

A Regular Meeting of the Manitou Springs City Council was held in the Council Chambers, 606 Manitou Avenue, Manitou Springs, Colorado, on January 18, 2011. Mayor Snyder called the meeting to order at 7:00 pm.

**COUNCILMEMBERS PRESENT FOR ROLL CALL:**

Mayor Marc A. Snyder  
Councilman Ed Klingman  
Councilman Rick Barry  
Councilman Michael Gerbig, Jr.  
Councilwoman Ingrid Richter  
Councilman Matt Carpenter

**COUNCILMEMBERS NOT PRESENT FOR ROLL CALL:**

Mayor Pro Tem Aimee Cox

**STAFF PRESENT:**

Deputy City Administrator Michael A. Leslie  
City Attorney Jeff Parker  
Planning Director Dan Folke  
Public Services Director Bruno Pothier  
City Clerk Donna Kast

**A. CALL TO ORDER**

The meeting was called to order at 7:00 pm.

**B. PLEDGE OF ALLEGIANCE**

The meeting was opened with a reciting of the Pledge of Allegiance.

**C. ROLL CALL**

All Members of City Council were present for roll call with the exception of Councilwoman Richter who was excused.

**D. APPROVAL OF AGENDA**

Upon a motion by Councilman Carpenter and a second by Councilman Gerbig, the agenda was approved as presented. Motion passed unanimously, 6-0.

**E. EXECUTIVE SESSION**

1. **An Executive Session to Hold a Conference with the City Attorney on Pending Litigation or Imminent Court Action. The Following Additional Details are Provided for Informational Purposes: To Discuss Legal Issues Relating to the ARRA Water and Sewer Project**

Upon a motion by Councilman Carpenter and a second by Councilman Gerbig, the City Council went into executive session at 7:04 p.m.

Upon a motion by Councilman Carpenter and a second by Councilman Gerbig, the City Council went out of executive session and reconvened in regular session at 7:47 p.m.

**F. PUBLIC COMMENT ON NON-AGENDA ITEMS**

None

## G. CONSENT CALENDAR

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

1. Warrants (Payables)
2. **SEE ACTION TAKEN LATER IN MEETING**
3. Request Approval of a Noise Variance for a Wedding at Seven Minute Gazebo on July 30, 2011 from 1:00 pm – 5:00 pm - William McNally, Applicant

Upon a motion by Councilwoman Richter and a second by Councilman Klingman, all matters on the Consent Calendar, with the exception of Item No. F.2, were passed, adopted and approved. Motion passed unanimously, 6-0.

### **CONSIDERATION OF ITEM F.2. OF THE CONSENT CALENDAR**

#### **F.2 Approval of January 4, 2011 Regular City Council Meeting Minutes**

Mayor Snyder reminded everyone that only those Council Members who were present at a meeting would vote to approve minutes for that meeting. Based upon that reminder, it was determined that a quorum was not present at this meeting who could vote to approve the minutes of the January 4, 2011 City Council Meeting. This item will be rescheduled for a future meeting.

## H. NEW BUSINESS

### 1. **Legal Briefing on Online Live Streaming of City Council Meetings**

City Attorney Jeff Parker provided a briefing on the law regarding online live streaming of City Council meetings explaining that the City has the right to provide live online streaming and may choose to do so by contracting out to a third party. The public also has the right to capture audio and/or video coverage of City Council meetings and publish them online. Should a member of the public choose to do so, the City Council may set rules and requirements that would ensure that meetings are not disrupted, but the City Council does not have the right to prohibit online streaming.

At this time, Mayor Snyder skipped to Agenda Item H.3.

### 3. **Municipal Court Update**

Municipal Court Judge Martin Thrasher told the City Council that it is his desire to keep dialogue open between City Council and Municipal Court, which is the reason he requested to have this item placed on the agenda. He presented the 2011 Municipal Court fine schedule and answered related questions posed by City Council. Judge Thrasher informed City Council that the only change he made from the prior schedule was an increase to routine court costs, changing it from \$20 to \$25. Total court costs will now be \$60 and will include the routine court costs of \$25 plus \$35 that would go to the police equipment fund.

