

A Regular Meeting of the Manitou Springs City Council and Housing Authority Board was held in the City Council Chambers, 606 Manitou Avenue, Manitou Springs, Colorado, on June 21, 2011. Mayor Snyder called the meeting to order at 7:04 pm.

**COUNCILMEMBERS PRESENT FOR ROLL CALL:**

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

**COUNCILMEMBERS NOT PRESENT FOR ROLL CALL:**

None

**STAFF PRESENT:**

City Administrator Jack Benson  
Deputy City Administrator/Finance Director Mike 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 7:04 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.

**D. APPROVAL OF AGENDA**

Mayor Snyder pulled Item F.4 from the agenda at the request of the applicant. He also reported that Item G.9 is being postponed until the June 28, 2011 City Council Work Session.

Upon a motion by Mayor Pro Tem Cox and a second by Councilman Klingman, the agenda was approved as amended. Motion passed unanimously, 6-0.

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

Colorado House District 18 Representative Pete Lee reported on his activities and accomplishments during his first term in the legislature.

**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 June 7, 2011 Regular City Council Meeting Minutes

3. Approval of a Noise Variance at the Business of Art Center, 515 Manitou Avenue for a New Year's Eve Concert on Saturday, December 31, 2011 – January 1, 2012 from 10:00 pm to 1:00 am – Jana Rush, Applicant
4. Approval of Event Sponsorship in the Form of a \$200 Banner Hanging Fee Waiver – Manitou Springs Forward (David Chorpenning), Applicant - **PULLED BY REQUEST OF THE APPLICANT**
5. Approval of the Mineral Springs 5K Run Special Event, to be held Saturday, September 17, 2011 from 8:00 am – 11:30 am (race begins at 10:00 am) - Manitou Springs Mineral Foundation (Sue Graham), Applicant
6. Approval of CDBG Program Participation Intergovernmental Agreement Between El Paso County and Manitou Springs

Agenda Item No. F.4 was pulled at the request of the applicant.

Upon a motion by Mayor Pro Tem Cox and a second by Councilman Carpenter, Items F.1 through F.3 and Items F.5 and F.6 were unanimously approved as presented. Motion carried 6-0.

## G. NEW BUSINESS

1. **Resolution No. 0811, a Resolution of Acknowledgment and Appreciation of Councilwoman Ingrid Richter**

Mayor Snyder read the resolution, noting that Ingrid Richter was unable to be in attendance. He publicly thanked her for her contributions and hard work in behalf of the City over the past eighteen months.

Councilman Gerbig expressed appreciation to Ms. Richter for her expertise and willingness to serve.

Upon a motion by Mayor Pro Tem Cox and a second by Councilman Klingman, Resolution No. 0811 was unanimously approved as presented.

2. **Resolution No. 0911, a Resolution Honoring Denny Strackbein**

Mayor Snyder read the resolution and commended Denny Strackbein for his dedication and hard work as a city employee.

Denny Strackbein spoke regarding his enjoyment of the job and the people of Manitou Springs.

Councilman Gerbig told everyone that Denny was very supportive when the Councilman's family was faced with very difficult circumstances. He said he will never forget Denny for all he did.

Upon a motion by Councilman Gerbig and a second by Councilman Barry, Resolution No. 0911 was unanimously approved as presented. Motion carried 6-0.

3. **Resolution No. 1011, a Resolution to Fill the Vacant Ward 2 Council Seat of City Council of the City of Manitou Springs**

Mayor Snyder announced that there were two applicants for the vacant Ward 2 Council Seat. He invited both candidates to come forward and introduce themselves and make a statement regarding their interest in the position.

Coreen Toll, applicant, said she loves the fact that the small size of our city allows all citizens the opportunity to contribute input into decision-making. Her qualifications include the fact that she is well-integrated in the community as well as has a history as a successful businesswoman. When asked what she considered the major issues in our city, she noted (1) parking and (2) the balance of tourism and residential needs. When asked how she would react if she were to support an issue that the majority on Council did not support, she noted that she believes in consensus, meaning that people who don't get their way need to be able to "live with it."

Gary Smith, applicant, noted that our current City Council is doing a lot of good things and said he would like to be a part of the process. He said he has a lot to offer because he worked for the City for 23 years as well as volunteered for the City for 25 years. When asked what his particular interests were in the city, he noted (1) downtown improvements that attract tourism as well as local people and (2) the budget and improvements to infrastructure. When asked about a possible conflict of interest since his wife is Chief of Police, he noted that he doesn't always share the same opinions with his wife and will always vote his own convictions. He also said he would be willing to recuse himself when necessary.

