



**MINUTES REGULAR MEETING
CITY COUNCIL CHAMBERS
448 E. 1st Street**

Salida, Colorado

June 1, 2010

6:00 p.m.

The meeting was called to order at 6:01 p.m.

PLEDGE OF ALLEGIANCE –

Led by Mayor Chuck Rose.

ROLL CALL -

Present at roll call were Mayor Chuck Rose and Council Members Scott Damman, Jim McCormick, Jay Moore, Steven Stewart, and Tom Yerkey. Also present were City Administrator Jack Lewis, City Clerk Betty Schwitzer, City Treasurer Eileen Rogers, Deputy City Clerk Janella Martinez, and City Attorney Karl Hanlon.

Absent was Council Member Keith Baker.

CITIZEN PARTICIPATION -

No one signed up to speak.

PRESENTATIONS –

Michael Brown, Eco Depot told Council Members that there is a grant available and the deadline for submission is June 4th. \$60,000 is available to put PV on public buildings, with no match required. A discussion followed regarding the short time frame required for submission.

Administrator Lewis said in order for Council to make a decision on this offer, they would need to call a Special Meeting. Because the Toubert Building is co-owned by Chaffee County and the City of Salida, both entities would have to approve the request. It doesn't appear feasible for the City to support this request due to the extremely short notice of the submission deadline.

SCHEDULED ITEMS-

Consent Agenda –

Deputy City Clerk Janella Martinez presented written materials that are included in the packet for the record.

- a. Approval of Agenda
- b. Approval of Minutes: Special Meeting May 24, 2010
- c. City Property requests: 1.) Omnium
- d. Special Events Liquor Permit requests: 1.) GARN/OMNIUM 2.) ELKS 3.) COMMUNITY

Center (Public Hearing, if needed)

c. City Property requests:

1.) Salida Omnium 2010

South Central racing is requesting to use Riverside Park on July 30, 31, and August 1, 2010 to hold the Salida Omnium 2010.

- This request includes numerous street closures. The applicant has agreed to go door to door prior to the event and distribute flyers to the effected area. The applicant has included a completed street closure petition that is attached for Council review. (Please review the attached map.)
- An amplified sound permit is included in the request for Saturday, July 31, from 7:00 a.m. – 6:00 p.m.
- The use of the Scout Hut is included.
- Police assistance is requested.
- Angela Damman is the event coordinator for the Salida Omnium 2010.
- A Special Events Liquor Permit is requested for one day of the three day event, which is defined in the next section of the consent agenda.
- A completed Events Check list by City Departments is attached for Council review.

d. Special Events Liquor Permit requests: 1.) GARNA/Omnium 2.) Elks
3.) Community Center (Public Hearing, if needed)

1.) GARNA/ Salida Omnium 2010

Greater Arkansas River Nature Association is requesting the Liquor Licensing Authority to grant a Special events Liquor Permit for Saturday, July 31, 2010 from 11:30 a.m. – 7:00 p.m. in Alpine Park on the corner of F & 4th Streets.

- The liquor area will be fenced off and will have one entry and exit point. (Please, see the attached map.)
- Food will be provided by Amicas mobile pizza oven.
- A completed events Check list by City Departments is attached for Council review.
- To date no public comments have been submitted.

2.) The Salida Elks Lodge

The Salida Elks Lodge holds a Club Liquor License. The Elks members are planning to open the club to allow public access over FIBArk weekend. A club license allows only members and guest to consume alcohol on the premises. To be eligible to apply for a Special Events Liquor Permit the applicant must be a non-profit entity that is in Good Standing with the Colorado Secretary of State. If granted a Special Events Liquor Permit the Elks would be allowed to sell and serve alcohol to the general public.

In 2006 the Elks lodge applied for an outdoor area, which was approved by City Council with the stipulation that when an event is held in the extended outdoor area, members and guests only are allowed to consume alcohol. The current management is aware of the stipulation and will comply with this stipulation.

