



**MINUTES REGULAR MEETING  
CITY COUNCIL CHAMBERS  
448 E. 1<sup>st</sup> Street**

**Salida, Colorado**

**August 17, 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 Keith Baker, Tom Yerkey, Scott Damman, Jim McCormick, Jay Moore, and Steven Stewart. Also present were City Treasurer Filcen Rogers, Assistant Deputy City Clerk Jennifer Orr, City Attorney Karl Hanlon, City Administrator Jack Lewis, and City Clerk Betty Schwitzer.

Absent was Deputy City Clerk, Janella Martinez.

**CITIZEN PARTICIPATION -**

Mayor Rose added that we will hold participation until we discuss the Unique. There were no other speakers signed up.

**PROCLAMATION -**

- Proclamation supporting Safety-Net Clinic Week

Mayor Rose proclaimed August 30-September, 2010 to be Safety-Net Clinic Week in the City of Salida. Rose presented the proclamation to Chaffee Peoples Clinic Director, Cara Russell. Ms. Russell spoke to raise awareness regarding the Chaffee People's Clinic. She encouraged citizens to use it or to volunteer there. She also encouraged citizens to make donations.

**SCHEDULED ITEMS-**

**1. Consent Agenda -**

Assistant Deputy City Clerk Jennifer Orr presented written materials that are included in the packet for the record.

- a. Approval of Agenda
- b. Approval of Minutes: None
- c. City Property requests: 1. Loyal Duke's Dog Race 2. Vapor Trail 125 3. Honda Gold Wing Motorcycle show
- d. Final Settlement of Highway 50 Enhancement Project – contractor Y & K Excavation, Inc.

- e. Final Settlement for the Hot Water Line Replacement Project- contractor Seifert Enterprises.

c. City Property requests:

- 1). The Salida Dog Club is requesting to use the Salida Trail System to hold Loyal Duke's Dog Race on Saturday, September 18, 2010 from 9:00 a.m. to 12:00 p.m.

There are no street closures requested.

- 2.) Shaun Gillis is requesting to hold Vapor Trail 125 starting at 10:00 p.m. on Saturday, September 11, 2010 and ending throughout the day as 145 Poncha Blvd. on Sunday, September 12, 2010

Please see the letter describing the route that is included in the packet for Council review. No street closures are included in the request.

- 3.) The Salida Chamber of Commerce is requesting to use Thonhoff Park, 132 Crestone Avenue to host a Honda Gold Wing Motorcycle Show, Ice Cream Social and lighted cruise through town on Friday, August 27<sup>th</sup> from 5 p.m. to 10 p.m.

This request includes closing Crestone Ave. from 3<sup>rd</sup> Street to Park Place encircling the park. After dark, the motorcycles that are dressed out with lights wish to cruise through town.

- d. Final Settlement of Highway 50 Enhancement Project – contractor Y & K Excavation, Inc.

- e. Final Settlement for the Hot Water Line Replacement Project- contractor Seifert Enterprises.

Please see the memo prepared by Rob Vance, Public Works Director describing the two final payment requests.

A motion was made by Yerkey to remove item 4 of the agenda and to combine and approve the items on the consent agenda. The motion was seconded by Damman. With all in consensus, THE MOTION CARRIED.

## **2. Medical Marijuana Moratorium, 1<sup>st</sup> Reading Karl Hanlon**

Ordinance 2010-09 suspending the temporary moratorium on Medical Marijuana Dispensaries.

City Attorney Hanlon explained that he was directed by Council to repeal the moratorium, which affects one application that was submitted on June 30<sup>th</sup>.

Councilmember Yerkey asked if fellow councilmember Baker wanted to put the question of the legality of medical marijuana in the City of Salida on the ballot. The City did not make the ballot deadline, according to Mr. Lewis. Yerkey said that Council will need to take some action before July 2011. Hanlon reminded the Council that no matter what they do with this ordinance Council will still need to do something before next July. Hanlon explained that the option would be to a mid-cycle election, if we wanted to spend the money. Yerkey requests that we make a plan for moving forward, do at the next Tuesday morning work session. Baker stated that he got zero reaction from citizens on taking something to ballot.

