COLORADO SPRINGS, COLORADO CITY COUNCIL CHAMBERS CITY HALL – 107 N. NEVADA AVENUE APRIL 9, 2013 – 1:00 P.M.

Council met in Regular Session.

There were present: President Hente, President Pro Tem Martin, Councilmembers Bennett, Czelatdko, Dougan, Herpin, Leigh, Snider, and Williams. Also present, Chief of Staff Neumann, City Attorney/Chief Legal Officer Melcher, and Legislative Counsel Massey.

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

The meeting was opened with an invocation by Reverend Wes Mullins from the Metropolitan Community Church.

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2. Changes to Agenda/Postponements.

Council Administrator Aimee Cox stated she had received a request to postpone Items 13A & 13B for the Formal Public Hearing on the Flying Horse changes to the commercial zoning and concept plan.

Motion by Bennett, second by Herpin to postpone hearing of Items 13A & 13B until April 23rd.

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

Noes: None Absent: None

President Hente announced the motion carried unanimously on a 9-0-0 vote.

Ms. Cox then stated that there had been a request to add an Emergency Appropriation Ordinance for a supplemental appropriation to the General Fund in the amount of \$8 million for the purpose of settlement of certain transit litigation claims.

Motion by Herpin, second by Bennett to add the Emergency Appropriation Ordinance.

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

Noes: None Absent: None

President Hente announced the motion carried unanimously on a 9-0-0 vote.

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CONSENT CALENDAR

3. The following items were acted upon by unanimous consent of the members present:

SECOND PRESENTATION:

- A-1. Ordinance No. 13-20 entitled: "AN ORDINANCE AMENDING ORDINANCE NO. 12-108 (2013 APPROPRIATION ORDINANCE) FOR A SUPPLEMENTAL APPROPRIATION TO THE CAPITAL FUND IN THE AMOUNT OF \$115,000 FOR THE PURPOSE OF A TRAFFIC SIGNAL AT NORTHGATE AND MEADOWGRASS" was presented for final passage.
- A-2. CPC PUZ 13-00006 (Quasi-Judicial Matter) Ordinance No. 13-21 entitled: "AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF COLORADO SPRINGS RELATING TO 427 ACRES LOCATED EAST OF BANNING LEWIS RANCH VILLAGE ONE, ¼ MILE SOUTH OF WOODMEN ROAD AND NORTH OF THE FUTURE EXTENSION OF DUBLIN BOULEVARD" was presented for final passage. [PK and PUD/AO/SS (Public Park and Planned Unit Development with Airport and Streamside Overlays)] to [PK and PUD/AO/SS (Public Park and Planned Unit Development with Airport and Streamside Overlays: Single-family residential with a density of 3.5 to 7.99 dwelling units per acre with a maximum building height of 35 feet, multi-family residential with a density of 12-24.99 dwelling units per acre with a maximum building height of 50 feet, commercial, a school, a recreation center, community and neighborhood parks, open space trails and other non-residential uses per the approved Banning Lewis Ranch Village Two PUD Concept Plan)] was presented for final passage.
- A-3. Ordinance No. 13-22 entitled: "AN ORDINANCE AMENDING SECTION 111 (SOLICITATION PROHIBITED) OF ARTICLE 2 (OFFENSES AFFECTING PUBLIC SAFETY) OF CHAPTER 9 (PUBLIC OFFENSES) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO SOLICITATION" was presented for final passage.

FIRST PRESENTATION:

- B-1. Resolution No. 33-13 was presented: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS, COLORADO APPROVING THE ISSUANCE OF TAX-EXEMPT BONDS BY THE BANNING LEWIS RANCH METROPOLITAN DISTRICT NO. 2."
- B-2. Appointments to various Boards and Commissions.

Motion by Herpin, second by Martin, that all matters on the Consent Calendar be passed, adopted, and approved by unanimous consent of the members present.

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

Noes: None Absent: None

President Hente declared the motion carried unanimously on a 9-0-0 vote.

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4. Resolutions of Appreciation and Citizen Discussion.

