



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

Salida, Colorado

May 17, 2011

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 Eileen Rogers, City Administrator Jack Lewis, Deputy City Clerk Janelle Martinez and City Attorney Karl Hanlon.

Absent was City Clerk Betty Schwitzer.

CITIZEN PARTICIPATION -

Mayor Rose said those wishing to speak would be limited to 3 minutes. This section is meant for people to speak on items not on the agenda.

Jane Elmore, 302 Park Avenue, said there are too many deer in town. They eat everything and leave a terrible mess. Ms. Elmore has contacted Jim Aragon of the Colorado Division of Wildlife. She said at some point there is going to have to be some control of numbers in the herd, maybe supplying a local food bank. She encouraged citizens to contact their Council representatives.

Jim Miller, Salida citizen, commented about the rewrite of the several ordinances updating the Salida Municipal Code. He doesn't feel that this procedure follows the spirit of the law. When there is a re-write of our basic code, citizens should be allowed to speak at the first reading because by second reading the ordinance is ready for approval. By holding a public hearing at the second reading it doesn't allow for input that could change the language before it is approved. He said he hopes he isn't the only citizen that has suggested revisions for Council's consideration.

Monika Griesenbeck, 701 W. Sackett Avenue, said she is here to ask questions about the National Resource Center (NRC). She reads Merle Baranczyk's editorials, and she wants to know what the deal is with the National Resource Center. Where is the 6.5 Million dollars going on the behalf of Salida's citizens? She feels that the citizens will be the ones who pay the bill with large increases in water rates. Ms. Griesenbeck wants to know why the City is not letting a private entity do the project. She thinks that because the City is doing the project, that there won't be any tap fees collected. How much is this project going to cost the water users of the City? Ms. Griesenbeck hopes that someday the City will answer all of these questions because she is sure that she isn't the

only one that wants answers.

Councilor Damman responded that the City cannot giveaway a tap for any reason. There have been twelve to fifteen public meetings where the NRC was discussed.

Ms. Griesenbeck said that this project is incurring a huge debt and she assumes the money will have to be paid back.

Administrator Lewis explained that the Natural Resource Development Corporation (NRDC) was set up by Council as a 63/20 not for profit corporation. The NRDC consists of board members Tim Glenn, Jack Lewis and Dara MacDonald. This debt is not the debt of the City of Salida. A private corporation is responsible for all of the costs for extension of the utilities. All of the dollars are within the dollars that have been reported and are paid for by the corporation.

Mayor Rose said he appreciates that Ms. Griesenbeck showed up and asked these questions, especially when Mr. Baranczyk is writing editorials on this topic. Mayor Rose has made it clear to Administrator Lewis that the work time spent on this project is kept separate from City time. Mayor Rose said that during the Forest Service RFP process, when the City was in a period of non-disclosure, it seemed that there was constant criticism by the public and the paper. Administrator Lewis said that the Forest Service respected what we did and noted that the City was the only bidder that respected the non-disclosure period.

Ms. Griesenbeck said that the 63-20 is a funny entity. She asked if the land on the Vandaveer property belongs to the Water Enterprise. Mayor Rose noted that the land and the water were purchased separately. The water rights are those of the water users. Ms. Griesenbeck thinks her water rates went up because of the NRC.

Councilor Damman said that statement is not true. The NRC and the increase in water rates are two totally different things. A brief discussion followed. Administrator Lewis said the City has nothing to do with this private development corporation that is in Denver. When the debt is paid off the improvements on the property and the buildings will revert back and the corporation will be dissolved.

Mayor Rose suggested that Ms. Griesenbeck make an appointment with Administrator Lewis to have him explain the NRC Development Corporation.

Dwight Cocovinius, 325 G Street, said he agrees with Ms. Griesenbeck and feels that he is totally in the dark about the NRC. He suggested that there should be a public meeting to clear up the confusion around this whole project.

Attorney Hanlon said the non-disclosure period was in effect for 6 months.

Administrator Lewis stated that there are two pieces to the NRC. Those are the Forest Service and the Division of Wildlife (DOW) and until there is a signed agreement with these entities, there is no deal. When and if there is, the Forest Service and the DOW will be paying for everything.

Councilor Damman noted that Merle Baranczyk has repeatedly printed exactly these things. Other than during the non-disclosure period, Council has talked openly about this. This project has been on Council's highest priority since Lewis has been here, for two years. Most of the questions that we get are from the people that have no knowledge of what we are doing.

Jim Miller said that he is submitting a letter defending the 63-20 concept. The City isn't liable for

any of the debt and if all of the leases fall into place then all of the improvements revert back. Mr. Miller said it was very appropriate for the City to purchase the Vandaveer property, especially for the water rights. The economy crashed during the time that the City had an agreement with a developer, and the deal fell through. Having a campus for all of the outdoor entities is a benefit for the community.

Andy, a reporter from KSBV, feels that there is confusion because there is no discussion about the details. What assets does the 63-20 have?

Administrator Lewis said it's a mortgage against the property.

Attorney Hanlon noted that it's a lot of fun to speculate a default. If the Federal Government defaults there are probably much larger economic issues.

Mayor Rose asked if anyone else wished to speak about the NRC.

Bruce Feldman, citizen of Salida, said tourism comes to his mind when discussing the NRC. Tourists come for what they see here, the mountains and the river. In his experience the quality of life doesn't increase by adding tourist attractions. Most towns in the United States survive fine without attracting tourists. The natural environment is Salida's Economic Development.

PRESENTATION – None scheduled.

