COLORADO SPRINGS, COLORADO
CITY COUNCIL CHAMBERS
CITY HALL - 107 N. NEVADA AVENUE
JULY 14, 2009 – 1:00 P.M.

Council met in Regular Session.

There were present: Mayor Rivera, Councilmembers Glenn, Heimlicher, Hente, Herpin, Martin, Purvis and Small. Absent, Councilmember Gallagher. Councilmember Gallagher arrived during the meeting. Also present, City Manager Culbreth-Graft and City Attorney/Chief Legal Advisor Kelly.

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

The meeting was opened with an invocation by Pastor David VanHeyningen, First Christian Church.

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Councilmember Gallagher arrived.

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2. **Changes to Agenda/Postponement.**

Councilmember Gallagher called up Item Nos. 3-B-2 and 3-B-4 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-2 and 3-B-4, which were acted upon separately:

SECOND PRESENTATION:

A-1. Ordinance No. 09-84 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 08-213 (2009 APPROPRIATION ORDINANCE) FOR THE SUPPORT SERVICES FUND IN THE TOTAL AMOUNT OF $185,934 FOR COMPLETION OF THE PPRCN WESTSIDE SITE PROJECT" was presented for final passage.

FIRST PRESENTATION:

B-1. Resolution No. 158-09 was presented: "A RESOLUTION TO ACCEPT A GRANT FROM THE STATE OF COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), IN THE AMOUNT OF $10,000 FOR THE LAW ENFORCEMENT ASSISTANCE FUND (LEAF) GRANT; AND, AUTHORIZING THE CHIEF OF POLICE TO EXECUTE VENDOR MASTER CONTRACT #2000015, PO# 21106536 FOR $10,000 TO INCREASE AND IMPROVE THE ENFORCEMENT OF THE LAWS PERTAINING TO ALCOHOL AND DRUG-RELATED TRAFFIC OFFENSES".

B-2. **SEE ACTION TAKEN LATER IN THE MEETING.**

B-3. Ordinance No. 09-87 entitled "AN ORDINANCE AMENDING ORDINANCE NO. 08-213 (2009 APPROPRIATION ORDINANCE) IN THE AMOUNT OF $719,024 FOR BOARDING BRIDGE CONTROL REPLACEMENTS AT THE COLORADO SPRINGS AIRPORT" was introduced and read.

B-4. **SEE ACTION TAKEN LATER IN THE MEETING.**

B-5. Resolution No. 159-09 was presented: "A RESOLUTION AUTHORIZING THE CITY OF COLORADO SPRINGS TO ENTER INTO A NON-BINDING LETTER OF INTENT WITH THE YMCA OF THE PIKES PEAK REGION, THE PIKES PEAK LIBRARY DISTRICT AND THE COLORADO SPRINGS FINE ARTS CENTER REGARDING FUTURE DEVELOPMENT OF THE CITY'S TUTT SPORTS COMPLEX".

B-6. Ordinance No. 09-88 entitled "AN ORDINANCE AMENDING SECTION 203 (PERMITTED, CONDITIONAL AND ACCESSORY USES) OF PART 2 (COMMERCIAL DISTRICTS) AND SECTIONS 803 (ESTABLISHMENT AND DEVELOPMENT OF AN FBZ ZONE AND RELATIONSHIP TO OTHER CITY REGULATIONS), 805 (FBZ REGULATING PLAN REQUIREMENTS), 806 (REVIEW CRITERIA FOR FBZ REGULATING PLANS) AND 809 (FBZ REGULATING PLAN AND DEVELOPMENT PLAN AMENDMENTS) OF PART 8 (FORM-BASED ZONING 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 HOUSEKEEPING CHANGES" was introduced and read.

B-7. **Milton E. Proby Project & Colony Hills Apartments Amendments**

B-7A. CPC ZC 09-00044: (Quasi-Judicial Matter) Ordinance No. 09-89 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 6.62 ACRES LOCATED NORTHEAST OF SOUTH ACADEMY BOULEVARD AND MILTON E. PROBY PARKWAY" was introduced and read. (R-5/AO and R-1-6000/AO to R-5/AO)

