

A Regular Meeting of the Manitou Springs City Council was held in the City Council Chambers, 606 Manitou Avenue, Manitou Springs, Colorado, on May 17, 2011. Mayor Snyder called the meeting to order at 7:05 pm.

COUNCILMEMBERS PRESENT FOR ROLL CALL:

Mayor Marc A. Snyder
Mayor Pro Tem Aimee Cox
Councilman Ed Klingman
Councilman Michael Gerbig, Jr.
Councilman Matt Carpenter

COUNCILMEMBERS NOT PRESENT FOR ROLL CALL:

Councilman Rick Barry
Councilwoman Ingrid Richter

STAFF PRESENT:

City Administrator Jack Benson
Deputy City Administrator Mike Leslie
City Attorney Jeff Parker
Public Services Director Bruno Pothier
City Planner Michelle Anthony

A. CALL TO ORDER

The meeting was called to order at 7:05 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 Barry and Councilwoman Richter, who were excused.

D. APPROVAL OF AGENDA

Mayor Snyder said that Item H.1, "Update on the Sustainable Parks Initiative" needed to be pulled from the agenda by request of the presenter, Bill Koerner. He also requested Item G.4, 1st reading of Ordinance No. 1011, to be considered following Item I.3 and renamed Item I.4. Mayor Pro Tem Cox requested the addition of a new Item G.4 for a discussion of the CBDG Program.

Upon a motion by Councilman Carpenter and a second by Councilman Gerbig, the agenda was approved as amended. Motion passed unanimously, 5-0.

E. PUBLIC COMMENT ON NON-AGENDA ITEMS

This item was considered following Item G.4.

F. 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 the April 19, 2011 Regular City Council Meeting Minutes
3. Approval of the May 3, 2011 Regular City Council Meeting Minutes

4. Request Approval of a Noise Variance in Soda Springs Park, Sunday, July 17, 2011 from 7:00 am – 12:00 pm for the Barr Trail Mountain Race Awards Ceremony – Jonathan Veteto, Applicant
5. Request Approval of a Noise Variance in Seven Minute Spring Gazebo for a Wedding on Friday, August 5, 2011 at 7:00 pm – William Kirby, Applicant

Upon a motion by Mayor Pro Tem Cox and a second by Councilman Klingman, all matters on the Consent Calendar were passed, adopted and approved. Motion passed unanimously, 5-0.

G. NEW BUSINESS

1. Presentation of Awards to First Grade Students

Mayor Snyder read the award certificate that was prepared for Judy Harris' first grade students. The certificate expressed appreciation for the students' adoption of Schryver Park during the school year and for all their hard work. Each student present at the meeting was called by name and presented with a copy of the certificate.

2. Proclamation No. 0611, a Proclamation of Appreciation Recognizing May 15-21, 2011 as National Public Works Week

Councilman Gerbig read the proclamation and presented it to Public Services Director Bruno Pothier.

3. Resolution No. 0611, a Resolution Authorizing the Mayor to Sign an Agreement with the Colorado Department of Transportation for the Construction of Phase 5B of the Manitou Avenue Revitalization Project, and Committing to the Expenditure of Funds

Mike Leslie presented the resolution, explaining that the attached contract is the standard contract used for all five phases of the project.

Upon a motion by Councilman Klingman and a second by Mayor Pro Tem Cox, Resolution No. 0611 was unanimously approved as presented. Motion carried 5-0.

4. Discussion of the CBDG Program

City Administrator Jack Benson informed the City Council that June 3, 2011 is the deadline to act on El Paso County's invitation to participate in the CBDG program. Participation with the County would mean we would become ineligible to participate in the State's DOLA program. Both programs provide funds for low to moderate income housing, economic development and public facilities. Our task is to choose which program to participate in. Mr. Benson suggested inviting representatives from the County to a future meeting to explain the program.

It was the consensus to invite the County to present the CBDG program at the May 24, 2011 City Council Worksession.

E. PUBLIC COMMENT ON NON-AGENDA ITEMS

Charles Rockey, a resident of 10 Canon Avenue, said he heard some in the community express a desire to "make a commercial atmosphere" abound in Manitou Springs. He said he believed that type of atmosphere was not in line with the personality of our city and he would oppose such a transition.

