

A Special Meeting of the Manitou Springs City Council was held in the City Council Chambers, 606 Manitou Avenue, Manitou Springs, Colorado, on March 29, 2011. Mayor Snyder called the meeting to order at 7:00 pm.

COUNCILMEMBERS PRESENT FOR ROLL CALL:

Mayor Marc A. Snyder
Mayor Pro Tem Aimee Cox
Councilman Rick Barry
Councilman Michael Gerbig, Jr.
Councilwoman Ingrid Richter
Councilman Matt Carpenter

COUNCILMEMBERS NOT PRESENT FOR ROLL CALL:

Councilman Ed Klingman (arrived at 7:05 pm)

STAFF PRESENT:

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

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 Councilman Klingman who arrived at 7:05 pm.

D. APPROVAL OF AGENDA

Upon a motion by Mayor Pro Tem Cox and a second by Councilwoman Richter, the agenda was approved as presented. Motion passed unanimously, 6-0.

E. EXECUTIVE SESSION

1. **An Executive Session Pursuant to Section 5.1(c) of the Manitou Springs City Charter to Hold a Conference with the City Attorney to Receive Legal Advice on Pending Litigation or Imminent Court Action. The Following Additional Details are Provided for Informational Purposes: To Discuss a Matter Related to a Public Works Project.**
2. **An Executive Session Pursuant to Section 5.1(a) of the Manitou Springs City Charter to Discuss a Personnel Matter if Requested by a Council Member, an Employee or an Applicant for Employment. The Following Additional Details are Provided for Informational Purposes: To Consider Applicants for Employment as City Administrator.**

Upon a motion by Councilman Carpenter and a second by Mayor Pro Tem Cox, the City Council went into executive session to consider both Agenda Items E.1 and E.2. Motion carried 7-0.

Upon a motion by Councilman Carpenter and a second by Councilman Gerbig, the City Council came out of executive session and reconvened in open session. Motion carried 7-0.

F. NEW BUSINESS**1. CU 1103 – Conditional Use (Public Recreational Facility within a Residential Zone) – Manitou Incline – Sarah Bryarly on behalf of Colorado Springs Utilities and Manitou & Pikes Peak Railroad, Applicant**

Dan Folke asked the City Council if they had any *ex parte* contacts or conflicts of interest to declare for the hearing that was about to be held.

Mayor Pro Tem Cox disclosed that she was formerly employed by the City of Colorado Springs Parks and Recreation Department. She no longer works in that department, but is still employed with the City of Colorado Springs in the Housing Development Department.

Councilwoman Richter disclosed that she is currently employed by the City of Colorado Springs and will probably be involved in some of the executive agreements that will effectuate whatever happens here this evening.

City Attorney Jeff Parker advised that since both Mayor Pro Tem Cox and Councilwoman Richter are currently employed by the applicant, they would have a conflict of interest. He suggested that both recuse themselves from the hearing.

Mayor Pro Tem Cox and Councilwoman Richter recused themselves and left the room. They did not return to the meeting following the hearing.

Councilman Carpenter disclosed that he has a long history with the Incline but didn't believe that this would in any way affect his ability to make a fair and impartial decision. Mr. Parker did not suggest he recuse himself.

Dan Folke opened the hearing by explaining that the City of Manitou Springs and Colorado Springs Utilities have partnered with the Cog Railway and the Forest Service to develop a management plan in order to operate a public recreational facility. The plan calls for the City of Colorado Springs to be the responsible entity; with the City of Manitou Springs being a partner. The City of Manitou Springs would have four main responsibilities: (1) to execute an IGA with the City of Colorado Springs; (2) to provide parking spaces on Winter Street/Ruxton Avenue to the Cog Railway equal to the number of spaces lost to develop the trailhead at the base of the Incline; (3) to provide trailhead maintenance, including daily trash removal; and (4) to implement the parking and traffic management recommendations.

Two years ago, the City of Manitou Springs entered into an agreement with Colorado Springs Utilities that allows our city to establish a parking fee for the Barr Trail parking lot. The agreement requires all the revenues to go into the facility or to address impacts of the facility. Parking fees have been suggested by staff to encourage long-term use. However, parking fees are not included in the plan to be approved tonight but will be considered at a later date.