Mayor Rose stated that even though the Ordinance is in first reading, Council will take public comment. If the moratorium is lifted, then one medical marijuana operation would be able to go forward to the Planning Commission for a conditional use permit. Rose noted that there are at least two people present to speak regarding the issue.

Kathy McQuillan, 140 ½ First St, stated that she has a community based business trying to do the right thing. She has been in business since Feb. She has already invested in this business. Her business paid the state fee of \$7500. It is a legal business and considers it supporting local artisans. She is here to give a voice to her loyal patients. She pleaded to the Council to see the benefits this business adds to the community.

Colleen Kunkel, of Tenderfoot Health Collective, made an apology for expressing frustration at the last meeting. She requests Council to suspend the moratorium. Lifting the moratorium would merely allow this pending application to move forward to the Planning Commission. She reminded Council that medical marijuana is a legal industry in this state. She noted that the Veterans endorsed the use of marijuana as good for post traumatic stress syndrome. These are respected members of the community. She invited Council to see the facility and to meet the clients. She thanked Council for their service to our community.

Martin Woods, owner of Natures Medicine, is concerned about the unfairness of revisiting this issue. When he went to open his operation, he consulted an attorney and followed all of the guidelines set by the City. It appears to him that THIC was not as diligent in this area. He expressed that this was unfair and was "not a level playing field". He questioned why the Council was even revisiting this issue. He felt it necessary to express his opinion.

A motion was made by Damman to approve Ordinance 2010-09, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, SUSPENDING 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 FROM MAY 24, 2010 THROUGH JUNE 30, 2010 on first reading and ordering the ordinance published in full setting the public hearing as September 7, 2010 The motion was seconded by Stewart.

A discussion followed. Yerkey announced that he is opposed to the Ordinance based on the fact that Council should make the bigger decisions about the direction of medical marijuana dispensaries in the City before approving another business. He would like to see this direction set by Council in the next few months. Mayor Rose clarified that by lifting the moratorium it only opens the door for one business. Damman reiterated that it is a new business that has no problems according to Police Chief Terry Clark. They want to be able to grow, but will need to be approved for conditional use. Baker expressed his belief that lifting the moratorium is dangerous and is not sure what it accomplishing if we reverse the decision next July. Stewart explained that he believes it is up to the business to make its own decision, even if Council changes things next year. Moore agreed with Stewart. McCormick, stated that he does not feel the need to get any more marijuana businesses in town. Mayor Rose brought the meeting back to topic, which is the suspension of the moratorium for Tenderfoot Health Collective.

Voting Yea were Moore, Stewart and Damman. Voting Nay were Baker, Yerkey and

McCormick. With Mayor Rose voting in favor, THE MOTION CARRIED.

**Marvin Park GOCO Grant –**

Resolution 2010- 44 supporting the grant application for a local parks and outdoor recreation grant from the state board of the Great Outdoors Colorado for the Marvin Park restroom facility.

Recreation Director Theresa Casey presented written materials included in the packet. Our Parks, Recreation, Trails and Open Space Master Plan indicates that rest room facilities are needed at Marvin Park. In the citizen prioritization of Parks and Recreation Facilities and Programming, restrooms ranked as the highest priority in the Outdoor Amenities or Facilities category.

Permanent restroom facilities at Marvin Park will cost \$71,963. That number includes an added water fountain and a tap fee increase. The City will be partnering with Salida Baseball Association on this project. Salida Baseball is contributing a cash match of \$7,500 and has committed to \$13,450 of in-kind contributions to the project. The City of Salida will fund \$1,000 in cash. Additional funding and letters of support are being solicited from many local organizations including the Chamber of Commerce, Salida Softball Association, Arkansas Headwaters Recreation Area and Salida Business Alliance.