- This event is being held on private property.
- To date no public comments have been submitted.

3.) The Salida Senior Citizens Center, Inc. has applied for a Special Events Liquor Permit to host a Class Reunion on Saturday, July 19, 2010 from 4:00 – 8:30 p.m.

- The Senior Center, locally known as the Community Center is a non-profit entity and is eligible to hold a Special Events Liquor Permit.
- The event will be held in the upstairs portion of the center, excluding the main kitchen area. (Please see the attached diagram.)
- The downstairs area is not included in the liquor area.
- To date no public comments have been submitted.

A motion was made by Yerkey to combine and approve the items on the consent agenda. The motion was seconded by Moore. With all in consensus, THE MOTION CARRIED.

2. Reducing the Parkway Permit fee –

Resolution 2010- 36 reducing the parkway permit fee

Rob Vance presented written information that is included in the packet for the record.

The request is to change the permit fee for parkway landscaping from \$30.00 to \$5.00.

The Public Works Department has required persons working within the Right-of-Way (ROW) to obtain a permit prior to beginning work. In 2006, Council adopted the various fees for the different types of work that occurs in the R.O.W. Council at the time instructed staff to set the fees to cover associated costs. The fee for landscaping the parkway was set at \$30.00. An issue has arisen with the permit as many of the residents do not feel that the fee is just. The parkway is City owned property but the adjacent owner must maintain it. Many feel that the fee is excessive.

Historically, the Public Works Department has only collected an average of \$270 annually from the parkway landscaping fee. The department has had many issues trying to get people to obtain the permit and those that have feel it is excessive. The department does not believe the fee is the important part of this; the important aspect of the permit is to notify our residents of the approved materials for parkway construction. Therefore we feel it is in the best interest of the Department and to our citizens to reduce the fee for parkway landscaping to \$5.00. The department recommends that all other fees remain the same, as the current fee does not cover all of the costs. By trying to streamline the process to make it easier for the citizen, permits are available at Public Works.

Councilor Stewart asked Vance if there would need to be a follow-up inspection with the new procedure. Mr. Vance said there would be. Our citizens want to do things to improve the parkway and tend to put things in the R.O.W. that are against code, such as concrete. We would like to create a green buffer. If we have to go in and cut we are responsible for replacing the concrete. Gravel larger than 2" becomes a trip hazard if put in the parkway. Some people have put in boulders and these become an issue when opening car doors.

Councilor Stewart discussed this issue with Councilor Damman and they wonder if the Land Use Code might be able to address this situation better if the fine for violating the code covered the costs. If citizens put in concrete that has to be removed than they should cover the cost to replace it.

A motion was made by Yerkey to approve RESOLUTION 2010-36 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, APPROVING THE REDUCTION OF THE FEE FOR LANDSCAPING FROM \$30.00 TO \$5.00. The motion was seconded by McCormick.

Vance said even with him writing several articles people still don't understand or know about the

permit. Administrator Lewis said staff still believes that the permit should remain in the process but doesn't believe there would be a problem lowering the fee. Vance said it makes his job difficult when he is required to issue a citation to those who don't follow code. Council discussion continued. The consensus was that citizens should be required to get a permit free, and the deterrent factor would be a fine.

Councilor Stewart said he supports Councilor Moore's idea to increase the penalty and for staff to draft an ordinance making this change.

Councilor Damman feels the fee would be better at no cost than \$5.

An amendment was made to the motion by Moore to reduce the fee to \$0 and direct staff to draft an ordinance for increasing the penalty for those not complying with code. The motion was seconded by Damman. Those voting YEA were Stewart, Damman, McCormick, and Moore. Voting Nay was Yerkey. THE MOTION CARRIED.

Mayor Rose asked for a roll call vote on the original motion. With all in consensus, THE MOTION CARRIED.

3. Extension of Salida Sewer Service to Poncha Springs – (Jan Schmidt)

Ordinance 2010-04 amending Chapter 13 of the Salida Municipal Code to reflect extension of Salida sewer service to Poncha Springs as Regional Provider.