A woman who identified herself only as Astrid said she wanted to introduce herself as the new owner of the Barker House.

H. UNFINISHED BUSINESS

1. Update on the Sustainable Parks Initiative – This item was pulled from the agenda

I. HEARINGS

Jeff Parker asked the City Council if they had any *ex parte* contacts or conflicts of interest to declare for any of the hearings that were about to be held. Councilman Carpenter disclosed that he attended a Parking Authority Meeting regarding the color-coding of restricted parking areas. Councilman Gerbig disclosed that he notified his friend that there would be a hearing tonight as his friend asked to be informed.

1. **Ordinance No. 0911, an Ordinance Amending Section 10-12 "Parking" of the Code of Ordinances Concerning the Adoption of Colors to Identify Various Types of Parking Restricted Areas Within the City of Manitou Springs – 2nd reading**

There was no public comment.

Upon a motion by Mayor Pro Tem Cox and a second by Councilman Klingman, Ordinance No. 0911 was unanimously approved as presented. Motion carried 5-0.

2. **CU 1102 – Conditional Use (Recreational Facility–Zip Line and Commercial Parking–in the Commercial and HLDR Zone) – 1300 Block of Manitou Avenue – Greg Wellens on behalf of Adventures Out West and David Walton, Applicant**

Michelle Anthony opened the hearing by explaining that there were two proposed uses for the 1300 block of Manitou Avenue – a zip line and commercial parking. The applicant proposes operating a zip line course with associated parking within the Commercial (C) and Hillside Low Density (HLDR) zoning districts. In addition, the property owner is requesting approval to allow a commercial parking operation within the commercial zoning district on Lots 1 and 3 of the Arch at Manitou Springs Subdivision (O Welcome Lane). The Planning Commission recommended approval with ten conditions and two findings.

Ms. Anthony reviewed a memo from Planning Director Dan Folke, recommending changes to Conditions #1 and #10 based upon information that was received following the Planning Commission meeting.

During discussion, Mayor Snyder asked about training that might be required of our fire department in order to be prepared to extricate someone from a mishap on a zip line. Larry Mitchell, a member of the City's fire department, informed the City Council that the department already receives High Angle rescue training twice a year. He said it wouldn't be difficult to incorporate additional information into these programs that would include zip line rescues.

Greg Wellens, applicant, said he was satisfied with the Planning Commission's recommended conditions with the exception of Condition #1. He said that because of the substantial investment that is required for this venture, he would want to be sure that he would be allowed to operate his business for at least four years. He also spoke about Condition #10 as it pertains to the parking lot, noting that it is a landowner issue as he is renting the property. He said he personally would be willing to park people at his office on 21st Street and drive them to the property, if necessary.

David Walton, owner of the property, said that people are currently parking in his lot only because it is free. He stated that if he charged the same rate as charged at the Smischny Lot, then people would park in the Smischny. He outlined the proposed uses of Lot 3, including allowing a place for busses to drop patrons off. On another subject, Mr. Walton said he was opposed to the condition that required an outdoor port-o-let toilet to be provided on-site as he didn't believe it to be necessary.

Mayor Snyder opened the hearing for public comment.

David Combs, a resident of 42 Waltham Avenue, said he had experience running a zip line and knew from experience that it would generate a lot of noise from participants. He said he didn't believe a residential area would be an appropriate location for this type of activity.

No one else in the audience expressed a desire to comment and the public hearing was closed.

Mayor Pro Tem Cox said she didn't believe this type of activity was appropriate for a residential neighborhood. Traffic would be negatively impacted and it was not consistent with the zoning code and the safety, health and welfare of the neighborhood. She also expressed concerns about a lack of notification of nearby residents.

Councilman Gerbig said he was concerned about safety issues and the increased duties that would be required of our fire department. He also had concerns about increased traffic on residential streets.

Councilman Klingman said he believed these thirty acres are "prime" for this type of activity and objections regarding the potential of excessive noise are just speculation at this point. He said he would like to work with the applicant to work out any issues that might arise.

Councilman Carpenter said he was excited about this proposal and was in favor of it.

