

A Regular Meeting of the Manitou Springs City Council was held in the City Council Chambers, 606 Manitou Avenue, Manitou Springs, Colorado, on April 19, 2011. Mayor Snyder called the meeting to order at 7:02 pm.

**COUNCILMEMBERS PRESENT FOR ROLL CALL:**

Mayor Marc A. Snyder  
Councilman Rick Barry  
Councilman Michael Gerbig, Jr.  
Councilman Matt Carpenter

**COUNCILMEMBERS NOT PRESENT FOR ROLL CALL:**

Mayor Pro Tem Aimee Cox  
Councilman Ed Klingman (arrived @ 7:27 pm)  
Councilwoman Ingrid Richter (arrived at 7:19 pm)

**STAFF PRESENT:**

Deputy City Administrator Mike Leslie  
City Attorney Jeff Parker  
Planning Director Dan Folke  
Public Services Director Bruno Pothier  
Library Director Margaret Morris  
City Clerk Donna Kast

**A. CALL TO ORDER**

The meeting was called to order at 7:02 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 Mayor Pro Tem Cox, who was excused, and Councilman Klingman who arrived at 7:27 pm and Councilwoman Richter who arrived at 7:19 pm.

**D. APPROVAL OF AGENDA**

Upon a motion by Councilman Carpenter and a second by Councilman Barry, the agenda was approved as presented. Motion passed unanimously, 4-0.

**E. EXECUTIVE SESSION**

1. **An Executive Session to Address a Personnel Matter, Pursuant to Manitou Springs Municipal Charter § 5.1(a)**

Upon a motion by Councilman Barry and a second by Councilman Carpenter, the City Council went into executive session at 7:05 pm.

Councilwoman Richter arrived at 7:19 pm. Councilman Klingman arrived at 7:27 pm.

Upon a motion by Councilwoman Richter and a second by Councilman Gerbig, the City Council went out of executive session and resumed in regular session at 7:29 pm.

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

None

**G. CONSENT CALENDAR** *(These Items voted on in one Motion)*

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

1. Warrants (Payables)
2. Approval of April 5, 2011 Regular City Council Meeting Minutes
3. Request Approval of a Special Event and Approval of a Noise Variance for the Manitou-Au (Luau) to be held Saturday, September 17, 2011 from 11:00 am – 7:00 pm in Soda Springs Park & Pavilion – Manitou Springs Chamber of Commerce, Visitors Bureau & Office of Economic Development, (Leslie Lewis) Applicant
4. Request Approval of a Special Event and Approval of a Noise Variance for the Craft Beer Festival to be held Friday-Sunday, August 12-14, 2011 from 10:00 am – 10:00 pm in Memorial Park - Colorado Springs Craft Beer Festival, Inc. (Jessica Heron), Applicant
5. Request Approval of a Noise Variance for the Manitou Rhythm Circle on Thursday Evenings Mid-May Through Mid-September from 6:00 pm – 9:00 pm in Memorial Park – Anthony D. Kisling, Applicant

Upon a motion by Councilman Carpenter and a second by Councilman Gerbig, all matters on the Consent Calendar were passed, adopted and approved. Motion passed unanimously, 6-0.

**H. NEW BUSINESS**

1. **Proclamation No. 0511, a Proclamation Proclaiming May 2011 as National Historic Preservation Month**

Mayor Snyder read the Proclamation and presented it to the members of the Historic Preservation Commission who were in the audience.

2. **Approval of Appointment as a Regular Member of the Open Space Advisory Committee – Benjamin J. Kinsley, Applicant**

Upon a motion by Councilwoman Richter and a second by Councilman Barry, Benjamin J. Kinsley was appointed as a Regular Member of the Open Space Advisory Committee. Motion carried 6-0.

3. **Approval of Manitou Springs Public Library Board of Trustees Amended By-Laws - presented by Margaret Morris, Board Member**

Margaret Morris presented the amended by-laws, explaining the since the Library Board of Trustees doesn't manage money, there is no need for a Treasurer position. The by-laws were amended to eliminate this position.

Upon a motion by Councilman Gerbig and a second by Councilman Carpenter, the amended by-laws of the Library Board of Trustees were unanimously approved. Motion carried 6-0.

