



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

Salida, Colorado

July 20, 2010

6:00 p.m.

The meeting was called to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE –

Led by Mayor Chuck Rose.

ROLL CALL -

Present at roll call were Mayor Chuck Rose and Council Members, Jim McCormick, Jay Moore, Steven Stewart, and Tom Yerkey. Also present were Community Development Director Dara MacDonald, City Treasurer Eileen Rogers, Deputy City Clerk Janella Martinez, and City Attorney Cassia Furman.

Absent were Council Member Keith Baker, and Scott Damman. Also absent was City Administrator Jack Lewis, and City Clerk Betty Schwitzer,

CITIZEN PARTICIPATION -

No one signed up to speak.

PRESENTATIONS –

Fire Chief Don Taylor said Brian Jefferson has completed the strenuous probationary process and is now being released as a reserve fire fighter. Mayor Rose presented a badge to Reserve Fire Fighter Brian Jefferson.

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: June 15, 2010
- c. City Property requests: 1.)Columbine Manor street closure 2.) Angel of Shavano Car Show
- d. Special Events Liquor Permit: None
- e. Final settlements: Climbing Wall

BACKGROUND:

- c. City Property requests:

- 1.) Columbine Manor, 530 W. 16th Street is requesting a street closure to hold a fundraiser for the Alzheimer's Association on Saturday, August 14, 2010.
 - The request is to close K Street from 15th to 16th from 7:00 a.m. to 3:00 p.m.
 - A completed Events Check list by City Departments is attached for Council review.
- 2.) Angel of Shavano Car Show is requesting to use Riverside Park on Saturday, August 7, 2010 from 6:00 a.m. to 10:00 p.m.
 - The request includes an amplified sound permit from 8:00 a.m. to 4:00 p.m. they plan to have a DJ, and from 7:00 p.m. to 10:00 p.m. they are planning to have a live band.
 - Street closures are requested for F Street from Sackett to the cul-de-sac. Also included for Sackett Street from G to D Streets. The street closure petition is included in the packet for Council review.
 - A completed Events Check list by City Departments is attached for Council review.

2. **Water Shed Protection District – Ordinance 2010-06**

City Attorney Cassia Furman presented written materials that are included in the packet for the record. Councilor Yerkey asked if this item could be postponed until the next meeting. Attorney Furman said that the Mayor should open the hearing and take public comments if anyone present wished to speak. After allowing public comment a Council Member could move that this item be continued to the next meeting.

Mayor Rose opened the public hearing and asked for anyone wishing to speak either as a opponent or a proponent to come forward. No one spoke. Mayor Rose requested a motion by Council.

Councilor Yerkey made a motion to continue ORDINANCE 2010-06 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, ADOPTING A NEW ARTICLE VII, "WATERSHED PROTECTION," TO CHAPTER 13 OF THE SALIDA MUNICIPAL CODE to the next meeting. The motion was seconded by Stewart. With all in consensus, THE MOTION CARRIED.

3. Skatepark revisions allowing Bicycles with non-metal, or no pegs in the SkatePark.
 ORDINANCE 2010-07 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AMENDING SECTION 11-3-90 OF THE SALIDA MUNICIPAL CODE REGARDING THE USE OF BMX BICYCLES IN THE SALIDA SKATEBOARD PARK.

Theresa Casey, Recreation Manager presented written materials that are included in the packet. This is second reading of this ordinance.

- The City of Salida Municipal Code currently bans any type of bicycle from use of the skateboard park.
- There have been several citizen requests to change the code to allow bicycles in the skateboard park.
- Bicyclists can now outfit their bikes with non-metal pegs, which do not cause damage to the concrete bowls in the park.
- The Recreation Advisory Board supports allowing bicycles to use the skateboard park as long as they are outfitted with non-metal or no pegs.

A motion was made by Stewart to pass ORDINANCE 2010-07 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AMENDING SECTION 11-3-90 OF THE SALIDA MUNICIPAL CODE REGARDING THE USE OF BMX BICYCLES IN THE SALIDA SKATEBOARD PARK, and ordering the ordinance published in full. The motion was seconded by Moore.

