COLORADO SPRINGS, COLORADO CITY COUNCIL CHAMBERS CITY HALL – 107 N. NEVADA AVENUE JANUARY 28, 2014 – 1:00 P.M.

Council met in Regular Session.

There were present: President King, President Pro Tem Bennett, Councilmembers Collins, Gaebler, Knight, Martin, Miller, Pico, and Snider. Also present, Chief of Staff Neumann and Interim City Attorney Massey.

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1. Call to Order.

City Clerk Johnson called the roll. All Councilmembers were present.

2. <u>Invocation and Pledge of Allegiance.</u>

The meeting was opened with an invocation by Pastor Jim Etheridge, Calvary Chapel Eastside. President King led in the Pledge of Allegiance.

3. Changes to Agenda/Postponements.

There were three changes requested:

- A. Items 18A, 18B regarding Flying Horse be moved up to follow Item 5, Consent Calendar.
 - Motion by Bennett, second by Gaebler, that the request be approved. The motion carried unanimously.
- B. Item 19, Added Agenda, be presented after Item 9, Utilities Business.
 - Motion by Bennett, second by Gaebler, that the request be approved. The motion carried unanimously.
- C. Postpone Agenda Item 16, "An Ordinance pertaining to possession of marijuana at indoor facilities and providing penalties thereof."

Motion by Bennett, second by Martin, that the item be postponed for introduction at the Work Session on February 11th, and first presentation at the Regular Meeting on February 12th. The motion carried unanimously.

4. <u>Councilmember Comments.</u>

A. Councilmember Collins spoke regarding the *City for Champions* project and encouraged a detailed review of tax increment financing.

- B. Councilmember Gaebler confirmed that the designated smoking areas in parks item, as requested by Councilmember Knight, is scheduled to be brought forward in February.
- C. Council President King expressed appreciation for Laura Neumann's work as Chief-of-Staff and expressed regret to learn of her resignation effective March 31st.

CONSENT CALENDAR

5. The following items were acted upon by unanimous consent of the members present, with the exception of Items B-2, B-4, and B-5 which were called up for separate consideration:

SECOND PRESENTATION:

- A-1. CPC ZC 13-00120: (Quasi-Judicial Matter) Ordinance No. 14-1 entitled: "An Ordinance amending the zoning map of the City of Colorado Springs relating to 5.76 acres located east of Mark Dabling Boulevard and north of Fillmore Street, from M-1/SS (Light Industrial with Streamside Overlay) to PF/SS (Public Facility with Streamside Overlay)" was presented for final passage.
- A-2. CPC PUZ 13-00098: (Quasi-Judicial Matter) Ordinance No. 14-2 entitled: "An Ordinance amending the zoning map of the City of Colorado Springs relating to 15.4 acres located northwest of the Woodmen Road and Austin Bluffs Parkway intersection, from A/AO/SS (Agricultural with Airport and Streamside Overlays) to PUD/AO/SS (Planned Unit Development with Airport and Streamside Overlays)" was presented for final passage.

FIRST PRESENTATION:

- B-1. Approval of the Minutes of the regular Council Meeting of January 14, 2014, and the Special Called Session of January 13, postponed to January 14, 2014.
- B-2. See action taken later in the meeting.
- B-3. Resolution No. 3-14 was presented: "A resolution approving an agreement to annex and to provide water and wastewater service outside the city limits to 5380 Topaz Drive in Park Vista Estates Addition."
- B-4. See action taken later in the meeting.
- B-5. See action taken later in the meeting.

Motion by Bennett, second by Gaebler, that all matters on the Consent Calendar with the exception of Items B-2, B-4, and B-5, be passed, adopted, and approved by unanimous consent of the members present.

Ayes: Bennett, Collins, Gaebler, King, Knight, Martin, Miller, Pico, Snider

Noes: None Absent: None

The motion passed unanimously on a 9-0 vote.

18. Flying Horse Parcel Number 21 Convenience Store

- 18A. CPC CP 12-00085-A1MN13: (Quasi-Judicial Matter) Public hearing on an appeal by Flying Horse residents regarding the Planning Commission action of December 19, 2013 approving the Flying Horse Parcel No. 21 concept plan amendment that will add a right-in, right-out access to the site from North Gate Boulevard. The property is located at the northeast corner of Roller Coaster Road and North Gate Boulevard.
- 18B. CPC DP 13-00118: (Quasi-Judicial Matter) Public hearing on an appeal by Flying Horse residents regarding the Planning Commission action of December 19, 2013 approving the Flying Horse Convenience development plan that illustrates a 3,119 square-foot convenience store with a gas canopy, six gas islands and associated store parking. The property is located at the northeast corner of Roller Coaster Road and North Gate Boulevard.