Upon review of the fine schedule, it was the consensus of City Council to recommend the mandatory court fine for 6.32.020 *Fireworks Prohibited* to be increased to \$100. Judge Thrasher agreed with the recommendation. Other than the adjustment noted above, it was the consensus of the City Council that the fine schedule was acceptable. Mayor Snyder concluded the discussion by commending Judge Thrasher and all Court Staff for the great job they do in serving our community.

2. **Presentation of “The Chair Project” by Artist Sean O’Meallie**

Liz Szabo, Business of Art Center Programming and Gallery Director, introduced Local Visual Artist Sean O’Meallie who presented an idea for an art exhibit that would be placed in the middle of Manitou Avenue.

Following the presentation some on the City Council acknowledged being open to the idea but said they required additional information before making a final decision. Councilman Carpenter suggested the use of a race application permit because this form would allow the artist to provide additional information as well as allow city staff a place to estimate costs for such things as blocking off the streets and directing traffic. It was the consensus that should the artist choose to proceed, he should make his request by means of an application which could be placed on a future City Council meeting agenda for consideration.

4. **Approval of Appointment of Karen Huseman as an Alternate Commissioner on the Manitou Springs Planning Commission**

Upon a motion by Councilman Gerbig and a second by Councilman Barry, Karen Huseman was appointed as an Alternate Commissioner on the Manitou Springs Planning Commission.

5. **Consideration and Possible Action on Cost-sharing Request for Legal Fees Related to Vollmer and Walker Road Property Interests Conveyed to the City by the Trusts of Norman and Aimee Jaynes**

City Attorney Jeff Parker explained that the City of Manitou Springs is a beneficiary of the Timothy Jaynes estate. As such, the City obtained title to portions of two properties of the estate called the Vollmer and Walker Road Properties but incurred legal fees and expenses during the process.

The family of Timothy Jaynes also incurred costs during this process and paid some of them out of non-trust assets. These costs include legal expenses involving the City’s claim as well as other non-related family interests. After payment of these costs, the trust had a cash balance of approximately \$7,000; \$1,318.41 of which was the City’s portion. The family is asking the City to contribute their portion of the cash to reimburse the family for legal expenses.

During discussion, it was noted that the City incurred significant expense in an effort to obtain its rightful claim to its portion of the estate. In addition, a written invoice detailing the costs the family is asking us to contribute toward has not been received.

Councilwoman Richter made a motion, seconded by Councilman Klingman, to decline the request at this time but to remain open to a reconsideration of this request should the family provide written documentation of the costs they are asking us to pay. Upon a call for the vote, the motion was unanimously approved as presented. Motion carried 6-0.

Mayor Snyder called for a break at 8:36 p.m. The meeting resumed at 8:41 p.m.

**I. HEARINGS**

1. **CU 1019 – Conditional Use (Vacation Rental) – 329-331 Ruxton Avenue – John & Carol Mason, Applicants**

Dan Folke asked the City Council if they had any *ex parte* contacts or conflicts of interest to declare for either of the two hearings that were about to be held. None were declared.

Dan Folke opened the hearing by stating that the applicants have requested approval of a short-term vacation rental of two cottages within the General Residential (GR) zoning district at 329-331 Ruxton Avenue. He

informed the City Council that the Planning Commission has recommended approval with seven conditions and three findings. The seventh condition is as follows: "The City of Manitou Springs will provide a letter allowing exclusive use of the parking spot on Spring Street while the vacation rental is in operation." Mr. Folke recommended rejecting Condition 7, noting that this is something the City has never done and staff didn't believe it was something they should begin doing now.

John and Carol Mason, Applicants, spoke regarding parking stating that they believe they have adequate parking because they own two separate cottages on Ruxton Avenue.

There was no public comment.