A Proclamation for National Work Zone Awareness Week April 15-19, 2013, was presented.

Motion by Williams, second by Martin, to approve the Proclamation for National Work Zone Awareness Week April 15-19, 2013. Motion carried unanimously.

Councilmember Williams presented the Proclamation to City Engineer/Public Works Director Helen Migchelbrink.

Resolution 34-13 was presented: "A RESOLUTION OF APPRECIATION FOR LISA CZELATDKO FOR HER DEDICATED SERVICE TO THE COLORADO SPRINGS CITY COUNCIL AND TO THE CITIZENS OF COLROADO SPRINGS AND THE PIKES PEAK REGION."

Motion by Martin, second by Williams, that the Resolution of Appreciation for Lisa Czelatdko be approved. The motion carried unanimously.

Resolution 35-13 was presented: "A RESOLUTION OF APPRECIATION FOR ANGELA DOUGAN FOR HER DEDICATED SERVICE TO THE CITIZENS OF COLORADO SPRINGS AND THE PIKES PEAK REGION."

Motion by Martin, second by Snider, that the Resolution of Appreciation for Angela Dougan be approved. The motion carried unanimously.

Resolution 36-13 was presented: "A RESOLUTION OF APPRECIATION FOR TIM LEIGH FOR HIS DEDICATED SERVICE TO THE CITIZENS OF COLORADO SPRINGS AND THE PIKES PEAK REGION."

Motion by Martin, second by Czelatdko, that the Resolution of Appreciation for Tim Leigh be approved. The motion carried unanimously.

Resolution 37-13 was presented: "A RESOLUTION OF APPRECIATION FOR BRANDY WILLIAMS FOR HER DEDICATED SERVICE TO THE COLORADO SPRINGS CITY COUNCIL AND TO THE CITIZENS OF COLORADO SPRINGS AND THE PIKES PEAK REGION."

Motion by Martin, second by Snider, that the Resolution of Appreciation for Brandy Williams be approved. The motion carried unanimously.

Resolution 38-13 was presented: "A RESOLUTION OF APPRECIATION FOR BERNIE HERPIN FOR HIS DEDICATED SERVICE TO THE COLORADO SPRINGS CITY COUNCIL AND TO THE CITIZENS OF COLORADO SPRINGS AND THE PIKES PEAK REGION."

Motion by Martin, second by Bennett, that the Resolution of Appreciation for Bernie Herpin be approved. The motion carried unanimously.

Resolution 39-13 was presented: "A RESOLUTION OF APPRECIATION FOR SCOTT HENTE FOR HIS TEN YEARS OF DEDICATED SERVICE TO THE COLORADO SPRINGS CITY COUNCIL AND TO THE CITIZENS OF COLORADO SPRINGS AND THE PIKES PEAK REGION."

Motion by Herpin, second by Czelatdko, that the Resolution of Appreciation for Scott Hente be approved. The motion carried unanimously.

President Hente then presented Matt Mayberry of the Colorado Pioneer Museum with a framed Act of Congress on the Manitou Incline and a No Trespassing sign that was on the Manitou Incline; as well as, the flag that flew over the Hente home and survived the Waldo Canyon fire.

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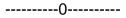
CITIZEN DISCUSSION

- John Nuwer thanked City Councilmembers and their families for serving our city.
- Charles Barber spoke to complete stormwater mitigation Phase 5. President Hente asked Mr. Barber to give his contact information to Ms. Cox because they are not familiar with the project he references.
- Mike Finnicum spoke about concerns with the new water tariff.
- Mary Gallvin and Bonnie Lapora spoke on the upcoming anti-panhandling campaign.
- Welling Clark spoke on the West Colorado Avenue Task Force and its successes.
- Lorena Townsend thanked Councilmembers for their service and for letting citizens speak at the meetings.

5. **Approval of Minutes.**

There were no changes.

Motion by Herpin, second by Martin, that the Minutes of the regular Council Meeting of March 26, 2013, be approved as written. The motion unanimously carried.