Councilor Yerkey requested to amend the motion that no pegs are allowed in the skate park. A brief discussion followed.

Councilor McCormick asked Ms. Casey if it was necessary to limit the pegs to non-metal pegs. Ms. Casey said that the Recreation Advisory Board has concerns that the metal pegs might damage the lip of the Skate Park bowl. The Recreation Advisory Board supports non-metal or no pegs.

It seems that the kids in the park tend to self regulate themselves. The concrete lip of the park tends to be damaged, although the lip of the skate park in the City bowl is metal and seems to hold up fine.

Mayor Rose noted an amendment to the motion was on the table and requested a second . There was none, the motion died.

Mayor Rose noted there was a motion by Stewart approving Ordinance 2010-07 which was seconded by Moore on the floor. Mayor Rose requested a roll call vote on this motion.

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

4. Medical Marijuana Moratorium Repeal - Public Hearing, Emergency Ordinance

ORDINANCE 2010-08 AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, REPEALING THE TEMPORARY MORATORIUM ON MEDICAL MARIJUANA DISPENSARIES AS A PERMITTED USE IN THE CITY'S C-1 ZONE DISTRICT AND ON THE ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A MEDICAL MARIJUANA-RELATED BUSINESS IN THE CITY OF SALIDA.

Assistant City Attorney Cassia Furman presented written materials that are included in the packet for the record. Ms. Furman said Councilors have three options. 1. Leave in place the local moratorium that was approved May 24. This choice requires no action by Council. 2. Councilors could approve to repeal the current local moratorium, although the State moratorium remains in effect as of July 1, 2010. 3. Another option would be to approve the temporary suspension of the City moratorium. This last option, to suspend the temporary City moratorium, would allow an application that was submitted prior to July 1st to be processed by the Community Development Department. This action would allow an application to move forward for review by the Planning Commission. There would be no guarantee of approval by the Planning Commission.

Currently the only requirement for a Medical Marijuana Center in Salida is locating in a C1 zoned area. This ordinance is an emergency ordinance and requires a public hearing. Mayor Rose opened the public hearing and asked how many of those present wanted to speak. Seven citizens raised their hands. Mayor Rose said they would be limited to three minutes each.

Lisa Pearson, representing Tenderfoot Health Collective (THC), said her understanding of this ordinance is to lift the local moratorium allowing THC to move forward with their application that was submitted earlier. Ms. Pearson gave an overview of the current THC staff. In late 2009 they started

forming the business THC with two goals. One of the goals of THC is to provide affordable, professional care in Medical Marijuana services to local clients without them having to travel to get it. Another goal was to utilize a vacant building in the city. When our business plan was formed Mr. Cleary brought a copy of the plan to the city. City staff was cordial and told Mr. Cleary the THC plan would be distributed to Council. THC opened February, 2010 and remained a discreet business. Later in the process the City passed an ordinance relating to zoning for Medical Marijuana Centers. When anticipating the state requirements we returned to the city and found that THC should have filed a conditional use application with our initial application to the city. We were advised to write a letter to Planning Commission and to complete a conditional use application which was submitted prior to July 1, 2010 when the state moratorium took effect. The average age of our patients is 44 and THC only grows what is needed to support our patients. She will remain to answer any questions posed by Council. Ms. Pearson asked if she could read a letter from a citizen. Mayor Rose requested the letter be given to the Deputy City Clerk for distribution due to the time already given Ms. Pearson.

Two letters were submitted, one came in as an email to Ms. MacDonald after the beginning of tonight's meeting. A copy of the letter that was submitted prior to tonight's meeting was distributed to Council. Ms. Pearson gave the letter to Deputy City Clerk Martinez for copying and distribution to Council.

Tom Jacobson, a 15 year resident of the City. He doesn't use marijuana and is not ill and has no intention of doing so, but feels that those who do need it for medical purposes are justified. His point is a mercantile argument. The local clinics have a large economic impact on the city. Mr. Jacobson heard there are six clinics in town. He isn't sure of this because they are so discreet. They are occupying six spaces that are paying local sales tax. If lifting the ban would bring additional clinics to the city he doesn't see what harm it could cause. Mr. Jacobson doesn't see any crime from the clinics, and as a citizen of the community with concerns that the economic decline we are experiencing would encourage City Council to not discourage clinics from coming here.