Mr. Folke informed the City Council that the Planning Commission has recommended approval of the Conditional Use for a Public Recreation Facility with four conditions and three findings. He then introduced Sarah Bryarly with Colorado Springs Utilities who began a power point presentation regarding the project.

Following Ms. Bryarly's portion of the presentation, she introduced Susan Watkins with Keziah Watkins who explained the planning and public involvement process used in developing the plan. Ms. Watkins then introduced Priscilla Marbaker of Tapis Associates who continued the presentation. She introduced the members of the planning team and reviewed key aspects of the plan. Following her presentation, Ms. Marbaker introduced Stephen Pouliot of Wilson & Company, the parking/traffic consultant on the team. He reviewed the findings of the traffic studies that were conducted.

Councilman Carpenter said use of the Incline has been discussed since 2003 and the main problem has always been parking. Throughout the years, his position has always been that paid parking in the Barr Trail lot should not be implemented until a management plan is in place. Otherwise it will push people farther down Ruxton Avenue because many are not willing to pay for parking. In addition, if parking is charged in the Barr Trail lot, he believed some of the money should go back into maintenance of the Barr Trail, but nowhere in the plan is the Barr Trail addressed. Mr. Carpenter said he is not willing to throw city money at a plan that is based only upon donations. If the Incline is causing problems and funds are needed to address those problems, the Incline users should be charged a user fee to help pay for those costs. The City of Manitou Springs and the users of the Barr Trail should not be forced to subsidize the Incline.

Mayor Snyder opened the hearing for public comment.

Jay Rohrer, a resident of 208 Ruxton Avenue and a member of the Parking Authority Board, asked about the process and timeline for establishing the parking fees. He said it was a major component of the project and should be a part of the plan that is voted on tonight. He also suggested use of a shuttle to alleviate parking problems. It was explained that parking fees are not a part of the Conditional Use request and will be considered at a later time.

Tom Borrelli, a resident of 136 Cave Avenue, said he doesn't believe this plan provides any benefit to Manitou Springs. He said we will be subsidizing trespassers and residents will be losing their parking spaces.

Bill Koerner, a resident of 205 Ruxton Avenue and a representative of the Open Space Trails Coalition, said that parking and congestion on Ruxton Avenue has been a long-term problem that has expanded due to the Incline. He believes that the plan being presented is a good one that we should move forward with as it addresses the problem.

Dave Wolverton, a resident of 213 Pilot Knob Avenue, said the City's swimming pool is subsidized at \$60,000 a year even though it includes a fee program. He believes the Incline should be a function of the private sector, and not subsidized by the City. Another issue is that property values will decrease when potential buyers find out that residents have to pay to park in front of their own house. Still another issue is the increase in fire department calls to rescue people who are using the Incline. We are shouldering the expense of these rescues, which isn't right.

Spencer Wren, a resident of 320 Crystal Hills, an Incline Task Force Member, a representative of the Cog Railway, and a member of the Parking Authority Board, thanked the entire team for the effort expended on this project. He said the Incline gets worse every year and this Conditional Use should be approved so the issues can begin to be addressed. Paid parking would help Manitou Springs as it has helped other cities.

Mayor Snyder closed the public hearing.

Mayor Snyder said we don't have the authority to order the property owners to do anything with the property so working with them on a management plan is the first step to making things better. However, he doesn't believe enough of the issues have been worked out yet to approve the Conditional Use. As presented, too much of the expense would be assumed by the City of Manitou Springs. The costs need to be more equitably divided between the four entities. He suggested postponing a vote on the Conditional Use until these things are worked out; including a plan for the Incline to produce revenue. A cost benefit analysis and economic study should also be prepared.

Councilman Gerbig concurred with the Mayor. He said he believes the process can be worked out but there are issues that need to be addressed first, such as how expenses will be paid and how the increased traffic will be mitigated.

Councilman Barry said Ruxton Avenue residents are impacted by increased parking from Incline use. In addition, as the plan is presented, we are carrying the lion's share of the associated costs and that isn't right as we don't have the money.

Councilman Carpenter made a motion to postpone this item until a date uncertain. The motion failed due to the lack of a second.

Jeff Parker said that this is an application. Typically with applications, Council can either vote to approve, deny, or continue to a date certain. Postponing until a date uncertain is the equivalent of a denial.