6. <u>Mayor's Communications.</u>

On behalf of Mayor Steve Bach, Chief of Staff Laura Neumann expressed the Mayor's regrets for not being present at the meeting due to a scheduling conflict. She delivered his message of great appreciation to the out-going Councilmembers while acknowledging their multiple

accomplishments during the past two years. Ms. Neumann also thanked Councilmembers for their service on behalf of all city employees.

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UTILITIES BUSINESS

7. Resolution No. 40-13 was presented: "A RESOLUTION REGARDING CERTAIN CHANGES TO THE COLORADO SPRINGS UTILITIES ELECTRIC RATE SCHEDULES TO EXPAND THE COMMUNITY SOLAR GARDEN BILL CREDIT PROGRAM."

Utilities Division City Attorney Chris Bidlack overviewed the formal instructions for the process of setting rates. He then suggested that City Council move to suspend Part 4.1(c) of the Rules of City Council Post Hearing Procedures for this rate hearing to dispense for the need for a decision in order to allow council to immediately consider the tariff proposal and revision at the conclusion of this public hearing for a May 1st implementation.

Motion by Herpin, second by Martin, to suspend Part 4.1(c) of the Rules of Procedure. The motion passed on a 6-3 voice vote.

Attorney Bidlack asked if Councilmembers have received any *ex parte* communications, please so state at this time so that they may be documented for the record.

Councilmembers concurred that, although they may have received e-mails on either side of the issue, they have not addressed specifics of the tariff in any way.

John Romero, Utilities General Manager of Energy Acquisition, Engineering, and Planning provided background of the Solar Garden program, the blended rate program costs, a summary of Council recommendations provided on February 20th, and an overview of the motion that has been brought forward today.

City Auditor, Denny Nester provided an overview of his review of the Cost of Service study. He described the net present value computation, use of the blended rate as it may impact different customers, and stated that although the results of his audit published in February were not included in the tariff, he was assured they would be included in the rate making.

CITIZEN COMMENT:

Those who spoke in general support of the tariff included:

 Jim Hartman, Phil Brodhagen, Sam Massias, Steve Casmarich, Caryn Gados, David Amstel Shfesky & Sarah Wood of SunShare, Peg Cole, Liz Lilly.

Those who spoke against the tariff included:

• Dick Standaert, Dan Malinatric, of Atmel, and Kanda Calef of Colorado Springs Citizens for Affordable Energy.

Councilmember Dougan departed.

 Will Evans, Chris Baum, Jim Bensberg, Lotus, owner of Rocky Mountain Solar and Wind, and Amy Mitchell.

Councilmember Dougan returned.

Joel Miller spoke against the tariff.

Council questions included:

Councilmember Leigh asked about the financial impact to local businesses and large employers.

Councilmember Bennett asked about any savings and benefits should the tariff be delayed for a period of time.

President Pro Tem Martin asked about having to have sold 80% before going into a lottery option.

Councilmember Williams asked about the limitation on commercial rooftop systems and the possibility of increasing the size and whether there was a difference between residential and rooftop limitations.

President Hente summarized the questions posed and CSU's John Romero responded to the Citizen and Council questions.

Motion by Leigh, second by Dougan, to postpone the vote indefinitely.

Ayes: Dougan and Leigh

Noes: Bennett, Czelatdko, Herpin, Hente, Martin, Snider, and Williams

Absent: None

President Hente stated the motion failed on a 2-7-0 vote.

Motion by Herpin, second by Martin, to approve the rate tariff.

Councilmember discussion continued:

Councilmember Leigh asked if there is a better way to deploy the assets to "demand side management." CSU's John Romero responded there is a significant benefit.

Councilmember Dougan expressed that she did not support the resolution.

President Pro Tem Martin encouraged support for the resolution stating that renewable energy solutions are a positive addition to our community.

Councilmember Snider stated his support for the motion.

Councilmember Williams described her support for renewable energy but would like to amend the motion to reduce the cost to the rate payers.

Councilmember Leigh stated that by waiting a year on this, we would save 10% of the cost and encouraged the need to be wise stewards of the resources of the community.

