

**CITY OF CENTRAL
CITY COUNCIL MEETING
September 3, 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 September 3, 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
Fire Chief Allen
Utilities Superintendent Griffith
Streets/Facilities Superintendent Braccio

EXECUTIVE SESSION

Pursuant to C.R.S. 24-6-402(4)(f)(I) to discuss a personnel matter.

At 6:04 p.m., Alderman Spain moved to go into Executive Session under Section 24-6-402(4)(f)(I) C.R.S., for the purpose of discussing a personnel matter for which the employee has consented to the discussion in executive session. I further move to invite City Manager Alan Lanning and the City Attorney to participate in the executive session, and move to reconvene the council meeting at 7:00p.m., for the purpose of taking any action on the agenda items remaining on the September 3, 2013 regular meeting agenda. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

At 7:07 p.m., Mayor Engels reconvened regular session.

ADDITIONS AND/OR AMENDMENTS TO THE AGENDA

Alderman Gaines asked to add Agenda Item #13a for the discussion of the 2014 dues for the 1-70 Coalition.

CONFLICTS OF INTEREST

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

CONSENT AGENDA

Alderman Spain moved to approve the consent agenda containing the regular bill lists for August 22 and 29, 2013; and the City Council minutes for the regular meeting on August 20, 2013. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

PUBLIC FORUM/AUDIENCE PARTICIPATION

No one requested time to address the Council.

SECOND READING AND PUBLIC HEARING

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 on both ordinances 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 opened the public hearing at 7:22 p.m. on Ordinance No. 13-09 and invited comment. Hearing no comment, Mayor Engels closed the public hearing at 7:23 p.m.

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. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Mayor Engels opened the public hearing at 7:25 p.m. on Ordinance No. 13-10 and invited comment. Hearing no comment, Mayor Engels closed the public hearing at 7:26 p.m.

Alderman Voorhies 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. Alderman Gaines seconded, and without discussion, the motion carried unanimously.

NEW BUSINESS

Proclamation for Navy Veterans

Mayor Engels welcomed the Navy Veterans and thanked them all for joining us. Mayor Engels then read the proclamation for the USS Enterprise honoring the contribution provided by our US servicemen and servicewomen. Jim Voorhies explained that this is the 51 year reunion of the USS Enterprise and they will be touring Central City and the mountain area.

BID Award for Lawrence Street

Utilities Superintendent Griffith explained that Council approved the funding and the RFP distribution at the July 2nd meeting for the Lawrence Street Water Line Project. The engineering and design work were wrapped up in early July. Council asked that the Lawrence Street project be completed this year so as to avoid emergency repairs and interrupted service. Staff received three bids from contractors and made the determination of the proposed contractor after conducting reference checks. The Contractor is Hammerlund Construction of Sedalia, CO. Staff met with the BHCC Sanitation District on Monday 8/26 and their board has approved Hammerlund Construction contingent on reference checks which are now complete. Staff requests that Council award the bid for the Lawrence Street water line to Hammerlund Construction with a total cost of \$261,365 plus 10% contingency for a total of \$287,501.

Utilities Superintendent Griffith explained that the estimated start date will be mid September and staff is already working to let the impacted residents know as well as work through any inconveniences and parking issues. Manager Lanning added that we will post information on the website.

Alderman Gaines moved to award the bid for the Lawrence Street water line to Hammerlund Construction with a total cost of \$261,365 plus 10% contingency for a total of \$287,501. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

Central City Promise Program for Kasey Mayle-Combs

Finance Director Flowers explained that the Central City Promise Program was initiated by City Council to encourage high school graduates and G.E.D. recipients of Central City to make post-secondary education a priority. The Promise Program helps make it possible for Central City residents to attend a university, community college or trade school by providing assistance with the costs associated with attending one of these educational institutions.

Ms. Mayle-Combs has submitted all of the required paperwork and information and is requesting Promise Program funds in the amount of \$4,898.95 in 2013 to continue her post-secondary education at the University of Colorado at Denver and has received previous Promise Program disbursement between 2007 and 2011 that total \$12,412.70. The Promise Program Guidelines limit the amount that an individual can receive to a total of \$20,000 OR funding over the course of four (4) years. Ms. Mayle-Combs has been receiving funding for more than the four (4) year period (since 2007) but has not yet reached the \$20,000 limit on funds. This is the first time that this issue has come about in the Promise Program. Therefore, Council can choose to continue funding as the monetary limit has not yet been reached or choose not to fund based on the four (4) year time limit. It should be noted that Council's decision on this will set a precedent for cases moving forward and it is recommended that the Promise Program Guidelines be changed to reflect Council's preference.

The 2013 Budget has \$15,000 allocated for the Promise Program. Granting the above requests will leave this line item with a remaining budget of \$1,351.05. This is the third request of the year for funding from this program. Allocated funding can support this request and leave a remaining \$1,351.05 for further applicants.

Staff requests Council to consider this Promise Program request and determine whether or not to grant funding based upon the guideline time limit or monetary maximum. Alderman Voorhies offered that we stay with a 4 year time limit or the \$20,000 whichever comes first. Alderman Gaines offered 4 years continuous from when they start. Alderman Spain agreed with both. Mayor Engels suggested that the 4 year continuous reflect that the initial application must be made within 2 years of graduation from high school or receipt of G.E.D unless interrupted by military service. Mayor Engels offered that the Adult Education Program may work for Ms. Combs.