SCHEDULED ITEMS-

1. Consent Agenda –

- a. Approval of Agenda
- b. Approval of Minutes: May 3, 2011
- c. City Property Requests: 1.) Salida Classic 2.) Go to Guide/City Recreation Evening Concert Series 3.) GARNA Headwaters Institute 4.) US Air Force Academy Band 5.) SBA 4th of July festivities
- d. Special Events Liquor Permits: 1.) Salida Classic 2.) Mon-Ark Shrine Club

BACKGROUND:

c. City Property requests:

1.) Salida Classic-

Angela Damman, Organizer of the Salida Classic (formerly the Omnium), is requesting to use Alpine Park and City streets to hold the Salida Classic on, July 29-31, 2011. The bike race through downtown will take place on Saturday from 7:00 a.m. – 6:00 p.m. A diagram of the requested street closures is included in the packet. Two letters of support were submitted; one from the Salida Business Alliance and another letter from the Chaffee County Commissioners. (This request includes a Special Events Liquor Permit which is outlined below.)

2.) Go to Guide/City Recreation Evening Concert Series -

Bill Swift, Go to Guide co-owner, and the Salida Recreation Department are requesting to use Riverside Park to hold five Thursday evening concerts. The dates are June 9th, June 23rd, July 14th, July 28th and August 11th from 6:00 p.m. to 8:00 p.m. No street closures are requested.

3.) GARNA Headwaters Institute –

Greater Arkansas River Nature Association (GARNA) is requesting use of Riverside Park and the Scout Hut to hold Headwaters Institute, a river guide training, on Friday, June 10, 2011 from 8:00

a.m. to 5:00 p.m.

4.) United States Air Force Academy Band –

Vickie Sue Vigil, event organizer for Arkansas Valley Publishing Company and Town and Country Autoplex, is requesting to use Riverside Park to host the United States Air Force Academy Band on Friday July 1, 2011 from 7:00-8:30 p.m. No street closures are requested, although barricades are requested to reserve parking areas on F Street for the event busses to move equipment and personnel from 8:00 a.m. to 10:00 p.m. and also to reserve parking in front of the Scout Hut from 2:00 -10:00 p.m.

5.) SBA 4th of July-

The Salida Business Alliance is requesting to use Riverside Park to hold the annual 4th of July celebration festivities. This request includes street closures to hold the traditional 4th of July parade.

Requested street closures are:

To close Sackett Street from F to E from 8:00 a.m. to 10:00 p.m. And, to close F Street from 5th to Sackett Streets at 2:00 p.m. - 6:00 p.m. for the parade route to be cleared. A diagram of the request is included for review.

The Salida Rotary Club will be selling food and alcohol during this event. The Rotary Club request for a Special Events Liquor Permit will be heard during the June 7th City Council meeting.

d. Special Events Liquor Permits:

1.) Salida Classic

This Salida Classic is requesting a Special Events Liquor Permit on Saturday, July 30, 2011 from 10:00 a.m. to 6:00 p.m. in Alpine Park.

The public notice was posted on April 30, 2011. To date no public comments have been received.

2.) Mon-Ark Shrine Club

The Mon-Ark Shrine Club is requesting a Special Events Liquor Permit on Saturday June 18 from 9:00 a.m. to 6:00 p.m. at 129 W. Sackett Street, the Mon-Ark Shrine Club.

The public notice was posted on May 6, 2011. To date no public comments have been received.

Councilor Damman made a motion to amend the agenda by moving item 7. 2011 Budget amendment under item 10. now making it item 11., removing item 13. System Development Fee Deferral Agreement from the agenda for ADU's and to combine and approve the items on the consent agenda. The motion was seconded by Baker. With all in consensus, THE MOTION CARRIED.

2. Presentation of 2010 Audit- Johnson, Holscher, & Co. (Jan Schmidt)

Jan Schmidt, Finance Director, introduced Dean Johnson, Johnson, Holscher, & Co., City Auditor. He gave a brief overview of the audit to Council. The City did quite well in spite of hard times. Mr. Johnson said that most of the cities we audited have had salaries frozen for three years. In a nut shell the City gets a rating of Unqualified and has no exceptions. Johnson explained that this rating is as good as it gets.

Mayor Rose noted that they have done the City audit for several years. The first year we didn't get

the audit done until September. Since then many system improvements have been implemented. Johnson thanked Ms. Schmidt and her staff for their work in assisting the auditors.

A draft of the audit was included in the packet. The final audit is complete and will be distributed to Council members in their city mailboxes. Acceptance of the audit will be requested during the next City Council meeting.

3. Farmers Market requests –

- a. City Property Request: Alpine Park use- Including a request to consider waiving partial fees.
- b. A request to hang a banner on a sign located on City property.
- c. A request to be declared an event of City-wide Interest.

Resolution 2011- 25 declaring the Farmers Market 2011 an event of City-wide Interest.

Administrator Lewis said this request was discussed several weeks ago during the morning work session. City Council has the authority to approve the requests including declaring Farmers Market 2011 an event of City-wide Interest.

Damman made a motion to charge \$50 per day for park use. Baker seconded the motion. With all in consensus, THE MOTION CARRIED.

Damman moved to allow the Farmers Market banner to be hung on the Historic Downtown Salida sign on Saturdays during the Farmers Market. Yerkey seconded the motion. With all in consensus, THE MOTION CARRIED.

Damman moved to approve Resolution 2011-25 declaring the Farmers Market 2011 an event of City-wide Interest. Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

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

Resolution 2011- 29 approving citizen appointment to the Historic Preservation Board.

Dara MacDonald, Community Development Director, presented written materials that are included in the packet for the record. The request is to appoint a citizen to the Historic Preservation Commission (HPC).

There is currently one open position on the Historic Preservation Commission. The City has received one application for this position from Dwight Cocovinis that is included in the packet.

Damman made a motion to approve RESOLUTION 2011- 29 A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO APPROVING A CITIZEN APPOINTMENT TO THE HISTORIC PRESERVATION COMMISSION. Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

5. FIBArk 2011 requests – (Jack Lewis)

Resolution 2011- 30 declaring the FIBArk 2011 an event of City-wide Interest.

- a. City Property Request: Riverside Park use, street closures
- b. Special Events Liquor Permit – Public Hearing (if needed)

Administrator Lewis presented written materials that are included in the packet for the record. The events committee met with the applicant to review City property use and the liquor permit and a signed check list is included in the packet.