Jan Schmidt presented written materials that are included in the packet for the record.

The request is to approve changes to the Municipal Utilities code to adopt changes necessary to implement the agreement reached with the Town of Poncha Springs to settle the sewer dispute.

A new agreement between the City of Salida and Town of Poncha Springs was reached earlier this year. Certain provisions of the City's Utility code contradict the wording in that agreement, so this ordinance makes changes to facilitate implementation of the new agreement. This ordinance states that as a regional provider we would treat the customers of Poncha Springs the same way as Salida customers.

Staff would suggest passing the ordinance.

A motion was made by Moore to approve Ordinance 2010-04 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AMENDING CHAPTER 13 OF THE SALIDA MUNICIPAL CODE TO REFLECT EXTENSION OF SALIDA SEWER SERVICE TO PONCHA SPRINGS AS REGIONAL PROVIDER, setting the public hearing as June 15, 2010 and to publish the Ordinance in full. The motion was seconded by Damman. With all in consensus, THE MOTION CARRIED.

4. Bensons –

a. Request to amend the Amplified Sound Permit - (Jack Lewis)

Resolution 2010-37 approving an amended amplified Sound Permit by Benson's Tavern.

Benson's Tavern is requesting an Amplified Sound Permit during the weekend of FIBArk events. Benson's has a decibel meter to monitor the sound throughout the event assuring compliance with the Salida Municipal Code. Benson's is requesting the extended permit on Thursday, June 17, Friday, June 18, Saturday, June 19, and Sunday, June 20th, 2010 from 10:00 p.m. - 1:30 a.m.

Attorney Hanlon stated that the decibel level permitted according to the Municipal Code from 10 PM to 1:30 AM are emanating into a residence are allowed at 55 decibels. Council is trying to understand what the rules are. Councilor Damman asked where the decibel levels are measured, at the source of noise, or at the residence. Hanlon said the levels are measured at the residence.

Mayor Rose noted that this exception is requested during FIBArk weekend, which is a large event in Salida. Councilor McCormick said he doesn't like the idea of allowing this noise on Sunday when people have to work on Monday.

Mayor Rose asked if there was anyone proponents present wishing to speak about this request.

Brad Smith, Benson's manager, said Benson's has acquired two decibel meters and the band will be located in a tent. Mr. Smith clarified that the request is not for Sunday night, only the morning hours from Saturday night that go beyond midnight into Sunday morning. They have hired a sound guy from the Front Range to assist Benson's Tavern with this event. Mr. Smith said after hearing the discussion he will modify the request for Friday, June 18th, Saturday, June 19th through Sunday morning until 1:30 a.m. Mr. Smith sat down, but remained at the meeting to answer any questions posed.

Next to speak was Merrell Bergin, 126 1/2 F Street, does have a sound meter and he will be measuring the decibels. He feels that an increase from 50 to 55 is a substantial difference. He does recognize the fact that noise seems to bounce off the buildings downtown. He said last year on November 20 he noticed noise coming from Bensons. He measured the decibels on the sidewalk outside of the facility at 92 decibels. Mr. Bergin walked to the corner of 1st & F and measured the sound at 76 decibels. From his house it measured 62 decibels.

Mr. Bergin submitted an email from the owner of Eliza's Bed that is included in the packet. He spoke for Eliza Collins who owns Eliza's Bed. Ms. Collins closes her business for the weekend and left town during this busy weekend. The business, if any, generated during this festival, is minimal.

A discussion followed about reasonable decibel levels. Police Chief Terry Clark said he can sit on the street and get about a 90 decibel reading from a diesel vehicle. Normal downtown noise can easily measure 55 decibels.

Councilor Moore feels that 1:30 a.m. is way too late and that Midnight is a reasonable time to have the amplified music shut down. He understands that Salida has a multi-purpose downtown.