Motion by Bennett, second by Snider, to approve a request by the appellants that the Public Hearing be moved to February 11, 2014.

Ayes: Bennett, Collins, Gaebler, King, Knight, Martin, Miller, Pico, Snider

Noes: None Absent: None

The motion passed unanimously on a 9-0 vote.

6. Recognitions.

Councilmember Bennett read the Bronco Spirit Super Bowl XLVIII Weekend Proclamation for February 1-2, 2014. Motion by Bennett, second by Pico, that the Proclamation be approved. The motion carried unanimously.

7. Citizen Discussion.

Doug Price, President & CEO of the Colorado Springs Convention & Visitor's Bureau ("CVB"), stated he had been working with the City Attorneys' Office and the LART committee on preparing the performance measures Council had requested; and, further that the CVB Board had approved a non-voting seat on the Board be offered to a City Councilmember. A 2014 Visitor's Guide was distributed to each Councilmember.

Charles Barber and William Murray spoke against the City for Champions project.

Justine Herring spoke about the Mayor's most recent media briefing.

Bob Loevy spoke on the need to lower signature requirements for local improvement districts.

Michael Chaussee provided information describing a need for a fence, or barrier, to block an unimproved City right-of-way that attracts transient and illegal activities.

Anita Miller spoke on topics discussed at the recent Urban Renewal Authority meeting.

Beverly Wenger provided information in opposition to the proposed 7/11 convenience store to be located in the Flying Horse subdivision. After Ms. Wenger's statement, Ms. Massey reminded Council that they are not to consider Ms. Wenger's comments during their deliberations when and if the matter comes back to Council as a Quasi-Judicial hearing.

8. Mayor's Business.

Aimee Cox, Senior Economic Vitality Specialist, described the Mayor's Homeless Initiative Media Briefing scheduled for Wednesday, January 29th. She stated she was readily available to answer questions and personally provide information to Councilmembers at their convenience since they will be unable to attend the briefing due to their scheduled retreat on the same date.

ITEMS CALLED OFF CONSENT CALENDAR

B-2. Resolution No. 4-14 was presented: "A Resolution approving and authorizing eleven (11) intergovernmental agreements between the City of Colorado Springs and the Colorado Department of Transportation for roadway and bridge project funding."

Councilmembers engaged in active discussion on each side of the subject. Some expressed concerns relative to preserving Council's authority to modify and approve changes while others expressed concern Council is attempting to micromanage staff and delve into areas past their legislative, policy making authority.

Motion by Gaebler, second by Bennett, that the Resolution be adopted.

Ayes: Bennett, Gaebler, King, Martin, Pico, Snider

Noes: Collins, Knight, Miller

Absent: None

The motion passed on a 6-3 vote.

B-4. CPC CA 13-00119: Ordinance No. 14-8 entitled: "An ordinance amending Sections 103 (Permitted, Conditional and Accessory Uses) and 105 (Additional Standards for Specific Uses Allowed in Residential Zones) of Part 1 (Residential Districts) and Section 705 (Mixed Use Permitted, Conditional and Accessory Uses) of Part 7 (Mixed Use Zone Districts) of Article 3 (Land Use Zoning Districts) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to human service establishments" was introduced and read.

Peter Wysocki, Planning and Development Director, addressed Councilmember Miller's questions and concerns relative to a specific site. Mr. Wysocki stated that the Planning Department and the City Attorneys' office are currently looking closely at how our City Code relates to some of the protected classes and reviewing Federal Regulations that limit the City's authority. Councilmember Miller asked that Council be updated on the results of their review.

Motion by Bennett, second by Gaebler, that the Ordinance be passed as introduced.

Ayes: Bennett, Gaebler, King, Knight, Martin, Miller, Pico, Snider

Noes: Collins Absent: None

The motion passed on an 8-1 vote.

B-5 **Joseph's Restaurant**

- B-5A. CPC ZC 13-00085: (Quasi-Judicial Matter) Ordinance No. 14-9 entitled: "An Ordinance amending the zoning map of the City of Colorado Springs relating to .48 acres from R-1 6000 (Single-family Residential) and C-5 (Intermediate Business) to C-5/cr (Intermediate Business with conditions of record) located Southeast of South 8th Street and Yucca Drive" was introduced and read.
- B-5B. CPC DP 13-00086: (Quasi-Judicial Matter) Request by NES, Inc. on behalf of Chuck Murphy for a development plan for a 3,500 square-foot restaurant on .48 acres located at the southeast corner of South 8th Street and Yucca Drive.
- B-5C. CPC NV 13-00087: (Quasi-Judicial Matter) Request by NES, Inc. on behalf of Chuck Murphy for three (3) non-use variance requests: 1) A front yard variance along South 8th Street to allow a 10-foot setback where 20 feet is required; 2) A front yard variance along Yucca Drive to allow a 10-foot setback where 20 feet is required; and 3) A parking variance to allow 31 parking stalls where 39 are required. The property is located at the southeast corner of 8th Street and Yucca Drive.