The 63 year tradition established and carried on by First in Boating on the Arkansas (FIBArk) has taken place every year on the same weekend in the same location at Riverside Park along the Arkansas River since 1949. FIBArk is an important community event that attracts world class competitors and thousands of visitors to Salida for the multi day event producing many positive economic impacts for the City.

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 FIBArk as an event of City-wide interest through passage of the attached resolution.

Damman moved to approve the Special Events Liquor Permit by FIBArk, City property use and the requested street closures. The motion also includes approval of RESOLUTION 2011- 30 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, DECLARING FIBArk 2011 AN EVENT OF CITY WIDE INTEREST. Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

6. Medical Marijuana regulations – 2nd Reading (Jack Lewis)

Ordinance 2011- 05 adopting a new Article III to Chapter 6 of the Salida Municipal Code regarding Medical Marijuana Licensing and amending Sections 16-1-80, 16-5-20, and 16-5-40 of the code regarding Medical Marijuana zoning regulations.

City Council has directed the City Attorney to draft legislation regarding medical marijuana licensing and zoning regulations before the statewide moratorium for new medical marijuana uses expires on July 1, 2011. The State of Colorado has categorized medical marijuana uses into four categories. Each use is addressed separately in the proposed land use code amendment. These uses include Medical Marijuana Centers, Infused Products Manufacturing, Optional Premise Cultivation, and Patient or Primary Caregiver.

MEDICAL MARIJUANA LICENSING BACKGROUND:

With passage of House Bill 10-1284, the Colorado legislature adopted the Colorado Medical Marijuana Code at §§12-43.3-101, *et seq.*, C.R.S. (“CMMC”) and amendments to the fee collection and patient registry provisions at §25-1.5-106, C.R.S., among other items. City staff feels that significant benefits exist for local licensing and regulation of medical marijuana related to enforcement, fee and penalty collection, including oversight of the industry in the interest of the public health and safety of the citizens of Salida.

The CMMC allows for local licensing of medical marijuana effective July 1, 2011. A local application form will be provided by the local authority. In section 6-3-30 this ordinance establishes the Local Licensing Authority as the City Administrator. The City Clerk shall assist the Local Licensing Authority by receiving all applications, coordinating with other city officers and departments when necessary.

Fees will be non-refundable and will be established by resolution of the City Council. Applicants will be subject to background checks, including fingerprinting and will be responsible for the actual cost of the investigation, including any outside professional costs incurred by the City related to the application.

Section 6-3-70 outlines approval or denial processes for the Local Licensing Authority. Notice of Decision must be mailed to the applicant by regular mail. An applicant has the right to appeal the Local Licensing Authority's denial or conditional approval to the City Council by filing a written request to the City Clerk within twenty (20) days of the date of the notice of the decision.

MEDICAL MARIJUANA ZONING BACKGROUND:

During the April 19, 2011 work session, City Council reviewed the proposed ordinance prepared by the City Attorney with staff. Direction was given to staff to on how to treat each of the medical uses under the new State legislation in the Salida Municipal Code.

Currently the Salida Municipal Code only addresses Medical Marijuana Dispensaries, now defined as Medical Marijuana Centers, as a permitted use in the C-1 zone district provided it is not located within 500 feet of a school. The new code language would amend Section 16-5-40(g) to permit Medical Marijuana Centers in the C-1 zone district provided they are not located within 1,000 feet of a school or within 1,000' another medical marijuana center and they are in permanent fixed location.

The proposed language would not allow infused products manufacturing and optional premise cultivation in any zone district within the city.

Patient and primary caregivers would be regulated in all the zone districts to be allowed to grow marijuana only inside a primary residence or accessory structure for their patients or themselves. As proposed, they would be permitted to grow up to six (6) plants at a primary residence with a maximum of twelve (12) plants if more than one patient or primary caregiver resides within the residence. A patient or primary caregiver wishing to grow more than six plants at a time could only do so in a commercial structure in the C-1 zone district.

During the April 25, 2011 Planning Commission public hearing regarding the possible zoning regulations, the Planning Commission made several recommendations to the proposed ordinance. The first recommendation was to eliminate the review standard for caregivers that stated, "The smell or odor of marijuana growing within the primary residence shall not be capable of being detected by a person from any adjoining lot, parcel or tract of land not owned by the owner of the primary residence, or from any adjoining public right of way." Staff agrees that this standard would be difficult to enforce because there is no quantifiable way to measure odor and the review standard has been removed from the proposed ordinance. Also at the recommendation of the Planning Commission the word 'readily' has been added to the following review standard: "The growing, cultivation, and processing of medical marijuana shall not be readily perceptible from the exterior of the primary residence." The Planning Commission expressed concerns about the difficulty of enforcing this standard.

Other recommendations from the Planning Commission that have not been included in the proposed ordinance were to allow optional premises cultivation operation and infused product manufacturing operation as a conditional use in the Commercial (C-1) zone district and as permitted in the Industrial (I) zone district. They cited that the conditional use review standards for the two optional operation premises cultivation applications that were reviewed by the Planning Commission last year were adequate to deal with possible nuisances associated with this use and the security regulations imposed for the licensing though the state would abate other possible security concerns.

City Attorney, Karl Hanlon, gave an overview of this item to City Council. Hanlon said that this is second reading of Ordinance 2011-05 which contains an unchanged table 16D. Where to locate all of the centers the Hwy 50 overlay zone where all of the current dispensaries are currently located in the C-1 zone and the Hwy 50 overlay zone. We crafted a set of regulations dealing with the three

kinds of uses created by the state this ordinance does not allow grow operations or infused products. The other caregivers in residential areas allowed limits for plants. Important to note 2 diff. Question of caregivers passes in 2011 cant do much about as to the three types of allowing all three types of operations. Ordinance 2011-05 creates a licensing procedure that currently mirrors liquor licensing with a local licensing body adding licensing regulations.

