

**CITY OF CENTRAL
CITY COUNCIL MEETING
August 20, 2013**

CALL TO ORDER

A regular meeting of the City Council for the City of Central was called to order by Mayor Engels at 6:03 p.m., in City Hall on August 20, 2013.

ROLL CALL

Present: Mayor Engels
Alderman Voorhies
Alderman Gaines
Alderman Heider
Alderman Spain

Absent: None

Staff Present: Manager Lanning
City Clerk Bechtel
Attorney McAskin
Finance Director Flowers
Planner/HPO Fejeran
Police Chief Krelle
Utilities Superintendent Griffith
Streets/Facilities Superintendent Braccio

At 6:04 p.m., Alderman Spain moved to go into Executive Session – Pursuant to C.R.S. 24-6-402(4)(f)(I) to discuss a personnel matter and reconvene to take any actions deemed necessary and to invite Alan Lanning into the meeting. Attorney McAskin was also present. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

At 7:06 p.m., Mayor Engels reconvened regular session.

ADDITIONS AND/OR AMENDMENTS TO THE AGENDA

The agenda was approved as presented.

CONFLICTS OF INTEREST

No Council Member disclosed a conflict regarding any item on the agenda.

CONSENT AGENDA

Alderman Gaines moved to approve the consent agenda containing the regular bill lists for August 8 and 15, 2013; and the City Council minutes for the regular meeting on August 6, 2013. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

PUBLIC FORUM/AUDIENCE PARTICIPATION

No one requested time to address the Council.

NEW BUSINESS

Proclamation for Lew Cady

Mayor Engels read the proclamation honoring Lew Cady for his 18 years of service on the Historic Preservation Commission as well as his passionate dedication to all things Central City.

Ordinance No. 13-09: An ordinance of the City Council of the City of Central, Colorado prohibiting the operation of retail marijuana cultivation facilities, retail marijuana product manufacturing testing facilities within the boundaries of the City of Central, and establishing a new Article IX to Chapter 6 of the Central City Municipal Code regarding the regulation of retail marijuana stores to comply with the requirements of Amendment 64 to the Colorado Constitution, and setting forth related regulations and licensing requirements.

Ordinance No. 13-10: An ordinance of the City Council of the City of Central, Colorado amending certain provisions of Article VII of Chapter 6 of the Municipal Code concerning Medical Marijuana establishments; specifically Section 6-7-210 concerning hours of operation.

Attorney McAskin gave the background as follows:

The City Council is being asked to consider two ordinances regarding marijuana. Ordinance 13-09 concerns changes to the Municipal Code to implement provisions of Amendment 64 and the Colorado Retail Marijuana Code. Ordinance 13-10 concerns changes to the Municipal Code to amend Section 6-7-210 of the Code relating to the authorized hours of operation for medical marijuana establishments.

As Ordinance 13-09 authorizes the operation of retail marijuana stores in the City, subject to licensing requirements, the City may expect a modest increase in sales taxes. The fiscal impact has not been quantified and is not expected to be significant.

In the November, 2012 general election, Colorado voters approved an amendment to the state Constitution, Article XVIII, Section 16 of the Colorado Constitution that makes the personal possession and use of one ounce or less of marijuana for adults twenty-one (21) years of age or older legal in Colorado (“Amendment 64”). On May 28, 2013, the governor signed House Bill 13-1317 into law enacting Title 12, Article 43.4 of the Colorado Revised Statutes (the “Colorado Retail Marijuana Code” or “Code”). The Colorado Retail Marijuana Code regulates the cultivation, manufacture, distribution, and sale of retail marijuana. The Code states that on or after October 1, 2013, businesses engaged in the cultivation, manufacture, or sale of marijuana or in the processing of marijuana-infused products shall apply for a license subject to its terms and conditions and any rules promulgated pursuant thereto.

Amendment 64 specifically authorizes the City to prohibit or regulate retail marijuana businesses and to adopt regulations consistent with the intent of the state law.