4. **Approval of the Library Board of Trustees' Recommendation to Continue Discussions with Pikes Peak Library District- presented by Margaret Morris, Board Member**

Margaret Morris presented a letter she wrote to the Library Board of Trustees that recommends continued discussions with Pikes Peak Library District (PPLD) regarding the possibility of joining their district. The recommendation was approved by the Library Board of Trustees and now formal approval is being sought from the City Council.

Upon a motion by Councilman Gerbig and a second by Councilwoman Richter, the City Council approved the recommendation to continue discussions with PPLD. Motion carried unanimously 6-0.

5. **Approval of New Library Social Networking Policy – presented by Margaret Morris, Library Director**

Library Director Margaret Morris presented a new library social networking policy, explaining that it has been created to establish guidelines for accessing and using social networking websites on library computers.

Upon a motion by Councilman Gerbig and a second by Councilman Barry, the new library social networking policy was unanimously approved. Motion carried 6-0.

6. **Approve Revisions to the Intergovernmental Agreement Between the City of Manitou Springs and the Crystal Park Metropolitan District**

Manitou Springs Fire Chief Keith Buckmiller informed the City Council that the Crystal Park Metropolitan District desires to change the term of the recently approved IGA from 1-year to 6-months. He explained that Crystal Park has been trying for some time to “stand up” their fire department. They are currently in the process of developing another agreement that would include a mutual automatic aid provision. Under this provision, our city would have the benefit of their resources as well as their district benefiting from ours. Chief Buckmiller said that he supported the revision and asked City Council to extend the existing agreement gratis for 6 months to allow Crystal Park to use the funds we would normally receive to fund lease purchases for their department.

Upon a motion by Councilwoman Richter and a second by Councilman Carpenter a revision to the IGA between the City of Manitou Springs and the Crystal Park Metropolitan District to extend the existing agreement gratis for 6 months was unanimously approved. Motion carried 6-0.

7. **Approve Revisions to the Application to Display Artwork on City Property – presented by Jack Elder for the Manitou Springs Arts Council**

Jack Elder, representing the Manitou Springs Arts Council, presented a revised *Application to Display Artwork on City Property*, explaining that the revisions allow for automatic annual renewals of the agreement. The current agreement does not allow for automatic renewals.

City Attorney Jeff Parker suggested a change to the wording of the second paragraph on the second page. He suggested this paragraph to read as follows:

“While the artwork is displayed on City property, the City shall take such steps as are necessary to include the artwork in the City’s insurance coverage.”

Upon a motion by Councilman Barry and a second by Councilwoman Richter, the revisions to the *Application to Display Artwork on City Property* was approved as amended by the City Attorney, with the understanding that artwork currently displayed within the city would automatically be included in this revised agreement. Motion carried 6-0.

8. **Discussion Regarding Mesa tank painting**

Public Services Director Bruno Pothier opened the discussion, explaining the need to paint the Mesa water tank. He presented three bids that were received and recommended utilizing the low bidder, Chipita Park Painting, for this project.

Following the discussion, it was the consensus of City Council to hire Chipita Park Painting to paint the water tank.

9. **Update Regarding Reservoir and Watershed Summer Water Restrictions**

Water Consultant Ann Nichols informed the City Council that a lack of snow on Pikes Peak this winter and early spring resulted in a slowing of the flow of French Creek, to well below historic levels. As a result, the water level in Manitou Reservoir has dropped, as French Creek is a major source of our water supply. In addition, the National Weather Service forecast for spring and summer for eastern Colorado indicates that low precipitation levels may continue.

Annual evaporation on Manitou Reservoir generally lowers the Reservoir level by about 1.2 feet. Under normal conditions, the City imports water from Pueblo Reservoir under the Fry-Ark agreement, but low-stream flow conditions on Fountain Creek preclude exchanges of Fry-Ark water. Since the City is legally obligated to keep the reservoir at a certain level, it may be necessary to impose water restrictions in order to conserve water.

Another option is outlined in the Conveyance Agreement that Manitou Springs entered into with Colorado Springs Utilities that provides for the delivery of Manitou Springs' Fry-Ark project water through Utilities Homestake and North Slope systems. However, the agreement limits the annual conveyance to 250 AF.

Ms. Nichols suggested that now is the time to determine (1) what level of drawdown of Manitou Reservoir is acceptable or prudent; (2) what set of conditions should trigger consideration of outdoor water restrictions; and (3) at what point would it be prudent to request conveyance of project water by Colorado Springs Utilities.