B-7B. **CPC NV 09-00045: (Quasi-Judicial Matter) Request by the City of Colorado Springs on behalf of Colony Hills Colorado Springs Apartments LLC for approval of non-use variances to the following sections of the Code of the City of Colorado Springs 2001, as amended: Section 7.3.104 – Front Yard Setback – to allow a 16.18 foot setback where 20 feet is required; Section 7.3.104 – Front Yard Setback – to allow a 16.11 foot setback where 20 feet is required; and Section 7.3.104 – Front Yard Setback – to allow a 5 foot setback where 20 feet is required. These variances are requested to allow an existing apartment complex and replacement covered parking to encroach into new setbacks due to new road construction. The site consists of 6.62 acres located northeast of South Academy Boulevard and Milton E. Proby Parkway.**

B-7C. CPC V 09-00046: Ordinance No. 09-90 entitled "AN ORDINANCE VACATING PUBLIC RIGHT-OF-WAY CONSISTING OF 0.15 ACRE LOCATED NORTHEAST OF SOUTH ACADEMY BOULEVARD AND MILTON E. PROBY PARKWAY" was introduced and read.

B-7D. **CPC DP 09-00048: (Quasi-Judicial Matter) Request by the City of Colorado Springs on behalf of Colony Hills Colorado Springs Apartments LLC for approval of the Colony Hills Apartments Development Plan consisting of 6.62 acres located northeast of South Academy Boulevard and Milton E. Proby Parkway.**

B-7E. **CPC FP 09-00047: (Quasi-Judicial Matter) Request by the City of Colorado Springs on behalf of Colony Hills Colorado Springs Apartments LLC for approval of the Speer Tech Development Filing No. 2 consisting of one (1) lot on 6.62 acres located northeast of South Academy Boulevard and Milton E. Proby Parkway.**

Motion by Hente, second by Purivs, that all matters on the Consent Calendar, with the exception of Item Nos. 3-B-2 and 3-B-4, which were acted upon separately, be passed, adopted and approved by unanimous consent of the City Council.

Ayes: Gallagher, Glenn, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small
Noes: None
Absent: None

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4. **Resolutions of Appreciation**

There were no resolutions.

CITIZEN DISCUSSION

Lisa Are' Wulf and Calvin Wulf encountered problems with exploding fireworks and rockets with embers falling on their roof and those of their neighbors, showed examples of the products obtained from their yard; can be devastating to homes and families; suggested working with El Paso County to eliminate sales.

Charles Barber expressed concerns about economic situation and lack of services.

Deb Kleinman and Whitney Calhoun requested City Council's participation in educating citizens regarding Green and High Performance buildings; recognized City's Green Team.

Ryan Acker, Pikes Peak Gay and Lesbian Community Center executive director, presented the Rainbow Pages 2009; introduced programs of the Pikes Peak Gay and Lesbian Community Center, thanked the Vice Mayor for support of PrideFest; invited the Mayor to participate in Pride Weddings that will occur on Sunday, July 19, 2009.

Eric Cefus, Catamount Institute executive director, spoke about conservation efforts of Catamount Institute.

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5. Motion by Herpin, second by Gallagher, that the Minutes of the Regular Council meeting of June 23, 2009 be approved as written. The motion unanimously carried.

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CONSIDERATION OF ITEMS CALLED UP FROM CONSENT CALENDAR SECTION

3-B-2. Resolution No. 160-09 was presented: "A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT CONCERNING THE EL PASO COUNTY EMERGENCY SERVICES AGENCY".

Motion by Gallagher to postpone the item.

The motion died for lack of a second.

Then, motion by Purvis, second by Small, that the resolution be adopted.

Ayes: Glenn, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small
Noes: Gallagher
Absent: None

Mayor Rivera declared the motion carried.

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3-B-4. Resolution No. 161-09 was presented: "A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF COLORADO SPRINGS (CITY) AND THE CITY OF MANITOU SPRINGS (MANITOU) FOR THE CONSTRUCTION OF A SEGMENT OF THE CREEKWALK TRAIL IN MANITOU SPRINGS".

Councilmember Gallagher stated he could not support expanding the Parks trail system.

Paul Butcher, Parks, Recreation and Cultural Services Director, stated the quarter-mile section will be reimbursed by the City of Manitou Springs.

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

Ayes: Glenn, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small
Noes: Gallagher
Absent: None

Mayor Rivera declared the motion carried.

UNFINISHED BUSINESS

6. Motion by Hente, second by Purvis, that Dennis Sharon be appointed to a term as a member of the Colorado Avenue Gateway Special Improvement Maintenance District Advisory Committee, said term expiring July 14, 2010. The motion unanimously carried.

Motion by Hente, second by Purvis, that Dr. Marilyn Gifford, Rick Martinez and Jim Reid, be re-appointed as members of the Emergency Services Agency (ESA), said terms expiring August 17, 2012, respectively. The motion unanimously carried.