Hanlon feels that it is necessary to alert Council to new legislation that still needs to be signed and consolidated which will extend the new moratorium. The caveat to this new legislation is that if a currently licensed operation is operating in a municipality that has now banned medical marijuana; they could now relocate into a different municipality that allows medical marijuana centers. If council wishes to extend the local moratorium to match the state, another ordinance will be drafted to bring this to the next meeting. He asked Council, do you want your policy to match those issues?

Mayor Rose opened the public hearing and asked anyone wishing to speak either in favor or against this ordinance to come forward. Anyone wishing to speak is limited to three minutes to state their point of view.

Council Yerkey said he had a question that needed clarification regarding table 16D. Is this use, Medical Marijuana Center, only permitted in a business that is located in both the C1 zone and the HWY 50 corridor overlay? Hanlon said yes, they have to be located in both of these zoned areas.

Mayor Rose opened the hearing

Jane Elmore 302 West Park Avenue, isn't sure she is clear but thinks that this ordinance will allow caregivers to grow in residential areas in their home , yet it will prohibit grow operations in an area that is not close to any of these type of areas. The effect seems so unfair, when in a center there are professionals working there that would monitor the growing of product. This makes no sense to her.

Mayor Rose asked if anyone else wanted to speak. No one else came forward. Mayor Rose closed the public hearing.

Mr. Lewis requested a five minute recess to discuss something he just discovered.

Mayor Rose took a five minute recess at 7:05 p.m.

Attorney Hanlon apologized noting that in his haste trying to clarify the areas along Highway 50 and the C1 zone district he used the zoning map that identifies the C1 zone in blue. He believes what Council wanted to include is all of the C1 area, which is shown in red in the zoning map, that lies along HWY 50 and within city limits. In Table 16B the word overlay should be removed for publication purposes. If a caregiver is located in a C1 zone and located in a commercial structure would be allowed to grow more than six plants. State statute limits caregivers with six patients can grow a total of 36 plants, the maximum allowed by statute.

Mayor Rose reopened the hearing.

Brice Turnbull, Salida citizen, is glad to see there is some allowance for medical marijuana. He likes to see that there is a type of commerce locally and would like to see it continue in Salida.

Jimmy Descant, also known as the Rocket Man, thinks that this is very confusing to him. THC is a primary caregiver, and they cannot cultivate although they are a medical care center. Why does the

City want to limit dispensary cultivation when a smaller home operation can grow in a residential area? This affects people Descant cares about and Medical Marijuana can bring a lot of revenue to the town.

Hanlon clarified that a Primary Caregiver is a person, not an entity, they could cultivate up to 36 plants. The proposed Ordinance does limit a single caregiver in a structure. If there is a registered caregiver they could cultivate. There is a distinction for a business of how the statute deals with both of these entities.

Mr. Descant doesn't understand why dispensaries are not allowed the right to grow but others are allowed to grow in residential areas with no regulations.

Mayor Rose noted that the Colorado amendment is written strictly for medical use and that marijuana is still illegal for any other use.

Damman noted that the caregiver, being a constitutional right, is not part of any discussion we, as a Council, can have and to use it as a comparison is counterproductive. This council has deliberated a lot of time on this subject. We have been talking about this over and over. As a council it is our belief that this option is the best one for this community. We have to consider the greater Salida community as a whole, and are not trying to make things more difficult for THC or any easier for someone else to do business.

Mayor Rose asked if anyone else would like to speak.

Kat McQuillan, co-owner of THC, thanked Council for all of the time and efforts spent on making the hard decisions that they have had to make. What she is hearing it is about caregivers and that this ordinance will eradicate our right to grow for our patients. This ordinance is allowing for a lot of marijuana to grow that the City cannot control. Ms. McQuillan will continue to come to the City Council Meetings.

Bruce Feldman, Salida citizen, said he has talked to a lot of people in the community and he is not sure that this ordinance is the best decision for all of the citizens in the City. Given that caregivers can grow for their patients, he doesn't understand why it's not acceptable for a medical marijuana center to grow. He wants to hear the rationale behind this decision. Mayor Rose asked if this was Mr. Feldman's only question. Feldman said he feels that centers were put in a bind when the state told them that they must grow 70% of their own product. This seems to limit their size and doesn't bring in more taxes.

Councilor Damman said we have no control over caregivers as a state given right. The members of this Council could have banned, but we deliberated our reasons and believe this is the best model for the City of Salida. Several members of this Council wanted to ban marijuana from the City, but after much deliberation we are now to the point of putting in these regulations.

Councilor Stewart stated that he would much rather have those grow operations in a controlled area such as in a dispensary rather in a triplex in a residential area. He feels that this is a compromise. This Council came very close to banning and Council came very close to putting a medical marijuana question to an election. He feels it would have been banned if it was put to a vote.

Councilor Moore feels that this is the "least worst" option as far as he is concerned. Mr. Feldman feels that it was a good political compromise made by Council.

Mayor Rose noted that this Council chooses to respect each other and that he personally agrees with the two Council people that say if put to a vote of the people it would have been banned. This Council chose the middle road. It may be an imperfect decision, but that's how government works. I consider the ethical decision and the factor that drives decisions is first for the public health and safety of the community before considering revenue. Public Health and Safety trumps revenue every time. Mayor Rose asked if anyone else wished to speak.

Colleen Kunkel, Tenderfoot Health Collective, thanked Council and feels like she has learned a lot during this process and she understands that you don't always get what you want. She feels that by allowing the caregivers to grow, although knowing that the City cannot disallow them, but in the same process you are going to limit THC as a center. Council is giving caregivers the competitive edge. When Salida and the public health and safety of the city is threatened by the volume of the marijuana that is on the street, Council can thank each other. She feels that if the medical marijuana question had been put to a vote it would have carried. She will keep working on the public process.

Mayor Rose closed the hearing.

Councilor Moore has concerns about odors and wondered what constraints caregivers will have on them.