It was the consensus of the City Council to have an in-depth discussion of these items at the May 10, 2011 City Council Worksession.

Mayor Snyder called for a break at 8:40 pm. The meeting resumed at 8:45 pm.

#### 10. Approval to Purchase a Hot Water Tank for the Shower at the Swimming Pool

Bruno Pothier informed the City Council that when the boiler at the City's swimming pool failed and was subsequently replaced with a more energy-efficient unit, he determined that it would also be prudent to replace the hot water heater for the shower at the swimming pool with a more energy-efficient unit. He recommended the purchase of a 100-gallon tank at a cost of \$7,194.

Upon a motion by Councilwoman Richter and a second by Councilman Klingman, the purchase of a hot water tank for the shower at the swimming pool for a cost of \$7,194 was unanimously approved. Motion carried 6-0.

#### 11. Presentation of the Evaluation and Assessment of 10 Old Man's Trail (Hiawatha Gardens aka Tajine Alami)

Ryan Lloyd with Echo Architecture reviewed a report that was prepared to evaluate the condition of the structure and parking lot at 10 Old Man's Trail known as the Tajine Alami Restaurant. The report was divided into three sections; (1) building, (2) parking, and (3) financial. The conclusions of the report were as follows:

##### Building:

Considering the age and location of the building, the structure is in great shape and is a prime candidate for redevelopment. However, the post-1950 additions around the perimeter of the original structures are not in good condition and should be demolished.

##### Parking:

The existing asphalt is in bad shape and should not be used for parking for more than the very short term. The parking lot drainage is inadequate and should be remedied if the site is to be used for parking in the long term. With the building, the lot could hold up to 150 vehicles. Without the building, the lot could hold up to 200 vehicles.

##### Financial:

The asking price for the property is at the extreme upper limit of what the market would suggest, but is close enough to the realm of reality that it should be considered. Taking into account local comparable real estate costs, and the conditions of the site, it seems an appropriate asking price for the property would be in the \$1 million range.

12. **Resolution No. 0511, a Resolution Adopting a 457 Deferred Compensation Plan, Account Number 306812**

Deputy City Administrator Mike Leslie explained that Jack Benson, the new City Administrator, won't be participating in PERA. Instead, he will be participating in a plan with the ICMA Retirement Corp.

Upon a motion by Councilwoman Richter and a second by Councilman Klingman, Resolution No. 0511, adopting a 457 deferred compensation plan for the new City Administrator, was unanimously approved. Motion carried 6-0.

**I. HEARINGS**

1. **CU 1104 – Conditional Use (Short-term Vacation Rental) – 113 Deer Path Avenue – Michael Clark, Applicant**

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. Councilman Barry said he will be recusing himself from the second hearing because he may have a financial consideration in the re-platting. Councilman Carpenter disclosed that he attended an OSAC meeting regarding the 2nd hearing but his attendance wouldn't affect his ability to make an impartial decision.

Dan Folke opened the hearing by explaining that the applicant is requesting conditional use approval for a short-term vacation rental of a single-family home located within the general residential zoning district. He informed the City Council that the Planning Commission approved the request with five conditions and three findings.

There was no public comment.

Upon a motion by Councilman Carpenter and a second by Councilman Klingman, CU 1104 – Conditional Use of a short-term vacation rental at 113 Deer Path Avenue, Michael Clark, Applicant, was unanimously approved with five conditions and three findings. Motion carried 6-0. The 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 kitchen, smoke detectors in all sleeping areas and carbon monoxide detectors within 15 feet of the entrance to each room used for sleeping.
- 3) The Conditional Use approval is specific to the current property owner and is not transferable.
- 4) The applicant will collect and remit Sales and Lodging taxes for all rentals which are less than 30 days.
- 5) The owners will provide written information in the home 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.

At this time, Councilman Barry recused himself and left the room. He did not return to the meeting.

2. **MP 1101 – Master Plan (Revisions to Previously-Approved MP 0501) – 0 Welcome Lane (1300 Block Manitou Avenue) – David Walton on behalf of UU CAM LLC, Applicant**

Dan Folke introduced the hearing by explaining that a Master Plan is required when multiple land uses are proposed for an area and/or when the developer does not intend to subdivide all of this contiguous holding at the same time, or if development is to be phased. In the case of our applicant, the only proposed revision to the previously-approved Master Plan is a change to the “Proposed Uses.” That section has been changed to read as follows:

“Proposed Uses: Commercial/Office/Residential

-Master Planned Commercial (2.85 +/- Acres)

(Commercial) Sub-Area Uses: Including but not limited to Amphitheater, Indoor/Outdoor Concerts, Plays and Special Events, Concessions, Outdoor Restrooms, Event and Commercial Parking. Multi-Family uses may exist within this zone at a maximum of 12 DU/Acre as described below.”