Mayor Snyder said nearby residents live next to thirty acres of undeveloped land and there is no guarantee as to how it will be developed and used. That was a risk they took when purchasing the property. The recommended conditions of the Conditional Use are designed to mitigate negative impacts that are anticipated and Condition #1 allows us the opportunity to mitigate anything else that may arise. He would like to approve the application with the conditions as amended by Dan Folke.

Councilman Carpenter made a motion, seconded by Councilman Klingman, to approve CU 1102 - Conditional Use (Recreational Facility–Zip Line and Commercial Parking–in the Commercial and HLDR Zone) - 1300 Block of Manitou Avenue with the 10 conditions recommended by the Planning Commission as amended by Dan Folke and Jeff Parker and the 3 Findings. Motion carried 3-2 with Mayor Snyder, Councilman Klingman and Councilman Carpenter voting for; and Mayor Pro Tem Cox and Councilman Gerbig voting against. Councilman Gerbig explained that he voted against due to concerns regarding traffic, safety, and the conditions for people up on the Mesa hillside. Mayor Pro Tem Cox said she voted against because she believes it injures the quality of the neighborhood, is not consistent with the zoning code and the safety, health and welfare of the neighborhood, nor consistent with the Rainbow Vision Plan.

The Conditions and Finding are as follows:

Conditions:

- 1) The zip-line operation is approved for Adventures Out West and is not transferable without approval of a new Conditional Use application. Staff will review the operations for unanticipated impacts six months after issuance of a business license and provide a written report to the Planning Commission and City Council. The findings will be presented to City Council with either a recommendation that the use is compatible as operating and that no action is required, or that mitigation of impacts (such as noise) is required, or that the use is not compatible and the Conditional Use should be revoked.
- 2) Hours of operation for the zip line course shall be 9:00 a.m. to tours ending two hours before sunset as established by the Colorado Department of Wildlife Sunrise/Sunset Chart for the City of Denver.
- 3) Prior to installing the zip lines, plan details for each zip line stamped by a Colorado Licensed Structural Engineer will be provided. Upon installation, a Colorado Licensed Structural Engineer must certify that the zip lines have been installed as designed.
- 4) Parking for up to 10 vehicles may be provided on Lot 3, Arch at Manitou Springs subdivision. Parking blocks will be provided to identify parking spaces and the driveway and spaces will be paved within 12 months of beginning operation.

- 5) Prior to issuance of a business license a driveway entrance, curb, and gutter will be installed along the Lot 3 property frontage consistent with the Colorado Department of Transportation permit.
- 6) Only Adventures Out West vans may take customers to the zip line course through the Duncan/Mesa Avenue access; individual customer vehicles will park on Lot 3.
- 7) Prior to grading work on the existing access roads, the Applicant will work with the City Public Works Department and Storm Water Manager to identify opportunities to improve erosion and storm water control. Depending on the scope of the improvement a Grading Permit and Storm Water Management Permit/Plan may be required.
- 8) Prior to issuance of a business license Adventures Out West will complete training with the Manitou Springs Fire Department.
- 9) An outdoor port-o-let toilet will be provided on-site for customers of the zip line course. Efforts will be made to place the toilet in a discrete location and it shall be screened appropriate to the architectural integrity of the neighborhood as viewed from Manitou Avenue.
- 10) Commercial parking on Lot 3 not associated with the zip-line operation will be reviewed by staff upon submittal of a site development plan which provides a grading and erosion control plan to provide a level parking surface with suitable on-site drainage. Parking is limited to special event and bus parking. If the demand for daily parking is generated, site improvements to include paving and landscape buffering consistent with the design and site development standards must be in place. Frontage improvements consistent with an approved CDOT access permit will be installed prior to operation of any parking lot. At a minimum the improvements will include a driveway entrance with curb and gutter and a paved apron. If curb and gutter is not installed along the entire frontage, access to the property will be controlled utilizing a split rail fence or similar fencing. Parking on Lot 1 is not permitted until such time as a site development plan and grading and erosion control plan have been reviewed and approved through the Conditional Use 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 break at 9:25 pm. The meeting resumed at 9:31 pm.