Attorney Hanlon said there are limitations on offensive odors and there is some flexibility of enforcement within the constitutional changes. The issue of odor and how you deal with it is a hard one to objectify.

Moore thanked the crowd that has continued to follow this issue but he feels fairly confident that Council will make a decision that you might disagree with. He noted that the behavior of the local dispensary owners has been exemplary compared to those on the Front Range. The ordinance approved this evening is most probable what citizens passed on a State level in 2000.

Damman made a motion to approve ORDINANCE 2011-05 ADOPTING A NEW ARTICLE III TO CHAPTER 6 OF THE SALIDA MUNICIPAL CODE REGARDING MEDICAL MARIJUANA LICENSING and amending Sections 16-1-80, 16-5-20, and 16-5-40 of the code regarding Medical Marijuana zoning regulations on second reading, and ordering the ordinance to be published in by title only. The motion was seconded by Stewart. With all in consensus, THE MOTION CARRIES.

Yerkey asked if this would be an appropriate time to discuss the moratorium. Hanlon said he would like direction from staff to proceed with drafting language to remain consistent with the State moratorium. The majority of Council indicated they were in favor of extending the moratorium. Hanlon said that extending the moratorium would eliminate the chance of a currently licensed center that was operating in a community that has now banned marijuana use from relocating into a municipality that allows medical marijuana centers.

Items 7, 8, 9, & 10. Salida Municipal Code repeal and reenactment – Chapter 1, Chapter 2, Chapter 4 and Chapter 13.

Finance Director, Jan Schmidt, presented written materials that are included in the packet for the record. The request is for council to repeal and reenact four chapters of the Salida Municipal Code (the Code). This cover memo addresses four agenda items each relating to a separate chapter of the Code. If approved, these existing chapters of the Code will be repealed and replaced with the language provided in Ordinances 2011-8, 9, 10 and 11.

These four ordinances passed on first reading May 3rd and were published in full in the Mountain Mail on Friday, May 6th.

Earlier this year, the City began a project to re-write the Code. Two of the primary goals of this project were to increase the relevance of the Code by removing obsolete regulations and improve operating efficiency.

Before approving the 2011 budget, City Council asked staff to review the work performed in each department. We are looking at both “what” and “how” staff time is spent on a daily basis and how our work helps the community. If time is being spent enforcing codes or performing tasks that really aren’t considered important to the community, we will consider eliminating or changing them.

The chapters presented for approval at this meeting were chosen as priorities either to make specific changes or because they provide a background upon which other chapters will reference. This cover memo highlights the key changes in each new chapter.

Chapter 1, General Provisions & Chapter 2, Administration and Personnel

Chapter 1 adds administrative hearing procedures and administrative citations.

Chapter 2 streamlines procedures, eliminates some statutory provisions that do not need to be spelled out in the Code. Other specific changes include the following:

- Eliminates the article on Fire Department staffing which are either beyond the scope of the Code or relate to specific duties (topics for the personnel manual or department operating procedures).
- States that the Planning Commission will serve as the Board of Adjustment.
- Combines the creation procedures for various Boards in a single article.
- Recreation Advisory Board has been added.

Clean up definitions mostly administrative changes.

Other changes to Chapters 1 and 2 of the Code fall into the “administrative cleanup” category of our Code revisions. In general, chapter 1 includes definitions, general procedures and penalties that apply to all areas of the Code. Similarly, Chapter 2 includes general information about the operation of the municipal government and duties of key members of staff, boards and commissions. The differences between the old and new versions of these chapters generally do not change how the municipal government operates. Rather, the language is updated to clarify provisions, improve operating efficiency and provide consistency across all areas of the Code.

Chapter 4, Revenue and Finance

The most substantive change in Chapter 4 is the repeal of the vendor fee for businesses collecting sales tax in the city. The repeal of this 3-1/2% fee will increase general fund revenue by approximately \$100,000 annually. Seven large chain and utility companies would be affected by more than half of the total amount. The remaining retailers would be affected by about \$80 annually on average. (This assumes 600 active retailers as reported in the state’s sales tax database). The state and several local jurisdictions have repealed the fee to increase funds, with the justification that automated systems have reduced the burden placed upon vendors to collect and remit sales tax. If approved by the council, the change will go into effect July 1st of this year.

Chapter 4 also describes a process for dealing with abandoned property that was updated to better reflect current practices in the Police Department and to provide more appropriate dollar thresholds.

References to sections of the Colorado Revised Statutes that had been superseded were updated.

Descriptions of funds used for accounting purposes and processes related to the custody of money were streamlined.

Chapter 13, Municipal Utilities

The water and wastewater utilities chapter was the first to be addressed in this project given how great the opportunity was to make it easier to interpret and apply. Numerous work sessions were held to discuss various provisions of this chapter. We appreciate the input we received from a handful of residents who attended one or more of those work sessions.

We significantly streamlined the chapter by removing redundancies between water and sewer provisions, eliminating administrative details and removing fees (which will be set by resolution of the council in the future).

Substantive changes in Chapter 13 include the following:

- A provision for abandonment of unused taps is being proposed. Fees paid, less 3% to cover administrative costs, will be refunded if a request is made within 90 days of the abandonment. Otherwise, the physical tap must be made and service fees must be paid to keep the tap. If any property owners believe they own a tap from years ago that was never connected to the system, they may be eligible for a refund of fees paid. To keep the tap, it must be connected and the owner must begin paying the service fees.
- Properties served by a well, private sewer line or septic system will only be required to connect to the City's water or wastewater system upon failure or a major expansion of existing structures served provided the property is within 400 feet of a city line. (Under the current Code, a change in ownership also triggers a requirement to connect.)
- Billing practices will be administrative policies rather than part of the Code. This will, for example, allow a change from quarterly to monthly billing at some point in the future. It would also allow for a change in the timeline for mailing bills and assessing late charges.
- Fees are removed from the Code but are still set by council. Approval by resolution rather than ordinance shortens the timeline for making changes and reduces costs.
- Specific fines and penalties were removed and are covered under Chapter 1, General Provisions.
- Many general definitions were removed and are covered under Chapter 1, General Provisions.