Motion by Hente, second by Purvis, that Kathleen Fox Collins be appointed to a term as a member of the Lodgers and Automobile Rental Tax Advisory Committee (LART), said term expiring July 22, 2012. The motion unanimously carried.

Motion by Hente, second by Purvis, that Jim Shock and Mary Barber be appointed to terms as members of the Stormwater Advisory Committee, said terms expiring April 11, 2012, respectively. The motion unanimously carried.

Motion by Hente, second by Purvis, that Terri Carver (1st Alternate to Regular Voting) be appointed to a term as a member of the Utilities Policy Advisory Committee (UPAC), said term expiring October 1, 2012. The motion unanimously carried.

UTILITIES BUSINESS

7. Resolution No. 162-09 was presented: "A RESOLUTION REGARDING CERTAIN CHANGES TO COLORADO SPRINGS UTILITIES TARIFF ELECTRIC RATE SCHEDULES".

Jerry Forte, CSU Chief Executive Officer, introduced the item; partnership with the United States Air Force Academy (USAFA); solar switch to be operational April 19, 2011.

Stella Chan, CSU Financial Planning & Pricing Manager, stated the USAFA received $18.3 million of stimulus funding and CSU will design, install and operate the solar facility; requesting electric rate schedule modification; no adverse rate impact to other customers, tariff will recover the costs to provide this service.

John Romero, CSU Acquisition & Energy Planning General Manager, stated this project ties into the CSU system and USAFA receives all of the energy from this system.

Ken Burgess, Deputy City Attorney – Utilities Division, stated the tariff service is exclusively for one tariff customer.

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

Ayes: Gallagher, Glenn, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small
Noes: None
Absent: None

NEW BUSINESS

8. **Memorial Health System**

8A. Ordinance No. 09-85 entitled "AN EMERGENCY ORDINANCE OF THE CITY OF COLORADO SPRINGS RELATING TO MEMORIAL HEALTH SYSTEM; AUTHORIZING THE REFUNDING OF THE CITY OF COLORADO SPRINGS, COLORADO, HOSPITAL REVENUE BONDS, SERIES 2004D PREVIOUSLY ISSUED FOR MEMORIAL HEALTH SYSTEM; AUTHORIZING THE ISSUANCE OF THE CITY OF COLORADO SPRINGS, COLORADO COMPASS NOTE, SERIES 2009A; AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF AN EIGHTH SUPPLEMENTAL INDENTURE, A LOAN AGREEMENT, AN ESCROW AGREEMENT, INTEREST RATE EXCHANGE DOCUMENTS, SUCH NOTE AND CLOSING DOCUMENTS; RATIFYING ACTION HERETOFORE TAKEN

AND RELATING TO SUCH REFUNDING; PROVIDING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY" was introduced and read.

Mike Scialdone, Memorial Health System (MHS) Chief Financial Officer, summarized the item and answered questions.

Motion by Small, second by Gallagher, that the ordinance be introduced, read and finally passed, adopted and approved as an emergency ordinance.

Ayes: Gallagher, Glenn, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small
Noes: None
Absent: None

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Mayor Rivera was excused.
In the absence of Mayor Rivera, Vice Mayor Small presided over the meeting.

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8B. Ordinance No. 09-86 entitled "AN EMERGENCY ORDINANCE OF THE CITY OF COLORADO SPRINGS RELATING TO MEMORIAL HEALTH SYSTEM; AUTHORIZING THE ISSUANCE OF THE CITY OF COLORADO SPRINGS, COLORADO HOSPITAL REVENUE AND REFUNDING BONDS, SERIES 2009 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $115,000,000 TO REFUND BONDS PREVIOUSLY ISSUED FOR MEMORIAL HEALTH SYSTEM PAYABLE OUT OF THE NET REVENUES OF MEMORIAL HEALTH SYSTEM; AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF A NINTH SUPPLEMENTAL INDENTURE, AN ESCROW AGREEMENT, A BOND PURCHASE AGREEMENT, AN OFFICIAL STATEMENT, SUCH SERIES 2009 BONDS AND CLOSING DOCUMENTS; RATIFYING ACTION HERETOFORE TAKEN AND RELATING TO SUCH REFUNDING; PROVIDING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY" was introduced and read.

Mr. Scialdone gave a brief presentation and answered questions.

Motion by Hente, second by Herpin, that the ordinance be introduced, read and finally passed, adopted and approved as an emergency ordinance.