A motion was made by Moore to approve RESOLUTION 2010-37 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AUTHORIZING THE CITY ADMINISTRATOR TO SIGN THE AMEND AMPLIFIED SOUND PERMIT FOR BENSON'S for 6/18, 19, 20/2010, from 10:00 p.m. to 1:30 a.m., amending the time as 10:00 p.m. until 12:00 a.m. Midnight. The motion was seconded by Stewart. More discussion followed.

A brief discussion followed.

Councilor Yerkey asked Mr. Smith if stopping the music at midnight would put a crimp in Benson's plan. He respects Mr. Bergin's position. However from a business standpoint the FIBArk festival is a very busy time for Salida. Perhaps there might be a compromise at 1:00 a.m.

A motion was made by Yerkey to amend the motion by Moore changing the RESOLUTION 2010-37 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AUTHORIZING THE CITY ADMINISTRATOR TO SIGN THE AMEND AMPLIFIED SOUND PERMIT FOR BENSON'S for 6/18, & 6/19/2010, from 10:00 p.m. to 1:00 a.m. The motion was seconded by Damman.

Mayor Rose asked for a roll call vote.

Those voting Yea were Damman, McCormick, Stewart, and Yerkey. Voting Nay was Moore.
THE MOTION CARRIED.

Mayor Rose request a roll call vote on the original motion.

Those voting Yea were Damman, McCormick, Stewart, and Yerkey. Voting Nay was Moore.
THE MOTION CARRIED.

b. Modification of Premises/Bensons – (Janella Martinez)

Deputy City Clerk Janella Martinez presented written materials that are included in the packet for the record. The request is to modify the liquor premises by Volkmann Enterprises, LLC dba Bensons Tavern & Beer Garden from June 1, 2010 to September 1, 2010. Please see the attached diagram. The applicant will put additional porta-potties in the modified area during FIBArk weekend only.

According to Regulation 47-302 of the Colorado Liquor Code, without the prior consent of the local and state licensing authorities, a licensee may not make any “physical change, alteration or modification of the licensed premises which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license.”

Because a licensee may not sell alcoholic beverages except within the “duly licensed establishment,” any expansion of licensed facilities for the sale of alcoholic beverages requires prior written consent of local and state licensing authorities, lest the licensee be found to be illegally selling alcohol in a materially altered (and thereby unlicensed) facility.

City Council as the liquor licensing authority may choose to approve or deny the application.

If permission to change, alter, or modify the licensed premises is denied, the licensing authority shall give notice in writing and shall state the grounds for denial. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the local authority within fifteen days after the date of notice.

If Council wishes to approve or deny the presented request they should make a motion stating this action.

A motion was made by Moore to approve the Modification of Premises for Volkmann, LLC dba Benson's. The motion was seconded by Stewart. A brief discussion followed.

Council Member Moore asked if the porta potties would be used for FIBArk weekend only. Benson's Manager Smith confirmed that they would only be there for FIBArk. The temporary area is fenced, not covered. Although where the band will be located, on the existing patio area, is covered. There will be a beer bar in the temporary area. Lieutenant Hall is okay with the proposed area.

Downtown resident Merrell Bergin said he appreciates the compromise by Benson's. He feels the police department has enough to do without trying to enforce the decibel level allowed in the current code. Bergin thinks the levels need to be modified so it will be more enforceable.

Councilor Damman asked Bergin if he could call him and come to his home with another member of Council to measure the regular weekend night sound levels. Bergin said he was welcome to come and listen and Chief Clark is also welcome. Bergin said the larger issue is, if you don't enjoy FIBArk festivities you can make other plans for this weekend, and it is anticipated these festivals will continue to grow.

Mayor Rose requested a vote.

With all in consensus, THE MOTION CARRIED.

5. Administrator/City Attorney/Deputy City Clerk

a. Administrator's Report –

1.) Geothermal Grant Update

City Administrator Jack Lewis complimented our Geothermal consultant Fred Henderson. Mr. Henderson put together all of the technical data and applied for just short of \$50,000 in grant money for a geothermal study at the Poncha Hot Springs site. The application was submitted three days in advance of the deadline. When notified of the status of the application, Lewis will update City Council.