Mayor Snyder called for a break at 7:37 pm announcing a retirement reception for Denny Strackbein and an opportunity for people to visit with the Ward 2 candidates.

The meeting resumed at 8:00 pm.

Councilman Gerbig expressed appreciation for the two qualified candidates for the Ward 2 Council Seat, noting that we were very lucky to have such an excellent choice of candidates. However, he stated that he would be supporting Coreen Toll because she has frequently been in attendance at Council meetings in the past two years.

Mayor Snyder agreed that we were fortunate to have two qualified candidates. He said that Gary Smith was a great asset as a city employee for many years; however, he would be supporting Coreen Toll because she has been more involved in City issues over the last couple of years.

Councilman Klingman agreed with the sentiments already expressed, and noted that Coreen Toll is very gracious even when she fails to agree with him over certain issues.

Councilman Gerbig made a motion to approve Resolution No. 1011, a resolution appointing Coreen Toll to fill the vacant Ward 2 Council Seat of City Council of the City of Manitou Springs. Councilman Klingman seconded the motion.

Before the vote, Mayor Pro Tem Cox encouraged Gary Smith to run in the November election for an at-large seat because his involvement and history with the City would make him a great candidate.

There was no public comment.

Upon a call for the vote, Resolution No. 1011 was unanimously approved as presented. Motion carried 6-0.

4. **Swearing in of Ward 2 Councilmember Elect**

At 8:13 pm, Coreen Toll was sworn in as the Ward 2 City Council Member and took her seat at the dais.

5. **Approval of Fields Bench Proposal - Concrete Couch, Applicant**

Mayor Pro Tem Cox informed the City Council that a seating area has been created in Fields Park and Concrete Couch is proposing the addition of a community-built art bench. If approved, funding will come from the El Paso Park Fund. Concrete Couch is seeking funding for one bench at a cost of \$5,250 or alternately, two benches at a cost of \$4,800 each.

Councilman Gerbig moved to approve two benches for a total cost of \$9,600 with the understanding that a down payment will be made at the start of the project and the balance due will be paid upon completion. Upon a call for the vote, the motion was unanimously approved as presented. Motion carried 7-0.

6. **Presentation of the 2010 Annual Report from El Paso County Public Health**

Kandi Buckland, Executive Director of El Paso County Public Health, presented and reviewed the 2010 annual report. Following the review, she presented Mayor Snyder a plaque in appreciation of his contributions as a Member of the Board of Health.

7. **Presentation of the 2010 Manitou Springs Housing Authority Audit Report**

Eugene Montoya, Executive Director of the Colorado Springs Housing Authority, introduced the presentation noting how well the program had been managed during the prior year. He then introduced John Rasmussen, Assistant Executive Director for Finance and Administration, who reviewed the communications report, noting that there were no negative findings in the audit. Mr. Rasmussen then highlighted and reviewed key aspects of the audit.

Chad Wright, another Assistant Executive Director, updated the City Council on a recent meeting with the HUD. He stated that he was informed that the merger request is being reviewed and should be accepted in the near future. The City of Manitou Springs will be formally notified once a decision is made.

Upon a motion by Mayor Pro Tem Cox and a second by Councilman Klingman, the 2010 Manitou Springs Housing Authority Audit Report was accepted as presented. Motion carried 7-0.

8. **Resolution No. 1111, a Resolution Declaring the Existence of a Water Shortage and Imposing Restrictions on the Use of Water**

Mayor Snyder announced that Fire Chief Buckmiller enacted a fire ban on June 17, 2011.

Bruno Pothier explained that we are currently experiencing extreme dry conditions. He said that the National Oceanic and Atmospheric Administration long-range outlook is for continued moderate to severe drought in our area. Since May 31, 2011, the inflow to the Manitou Springs Reservoir has been significantly lower than the outflow by an average of 10%, resulting in a drop of the reservoir water level. In addition, the State "Call" process precludes any recovery at this time. Mr. Pothier requested that Council impose Level 1 Water Restrictions in accordance with the provision of Ordinance No. 0906.

During public comment, Clint Lewis suggested a change to the City's water rate fee schedule. He suggested a base rate for households with a steep increase to the rate once a certain level of usage is met. He explained that this would discourage people from using excessive amounts of water.

Upon a motion by Councilman Carpenter and a second by Councilman Klingman, Resolution No. 1111, a resolution declaring the existence of a water shortage and imposing Level 1 restrictions was unanimously approved. Motion carried 7-0.

9. **Presentation of the Natural Gas Integrated Resource Plan**

This item was pulled from the agenda at the start of the meeting.