Councilwoman Richter made a motion, seconded by Councilman Klingman to approve the Conditional Use (vacation rental) at 329-331 Ruxton Avenue with Conditions 1-6 and 3 findings, but specifically excluding Condition 7. The approved conditions and findings are as follows:

**Conditions:**

- 1) A minimum of two on-site parking spaces must be provided at all times.
- 2) A five pound fire extinguisher with current tag from a licensed extinguisher company must be maintained in the kitchens, smoke detectors in all sleeping areas and carbon monoxide detectors within 15 feet of the entrance to each room used for sleeping.
- 3) At the time of business license, the applicants will provide a local phone number where they can be reached.
- 4) The Conditional Use approval is specific to the current property owner and is not transferable.
- 5) The applicant will collect and remit Sales and Lodging taxes for all rentals which are less than 30 days.
- 6) The owners will provide written information in each cottage to renters regarding the use of the parking and other property rules that include how to contact them in the event of any property issues or emergencies.

**Findings:**

- A. That the value and qualities of the neighborhood surrounding the conditional use will not be substantially injured and the proposed use, under the conditions imposed has no impact on the character of the community and is compatible in function and design with surrounding land uses.
- B. That the conditional use is consistent with the intent and purpose of the Zoning Code to promote public health, safety and general welfare.
- C. That the conditional use is consistent with the Rainbow Vision/Comprehensive Plan of the City.

Upon a call for the vote, the motion was unanimously approved as presented. Motion carried 6-0.

2. **MCAC 1006 – Material Change of Appearance Certification (Demolition and New Construction) – 36 Park Avenue – Paul York (Cliff House General Manager) on behalf of Dan Dick, CFO (Colorado Landmark Hotels LLC), Applicant**

Dan Folke opened the hearing by explaining that this is a request for both demolition and reconstruction, specifically the demolition of the existing motel buildings and addition previously made to the Wheeler House and construction of a new hotel incorporating only the Wheeler House. He informed the City Council that changes have been made to the design based upon comments made by historical architectural consultant Rodd

Wheaton. The changes basically make the design more Wheeler House-oriented with just touches of the Cliff House design being incorporated. Mr. Folke explained that the Historic Preservation Commission recommended approval with nine conditions and two findings. City staff also recommends approval.

Chad Hartley, with Land Elements Inc, introduced members of the project team.

Doug Comstock, with Comstock & Associates, addressed the City Council explaining the design changes that are being proposed.

There was no public comment.

Councilman Carpenter moved, seconded by Councilman Barry, to approve MCAC 1006 demolition and new construction at 36 Park Avenue with the following conditions and findings:

**Findings:**

The Historic Preservation Commission followed and properly applied the intent of the Historic Preservation regulations. The demolition of the 1947 motel buildings, the 1958 addition to the northeast corner of the circa 1891 building that replaced the original turret, and the storage sheds on the south side of this building are unsympathetic additions/alterations that detract from the original architecture of the Wheeler House. Their removal would not have a detrimental impact on the historic or architectural integrity of the Wheeler House building or the surrounding area of the Historic District. The preservation and restoration of the historic Wheeler Estate building required by MCAC 1006 preserves and protects this historic asset; and the architecturally-compatible design of the Cliff House West infill is sensitive to the adjacent structure and is responsive to the Manitou Springs Historic Design Guidelines to the extent that they may be reasonably applied to this project.

**Conditions:**

- 1) The Historic Preservation Commission finds that the proposed new construction per the revised elevation drawings submitted to the City of Manitou Springs on December 20, 2010 and incorporating Scheme A alternatives for the North and South Elevations meet the purpose and intent of the Historic District regulations and of the Design Guidelines to the extent that they are relevant to this MCAC.
- 2) A detailed window and door schedule, with materials and features specified shall be provided for Staff review and approval at the time of Building Permit. All windows shall have the appearance of exterior divided lights.
- 3) All retaining walls shall be consistent in materials and design with the existing historic greenstone walls on the property.
- 4) Staff will consult with the contractor in charge of retaining wall construction/removal/modification prior to any work occurring on the property. All Greenstone salvaged from the site shall be stockpiled and used for new walls or wall repairs on the property. The City would like to discuss obtaining any surplus stone. Either Staff or the Applicant will photo document the existing walls and review this information with the contractor.
- 5) All new fencing and gates shall match or complement the historic iron fencing to be repaired and reinstalled along the Grand Avenue frontage of the property.
- 6) All new/replaced sidewalks shall be consistent with the colored concrete sidewalks installed Downtown.
- 7) All roofing, including flat roof areas, shall be a darker, earth-tone color.