Staff suggests passing an ordinance for each of these code sections and because this is second reading for each of the ordinances.

7. Salida Municipal Code repeal and reenactment – 2nd Reading

Ordinance 2011-08 Chapter 1, General Provisions

Mayor Rose opened the public hearing and asked for anyone wishing to speak to come forward. No one spoke. Mayor Rose closed the public hearing.

Moore made a motion to approve ORDINANCE 2011-08, AN ORDINANCE OF THE CITY OF SALIDA, COLORADO REPEALING AND REENACTING CHAPTER 1 OF THE

SALIDA MUNICIPAL CODE, "GENERAL PROVISIONS" and ordered the ordinance to be published by title only. Stewart seconded the motion. With all in consensus, THE MOTION CARRIED.

8. Salida Municipal Code repeal and reenactment – 2nd Reading
Ordinance 2011-09 Chapter 2, Administrative and Personnel

Finance Director, Jan Schmidt, presented written materials that are included in the packet for the record. This would be Chapter 2 Article 1. that outlines duties of officials and discusses your boards and commissions. The members of the Planning Commission shall serve as the Board of Adjustment. A single unified the board laid out creates a uniform standpoint how you appoint;

Mayor Rose opened the public hearing.

Jim Miller, Salida, recognizes the immense amount of work staff has done and they should be congratulated. He has an issue with Section 2-9-20 Membership and organization. By combining the Planning Commission as the Board of Adjustment he feels that Council is appointing the very board that has just denied a decision. You should appoint yourselves, or Council to hear these appeals. It was explained that appeals to these decisions will be heard by City Council.

Hanlon explained that it is difficult to staff these volunteer boards and understanding the Land Use Code is not something easy. In the old code if the issue was appealed the applicant would immediately go to District Court. This language sends the appeal to City Council before going to court. A discussion followed.

Miller thought the language in Section 2-10-20 was not what might be intended. In Section 2-10-20 Membership of The Board of Appeals shall consist of five (5) regular members and up to two (2) alternate members who shall serve staggered three-year terms. No person shall be a member of the Planning Commission, who is also the Mayor, an active member of the City Council or an employee of the City, or who holds any other municipal office. Attorney Hanlon said a comma is missing it should read "a member of Planning Commission, or Mayor. This language will be revised prior to publication.

Mayor Rose closed the hearing and asked for any discussion by Council.

Damman made a motion to approve ORDINANCE 2011-09, AN ORDINANCE OF THE CITY OF SALIDA, COLORADO REPEALING AND REENACTING CHAPTER 2 OF THE SALIDA MUNICIPAL CODE, "ADMINISTRATION AND PERSONNEL" and ordering the ordinance to be published by title only. The motion was seconded by Moore. With all in consensus, THE MOTION CARRIED.

9. Salida Municipal Code repeal and reenactment including a repeal of the sales tax vendor fee– 2nd Reading
Ordinance 2011-10 Chapter 4, Revenue and Finance

Mayor Rose opened the public hearing and asked for anyone wishing to speak to come forward. No one spoke. Mayor Rose closed the hearing and asked for any discussion by Council. There was none.

Moore made a motion to approve ORDINANCE 2011-10, AN ORDINANCE OF THE CITY OF SALIDA, COLORADO REPEALING AND REENACTING CHAPTER 4 OF THE

SALIDA MUNICIPAL CODE, "REVENUE AND FINANCE" and ordering the ordinance to be published by title only. Damman seconded the motion. With all in consensus, THE MOTION CARRIED.

10. Salida Municipal Code repeal and reenactment – 2nd Reading (Jan Schmidt)
Ordinance 2011- 11 Chapter 13, Municipal Utilities.

Mayor Rose turned the meeting over to Mayor Pro-tem Yerkey and left the Council Chambers for a few minutes. Mayor Pro-tem Yerkey opened the public hearing.

Jim Miller, Salida, recognizes the amount of work that goes into updating the code, but stated that it is time for good government. He feels that good government involves citizen participation and he appreciates the efforts by Council to have more participation. Miller admires the effort staff goes through to put things together. He doesn't like the change noted in 13-3-30 that allows water rates to be raised by passing a resolution, he feels that raising rates should only ever be done by Ordinance. Even though people never show up to protest water rates, he feels it is important to get citizens opinions. He said even if he is the lone speaker he thinks that it is a cornerstone to have to approve an increase by Ordinance. The way this is structured financially, you don't ask for my permission and as a user, but I have to pay for it.

In Section 13-2-190 Miller has an issue with a person purchasing a tap years ago and now you have to either hook up or abandon your tap. If a tap was purchased 30 years ago, you would be out your money.

Mayor Rose returned to the room and continued hearing comments during the hearing.

Attorney Hanlon explained that there are probably about a half a dozen of these taps out there. Typically a citizen will come in buy the tap fee get a building permit and move on.

Mayor Rose said past records aren't always clear. If citizens have a receipt showing proof, but they didn't hook up you can get 97% of their money back. It might be a better deal than paying \$50 per quarter in the stand by fee.

Miller said he has one last issue and he will keep it brief. Enterprise Funds take away the right of the people. Council should ask permission of those users if any increase is requested. The City should either abandon the Enterprise Fund or at a minimum pass an ordinance to issue future bonds.

Mayor Rose said he appreciated that Mr. Miller spends the time to share his concerns, but disagrees with him. Citizens should pay attention to the decisions made by Council. Council is representative of who elected them and if there are citizens who are not happy they should step up and run for office.

Mayor Rose asked if anyone else wished to speak. He closed the public hearing and requested a motion by Council.