2.) Salida Hot Spring Pool letters of appreciation

This week at the pool Theresa Casey, Recreation Manager and her fine staff offered students a free day to celebrate the end of the school season. A little over 200 people attended that session. Several positive comments were submitted and are included in the packet for Council review. Administrator Lewis thanked Theresa Casey and her staff.

b. City Attorney Report – Karp, Neu, Hanlon PC

Attorney Hanlon had no more to report this evening.

c. Deputy City Clerk -

Deputy Clerk Janella Martinez had nothing to report.

7. Elected Official Reports -

a. Treasurer-

There was no Treasurer's report this evening.

b. Mayor –

Mayor Rose thanked everyone who participated in Memorial Day services, especially those actively

serving. Mayor Rose wanted to make people aware that on Monday June 7, 2010 at 6:00 p.m. there will be a work session to discuss the county wide sales and use tax. This session will be held at the Chaffee County Commissioners Chambers. He also wishes to thank Merle Baranczyk for his helpful Editorial that was printed last Friday about the Countywide Sales and Use Tax. It is not necessarily easy to understand. Mayor Rose hopes citizens will attend in order to understand whether or not they are for or against it. The City needs to find a way to fund existing services.

Councilor Damman asked Mayor Rose to clarify his statement regarding the tax proposal. Mayor Rose said within the municipalities there will basically be no change in sales tax. If a Countywide Sales Tax is put in place the only change would be to those living in unincorporated areas. The residents in an unincorporated area would see a 2% increase, which would equal what the citizens of the municipalities already pay. If this is approved it would level tax collection county wide. Those who pay taxes are paying to cover the increased services to all areas. Support is needed in order to continue to provide needed services.

Mayor Rose said it is apparent that many citizens aren't reading the City articles that are published in the Mountain Mail on Fridays and that it is bothersome to him.

c. City Council-

There were no Council reports.

EXECUTIVE SESSION –

Councilor Damman made a motion to go into Executive Session for a conference with the City attorney for the purpose of receiving legal advice on specific legal questions under C. R. S. Section 24-6-402(4)(e); AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: To discuss pending litigation. And for the purpose of determining positions relative to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R. S. Section 24-6-402 (4)(e); AND THE FOLLOWING ADDITIONAL DETAILS ARE PROVIDED FOR IDENTIFICATION PURPOSES: To discuss pending litigation. The motion was seconded by Moore. With all in consensus, THE MOTION CARRIED.

Council took a five minute recess. The executive session was held in the Tenderfoot Mountain Conference Room.

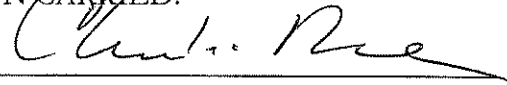
Mayor Rose announced the time as 7:35 p.m.

The City Council reconvened in regular session at 8:44 p.m. No decisions were made.

Those present during executive session were Mayor Chuck Rose and Council Members Scott Damman, Jim McCormick, Jay Moore, Steven Stewart, and Tom Yerkey. Also present were City Administrator Jack Lewis, and City Attorney Karl Hanlon.

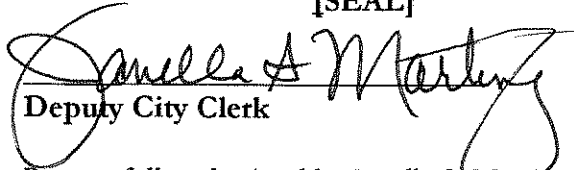
ADJOURNMENT -

A motion was made by Moore to adjourn the meeting at 8:45 p.m. The motion was seconded by Baker. With all in consensus, THE MOTION CARRIED.



Mayor

[SEAL]



Deputy City Clerk

Respectfully submitted by Janella S. Martinez, Deputy City Clerk