Martin Woods, Natures Medicine, agrees to a point but doesn't feel that Salida needs an unlimited number of facilities. If there are too many a lot of them might not be able to make it. For a town of this size, six centers are plenty. He feels people at Tenderfoot Health Collective and at Natures Medicine are trying to do things right. Mr. Woods is perplexed because Natures Medicine was required to submit a floor plan to the city and that the fire chief inspected his facility. If this is standard how is it possible that THC has a large grow room that was unknown to the city. Mr. Woods wrote the letter requesting the City lift the moratorium, but since that time has changed his opinion on in-town growing. In Durango there are centers in town and grow facilities are located in the county. It doesn't really work to have a commercial grow facility in town.

Dennis Morain, resident, is terminally ill and has a medical marijuana card. He uses pot because there are no side effects.

He doesn't think Council has to worry about a bunch of pot shops locating to town.

Kathy Engel, a Tenderfoot Health Collective employee, wants Council to research medical marijuana and understand the benefits it can provide. She said her sister died of lung cancer and had a large stigma against marijuana, although she suffered tremendously with cancer. Ms. Engel said those of us in the medical marijuana business want to be regulated. She chose Salida because of its discreet location and it is a wonderful town. We don't have a huge growing operation. I think if you visit our dispensary you will see that there are very sick people being helped by this treatment option. Ms. Engel invited Council to come and visit this facility.

Mary Dunai, Salida citizen, thinks this issue has required a lot of paperwork and perhaps the permit

wasn't applied for in the proper time. All of these regulations are very confusing. For example, she applied for a parkway permit and didn't realize after planting she also needed to ask for an exemption from watering restrictions. She had to let the vegetation die. This issue might have happened the same way. THC may have asked for the permits and did not get all of the information needed

Dennis Cleary, owner of Tenderfoot Health Collective, wished to address a couple of comments. Never has someone come to look at our facility operation which includes a rather small grow operation. He stated that he did submit twenty pages of his business plan which references our intent to grow. Mr. Cleary came to the city numerous times and was told there are no business licenses in the city. In December there were some code changes although THC was not informed of any required changes. THC is requesting City Council lift the local moratorium and allow it's application to be considered. THC wants to comply with all laws.

Mayor Rose asked if anyone else wanted to speak noting that State Senator Massey was present. Senator Massey noted he was only present as an observer who has no doubt that Council will make a logical decision. Mayor Rose closed the public hearing. Rose requested a discussion by Council, noting that Council has three choices to pick from.

Councilor Yerkey requested that this Council take no action this evening. He said he is emotionally involved because he has been diagnosed with a non-treatable cancer and went through a stem cell transplant to buy some time. He hopes they come up with a cure in that time. Yerkey noted that when the moratorium was set, it would allow the necessary time to address how the city is going to handle Medical Marijuana.

Councilor Moore asked staff why this is an emergency ordinance. Attorney Furman stated that it is so the applicant can meet state deadlines by September 1st.

Councilor Stewart is not sure how to decide. He noted that THC seems to have done everything in their power to comply with City rules. Although it was unclear to Citystaff that there was going to be a grow operation.

Councilor McCormick asked if lifting the moratorium would allow a run of other centers in our town Attorney Furman said no one else has come into the office to apply for another grow operation. Lifting the moratorium would allow THC's application for conditional use to move forward to the Planning Commission. The reason the moratorium was put in place is to allow the city time to address this issue. MacDonald reminded Council that the one application that was scheduled for 2nd review by the planning commission had been pulled today.

A MOTION WAS MADE BY MOORE TO approve an EMERGENCY ORDINANCE 2010-08 SUSPENDING THE CITY MORATORIUM PUT IN PLACE MAY 24 ALLOWING ACCEPTANCE OF AN APPLICATION TO MOVE THROUGH THE PROCESS. The motion was seconded by Stewart. Those voting yea were Moore and Stewart. Those voting Nay were McCormick and Yerkey. The motion died.