Damman made a motion to approve ORDINANCE 2011-11, AN ORDINANCE OF THE CITY OF SALIDA, COLORADO REPEALING AND REENACTING CHAPTER 13 OF THE SALIDA MUNICIPAL CODE, "MUNICIPAL UTILITIES" and ordering the ordinance to be published by title only. Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

11. 2011 Budget amendment –

Resolution 2011-33 amending and supplementing Resolutions No. 2010-68 adopting the 2011 Budget to provide for supplemental expenditures and revenues.

Jan Schmidt presented written materials that are included in the packet for the record. Council adopted the 2011 budget on November 16, 2010. Since that time, council has provided direction to make certain changes and/or approved certain actions that affect the 2011 budget.

In particular, Council approved the repeal of the sales tax vendor fee which will increase general fund revenue. They also approved a water rate increase that will generate additional revenue for the Water Activity Enterprise Fund and result in additional operating expenses for the General Fund.

Also, during a work session on May 3rd, Council reviewed a proposal to re-pay two debt issuances ahead of schedule in order to achieve future cost savings. Key facts presented for council to consider follow:

- The two bonds being considered for early retirement are the highest interest rate obligations currently outstanding.
 - 1994 Bonds – 7.1%
 - 1996 Bonds – 6.0%
- Early retirement would require an incremental \$195,000 cash outlay this year.
- If paid off June 1st, over \$34,000 of future interest charges would be avoided.
 - 2011 - \$8,160
 - 2012 - \$12,745
 - 2013 - \$8,815
 - 2014 - \$4,585
- Funds available in future budget years would increase by the following amounts:
 - 2012 - \$72,745
 - 2013 - \$73,815
 - 2014 - \$74,585
- Cash to pay off the debt could come from general fund reserves, which increased nearly \$270,000 in 2010.

Councilor Stewart missed the last meeting but he generally believes in keeping debt low, however if we pay bonds off and a new opportunity arises for new bonds, what will the interest rate be. Schmidt answered somewhere more than 5%.

Moore made a motion to adopt RESOLUTION 2010-33 A RESOLUTION AMENDING AND SUPPLEMENTING RESOLUTION NO. 2010-68 ADOPTING THE 2011 BUDGET TO PROVIDE FOR SUPPLEMENTAL EXPENDITURES AND REVENUES. Stewart seconded the motion. With all in consensus, THE MOTION CARRIED.

12. Utility Code fee revisions- (Jan Schmidt)

Resolution 2011-31 establishing a fee schedule for Chapter 13 of the Salida Municipal Code, "Municipal Utilities." Approve fees, rates and charges authorized in Chapter 13 of the Salida Municipal Code

Finance Director, Jan Schmidt, presented written materials that are included in the packet for the record. City Council has repealed and reenacted Chapter 13, Municipal Utilities. One of the changes

in the new code provides that fees will now be set by resolution of the Council rather than being part of the code.

The basic fees are the same as previously adopted by the Council with just a few changes highlighted in this cover memo. The new water rates passed in March are reflected on the schedule with no changes. Also, there are no changes to the fees for sewer service.

Changes & Key Provisions

- Development fees and service fees for an Accessory Dwelling Unit are being reduced to 50% of the cost for a primary dwelling tap; usage rates will remain the same.
- Fees for Water Resources and Water System Development were combined (no change in total).
- Fees for a commercial 3/4" line were reduced by \$625 to be the same as a residential 3/4" line.
- A discounted fee for an "Irrigation Only" tap remains and is set at 50% of the cost for a regular water tap.
- Water meter fees were added to the schedule rather than being maintained on a separate list at the Public Works department. We will continue to charge cost plus a 10% mark up as the fee for meter.
- A reduction in the service fee for "inactive" sewer-only accounts remains in the code; no provision was added for an inactive status of customers with metered water service. Customers must continue paying the service fee to keep a tap.
- Bulk water rates were added to the schedule at \$2.00 per thousand gallons, an increase from \$1.40 per thousand gallons.
- The time period after which service is subject to termination is added to the list at 45 days, a reduction from the 55 days allowed in the repealed version of the code.

Damman made a motion to extend the meeting beyond 8:00 p.m. until all city business is completed. Yerkey seconded the motion. With all in consensus, THE MOTION CARRIED.

A revised schedule was distributed in hopes to make things easier to understand.

Staff asked Council to approve this fee resolution.

Damman made a motion to adopt RESOLUTION 2010-31 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO ESTABLISHING A FEE SCHEDULE FOR CHAPTER 13 OF THE SALIDA MUNICIPAL CODE, "MUNICIPAL UTILITIES." Moore seconded the motion. With all in consensus, THE MOTION CARRIED.

Councilor Damman had another commitment and had to leave the meeting at 8:35 p.m.

13. Equivalent Residential Unit schedule- (Jan Schmidt)

Resolution 2011-34 establishing an Equivalent Residential Unit schedule for Chapter 13, Salida Utilities of the Salida Municipal Code

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

City Council repealed and reenacted Chapter 13, Municipal Utilities. One of the changes in the new code was the removal of the schedule that determined the assignment of Equivalent Living Units

(ELUs). Since we do not obtain usage data from water meters for our sewer only customers, they are charged a higher base rate and no usage. Under the new code, an Equivalent Residential Unit (EQR) schedule will be set by resolution of the Council rather than be part of the code.

The attached schedule was taken from Section 13-4-220 of the code just repealed. The only changes were replacement of the term ELU with EQR and the removal of two sentences in the old code that did not relate to the actual assignment of ELUs. (One sentence noted that a permanent sign must be placed prominently at all pool filter installations stating that pools are not to be drained without permission from the sewage treatment plant operator, and that draining shall be limited to the hours between 11:00 p.m. and 6:00 a.m. on the next day. The other stated that industrial users will be subject to the requirements of the Environmental Protection Agency as those requirements pertain to assessment of users' charges and cost recovery.)

Staff asked that Council amend and approve this EQR schedule.