Mike Schultz, Planner with Land Use Review, explained the background for the request and the "cross parking agreement" arranged between the subject property and the neighboring church. He stated that all three items presented apply to the one project.

Motion by Gaebler, second by Bennett, to approve Items B-5A, B, and C.

Ayes: Bennett, Collins, Gaebler, King, Knight, Martin, Pico, Snider

Noes: Miller Absent: None

The motion passed on an 8-1 vote.

UTILITIES BUSINESS

 Resolution No. 5-14 was presented: "A Resolution appointing members of the Board of Directors of Public Authority for Colorado Energy ("PACE") for staggered terms effective December 15, 2013."

Bruce McCormick, CSU's Chief Energy Services Officer, described the request to reappoint Bill Cherrier as the Secretary Treasurer to the PACE Board of Directors.

Motion by Bennett, second by Gaebler, that the Resolution be adopted.

Ayes: Bennett, Collins, Gaebler, King, Knight, Martin, Miller, Pico, Snider

Noes: None Absent: None

The motion passed unanimously on a 9-0 vote.

19. Added Item Agenda

Ordinance No. 14-10 entitled: "An Ordinance approving a Supplemental Appropriation for Colorado Springs Utilities for the sole purpose of purchasing Corporate Memberships by Colorado Springs Utilities for the year ending December 31, 2014" was introduced and read.

Sherri Newell Wilkerson, CSU's Chief Strategy & External Affairs Officer, described the background to support the Supplemental Appropriation request.

Councilmember Gaebler requested an amendment to the appropriation to include the Downtown Partnership in the amount of an additional \$15,000.

Motion by Gaebler, second by Martin, that the Ordinance be approved on first reading with amended language to include an additional \$15,000 for the benefit of the Downtown Partnership.

Ayes: Bennett, Gaebler, King, Martin, Snider

Noes: Collins, Knight, Miller, Pico

Absent: None

The motion passed on a 5-4 vote.

UNFINISHED BUSINESS

10. Ordinance No. 13-81 entitled "An Ordinance amending Ordinance No. 03-204 pertaining to the appointment of Utilities Policy Advisory Committee Members" was presented for final passage.

Ms. Wilkerson explained the purpose of the Ordinance is to have the Utilities Board be the sole approver of the appointees to the Utilities Policy Advisory Committee ("UPAC"). A modification was made after the first reading to ensure consistency with the bylaws of the committee. Today is the third reading of the ordinance that includes the previously approved modified language.

Motion by Bennett, second by Pico, that the Ordinance be finally passed.

Ayes: Bennett, Collins, Gaebler, King, Martin, Miller, Pico, Snider

Noes: Knight Absent: None

The motion passed on an 8-1 vote.

11. Ordinance No. 14-3 entitled: "An Ordinance including certain property into the boundaries of the Barnes & Powers South Business Improvement District" was presented for final passage.

Motion by Bennett, second by Pico, that the Ordinance be finally passed.

Ayes: Bennett, Gaebler, King, Knight, Martin, Pico, Snider

Noes: Collins, Miller

Absent: None

The motion passed on a 7-2 vote.

12. Ordinance No. 14-4 entitled: "An Ordinance excluding certain property from the boundaries of the Barnes & Powers North Business Improvement District" was presented for final passage.

Motion by Bennett, second by Pico, that the Ordinance be finally passed.

Ayes: Bennett, Gaebler, King, Knight, Martin, Pico, Snider

Noes: Collins, Miller

Absent: None

The motion passed on a 7-2 vote.

13. **Process For Mayoral Appointees**

13A. Ordinance No. 14-5 entitled: "An Ordinance amending Section 201 (Appointees) of Part 2 (Appointive Officers, General Provisions) of Article 2 (Officers of the City) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the confirmation process for Mayoral Appointees" was presented for final passage.

Councilmembers Knight and Pico explained the rationale for the work performed to produce the two ordinances and one resolution relative to the Mayoral Appointee process.