The City will need to allocate \$8,500 in the 2011 budget for rest rooms at Marvin Park.

We intend to submit a GOCO grant application on August 27, 2010 asking for the project cost of \$71,963. GOCO requires a 30% match. We intend to leverage this grant with the \$8,500 cash contribution and an in-kind match of \$13,450. Because of GOCO regulations, the City must be the sheppard of the grant.

Damman asked for clarification regarding the true cost for the City. Ms. Casey stated that it is only \$1000, plus some staff time, but not much. There was discussion around the maintenance of the restrooms. The grant paperwork must say that the City will do the maintenance. However, it is understood that it will be done by the Salida Baseball Association. The hours of the restrooms still needs to be resolved. Council would like assurance that the bathroom could be open more hours. Mayor Rose clarified that we could attach a Memorandum of Understanding (MOU) so that the City doesn't actually clean the bathrooms.

Baker announced that he appreciates the efforts of the Salida Baseball Association. The facility gets a lot of use and it is very important to build the bathroom facility. A new bathroom will attract tournaments, which would add revenue to the city. Baker is concerned about damage to the bathrooms. Baker stated that if Mr. Mallet feels we can come to an agreement, then Council should move forward.

Councilor Stewart's main concern is for access to all users, especially users of the pump track. The Baseball Association could be unfairly burdened by the maintenance. Stewart proposed that the bathroom be available for all users of the park during day light hours. Mayor Rose reminded Council that these issues can be hammered out in a MOU. Baker asked if there could be some fee charged over the next few months to users to cover the \$1000 spent by the City. Stewart reiterated that the bikers are heavily invested in the pump track. Ms. Casey said it is possible to look to other funders, but need the commitment now since the grant deadline is Aug 27<sup>th</sup>. We need a resolution tonight. Either accept the resolution as it is or post pone it until the next GOCO grant deadline.

Jerry Mallet, representing the Salida Baseball Association, came to the podium to thank Council for its

help. He stated he believes he can get the money. He doesn't believe that there is any problem about the hours of operation and that we need to clarify the maintenance. There will only be increased traffic in that area. Moore asked Mr. Mallet if he had a problem if Council added to the resolution that the \$1000 be contingent on Salida Baseball Association getting the money in time. Mallet assured Moore that he can get the money. Administrator Lewis stated that the City has a good history with GOCO good because the City always follow through on what we say we are going to do. He doesn't want to turn the grant back because it could break our good run. Since the bid is from the City of Salida, Mr. Lewis says it must be first class when it goes in.

A motion was made by Baker to approve RESOLUTION 2010-44 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, SUPPORTING A GOCO GRANT FOR THE MARVIN PARK RESTROOM FACILITY CONTINGENT UPON RECEIVING \$7,500 FROM SALIDA BASEBALL ASSOCIATION BY AUGUST 26<sup>TH</sup>. The motion was seconded by Yerkey.

There was further discussion regarding the MOU with the Salida Baseball Association. Ms. Casey recommended waiting until we see if we get the grant. The idea is that the MOU with the baseball foundation would have them include the costs of maintenance. Damman added that the City has a history of maintenance issues. We build new things but lack money to maintain what we build.

With all in consensus, THE MOTION CARRIED.

### **3. Consideration of first amendment to the City Administrators' Employment Agreement (Karl Hanlon)**

Resolution 2010- 46 Ratifying appointment of City Administrator

At Council's direction, Hanlon prepared Resolution 2010-46 approving an Amendment to the City Administrator's Employment Agreement addressing 1) outside employment and 2) vacation time. An amendment requires approval from Council. This change is needed since Lewis is working for the NRC. In addition, other things come up from time to time. Hanlon assured Council that this is fairly straight forward and consistent with business practices.