Ayes: Gallagher, Glenn, Heimlicher, Hente, Herpin, Martin, Purvis, Small
Noes: None
Absent: Rivera

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Mayor Rivera returned.

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9. **Copper Ridge at Northgate Center**

9A. **CPC MP 84-481-A19MJ09: Request by Northgate Properties LLC for approval of a major amendment to the Northgate Master Plan consisting of 192.34 acres located at the southwest corner of Voyager Parkway and Spectrum Loop.**

Larry Larsen, Senior Planner, gave a presentation; Master Plan amendment is from office/industrial to regional/commercial designation; multi-use project that will develop as a major commercial center to include retail extension, offices, restaurants, entertainment, hotel and other commercial uses and unspecified residential uses.

Gary Erickson, applicant, stated the Annexation agreement was to donate the land until 2018; looking for Park Meadows type tenants with outside life center overlooking the United States Air Force Academy (USAFA); USAFA supports the project.

Motion by Small, second by Hente, that the major amendment to the Northgate Master Plan consisting of 192.34 acres located at the southwest corner of Voyager Parkway and Spectrum Loop be approved finding that it meets the Master Plan review criteria established in City Code Section 7.5.408. The motion unanimously carried.

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9B. CPC PUZ 09-00016: (Quasi-Judicial Matter) Ordinance No. 09-91 entitled "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 192.34 ACRES LCOATED SOUTHWEST OF VOYAGER PARKWAY AND SPECTRUM LOOP" was introduced and read. (PIP-1 and OC/CR to PUD)

Motion by Small, second by Hente, that the ordinance be passed as introduced; finding that the change of zone meets the professional criteria established in City Code Section 7.5.603(b); action will not be detrimental to the interest, health, safety, convenience or general welfare and that the proposal is consistent with the goals and policies of the Comprehensive Plan.

Ayes: Gallagher, Glenn, Heimlicher, Hente, Herpin, Martin, Purvis, Rivera, Small
Noes: None
Absent: None

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9C. **CPC PUP 09-00017: (Quasi-Judicial Matter) Request by Northgate Properties LLC for approval of the Copper Ridge at Northgate PUD Concept Plan consisting of 192.34 acres located at the southwest corner of Voyager Parkway and Spectrum Loop.**

Motion by Small, second by Purvis, that the major amendment to the Copper Ridge at Northgate PUD Concept Plan consisting of 192.34 acres located at the southwest corner of Voyager Parkway and Spectrum Loop be approved; finding that the criteria established in City Code Section 7.3.606. The motion unanimously carried.

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Councilmember Martin was excused.

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PUBLIC HEARING

10. **Cathedral Ridge Development Plan**

10A. **CPC MPA 07-00308-A3MJ08: Public hearing on an appeal by Kyle Geditz on behalf of William Ball and Betty Sexton-Ball of the Planning Commission approval of a major amendment to the Garden of the Gods Club Master Plan consisting of 705 acres (46 acres being amended) located northwest of Fillmore Street and Mesa Road.**

Dick Anderwald, Land Use Review Manager, and James Mayerl, Senior Planner, gave a presentation; parties have reached an agreement and appeal has been withdrawn; requesting approval of the Master Plan.

Motion by Small, second by Hente, that the major amendment to the Garden of the Gods Club Master Plan consisting of 705 acres (46 acres being amended) located northwest of Fillmore Street and Mesa Road be approved; finding that it meets the criteria established in City Code Section 7.5.408. The motion unanimously carried. Absent, Councilmember Martin.

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10B. **CPC PUD 08-00113: (Quasi-Judicial Matter) Public hearing on an appeal by Kyle Geditz on behalf of William Ball and Betty Sexton-Ball of the Planning Commission approval of Cathedral Ridge at Garden of the Gods Club Filing Nos. 3, 4, 5 PUD Development Plan consisting of 37.30 acres located northwest of Fillmore Street and Mesa Road.**

Motion by Small, second by Hente, that the Cathedral Ridge at Garden of the Gods Club Filing Nos. 3, 4, 5 PUD Development Plan consisting of 37.30 acres located northwest of Fillmore Street and Mesa Road be approved; finding that it meets the criteria established for the Development Plan and is stipulated in the City Code. The motion unanimously carried. Absent, Councilmember Martin.

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At 2:18 P.M., motion by Herpin, second by Glenn, that Council adjourn. The motion unanimously carried, and

COUNCIL ADJOURNED

Kathryn M. Young

Kathryn M. Young, CMC, CERA
City Clerk