Michael Sullivan, HR Director, described various issues and concerns, as well as conveying the Executive Branch's opposition relative to the Ordinances and Resolutions presented for passage.

Motion by Knight, second by Pico, that the Ordinance be finally passed.

Ayes: Gaebler, King, Knight, Miller, Pico Noes: Bennett, Collins, Martin, Snider

Absent: None

The motion passed on a 5-4 vote.

13B. Ordinance No. 14-6 entitled: "An Ordinance" amending Section 303 (Appoint to Acting Capacity) of Part 3 (Powers and Duties of the Mayor) of Article 2 (Officers of the City) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended, pertaining to the confirmation process for Mayoral Appointees" was presented for final passage.

Motion by Knight, second by Pico, that the Ordinance be finally passed.

Ayes: Bennett, Gaebler, King, Knight, Miller, Pico

Noes: Collins, Martin, Snider

Absent: None

The motion passed on a 6-3 vote.

13C. A Resolution adopting an amendment to the "City of Colorado Springs Rules and Procedures of City Council" relating to General Procedures for confirmation of Mayoral Appointees.

Motion by Knight, second by Pico, that the Resolution be adopted.

After the motion, there was extensive discussion relative to the language included in the Resolution. Councilmember Knight agreed to withdraw his motion and table the item for two weeks to be brought back to a Work Session for discussion, with a vote scheduled at the Regular Session on February 11th.

Motion by Knight, second by Pico, that the Motion be withdrawn and the Resolution be postponed for two weeks.

Ayes: Bennett, Gaebler, King, Knight, Martin, Pico, Snider

Noes: Collins, Miller

Absent: None

The motion passed on a 7-2 vote.

14. CPC ZC 13-00107: (Quasi-Judicial Matter) Ordinance No. 14-7 entitled: "An Ordinance amending the zoning map of the City of Colorado Springs relating to 15.9 acres located northwest of Barnes Road and Powers Boulevard, from A/AO (Agricultural with Airport Overlay) to PBC/AO (Planned Business Center with Airport Overlay)" was presented for final passage.

Motion by Bennett, second by Gaebler, that the Ordinance be finally passed.

Ayes: Bennett, Gaebler, King, Knight, Martin, Snider

Noes: Collins, Miller, Pico

Absent: None

The motion passed on a 6-3 vote.

NEW BUSINESS

15. Resolution No. 6-14 was presented: "A Resolution reinstating limitations on judgments and rescinding portions of Resolution Nos. 82-89 and 6-99 pertaining to damage limitations set forth in the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq."

Motion by Gaebler, second by Snider, that the Resolution be adopted.

Ayes: Bennett, Gaebler, King, Knight, Martin, Pico, Snider

Noes: Collins, Miller

Absent: None

The motion passed on a 7-2 vote.

16. See action taken earlier in the meeting.

17. Cheyenne Run

17A. CPC PUZ 13-00092: (Quasi-Judicial Matter) Ordinance No. 14-11 entitled: "An Ordinance amending the zoniming map of the City of Colorado Springs relating to 2.45 acres from PUD (Planned Unit Development) to PUD (Planned Unit Development to establish the use of single-family residential at 8.16 dwelling units per acre and a maximum building height of 40 feet) located west of the intersection of South 8th Street and Yvette Heights" was introduced and read.

Peter Wysocki, Planning and Development Director, and Mike Schultz, Planner in Land Use Review provided background on the project and answered questions from Council.

- 17B. CPC SN 13-00093: (Quasi-Judicial Matter) Request by Boulder Heights LLC (Paul Stewart) for a street name change from Yvette Heights to Redemption Point located along South 8th Street.
- 17C. CPC PUD 13-00095: (Quasi-Judicial Matter) Request by Boulder Heights LLC (Paul Stewart) for the Cheyenne Run PUD Development Plan involving 20 Single-family lots on 2.45 acres (8.16 dwelling units per acre) with a maximum building height of 40 feet located west of the intersection of South 8th Street and Yvette Heights.

Motion by Bennett, second by Gaebler, that Items 7A, 7B, and 7C, be approved as introduced.

Ayes: Bennett, Gaebler, King, Martin, Pico, Snider

Noes: Collins, Knight, Miller

Absent: None

The motion passed on a 6-3 vote.

Councilmember Gaebler was excused.

20. Executive Session.

Ms. Massey read the request to enter into Closed Executive Session. President King polled the Council. Consensus of Council approved the Closed Executive Session.

At 4:55 p.m., there being no further business to come before City Council,

COUNCIL ADJOURNED

Isarah B. Johnson

Sarah B. Johnson

City Clerk