Discussion ensued about the lack of funds necessary to conduct the economic studies that the City Council desires before making a final decision. Although the decision can be postponed, the money won't be available to gather the desired information before the next scheduled vote.

Jeff Parker suggested that since Condition 1 of the Conditional Use is that the City of Manitou Springs will enter into an Intergovernmental Agreement with the City of Colorado Springs, the City Council has an option to approve the Conditional Use and work out the terms of the IGA following approval. Then if the two cities can't come to an agreement on the terms of the IGA, the Conditional Use approval will fail due to the lack of satisfying Condition 1.

Councilman Klingman made a motion to approve CU 1103 – Conditional Use (Public Recreational Facility within a Residential Zone) – Manitou Incline, with the four conditions and three findings that were recommended by the Planning Commission. Councilman Barry seconded the motion. Upon a call for the vote, the motion passed 4-1, with Mayor Snyder, Councilman Klingman, Councilman Barry, and Councilman Gerbig voting for; and Councilman Carpenter voting against.

The Conditions and Findings recommended by the Planning Commission and approved by the City Council are as follows:

Conditions:

1. The City of Manitou Springs will enter into an Intergovernmental Agreement with the City of Colorado Springs to implement the Manitou Incline Site Development and Management Plan.
2. Manitou Springs planning staff will provide a 6-month report on plan implementation to Manitou Springs City Council during an October 2011 public hearing.
3. Manitou Springs planning staff will provide an annual report on plan implementation to the Manitou Springs City Council each March at a public hearing.
4. Amendments to the Site Development and Management Plan may be considered as part of the annual review process.

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.

Mayor Snyder called for a 5-minute break. Following the break, the meeting resumed.

2. Approve City Administrator Appointment and Employment Contract

Councilman Barry made a motion to approve the City Administrator Appointment of Jack Benson and approve an Employment Contract with Jack Benson to be entered into on March 29, 2011. Councilman Klingman seconded the motion. Upon a call for the vote, the motion passed unanimously. Motion carried 5-0.

3. Discuss Status of the Ennovate Energy Performance Contract

Coreen Toll, a resident of 457 Crystal Hills, suggested taking some of the money that had been allocated to the swimming pool and using it for some of the conservation measures that were represented in the technical energy audit.

Mike Leslie informed the City Council that financing by All American Investment Group (AAIG) for the Ennovate energy performance contract, as well as the contract with Ennovate itself, has been cancelled. However, the City will still be invoiced for the technical energy audit report.

Mr. Leslie explained that the boiler at the pool failed on March 11 and the pool was closed for a week to allow for spring maintenance and to have the boiler repaired. During the week of closure, city staff negotiated with Ennovate and AAIG to arrange for installation of a boiler to Ennovate specifications so we could either receive reimbursement from the financing package or just have the boiler removed from the scope of the project. Although AAIG was agreeable to reimburse the city from the financing package should it be approved, Ennovate advised that the boiler replacement was integral to their contract and requested the city to attempt to utilize the existing boiler until April 18 when the financing ordinance passed by City Council would become law. The boiler was evaluated by a technician from Olson’s Plumbing and by Bruno Pothier and both advised that it would be risky and unsafe to continue to use the existing boiler.

On March 22, Mr. Leslie was contacted by AAIG and advised that they would need a commitment from the City on that same day. Since that demand could not be met, and since we didn’t feel it would be prudent to wait until April 18 to replace the boiler, both contracts fell through.

Councilman Barry responded to Coreen Toll’s comments by suggesting that the Council schedule a worksession to discuss the use of funds and conservation measures. Mayor Snyder said another option would be to include these discussions in the next budget session. Either way, Mayor Snyder and Councilman Barry both said they were committed to moving forward with the recommendations of the energy audit.

4. Resolution No. 0411, a Resolution Authorizing the Mayor to Sign an Agreement for Services with Parkey’s Refrigeration Company for Replacement of the Main Pool Boiler at the Manitou Springs Aquatics Center

Upon a motion by Councilman Gerbig and a second by Councilman Barry, Resolution No. 0411 was unanimously approved as presented. Motion carried 5-0.

ADJOURNMENT

With no further business to conduct, Mayor Snyder concluded the Regular Meeting at 11:30 p.m.

MAYOR AND CITY COUNCIL

CITY CLERK