Attorney Furman explained that this was an emergency ordinance and 75% of those Councilors present must vote in favor of the ordinance for it to be approved.

A brief discussion followed. Colleen Kunkle asked to speak. Mayor Rose allowed her to come to the lecter and speak. Ms. Kunkle said that perhaps the two members of Council that voted against this ordinance might regret their decision. Without being able to meet state requirements to grow at least

70% of their own product the decision that Council just made will put THC out of business. If THC isn't allowed to grow, they will go away, along with their two to three thousand dollars a month in sales tax revenue. Ms. Kunkle reads the headlines and understands that sales tax revenue has been continually falling and feels Council is making a big mistake.

5. Appointment to Board of Appeals -

Resolution 2010-41 citizen appointment to the Board of Appeals

Dara MacDonald, Community Development Director presented written materials that are included in the packet. The request is to appoint members to the Board of Appeals.

There are two open positions on the Board of Appeals. Ken Hardwick has been serving as a regular member for a number of years and has agreed to be reappointed for an additional term. We have not received any additional applications to join the Board.

If council wishes, it may appoint Ken Hardwick to the position of regular member for a term that will expire 3/17/13.

A motion was made by Stewart to approve Resolution 2010-41 a resolution of the City Council for the City of Salida, Colorado approving the appointment of Ken Hardwick as a regular member of the Board of Appeals for terms specified in the Resolution. The motion was seconded by Moore. With all in consensus, THE MOTION CARRIED.

2. Citizen appointment to Historic Preservation Commission - (Dara MacDonald)

Resolution 2010- 42 citizen appointment to the Historic Preservation Commission.

Dara MacDonald, Community Development Director presented written materials that are included in the packet.

The request is to appoint a citizen to the Historic Preservation Commission (HPC).

There is currently one open position on the Historic Preservation Commission for a regular member. The City has received one application for this position from Fay Golson. Her application is attached. There are two available alternate positions open on the Historic Preservation Commission.

If council wishes, it may appoint Fay Golson as a regular member of the Historic Preservation Commission to a term specified in the resolution.

A motion was made by Moore to approve Resolution 2010-42 a resolution of the City Council for the City of Salida, Colorado approving a citizen appointment to the Historic Preservation Commission. The motion was seconded by Stewart. With all in consensus, THE MOTION CARRIED.

3. Salida Riverside Fine Art Festival 2010 - (Janella Martinez)

Resolution 2010-43 declaring the Salida Riverside Fine Art Festival an event of city wide interest.

The Salida Riverside Fine Arts Festival is holding a sanctioned event in Riverside Park along the Arkansas River on Saturday, August 14th from 9:30 a.m. to 7:00 p.m. and on Sunday, August 15, 2010

from 9:30 a.m. to 4:00 p.m. Event coordinators, Danna & Clyde Tullis, are organizing this event. The organizers hope this will become an annual event that includes local and regional artists. The Host sponsor is Salida ArtWorks.

This event will include music, a special event liquor permit, street closures and food vendors. City Council approved the liquor permit during the July 6, 2010 meeting. A completed Events Check list by City Departments is attached for Council review. The diagram is included in the packet for Council review.

Street closures requested are;

- F Street from Sackett to the cul-de-sac.
- Sackett from F to D Streets
- E Street from Sackett to the alley

According to Sec. 6-2-20 of the Salida Municipal Code the City Council can declare an event of City-wide interest thereby exempting from licensing peddlers, solicitors, transient merchants, and vendors permits.

Staff recommends that the Council declare Salida Riverside Fine Arts Festival as an event of City-wide interest through passage of the attached resolution.

A motion was made by Moore to pass RESOLUTION 2010-43 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, DECLARING SALIDA RIVERSIDE FINE ARTS FESTIVAL 2010 AN EVENT OF CITY WIDE INTEREST, and approving the use of Riverside Park, including street closures. The motion was seconded by Stewart. With all in consensus, THE MOTION CARRIED.