A motion was made by Moore to approve Resolution 2010-46, A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO RATIFYING APPOINTMENT OF A CITY ADMINISTRATOR. The motion was seconded by Baker. With all in consensus THE MOTION CARRIES.

### **4. Administrator/City Attorney/Deputy City Clerk**

#### **1. Natural Resource update**

Mr. Lewis gave an update regarding the latest with the NRC. He shared the good news regarding the recent commitment from the Division of Wildlife. That is a large step towards the fulfillment of the NRC. Hard copies of the site plan were distributed to Council, though Ms. MacDonald was able to project the slide shortly after this. The site plan shows two buildings. The NRC expects to hear if the City is one of the successful bidders to go to next step with the Forest Service. The Forest Service would have its own building. The other building would house the Colorado Department of Wildlife (DOW) and the Colorado Division of Parks. Now the NRC will refine the programs within the DOW wing. The site plan shows a demonstration pond, which ties the two buildings together. The DOW wants an outdoor educational experience with a stocked pond so that kids can learn how to fish and do other fun things. The NRC has also had a good conversation with Colorado State's School of Natural

Resources regarding a future campus and with Colorado Mountain College too. They hope to talk to one more college in the near future. The NRC staff is very excited about the possibilities. The third small building on the site is coffee and sandwich shop. The Forest Service's RFP stated that staff must be able to walk within a half a mile to get a cup of coffee and sandwich. Subway is .6 miles away. That shop is the only retail on site. The retail option is appealing to CSU and the DOW. The DOW is expected to move in July 2012.

McCormick asked about where the water for the pond would come from. Mr. Lewis answered that the NRC would have to drill a well. The NRC would also like to work with the Treat family in order to get land on the Little River. Colleges or schools would find that very positive. Lewis clarified that this site plan is for 34 acres on the east side of the highway. The site would also include an RV dump station too.

## 2. Unique Theater update -

Community Development Director, Dara MacDonald, presented written materials added to the packet. On May 19, 2010 the Building Official notified Salcat that the structure known as the Unique Theater is considered a dangerous building under the 2006 International Existing Building Code. Salcat was given until August 30, 2010 to correct the problems and was advised of their right to appeal. To date the City has not received from the owner an appeal or proposal to address the dangerous condition.

As of August 16<sup>th</sup> Historic Salida, Inc has not submitted an application for emergency stabilization funds to the State Historical Fund on behalf of Salcat.

### 1) Stabilization

There may be an opportunity to remediate the environmental issues and repair the theater portion of the structure without demolition. This possibility has not yet been explored by the City's engineers or staff. Initial discussions indicate that this could possibly be accomplished through completion of the 2007 building permit, additional bracing and a new roof.

SGM estimates it will cost approximately \$9,500 to investigate and develop plans for stabilization. Services included in this estimate are development of an initial plan and field verification during construction to check that conditions are as assumed. With all of the debris currently in place the engineers can not be sure of the exact stabilization scope. Once we have an understanding of the options for stabilization or repairs and roofing, we could pursue cost estimates for the construction.

|                |            |
|----------------|------------|
| Engineering:   | \$9,500    |
| Stabilization: | \$ unknown |
| Roof Repair:   | \$ unknown |
| Environmental: | \$ unknown |

### 2) Partial Demolition

The issues of concern identified by the building official are all contained within the theater portion of the structure. It has been discussed that it may be possible to demolish only the rear of the building (the theater) and maintain the front 40-50 feet. This would allow the maintenance of the historic streetscape façade along W. 1<sup>st</sup> Street.

In June, the City obtained estimates from SGM and DSI for the cost of this demolition. Engineering is estimated at \$8,000 - \$10,000. This cost is higher than for Option 3 due to the additional investigation needed to understand what is needed for the front portion of the building to remain in place. The DSI estimate for this scope of demolition was \$90,490. This estimate does

not include remediation of hazardous materials, unanticipated structural issues with front portion or adjacent buildings, or engineering. The minimum expense for partial demolition is \$100,000 in addition to expenses to remove hazardous materials.