10. **Ordinance No. 1211, an Ordinance Amending the City of Manitou Springs' Personnel Manual – 1<sup>st</sup> reading**

Jeff Parker presented the ordinance, explaining that it was prepared at the request of the Mayor and City Administrator. He said it amends the City's personnel manual to grant employment decision-making power to the City Administrator with the exception of decisions in regards to the City Administrator, City Attorney, Municipal Court Prosecuting Attorney, Police Chief and City Clerk. All employee disciplinary decisions of the City Administrator can ultimately be appealed to the City Council.

City Administrator Jack Benson distributed a memo in which he recommended revisions to the proposed ordinance. The revised language would be placed in Section VI following Subsection "D." *Drugs and Alcohol in the Workplace*

and would be labeled Subsection "E." *Tobacco-free Workplace*. All subsequent subsections in Section VI would be reordered accordingly. The purpose of the new section would be to limit the use of tobacco products to outside smoking areas and would be applicable to all city employees while on city property.

Councilman Carpenter made a motion to approve Ordinance No. 1211, including the proposed revisions of the City Administrator. Mayor Pro Tem Cox seconded the motion. Upon a call for the vote, Ordinance No. 1211, including the proposed revisions, was unanimously approved at 1<sup>st</sup> reading. Motion carried 7-0.

**11. Ordinance No. 1311, an Ordinance Concerning the Powers of the City Administrator and the Finance Director – 1<sup>st</sup> reading**

Jeff Parker introduced the ordinance, explaining that it separates out the Finance Director's duties from the City Administrator's duties. The ordinance also gives the City Administrator contract approval authority up to \$50,000.

Councilman Carpenter stated that should the City Administrator be authorized for contract approval authority up to \$50,000, City Council should be presented with a monthly report regarding the types of contracts entered into during the month for informational purposes.

Upon a motion by Mayor Pro Tem Cox and a second by Councilman Barry, Ordinance No. 1311 was unanimously approved at 1<sup>st</sup> reading. Motion carried 7-0.

**H. HEARINGS**

**1. Ordinance No. 1111, an Ordinance Amending Title 17, Historic Preservation, of the Municipal Code of the City of Manitou Springs, Colorado – 2nd reading**

Dan Folke outlined the changes made to the ordinance by the City Attorney since first reading.

There was no public comment.

Upon a motion by Councilman Carpenter and a second by Councilman Gerbig, Ordinance No. 1111 was unanimously approved at 2<sup>nd</sup> reading as revised by the City Attorney. Motion carried 7-0.

**2. CU 1105 – Conditional Use (Business Without a Building – Artists' Market & Food Cart) – 722 Manitou Avenue – Lisa Rush, 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. None were disclosed.

Mr. Folke opened the public hearing by explaining that the applicant proposes approval of outdoor vending in the Downtown Commercial (DWTN) Zoning District. Conditional Use is required because our City Code says that all businesses must be operated inside a building. The Planning Commission recommended approval to allow the requested outdoor vending for up to one food cart and four additional retail booth spaces (five vendors total) with seven conditions and three findings.

Lisa Ruch, applicant, said she agreed with the recommended conditions except Condition #6 that requires the installation of potted plants and/or above-ground planters prior to initiating vendor operations. She explained that she needed to prioritize her focus on the business instead of on landscaping at the start of her venture.

There was no public comment.

During discussion, Councilman Gerbig said he had two suggestions: (1) limited seating and (2) the requirement that each vendor obtain a business license.

Councilman Barry said that the City has codes for land use and property use that does not give the property owner free license to do whatever they choose with their property. That is why we have codes and it is the duty of City Council to uphold those codes and protect the land owners surrounding a property in question. The Conditional Use process was developed years ago by a City Council as a way to overrule the land use code and allow the City Council to decide what is best for the property owner and the surrounding property owners. However, when someone purchases a property it is with the expectation that the Code will be followed for the adjacent properties. It must be kept in mind that Conditional Use decisions impact the adjacent property owners.

Councilman Carpenter commented that the property in question is private land and he believes in the rights of property owners. This Conditional Use is for about a three month period of time after which the decision can be reassessed for impact.

Councilwoman Cox moved, seconded by Mayor Snyder, to recommend approval of CU1105 to allow the requested outdoor vending for up to one food concession, intended for on-site consumption, and four additional retail booth spaces which may include the sale of packaged food items intended for off-site consumption (five vendors total) at 722 Manitou Avenue with seven conditions and three findings. Upon a call for the vote, the motion passed 5-2 with Mayor Snyder, Mayor Pro Tem Cox, Councilman Klingman, Councilwoman Toll, and Councilman Carpenter voting for; and Councilman Barry and Councilman Gerbig voting against. Councilman Gerbig explained that he voted against approval because he doesn't know what will be sold at the market.