3. **VE 1101 – Vacation of Easement (portion of easement on easterly side of property) – 5 Keithley Place – Jay & Elaine Pretzer, Applicants**

Michelle Anthony opened the hearing by explaining that the applicants are requesting a vacation of 5 feet of an existing 25 feet utilities and access easement along the eastern property line of Lot 9 Keithley Subdivision (5 Keithley Place). The Planning Commission recommended approval with the finding that the proposed 20 feet width would provide adequate access for future utilities, physical access to the subject property, and meet the required front yard setback.

Jay Pretzer, applicant, said he was in agreement with the recommendations of staff and the Planning Commission.

There was no public comment.

Upon a motion by Councilman Gerbig and a second by Councilman Klingman, VE 1101 – vacation easement at 5 Keithley Place was unanimously approved as presented. Motion carried 5-0.

Councilman Gerbig left the meeting at 9:40 pm.

4. **Ordinance No. 1011, an Ordinance Vacating the Westerly 5 Feet of the 25 Foot Public Utility and Private Access Easement Along the Eastern Property Line of Lot 9 Keithly Subdivision, City of Manitou Springs, El Paso County, Colorado – 1st reading**

Upon a motion by Mayor Pro Tem Cox and a second by Councilman Klingman, Ordinance No. 1011 was unanimously approved at 1st reading as presented. Motion carried 4-0.

J. MAYOR’S REPORT

None

K. RECEIVE OR ACT ON COUNCIL CORRESPONDENCE

Councilman Carpenter said he received complaints regarding the numerous police calls to the LaFon Motel and inquired as to how to proceed to address the issue. Upon the advice of the City Attorney, it was decided that this was something that should be handled by staff, and Jack Benson was directed to see that hotel management was contacted about this problem.

L. CITY COUNCIL LIAISON REPORTS

Mayor Pro Tem Cox reported that the Library Board of Trustees is continuing discussions with the Pikes Peak Library District regarding the possibility of joining the District. They were informed that in order to do so, a mill levy increase of 4 mills would be required.

Councilman Carpenter commented on the parking surveys and upcoming parking meetings and noted how nice it is to have our new City Administrator attending meeting such as these.

M. PLANNING DIRECTOR’S REPORT

Dan Folke, who was not in attendance, presented his report in a memo. The memo stated as follows:

- 1) I am happy to report that the Load Testing was completed last week on the Canon and Park Avenue bridges and they were moving forward with the design on the rehabilitation project.
- 2) The public meeting parking potlucks are set for May 25 (parking problems) and June 9 (parking solutions) at 6:00 pm in Memorial Hall. We have an online survey available from the city homepage until May 20th.

N. CITY ADMINISTRATOR’S REPORT

Jack Benson stated that he has been meeting one-on-one with Council Members and Department Heads and has begun a tour of city facilities. He reported that the locks at City Hall have been re-keyed in order to have “master keys” that open multiple locks instead of a separate key for each lock, and also in order to have some accountability over who has keys. He is working on water utility issues, noting the need to separate multiple utilities that are on only one path. He has also been working on a strategy for implementing water restrictions if necessary.

Mayor Snyder requested a Finance Director's report and Mike Leslie reported that we collected 4 percent more in sales tax in March than we did during the same period last year. However, we are still \$17,000 short for the period ending March 31. He also reported that the auditors have completed their audit and that it was completed quickly, which is a good sign.

Public Services Director Bruno Pothier updated the City Council on the status of the CSU water break in our downtown area.

Mayor Snyder requested approval of a Special Meeting on May 24, 2011. It was the consensus of City Council to approve this meeting.

O. FUTURE AGENDAS

- June 7, 2011 – Regular Meeting
- June 14, 2011 – Worksession
- June 21, 2011 – Regular Meeting
- July 5, 2011 – Regular Meeting
- July 12, 2011 – Worksession
- July 19, 2011 – Regular Meeting

ADJOURNMENT

With no further business to conduct, Mayor Snyder concluded the Regular Meeting at 9:55 p.m.

MAYOR AND CITY COUNCIL

CITY CLERK

Minutes Prepared by: Donna Kast, City Clerk