Ayes: Bennett, Herpin, Hente, Martin, Snider, and Williams

Noes: Czelatdko, Dougan, and Leigh

Absent: None

President Hente stated the motion passed on a 6-3-0 vote.

Councilmember Leigh was excused.

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UNFINISHED BUSINESS

8. "AN ORDINANCE NO. 13-23 AMENDING PART 4 (DISTRICTING AND REDISTRICTING) OF ARTICLE 1 (GENERAL MUNICIPAL ELECTIONS) OF CHAPTER 5 (ELECTIONS) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO THE PROCEDURES FOR THE CREATION AND ESTABLISHMENT OF ELECTION DISTRICTS FOR THE CITY" was presented for final passage.

Motion by Bennett, second by Herpin, that the ordinance be passed.

Ayes: Bennett, Czelatdko, Dougan, Herpin, Hente, Martin, Snider, and Williams

Noes: None Absent: Leigh

President Hente stated the motion passed unanimously on an 8-0-1 vote with Councilmember Leigh excused.

Councilmember Dougan was excused.

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NEW BUSINESS

 Resolution No. 41-13 was presented: "A RESOLUTION APPROVING THE PAYMENT OF LEGAL EXPENSES FOR ETHICS COMPLAINTS UNDER THE CITY CODE OF ETHICS" for final passage.

City Attorney/Employment Division Chief Lessig was present to respond to questions or concerns.

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

Ayes: Bennett, Herpin, Hente, Martin, Snider, and Williams

Noes: Czelatdko

Absent: Dougan and Leigh

President Hente stated the motion passed on a 6-1-2 vote with Councilmembers Dougan and Leigh excused.

Councilmember Doug	an returns	3.
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10. Resolution No. 42-13 was presented: "A RESOLUTION RESCINDING RESOLUTION 50-11 DATED MARCH 8, 2011 AND ANY PREVIOUS RESOLUTIONS ADOPTING OTHER AMENDMENTS TO PRIOR EDITIONS OF THE "CITY OF COLORADO SPRINGS RULES AND PROCEDURES OF CITY COUNCIL" AND ADOPTING THE "CITY OF COLORADO SPRINGS RULES AND PROCEDURES OF CITY COUNCIL" EFFECTIVE APRIL 16, 2013."

Council Administrator Cox introduced the housekeeping changes incorporated into the previously existing Rules of Procedure as presented before Council today.

Councilmember Bennett confirmed that these were simple housekeeping changes, nothing of significance.

Council Administrator Cox mentioned there was a redundancy under Part II, 4.(a) 5 and stated she would remove that from the document.

Motion by Bennett, second by Martin, that the resolution be adopted with the removal of the redundancy.

Ayes: Bennett, Czelatdko, Herpin, Hente, Martin, Snider, and Williams

Noes: Dougan Absent: Leigh

President Hente stated the motion passed on a 7-1-1 vote with Councilmember Leigh excused.

11. Resolution No. 43-13 was presented: "A RESOLUTION AUTHORIZING THE TRANSFER OF \$2,040 FROM THE CITY COUNCIL DEPARTMENT OF THE GENERAL FUND TO THE MANITOU INCLINE GIFT TRUST FUND ACCOUNT."

Resolution No. 44-13 was presented: "A RESOLUTION AUTHORIZING DONATIONS FROM THE CITY COUNCIL GENERAL FUND BUDGET TO THE HUMANE SOCIETY OF THE PIKES PEAK REGION, COLORADO SPRINGS PHILHARMONIC AND SPRINGS RESCUE MISSION."

Resolution No. 45-13 was presented: "A RESOLUTION AUTHORIZING THE TRANSFER OF \$2,040 FROM THE CITY COUNCIL DEPARTMENT OF THE GENERAL FUND TO THE BICYCLE PROJECTS GIFT TRUST FUND ACCOUNT."

Resolution No. 46-13 was presented: "A RESOLUTION AUTHORIZING A DONATION OF \$1,500 FROM THE CITY COUNCIL GENERAL FUND BUDGET TO TEEN COURT."