4. Administrator/City Attorney/Deputy City Clerk

a. Administrator's Report –

Dara MacDonald Community Development Director presented the City Administrators report in Administrator Lewis' absence. This morning during the Council work session MacDonald reported Chaffee County is requesting \$3,947 from the City to accelerate the grant match for the Harriet Alexander Airport. The maximum match reported as \$70,000 would be split by the City and the County. A discussion followed about inconsistency of information about the needed match. Mayor Rose requested that staff bring a definitive number needed from the City back to Council.

A motion was made by Yerkey to commit \$3,974 out of the 2010 City of Salida budget for the Harriet Alexander Field runway grant. The motion was seconded by McCormick. Those voting Yea were Moore, McCormick and Yerkey. Voting Nay was Stewart. THE MOTION CARRIED.

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

Attorney Furman had no more to report this evening.

c. Deputy City Clerk -

Deputy Clerk Janella Martinez presented written materials that are included in the packet for the record. Seven water samples were submitted dated 6/01/10 (2), 6/07/10(3), and 6/08/10(2). All

tested safe as reported by the Colorado Department of Health.

The Colorado Department of Revenue, Liquor Enforcement Division, was in Salida over FIBArk weekend. City Council issued Special Events Liquor Permits, including one to Heart of the Rockies Chamber of Commerce who hosted Ride the Rockies. Council also approved some "modification of premises" to existing full time licensees. I am pleased to report that no violations were written.

Chaffee County Clerk Joyce Reno requires notification of any ballot issue the city wishes to place on the November 2, 2010 ballot by Friday, July 23, 2010. The notice will need to state the type of issue that will be included on the ballot. This notice will prompt preparation of an Election IGA between the County and the City. If the city does not send written notification by Friday, the County Clerk will assume we will not be participating in the upcoming election.

7. Elected Official Reports -

a. Treasurer- Eileen Rogers.

The report from Finance Director Jan Schmidt for May received last week notes that the \$259,013 collected shows a 9.5% decrease from a year ago. That makes 19 months in a row of sales tax collection being down. Of the City's share of the County sales tax \$93,431 shows a 6.4% decrease from 2009. The city receives 25% of the 2% sales tax county wide and is roughly a decrease of 26% in 2009. Year to date total sales tax is \$1 .2 million. Total taxable sales from vendors has fallen 5.8% compared to 2009. Year to date shows a \$427,000 which is a 4.9% decrease in 2009. Salida already implemented budget cuts anticipating \$234,800 or a 5% reduction in sales tax revenue. To offset the effect of the latest recent sales tax decrease we anticipate additional \$27,140 in spending cuts in order to maintain a balanced budget.

b. Mayor –

Mayor Rose congratulated all of the merchant and volunteers in light of the recent successful events. Mayor Rose congratulated all liquor establishments for remaining in compliance following a state compliance check. He also noted that during the first quarter the swimming pool revenue was up. Mayor Rose thanked everyone involved in the success of the pool including Ms. Casey and her staff and the entire Salida Cyclone Swim Team.

Mayor Rose also acknowledged recent activities at the Salida SteamPlant Theater & Event Center. The SteamPlant has been rocking the community. Don't miss out on the free concerts on the plaza this summer.

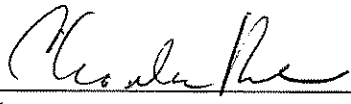
c. City Council-

Councilor Moore noted that at the morning work session he planned to have a discussion with Water Plant Manager Lonnie Oversole. Moore was unable to meet with Mr. Oversole who was out of the office due to personal matters.

Mayor Rose stated how proud he is to be on a council that operates together. Even if all of the members don't agree on the issues we are still able to treat each other with respect.

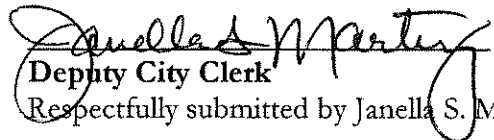
ADJOURNMENT -

A motion was made by Moore to adjourn the meeting at 7:29 p.m. The motion was seconded by Yerkey. With all in consensus, THE MOTION CARRIED.



Mayor

[SEAL]


Deputy City Clerk
Respectfully submitted by Janella S. Martinez, Deputy City Clerk