Engineering: \$ 8,000 - \$10,000  
Partial Demolition: \$ 90,490  
Environmental: \$ unknown

### 3) Complete Demolition

The third option for consideration is complete demolition of the Unique Theater. Estimates from SGM to develop drawings to guide the contractor are approximately \$5,000. Assuming, we would first investigate the feasibility of partial demolition, this would be in addition to the \$8,000 - \$10,000 included above. The estimate from DSI for complete demolition is \$161,690. Again the demolition estimate does not include remediation of hazardous materials, unanticipated structural issues with adjacent buildings, or engineering. The minimum expense for complete demolition is \$175,690 in addition to expenses to remove hazardous materials.

Engineering: \$ 13,000 - \$15,000  
Demolition: \$ 161,690

Administrator Lewis reiterated that there will be no vote by Council tonight. SGM will come out for \$9500 to give us a plan to stabilize the building so we can get past the issue of the building's safety. Roof repair would still be needed. The current holes are adding to the issues since they let in rain water. There is an estimate of \$20,000 for a two year roof repair, which would stop the holes. One other issue is the environmental problems inside. There are no estimates on the cost to fix that. If the Aug 30<sup>th</sup> deadline passes with no action by the owner, City staff would come back to Council at the first meeting in September to get direction for how to remediate the issue.

To partially demolish the building and complete engineering on the main part of the building would roughly cost \$100,000. The third option, if the front half is not stable without the back, would be to completely demolish the structure at a cost of \$161,690. However there are environmental issues which could raise the cost up to \$175,000. City staff are still hoping that the current owner will come forward with a plan that would satisfy the engineers, but time is quickly running out.

McCormick asked if there are already liens against the building. It would be in the best interest of the citizens, to attempt to recoup the costs in some form of liens. Hanlon said that he will have answers about possible liens at the next meeting. Mayor Rose stated there is no money in the City, therefore he wants to know what services would be reduced in order to cover these costs.

Mayor Rose allowed speakers, even though it is not customary under updates. Jackie Powell, a member of Historic Salida, HSI, a non-profit, not part of Historic Preservation Commission came to the podium to speak. She supports the preservation of the entire exterior of the Unique. She encouraged Council to think long term in its deliberations. The Unique is a Salida landmark as a former center of entertainment. To remove the back would make it not a registered landmark. This is like an endangered species. Baker asked, Ms. Powell if the building were preserved, what do you have to do on the inside? Powell said it could be used for new uses such as apartments, etc.

Elizabeth Richie, spoke on behalf of the Unique. The Unique is a living legend of our town. It is part of our family of historic structures, which is a destination for tourists. The SteamPlant was saved because citizens knew it was important to keep. Citizens donated money to save it. She

pleaded that the City not repeat what happened to the Salida train station. It is the responsibility of Council and City Staff to preserve this area by any means necessary. The SteamPlant was in similar shape. It was run down, full of pigeon poop, etc. Please do the right thing to save one of the most important historical structures.

Donna Francis, also a member of the board of Historic Salida, stated that as a board they are ready, willing and able to get grants. This community has very talented people who could get many grants once a direction is established.

Mr. Boddy, a citizen of Salida, says he is personally invested in the building. He removed the stucco and restored the windows. He file a lien against the building for \$42,000, so he wants the building to stay in place. He would like the engineering study to look at how the businesses on either side would be affected by demolition. He proposed getting everyone in town to donate \$100 in order to pay for stabilization of the building. He also proposed getting everyone together to remove the trash.

Mr. Higgins, an architect in town, encouraged the City to stabilize and mothball the building. He has looked into fees for demolition, all are quite high. This building should be part of sustainability in the City. To create a new building would be a lot of materials and resources. The loss would = 3-4 million cans recycled. But new building would be much more efficient. Preservation generates more jobs locally than building new. Mothballing and stabilization would buy time, Stanley hotel in Estes park was empty for 30 years, lots of other examples.