Councilmembers Williams and Czelatdko stated that they will be submitting their resolutions for distribution of residual funds for the next Formal Council meeting and asked that Council pass those resolutions.

Motion by Williams, second by Bennett, that the resolutions be adopted.

Ayes: Bennett, Czelatdko Dougan, Herpin, Hente, Martin, Snider, and Williams

Noes: None Absent: Leigh

President Hente stated the motion passed unanimously on an 8-0-1 vote with Councilmember Leigh excused.

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12. Resolution No. 47-13 was presented: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS SUPPORTING FORMATION OF A REGIONAL FLOOD CONTROL AND STORMWATER MANAGEMENT STEERING COMMITTEE."

Councilmember Snider explained the resolution that would support continuance of the Stormwater Task Force.

Councilmember Bennett would rather this was in consensus with support of the Mayor.

Motion by Bennett, second by Dougan to postpone for two weeks.

Ayes: Bennett, Dougan, Herpin,

Noes: Czelatdko, Hente, Martin, Snider, and Williams

Absent: Leigh

President Hente stated the motion failed on a 3-5-1 vote with Councilmember Leigh excused.

Councilmember Williams described the importance of addressing the Stormwater issues and emphasized the regional impact and necessity for the Southern Delivery System.

Councilmember Czelatdko asked for clarity on why the Mayor did not support the resolution. Chief of Staff Neumann acknowledged the Mayor did not support the resolution and dedicating staff toward it. She stated they are in the process of hiring a consultant to vet the priority list, and are waiting for the results of the burn area assessment that should be released next week.

She stated they are moving forward with appropriations that will be coming forward to the new Council on April 22nd.

Councilmembers Dougan and Bennett spoke against taking action on the resolution at this time, leaving that decision in the hands of the new Council in partnership with the Mayor.

President Hente described a letter Council received on April 3rd in support of the resolution that included a significant amount of signatures noting they cross the political spectrum.

President Pro Tem Martin spoke in support of the resolution and described the history of the Task Force.

Dave Munger of CONO described that stormwater mitigation as a very important matter to the City and to the Region and that a unified and coordinated effort is needed.

Motion by Williams, second by Snider, to approve the resolution.

Ayes: Czelatdko, Hente, Herpin, Martin, Snider, and Williams

Noes: Bennett, Dougan

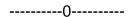
Absent: Leigh

President Hente stated the motion passed on a 6-2-1 vote with Councilmember Leigh excused.

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13. Flying Horse Parcel Number 21

See action for postponement taken earlier in the meeting.



ADDED ITEM

14. Ordinance No. 13-24 entitled: "AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. 12-108 (2013 APPROPRIATION ORDINANCE) FOR A SUPPLEMENTAL APPROPRIATION TO THE GENERAL FUND IN THE AMOUNT OF \$8,000,000 FOR THE PURPOSE OF SETTLEMENT OF CERTAIN TRANSIT LITIGATION CLAIMS" was introduced and read.

Ms. Massey described that today's Emergency Appropriation Ordinance satisfies the Charter requirements.

City Attorney/Chief Legal Officer Melcher addressed the Council describing the Transit litigation currently on a one-day continuance and the anticipated settlement.

Councilmember Williams expressed concern for this last decision to be made by the current Council.

Councilmember Czelatdko expressed her lack of support for ordinance.

President Pro Tem Martin wanted to ensure the Mayor had been made aware of this decision.

Chief of Staff Neumann stated this derived from a 2006 contract and that the Mayor's office is prepared to adjust appropriations to be brought forward on the 22nd.

Motion by Martin, second by Bennett, to approve the emergency ordinance.

Ayes: Bennett, Dougan, Hente, Herpin, Martin, Snider, and Williams

Noes: Czelatdko Absent: Leigh

President Hente stated the motion passed on a 7-1-1 vote with Councilmember Leigh excused.

At 6:21 there being no further business to come before City Council,

COUNCIL ADJOURNED

Isarah B. Johnson

Sarah B. Johnson

City Clerk