The City is authorized to enact the proposed Ordinances pursuant to its home rule authority, its general police and zoning powers, and in accordance with the Colorado Constitution. Federal law considers marijuana a Schedule I controlled substance and it is unknown at this time what, if any, enforcement action the federal government may take against the sale, cultivation and possession of marijuana for personal use. Therefore, persons (and entities) involved in the sale, cultivation, and use of marijuana may still be prosecuted under federal law.

Ordinance No. 13-09 is consistent with Amendment 64's authorization to local governments to prohibit certain retail marijuana establishments within their communities. Specifically, Ordinance No. 13-09 prohibits retail cultivation facilities, product manufacturing facilities and testing facilities from operating within Central City.

Mayor Engels added that these regulations are very similar to our existing medical marijuana regulations. Alderman Voorhies asked for clarification on the distance restriction to schools or child care facilities. Attorney McAskin explained that that is covered when either business would apply for a city license and be reviewed for zoning. If one exists then the second business would not be allowed.

Alderman Gaines moved to adopt Ordinance No. 13-09: An ordinance of the City Council of the City of Central, Colorado prohibiting the operation of retail marijuana cultivation facilities, retail marijuana product manufacturing testing facilities within the boundaries of the City of Central, and establishing a new Article IX to Chapter 6 of the Central City Municipal Code regarding the regulation of retail marijuana stores to comply with the requirements of Amendment 64 to the Colorado Constitution, and setting forth related regulations and licensing requirements and set the Public Hearing for September 3, 2013 at 7:00p.m.. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Alderman Gaines moved to adopt Ordinance No. 13-10: An ordinance of the City Council of the City of Central, Colorado amending certain provisions of Article VII of Chapter 6 of the Municipal Code concerning Medical Marijuana establishments; specifically Section 6-7-210 concerning hours of operation and set the Public Hearing for September 3, 2013 at 7:00p.m.. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Resolution No. 13-14: *A resolution of the City Council of the City of Central, Colorado accepting an Annexation Petition, making certain Findings of Fact, finding substantial compliance for such petition, and setting a Public Hearing for property known as the Iowa Lode Mining Claim Annexation.*

Resolution No. 13-15: *A resolution of the City Council of the City of Central, Colorado accepting an Annexation Petition, making certain Findings of Fact, finding substantial compliance for such petition, and setting a Public Hearing for property known as the Prospector's Run – BLM Transfer Property Annexation.*

Attorney McAskin gave the background as follows: The City Council is being asked to consider two resolutions pertaining to petitions for annexation filed of record with the City: a petition for annexation pertaining to the Iowa Lode Mining Claim (consisting of 4.81 acres, more or less) and a petition for annexation pertaining to the Prospector's Run – BLM Property transfer annexation (consisting of 4,400 square feet, more or less) (collectively, the "Petitions").

Action on Resolution Nos. 13-14 and 13-15 will not annex the property described in each respective petition, nor will action on the Resolutions signify City Council's approval or disapproval of the annexations. The finding of substantial compliance contained within each Resolution is an administrative step required by the Act in order to formally initiate annexation proceedings. The Resolutions also establish the date, time and place at which a public hearing on the eligibility of the property described with particularity in each of the Petitions will be conducted (the "Eligibility Hearing").

The proposed date on which the Eligibility Hearing will be conducted on each of the Petitions is Tuesday, October 1, 2013 at 7:00 p.m.

There are three major procedural steps required for a voluntary annexation. The first two steps, Substantial Compliance and the Eligibility Hearing, are procedural in that City Council's role is to determine whether or not an annexation request meets requirements of the Act. The third step is a legislative determination of City Council as to whether it wishes to annex the Property. The following is a summary of the three steps:

- A. Substantial Compliance – City Council must determine if each Petition meets the requirements set forth in C.R.S. § 31-12-107(1). As set forth later in this Council Communication Form, as part of the Substantial Compliance determination, City Council is required to set the date and time of the Eligibility Hearing.
- B. Eligibility – After public notice in accordance with the requirements of the Act, City Council must determine if the requested annexation meets the applicable provisions of the Act and the Colorado Constitution, and is therefore eligible for annexation into the City. The Eligibility Hearing must occur between thirty (30) and sixty (60) days after the Substantial Compliance Hearing (if the Substantial Compliance Resolutions, Resolution Nos. 13-14 and 13-14 are approved, the Eligibility Hearing will be scheduled for Tuesday, October 1, 2013).
- C. Annexation and Zoning – Once an annexation request has been deemed eligible, City Council can proceed with the annexation and zoning hearings. The first two steps determine whether the Property described in each of the Petitions *may* be annexed; this step determines whether said Property *should* be annexed. Currently, it is anticipated that City Council will take action on this third step immediately following the conclusion of the Eligibility Hearing.

This Council Communication Form and the attached Resolutions are intended to comply with step one of the annexation process set forth above (Substantial Compliance). Staff is asking City Council to determine that the Petitions substantially comply with the requirements of the Act; specifically C.R.S. § 31-12-107(1), given that:

1. Each Petition has been signed by more than fifty percent (50%) of the landowners (the Owner owns 100% of the Property described in the Petition).
2. The signatures on each Petition are dated within one hundred and eighty (180) days of the date on which the Petition was filed with the City Clerk, satisfying the requirement of C.R.S. § 31-12-107(1)(e).
3. Each Petition contains:
 - a. An allegation that it is desirable and necessary that the Property described in the Petition be annexed.
 - b. An allegation that the requirements of C.R.S. § 31-12-104 and § 31-12-105 exist or have been met.
 - c. An allegation that the signer of the Petition comprise more than fifty (50%) percent of the land owners and own more than fifty (50%) of the territory exclusive of streets and alleys.

- d. A request that the City of Central approve the annexation.
- e. The signatures of the landowner(s).
- f. The mailing address of the landowner(s).
- g. A legal description of the Property.
- h. The dates on which the Petition was executed by each of the landowners.
- i. Circulator affidavits.

4. Together with each Petition, four (4) copies of an annexation map were filed with the City Clerk, containing the following information as required by C.R.S. § 31-12-107(1)(d).

Staff recommends City Council find that the Petitions are in substantial compliance with applicable provisions of the Act, specifically C.R.S. § 31-12-107(1), and approve Resolution Nos. 13-14 and 13-15 in the form submitted. In accordance with the requirements of the Municipal Code, each of the Petitions will be referred to the Planning Commission for review and comment.

Approving the Resolutions will not have any direct fiscal impact on the City as it only states that the Petitions meet statutory content requirements for an annexation petition and sets the date for the Eligibility Hearing.

Staff will complete all necessary public notification regarding the proposed annexations. If City Council approves Resolution Nos. 13-14 and 13-15, a hearing will be scheduled before the Planning Commission on September 4, 2013. The First Reading of the Annexation Ordinances will be scheduled before City Council on Tuesday, September 17, 2013. Second Reading of the Annexation Ordinances will be scheduled on Tuesday, October 1, 2013, to follow the completion of the Eligibility Hearing.

Planner Fejeran explained that the Prospectors Run Annexation is a clean-up within the existing PUD. Elizabeth Mellon, 808 Vernon Drive and Treasurer of the HOA, was present for questions.

Alderman Gaines moved to approve Resolution No. 13-14: A resolution of the City Council of the City of Central, Colorado accepting an Annexation Petition, making certain Findings of Fact, finding substantial compliance for such petition, and setting a Public Hearing for property known as the Iowa Lode Mining Claim Annexation for October 1, 2013 at 7:00 p.m.. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Alderman Voorhies moved to approve Resolution No. 13-15: A resolution of the City Council of the City of Central, Colorado accepting an Annexation Petition, making certain Findings of Fact, finding substantial compliance for such petition, and setting a Public Hearing for property known as the Prospector's Run – BLM Transfer Property Annexation for October 1, 2013 at 7:00 p.m.. Alderman Spain seconded, and without discussion, the motion carried unanimously.