-Residential (HLDR) (21.00 +/- Acres)

-Residential (GR) (3.20 +/- Acres)

(HLDR & GR) Sub-Area Uses: Single Family Lots, Lodge, Event Parking, Outdoor Activities Including but not limited to (Zip Line, Outdoor Swings, Bungee Jumping Jeep & Four wheel drive Use and Trails, Hiking and Adventure Sports/Competitions).

\*Multi-Family Use may be located in Commercial or General Residential Zones.”

Mr. Folke explained that the Planning Commission recommended approval with five conditions and one finding.

Applicant David Walton explained that it was necessary to change the original plans due to a change in the economy. Outdoor recreation is now being considered as an alternative use, including zip lines, outdoor swings, and bungee jumping.

There was no public comment.

Upon a motion by Councilwoman Richter and a second by Councilman Klingman, MP 1101 – Master Plan Revisions to Previously-Approved MP 0501 – O Welcome Lane (1300 Block Manitou Avenue), David Walton on behalf of UU CAM LLC, Applicant was unanimously approved with five conditions and one finding. Motion carried 5-0. The findings and condition are as follows:

Conditions:

- 1) The Master Plan is approved based on the information provided and incorporating all the plans and reports and comments noted in the Staff Report, including the recommendations in the letter from the Colorado Geological Survey dated June 30, 2005 in regard to development planning for this site. Significant changes to the areas allocated to the stated uses, the anticipated uses themselves, or the number of dwelling units will require updating of the Master Plan.
- 2) In order to ensure connectivity and that site planning occurs across the property, rather than just in discreet phases, as part of the next platting request, the developer shall provide alignments/locations for roads, trails, open space and parks dedications, and utilities for the entire Master Plan area. The City understands minor amendments to the overall plans may occur as additional platting occurs. However, major amendments would require resubmittal of new plans for the remaining undeveloped areas of the property.
- 3) The approval of this Master Plan does not guarantee approval of future plats, developments, densities, or uses and these are entirely dependent upon demonstrative compliance with the applicable City regulations.
- 4) The costs for any on and off-site public and quasi-public improvements necessary to service future development of this property shall be the responsibility of the property owner/developer.

- 5) At the time of platting, the owner/developer shall process applications for rezoning as appropriate for the proposed areas to be subdivided.

Finding:

The City finds that the requirements of the Environmental Impact Statement has been addressed, that the City has the resources to support the proposed development, and that the social and environmental impacts to the City are mitigatable and acceptable. Further, the City finds that development at this end of Manitou Avenue is necessary and desirable and will have long-term beneficial impacts on the community by encouraging other, similar and appropriate land uses in the surrounding area.

**J. MAYOR’S REPORT**

None

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

None

**L. CITY COUNCIL LIAISON REPORTS**

Councilman Gerbig reported that the Business of Art Center is proceeding with preparations for the “Chair Project.” He noted that comments received from local business owners regarding this project have been positive.

Councilman Carpenter reported that the new Chamber entity’s COO search is on-going. He also reported that the BID reauthorization process is being discussed with the BID’s attorney who has stated that reauthorization can be accomplished by city ordinance. Mr. Carpenter suggested checking with our city attorney for confirmation. The BID is set to sunset in December 2013 if no action is taken.

**M. PLANNING DIRECTOR’S REPORT**

Dan Folke informed the City Council that CSU has provided written approval to perform improvements to the Barr Trail Parking Lot. These improvements are scheduled for next week.

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

None

**O. FUTURE AGENDAS**

- April 26, 2011 – Worksession
- May 3, 2011 – Regular Meeting
- May 10, 2011 – Worksession
- May 17, 2011 – Regular Meeting

**ADJOURNMENT**

With no further business to conduct, Mayor Snyder concluded the Regular Meeting at 10:09 p.m.

\_\_\_\_\_  
MAYOR AND CITY COUNCIL

\_\_\_\_\_  
CITY CLERK