The conditions and findings were as follows:

**Conditions:**

- 1) Conditional Use approval is specific to the applicant and not transferable without approval of a new Conditional Use Permit. Staff will review the vending operations for compliance with conditions and provide a written report to the Planning Commission and City Council prior to May 2012.
- 2) All sales must be through a valid Manitou Springs business license holder who will collect and remit sales tax.
- 3) Parking provisions (such as permits or SmartCards – as available) for vendors who do not reside within walking distance to this location shall be required of individuals as a condition of Business License approval. Vendors who drive to the location should not park on public streets.
- 4) Regular daily loading and unloading of merchandise by vendors shall not occur from the center lane of Manitou Avenue.
- 5) The applicant may use the existing sun shade canopy on the property and is allowed to add up to two, additional 10' X 10' canopies; these shall be in a color or colors to blend with the surroundings as approved by Planning Staff. A trash receptacle shall be provided adjacent to the food vending cart and trash removal shall be the responsibility of the property owner or designee. If onsite seating is provided, benches, tables or other similar improvements shall be consistent with the City's streetscape furnishings and approved by the Planning Department prior to installation.
- 6) The applicant shall install potted plants and/or above ground planters which are at a minimum 24" high across the frontage of the property, with an opening to allow access; the intention is to provide a significant plant border and screen across the front of the property, not just a few potted plants. The Planning Staff shall inspect the plant installation to ensure that it is adequate by May 31, 2012.
- 7) Permanent fencing shall be installed prior to issuance of a business license. The Applicant shall submit a site plan, planting plan, and fence detail to the Planning Department for approval.

**Findings:**

- A. That the value and qualities of the neighborhood surrounding the conditional use will not be 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.

**I. MAYOR'S REPORT**

Mayor Snyder complimented Councilman Gerbig for the excellent work he did in representing Manitou Springs as a liaison during the Great Cities-Great Parks Initiative process.

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

Mayor Pro Tem Cox reported that she received a complaint regarding the closing of the crosswalk in front of the Ancient Mariner Tavern. The business owner complained that she was not notified in advance of the closing and that closing the crosswalk has reduced the number of visitors to her business. Bruno Pothier explained that the crosswalk was closed to try to create a better traffic flow and to enhance public safety.

**K. CITY COUNCIL LIAISON REPORTS**

Councilman Gerbig commended the library staff for the excellent programs they have been sponsoring in the community, noting that there has been high attendance at some of them. He also announced that on June 29, 2011 the BAC will be hosting another informational meeting on the Chair Installation Project that is being proposed for the downtown area.

Councilman Carpenter reported that iManitou has selected final applicants from the 47 applications they received for the COO position, noting that the finalists will be interviewed in early July. He also informed the City Council that he received a letter complaining about music in Soda Springs Park but said he personally believed the music was enjoyable. He also commented on the recent press releases regarding the 100% occupancy rate in our downtown area and the new WiFi that is being installed.

Mayor Pro Tem Cox requested a Council Work Session discussion at a future meeting regarding the proposed library amenities tax and the El Paso Park Fund tax issue.

Councilman Barry inquired about the status of building a weight room at the City's swimming pool. Dan Folke said that we haven't yet been able to get approval of a floodplain permit. He explained that the City Council has the ability to approve a variance but one has not yet been requested.

Mayor Pro Tem Cox announced that discussions are ongoing about increasing the number of Building Commissioners from three to seven.

**L. PLANNING DIRECTOR'S REPORT**

Dan Folke reported that the parking workshops have been completed and the findings will be presented at the July 12 City Council Work Session.

**M. FINANCE DIRECTOR’S REPORT**

Mike Leslie reviewed the sales tax report ending April 30, 2011. He reported that we have collected \$16,784 more in sales tax over the same time last year and about \$70,000 over the same period in the year before. He also presented the monthly budget report ending May 31, 2011 noting that we are about \$60,000 ahead of revenue received over the same period last year.

Mr. Leslie said the mid-year amended budget will be presented to City Council in July at which time we will also begin working on the 2012 budget.

**N. CITY ADMINISTRATOR’S REPORT**

None

**O. FUTURE AGENDAS**

- July 5, 2011 – Regular Meeting
- July 12, 2011 – Work Session
- July 19, 2011 – Regular Meeting
- August 2, 2011 – Regular Meeting
- August 9, 2011 – Work Session
- August 16, 2011 – Regular Meeting

**ADJOURNMENT**

With no further business to conduct, Mayor Snyder concluded the Regular Meeting at 11:07 p.m.

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MAYOR AND CITY COUNCIL

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CITY CLERK

*Minutes Prepared by: Donna Kast, City Clerk*