment of the R-5/CR (Multi-Family Residential with Condition of Record) zone consisting of 0.57 acre located on the north side of the intersection of Hamlet Road and Siferd Boulevard.**

Ordinance No. 13-12 entitled: "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 0.57 ACRE LOCATED ON THE NORTH SIDE OF THE INTERSECTION OF HAMLET ROAD AND SIFERD BOULEVARD " was introduced and read.

Steve Tuck, Land Use Review Senior Planner, stated that this is a routine annexation of the Park Vista Addition, comprising of approximately 0.57 acres.

President Hente declared the public hearing closed.

Motion by Herpin, second by Martin, that Council approve the Park Vista Addition No. 4 annexation and the establishment of the R-5/CR zone, based on the finding that they comply with the review criteria in City Code Sections 7.6-203 and 7.5.603(B), that the resolution be adopted as presented, and that the ordinances passed as introduced.

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

President Hente declared the motion carried unanimously.

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14. **CPC MP 12-00094: Public hearing on an appeal by Rawles Open Space Neighborhood of the denial by the Planning Commission to authorize the submittal of a land use master plan for the Rawles Open Space Neighborhood generally located on both sides of Mesa Road, south of 19<sup>th</sup> Street and north of Terrace Road, which includes 38 properties with 34 different owners consisting of approximately 85.4 acres.**

Steve Tuck, Land Use Review Senior Planner, stated that neighborhood group asked for authorization to submit a land use master plan for the Rawles Open Space Neighborhood, was heard by the Planning Commission and was denied, and this item is to hear the appeal of that decision of denial. Mr. Tuck stated that the staff recommendation remains to ultimately approve the submission and get it in the review process.

Janet Suthers, Chairperson of the Planning Commission, stated that the majority of the Commission chose to take a different decision than the planning staff because they felt the applicant had not presented sufficient due diligence with respect to all of the owners in the affected area, and more property owners had objected as time went on, and that if the

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applicant had presented 2/3 or more of the owners in agreement, the Planning Commission probably would have voted differently. Ms. Suthers stated that at the second hearing before the Planning Commission, there was opposition present which also indicated concerns with the master plan submittal process and who was eligible to speak for the neighborhood.

Don Magill, Planning Commission Member, stated he was the member to make the motion for denial, and found the request to have a master plan on an existing neighborhood unusual and since several lots are unimproved and would be the only owners affected by the plan and the applicant was not speaking on behalf of all of the owners, the property rights of those owners would be burdened over the majority who would be unaffected by the master plan.

Peter Wysocki, Planning and Development Director, stated that the Code does not dictate what percentage of consent is required to submit a master plan nor specifies criteria for acceptance of a master plan submittal, and the lack of those parameters resulted in the recommendation by staff to approve the submittal request.

James Kin, appellant/applicant representative, stated that the application of the Rawles Open Space Neighborhood organization for a master plan does meet the definitions of the Code, and that they presented their request with no opposition during the first Planning Commission hearing on 12/20/2012 and they were then asked to present additional information not required in the code. Mr. Kin stated that there is no master plan at this point, which would require the vetting and public process, that the discussion today should be about the submittal of a plan and not the merits of a plan that will go through that process, and that 26 property owners representing 72% of the property owners have given their approval of the neighborhood organization to submit a master plan, with only 2 owners expressing consistent opposition of the submittal. Mr. Kin stated that in previous Planning Commission and Council hearings, the Rawles Open Space Neighborhood organization has been acknowledged as a representative of the neighborhood and has standing as an entity requesting authorization to submit a master plan.

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**Councilmember Czelatdko was excused.**

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Tad Foster, Bruce Warren, George Mentz, Jean Armstrong Jones, and Karen Flitton, all spoke in favor of the submittal of the master plan that could describe what the neighborhood envisions for the area, which is comprised of generally long term residents on large lots with unique topography, keep the area's character consistent with the values of the existing residents and the open space, have articulated standards compatible with the characteristics of the neighborhood, that a smaller neighborhood organization within a larger general neighborhood association could address issues specific to that area that may not be applicable to the entire association, and that this effort is consistent with the current governing plans of the City and the various area master plans.

Julie Collins, Mary Twombly, Carolyn Cathey, Susan Madjar, and Ben Syler all spoke in opposition to the submittal of the master plan, that the Rawles Open Space Neighborhood

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organization does not speak for all residents of the neighborhood, that 1986 covenants already address the concerns of several of the lots and could be excluded from a more restrictive master plan, that those who purchased property under given circumstances but have not yet built on their property, could be subjected to having the rules changed on them solely while there would not be reciprocal impact to those existing properties that would be grandfathered and exempt to the changes, and could render properties unbuildable, and that owners should not be forced to be a part of an association that is not part of agreements when the properties were purchased.

Mr. Kin stated that the goal of submitting this master plan is to encourage development that is harmonious with the existing unique characteristics of the area and to define what that is, and could be the basis for analyzing compatibility of future sub-division requests, that the draft master plan that was circulated was only intended to start the conversation with the neighborhood and not necessarily be completely representative of ultimately submitted plan. Mr. Kin stated that the organization is an informal entity that followed a fairly natural process with adherence to code provisions for submitting a master plan, and that the details or negotiations of the content of that plan are not relevant to the decision currently before the Council.

Motion by Williams, second by Dougan to deny the appeal and uphold the decision of the Planning Commission.

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

President Hente declared the motion failed.

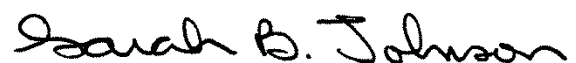
Motion by Bennett, second by Martin to grant the appeal and authorize the submittal of a land use master plan for the Rawles Open Space Neighborhood, based on finding the request complies with the review criteria in City Code Section 7.5.405.

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

President Hente declared the motion carried by a 5-3 vote.

At 6:52 P.M., there being no further business to come before City Council,

COUNCIL ADJOURNED



Sarah B. Johnson  
City Clerk