Resolution No. 13-16: *A resolution approving an Intergovernmental Agreement between the City of Central and Black Hawk Central City Sanitation District regarding the sharing of costs on the Lawrence Street Project.*

Utilities Superintendent Griffith explained that the Water Department is requesting that Council enter into an IGA with BHCC Sanitation District and share some of the common expenses. The

expenses would include, road paving, traffic control, as-builts, and final surveying. We will split the shared costs with the BHCC Sanitation District for the commonalities in the project

This IGA is very similar and provides for the same conditions with the BHCCSD as the Council approved for the Main Street project and will result in a direct savings to Central City. The exact amount will be determined by the final bid numbers.

Alderman Gaines asked if the shared costs will be a 50/50 split. Staff confirmed that it will be 50/50.

Alderman Voorhies moved to approve Resolution No. 13-16: A resolution approving an Intergovernmental Agreement between the City of Central and Black Hawk Central City Sanitation District regarding the sharing of costs on the Lawrence Street Project. Alderman Gaines seconded, and without discussion, the motion carried unanimously.

Agreement for Snow Removal Services

Streets and Facilities Superintendent Braccio gave the background as follows: in January of 2010, the City entered into an Agreement with the Prospectors Run Homeowners Association (HOA) regarding snow removal on Mack Road for the period of January 1, 2010 through May 31, 2010. The HOA agreed to provide snow removal services for Mack Road at a cost to the City of \$800 per month. This Agreement was originally entered into in order to help mitigate any possible effects that the City's sand/salt ice mixture was having on Mack Road as it is not asphalt. The agreement has been renewed three subsequent times most recently for the 2012-2013 winter season. The proposed Agreement is for a continuation of the same services during the 2013-2014 snow season with a time period of October 1, 2013 through April 30, 2014. The total contract amount is for Five Thousand Six Hundred Dollars (\$5,600), or Eight Hundred Dollars (\$800) per month. This amount is reflected in the City's adopted 2013 Budget and the 2014 Proposed Budget in the Public Works Department.

Alderman Spain moved to approve the Agreement for Snow Removal Services for the 2013-2014 winter season. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Appointment to CML Policy Committee

Manager Lanning explained that we need to appoint a representative to the CML Policy Committee. Alderman Voorhies moved to reappoint Alan Lanning to the CML Policy Committee. Alderman Spain seconded, and without discussion, the motion carried unanimously.

STAFF REPORTS

Manager Lanning reported the following:

Energy & Mineral Impact Grant – the City did not receive funding though we can re-apply the Tiger Grant which is still pending is not received

GOCO Grant – staff is ready to submit

Lawrence Street – Bid opening is set for 8/23

Finance Director Flowers asked for budget work sessions to be set. Council consensus is for 9/12, 9/26, and 10/3.

COUNCIL COMMENTS

Alderman Heider asked about the EPA Quartz Hill project. Staff responded that bids will be going out after 9/1 to be awarded around 10/1 and will require the contractor to provide a mitigation plan for construction due to bedrock. Alderman Heider also thanked the City and the Teller House for the event honoring Lew Cady.

Alderman Gaines asked if the Nevada Street Wall project will come to Council for approval. Manager Lanning stated that will happen with the bid process. Alderman Gaines also asked if the cost for the CML Fall District luncheon is covered in the budget. Staff confirmed that it is.

Alderman Voorhies stated she had met our new Police Officer Roe and thanked Public Works for their assistance with the drain at the Post Office.

Mayor Engels asked staff to see what can be done to mediate the water draining into Ermels and thanked the Public Works crew for their support of the Saturday events. Mayor Engels also wanted to remember Ross Grimes, a long time business owner in Central City, who passed away on July 17 and offered condolences to the family.

PUBLIC FORUM/AUDIENCE PARTICIPATION

Roy Varela, 430 Lawrence, encouraged Council support to move forward with the parking garage while property being considered is for sale.

Joe Behm, President of the BID, implored Council to act on the parking garage which the casinos have determined is essential to the economic health of their business.

Hearing no further business, Mayor Engels adjourned the meeting at 8:20 p.m.
The next Council meeting is scheduled for September 3, 2013 at 7:00 p.m.

Ronald E. Engels, Mayor

Reba Bechtel, City Clerk