Stewart made a motion to adopt RESOLUTION 2010-33 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO ESTABLISHING AN EQUIVALENT RESIDENTIAL UNIT SCHEDULE FOR CHAPTER 13 OF THE SALIDA MUNICIPAL CODE, "MUNICIPAL UTILITIES. Yerkey seconded the motion. With all in consensus, THE MOTION CARRIED.

14. Administrator/City Attorney/Deputy City Clerk

a. Administrator's Report – Jack Lewis

Administrator Lewis reported that the water judge confirmed our North Fork Reservoir exchange for our conditional 6.4 cfs per year, for another 6 years.

Lewis gave an update on the Wellness Program that was kicked off to offset our health care costs. Part of the implementation of the Wellness program the City participated in a step challenge with the County. Administrator Lewis acknowledged Steve Hersch, water plant employee, who walked over 600,000 steps in one month. Mr. Hersch walked 372 miles or 12.4 miles per day. Hersch showed such dedication Administrator Lewis wanted to make sure Council knew about his commitment to the program. Hersch also lost some weight and became sort of a hero to the rest of the employees. Lewis noted that the City and the County competed in the step challenge and the City did prevail!

In the local paper, the Mountain Mail reported today that when refilling the pool, oil had contaminated the water entering the pool. Lewis said on further investigation, that it doesn't appear to be oil, it is a rubbery gritty material that appears as if something may have settled in the pipe and was flushed out when the water was turned on to fill the pool.

The ground breaking ceremony for the new Salida High School is set for May 24 at 1:00 p.m. The invitation requests that everyone attend and that attendees should bring their digging implements.

Lewis thanked Council for committing the time to review the four sections of the revisions to the code and by making the transition smooth.

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

City Attorney Karl Hanlon said he reported at the last Council meeting a potential buyer for the Unique. The theater is under contract and the potential new buyer is looking at a similar agreement with the City because he might be interested in saving the back. From staff perspective we only care about stabilization. We are working on an agreement, but missed the packet deadline. Hanlon would like authorization for the Mayor to sign off on that agreement.

The owner is scheduled to close on the Theater June 13th, 2011. Immediately after closing, within 7 days he must submit a repair and stabilization plan. Within seven days of City approval of that plan, the new owner shall submit a facade plan to the City for the theater, including a site plan for the front of the theater and will commence work by June 1, 2012 to be completed by October 1, 2012. The City will remove the liens for abatement subject to the City re-attaching that lien if he fails to complete the work. Our enforcement rights would kick in if this property doesn't close. Until he closes we are reserving our right as the first lien holder to enforce that default and agreement.

Moore made a motion to allow Attorney Hanlon to move forward with an agreement at the Unique Theater with a potential buyer. Baker seconded the motion. With all in consensus, THE MOTION CARRIED.

c. Deputy City Clerk – Janella Martinez

Ten water samples were submitted dated 3/1/11(2), 3/7/11(3), 3/8/11(1), 4/4/2011(2), and 4/11/11(2). All tested safe as reported by the Colorado Department of Health.

An election letter from Chaffee County Clerk & Recorder, Joyce Reno, was received in mid-April. This letter is formal notification to the City for participation in the November 1, 2011 election. Written notification, confirming City participation, must be sent to the Clerk & Recorder by Friday, July 22, 2011 and must include what type of ballot issue the City is submitting.

The Mayor position will be open for a 2 year term. Three City Council positions, one in each Ward, will be open for a four year term. During the June 7th City Council Meeting a detailed report will be given regarding the November 2011 election.

15. Elected Official Reports -

a. Treasurer-

City Treasurer Eileen Rogers presented the sales tax report to City Council. The City has received sales tax reports through March 2011, the first quarter of the year.

For sales within the City, tax collections totaled \$287,272 in March and \$766,105 for the first quarter. For the fifth month in a row, collections are up compared to the same month in the previous year. Compared to 2010, March collections increased \$23,003, or 8.7%. February collections were up 4.6% and January was up 6.8% compared to the same periods in 2010. Total first quarter collections increased \$48,966, or 6.8%

This is the second highest level of revenue for any month of March on record. The city's overall strongest year in terms of sales tax collections was 2008. March 2011 reflects a 1.61% decrease compared to March 2008.

The strong results for March 2011 are due, in part, to amended returns filed by one of the utility

providers. This vendor reported over \$13,000 in sales tax collections for periods dating back to September of last year. Without these adjustments, the month of March would be up a more modest 3.8% compared to last year and would be short of the record level set in 2008 by about 6%.

The distribution report indicates some recovery in the home building / improvement sector during the month. Several lodgers reported lower collections, which may be due to the opening of the Hampden Inn, which reported collections for the first month of their operations. Most restaurants reviewed reported at least as much as March a year ago.

Salida's share of the Chaffee County tax was \$94,390 in March and \$256,751 for the first quarter.

Compared to 2010:

- March revenue decreased \$1,757, or 1.8%
- First quarter collections increased \$5,744, or 3.7%

Actual cash received from the County was reduced by amendments filed by a large vendor for October 2010 through February 2011. The sales tax trend report posted on the city's website reflects these corrections in the month to which they relate.

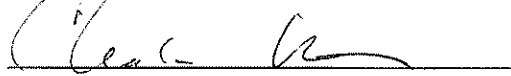
b. Mayor –

Mayor Rose reminded Council that next Tuesday is a work session on the Comprehensive Plan to be held in Council Chambers on May 24th, 2011 at 8:30 a.m.

c. City Council-

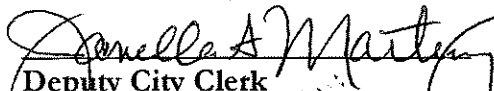
Councilor Baker said that as much as Mr. Miller and he can disagree he does agree with Miller on the fact that this Council does a tremendous job. Baker thinks the Council deserves respect when someone comes to speak during a meeting. Councilors spend a great deal of time on ongoing issues.

A motion was made by Moore to adjourn the meeting at 9:16 p.m. The motion was seconded by Stewart. With all in consensus, THE MOTION CARRIED.



Mayor

[SEAL]


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