Roberta Smith, spoke about her concerns if the Unique was torn down. She said it would take decades until a replacement could be built. She believes this is a dangerous and regrettable precedent set by the City.

Baker asked about the lien process. Hanlon answered that the Unique could be foreclosed upon and then there would be a public trustee sale. There are currently other liens in place. McCormick asked about the possibility of foreclosure. Hanlon answered that the Aug 30<sup>th</sup> deadline is from the City, and then we have the right and responsibility to mitigate the situation. The costs of stabilization would then be put on as a lien against the property. That could mean a foreclosure sale. It is not currently under foreclosure. According to Hanlon the building has a first deed, two mechanic liens, and Boddy's lien. If that is the case, the City would be fifth in place.

Mayor Rose explained how this is a balance of private rights and duties of a governmental entity for the health and safety of its citizens. He thanked the staff for their attention to the matter, even when it was contentious to point out the safety issues. If the City waited any longer the Unique could have been more neglected and the only option would have been complete demolition.

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

No news to report.

- c. Deputy City Clerk -

Assistant Deputy Clerk Jennifer Orr had nothing to report.

- 7. Elected Official Reports -



a. Treasurer- Eileen Rogers.

City Treasurer Eileen Rogers read from a report. Sales tax reported for the month of June 2010 was received last week. For sales within the City, tax collections totaled \$362,260. This was a 4.5% increase from a year ago and the first month with a favorable comparison to 2009 in several months! Previously, the monthly sales tax collections were down 19 months in a row with just a single exception.

The City is now in its "peak season" for sales tax collections and a favorable June comparison carries a greater than average impact for the budget. (The average amount for monthly sales tax collections is approximately \$288,000. From June through August, the average increases by about 20% to nearly \$350,000 per month.)

Salida's share of the county tax in June was \$131,095, a 4.7% increase from June 2009. (The City currently receives 25% of the 2% sales tax collected county-wide in Chaffee County, a decrease from 26% in 2009.)

Year-to-date, City sales tax was \$1,572,872 compared to \$1,632,000 for the same period in 2009. The total sales tax reported by vendors located in city limits fell by \$59,128, or 3.6%, compared to the same period last year.

Year-to-date, Salida's share of the county tax was \$558,121 compared to \$574,335 for the same period in 2009. The total sales tax allocated to Salida from the county-wide sales tax fell by \$16,214, or 2.8%, compared to the same period last year. This decrease is attributed partially to the decrease in tax collected by the county and partially to a decrease in Salida's percentage allocation.

The City already implemented budget cuts anticipating a \$234,800, or 5%, reduction in sales tax revenue.

b. Mayor –  
Nothing to add

c. City Council-

There were no Council reports.

**EXECUTIVE SESSION -**

A motion was made by Damman to move into executive session 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.

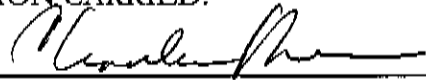
Mayor Rose announced the time as 7:50 p.m.

Council reconvened in regular session at 8:45 p.m. No decisions were made.

Those present during the Executive Session were Mayor Rose, Council Members Scott Damman, Jim McCormick, Jay Moore, Steven Stewart, Keith Baker and Tom Yerkey. Also present were City Administrator Jack Lewis, City Attorney Karl Hanlon and Community Development Director Dara MacDonald.

**ADJOURNMENT -**

A motion was made by Moore to adjourn the meeting at 8:46 p.m. The motion was seconded by Damman. With all in consensus, THE MOTION CARRIED.

  
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**Mayor**

[SEAL]

  
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**Assistant Deputy City Clerk**

Respectfully submitted by Jennifer Orr, Assistant Deputy City Clerk