- 8) Lighting specifications and designs shall be provided for Staff review and approval at the time of Building Permit.
- 9) Prior to approval of any blasting on the site, the applicant will perform historic surveys of the Wheeler House and surrounding properties and submit a blasting and excavation plan for review as required in the approved Major Development Plan.

Upon a call for the vote, the motion was unanimously approved as presented. Motion carried 6-0.

3. **Ordinance No. 0111, an Ordinance Amending Section 10.12 “Parking” of the Code of Ordinances Concerning the Location of Time Restricted Parking in the Downtown Area – 2nd reading**

Dan Folke presented the 2<sup>nd</sup> reading of the ordinance explaining that it brings the parking spaces on Canon Avenue adjacent to the Cliff House into the downtown parking zone, making them into 3-hour parking spaces.

Clint Lewis stated that removing the 15-minute restriction and making those spaces 3-hour parking spaces has made it difficult for people to find a place to park in order to run into the post office because the spaces are now full most of the time.

Dan Folke explained that the City’s intent was for the post office to install a sign in their lot making it clear that short-term parking for post office customers is available.

Upon a motion by Councilman Barry and a second by Councilwoman Richter, Ordinance No. 0111 was unanimously approved at 2<sup>nd</sup> reading as presented. Motion carried 6-0.

4. **Ordinance No. 0211, an Ordinance Amending Title 12 Streets and Other Public Places of the Manitou Springs Municipal Code to Regulate the Placement of Roll-off Dumpsters, Storage Pods or Other Immoveable Objects – 2nd reading**

Dan Folke presented the 2<sup>nd</sup> reading of the ordinance. He informed the City Council that in response to concerns raised by Councilman Barry, the Parking Authority Board recommended the final sentence of Section 2.A.2 of the ordinance be changed to add the following words to the end of the sentence: *and consideration of the proposed location and time of year.*

There was no public comment.

Upon a motion by Councilwoman Richter and a second by Councilman Gerbig, Ordinance No. 0211 was approved at 2<sup>nd</sup> reading after adding the words *and consideration of the proposed location and time of year* to the end of the final sentence of Section 2.A.2. Motion carried 6-0.

5. **Ordinance No. 0311, an Ordinance Amending Sections of Chapter 9.24 of the Manitou Springs Municipal Code Regarding Marijuana – 2<sup>nd</sup> reading**

Upon a motion by Councilman Barry and a second by Councilman Gerbig, Ordinance No. 0311 was unanimously approved at 2<sup>nd</sup> reading. Motion carried 6-0.

## J. MAYOR’S REPORT

Mayor Snyder announced that the City would host a volunteer appreciation luncheon at the end of February or beginning of March.

**K. RECEIVE OR ACT ON COUNCIL CORRESPONDENCE**

None

**L. CITY COUNCIL LIAISON REPORTS**

Councilman Carpenter informed the City Council that the Chamber/BID consolidation is moving forward, explaining that the new entity is being formed and bylaws and other documents are being drafted.

Councilman Carpenter also announced that website administration training for the City's new website is scheduled for next Monday.

**M. PLANNING DIRECTOR'S REPORT**

Dan Folke informed everyone that an Incline Management Plan Open House will be held Thursday night from 5:00 pm - 7:00 pm in Memorial Hall.

Mr. Folke also stated that the Historic Preservation Commission has reminded staff that they would like to appear before City Council at a future worksession. In response, Mayor Snyder stated that their appearance will be scheduled for sometime in the 1<sup>st</sup> quarter of 2011.

**N. DEPUTY CITY ADMINISTRATOR'S REPORT**

Mike Leslie informed the City Council that taxable sales increased 13.4 percent in November and the City's economy is showing improvement.

**FUTURE AGENDAS**

- January 25, 2011 - Worksession
- February 1, 2011 – Regular Meeting
- February 8, 2011 Worksession
- February 15, 2011 – Regular Meeting

**ADJOURNMENT**

With no further business to conduct, Mayor Snyder concluded the Regular Meeting at 9:52 p.m.

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MAYOR AND CITY COUNCIL

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CITY CLERK

*Minutes Prepared by: Donna Kast, City Clerk*