Alderman Gaines moved to deny the Promise Program award request for scholarship to Kasey Mayle-Combs for continuing post-secondary educational tuition assistance in the amount of \$4,898.95 and have staff bring forward a policy change for the Promise Program at the next meeting. Alderman Voorhies seconded, and without discussion, the motion carried unanimously.

2012 Audit Presentation

Finance Director Flowers gave the background as follows:

In April of this year, John Cutler & Associates performed an audit of the City's financial procedures, practices, and financial statements for the year ended December 31, 2012. Over the course of the past few months staff and John Cutler & Associates have worked together to draft and prepare the finalized 2012 Audited Financial Statements.

The financial statements illustrate the financial transactions of the City over the course of 2012 and present the City's financial information, in whole and as separate units, as of December 31, 2012. Prior to submitting the Audited Financial Statements to the State as required by law, it is necessary for Council to formerly accept and approve the document. The City obtained an extension for filing with the State until September 30, 2013 due to late receipt of the BID's audited information. Page 3 of the Audit states that we have a "clean opinion".

Mayor Engels thanked Finance Director Flowers for her excellence in managing the City's finances.

Alderman Voorhies moved to accept and approve the City of Central's 2012 Audited Financial Statements. Alderman Spain seconded, and without discussion, the motion carried unanimously.

Resolution No. 13-17: A resolution of the City Council of the City of Central, Colorado approving an Intergovernmental Agreement with the City of Black Hawk and the Timberline Fire Protection District, for mutual aid between Fire Departments.

Fire Chief Allen explained that the Fire Department is asking Council to approve an IGA with the City of Black Hawk and Timberline Fire Protection District which allows us to enter into a Mutual Aid Agreement for additional fire protection services and functions when an incident out grows the abilities of our own department. We are working under an outdated agreement from 1996 which predates the Timberline Fire Protection District.

Alderman Gaines moved to approve Resolution No. 13-17: A resolution of the City Council of the City of Central, Colorado approving an Intergovernmental Agreement with the City of Black Hawk and the Timberline Fire Protection District, for mutual aid between Fire Departments. Alderman Spain seconded, and without discussion, the motion carried unanimously.

2014 I-70 Coalition Membership Dues

Mayor Engels explained that we have received a notice of the 2014 I-70 Coalition Membership dues of \$966.00 which reflects a 15% increase over last year. As stated when we joined earlier this year it seemed like we should have been participating in the Coalition sooner. Alderman Gaines stated that it is the only way to get information on the I-70 projects that impact Central City access from our Parkway and once we were members, the Coalition has hosted a quarterly meeting here at the Teller House and is making an effort to include Gilpin County.

Alderman Gaines moved to approve the 2014 I-70 Coalition Membership Dues from Council discretionary funds. Alderman Spain seconded, and without discussion, the motion carried unanimously.

STAFF REPORTS

Manager Lanning reported the following:

Visioning Retreat – staff will contact Council about setting a date

PW Truck Accident – driver is ok and out for the week. Vehicle damage is being evaluated.

Water Court Hearing – attended in Greeley today

COUNCIL COMMENTS

Alderman Gaines asked for clarification on the State Gaming distribution check. Finance Director Flowers explained that this is the first check for \$795,000 with the second received today for \$59,000. Historic Preservation funds will come separate in mid September.

Alderman Voorhies asked for an update on the Quartz Hill project. City Planner Fejeran stated that the state plans to go to bid this week. She also asked to consider allowing Council response to Public Comment. Mayor Engels suggested that this be discussed in the visioning session.

Alderman Heider asked what work the contractor at the Post Office is doing. Manager Lanning stated they are doing core drilling for the stability of the wall due to flooding in the Post Office.

Mayor Engels thanked the Public Works crew for assistance with Ermel's flooding solution.

PUBLIC FORUM/AUDIENCE PARTICIPATION

No one requested time to address the Council.

EXECUTIVE SESSION

Pursuant to C.R.S. 24-6-402(4)(e) to instruct negotiators regarding new development within the City of Central.

Pursuant to C.R.S. 24-6-402(4)(b) and (4)(e) to discuss specific legal questions and to instruct negotiators concerning options concerning the financing of future capital improvements within the City of Central.

Alderman Spain moved to go into Executive Session under Section 24-6-402(4)(e), Colorado Revised Statutes, for the purpose of determining positions relative to new proposed development within the City and instructing negotiators regarding the same. I further move to go into Executive Session under Section 24-6-402(4)(b) and (4)(e), Colorado Revised Statutes, for the purpose of engaging in discussion related to specific legal questions related to the financing of future capital improvements within the City, and for the purpose of developing negotiator strategy related to future capital improvements. I further move to reconvene the Council meeting at the conclusion of the executive session, for the purpose of taking any actions deemed necessary. Alderman Gaines seconded, and without discussion, the motion carried unanimously.

The next Council meeting is scheduled for September 17, 2013 at 7:00 p.m.

Ronald E. Engels, Mayor

Reba Bechtel, City Clerk