



## **MONTROSE CITY COUNCIL**

**December 3, 2024**

A regular meeting of the Montrose City Council was held on Tuesday, December 3, 2024, at 6:00 p.m. in the City Council Chambers of the Elks Civic Building at 107 S. Cascade Avenue. Said meeting was posted in accordance with the Sunshine Law.

### **PRESENT**

J. David Reed, Dave Frank, Judy Ann Files, Doug Glaspell, Ed Ulibarri, Bill Bell, Ann Morgenthaler, Chris Dowsey, Greg Story, Lisa DelPiccolo, Briceida Ortega, Shani Wittenberg, Chris Ottinger, Jace Hochwalt, William Reis, David Bries, Scott Murphy, Jim Scheid, Tomoko Vorseggern, Richard Rogers, Blaine Hall, Tim Cox, Josh Lamphere, Matt Magliaro, Greg Stunder

### **GUESTS**

Vinnie Mascia, Kari Distefano, David Averill, Martin Landers, Gerald Dahl, Mark Gregory, Adam Stapen, Alina Brusilovsky, Eva Garretson, Sophano Kan, Fangling Kousoum, Sarah Schmidt, Dominick LaJoy, Dave Bowman, David Fishering, Ken Otto, Piseth Soeur, Phoebe Benziger, John Brown, Cheryl Cameron, Sue Ellen Gary, Patrick Byrnes, Andrea Joens, Ted Joens, Chancy McCracken, Rick Ottman, Sue Palmer, Harold Palmer, Nina Carran, Gay Brashers, Fernando Belair, Tim Clifford, David Hazell, Tom Hazell, Ann Gullikson, Sue Wager, Tom Wager, Alayna Johnson, Buzz Prowant, Rita Prowant, Sandra Roberts, Brigitte Balet, Jason Gordon, Bill Gordon, Moon Wu, Elisardo Gallegos, Kevin Williams, Ed Brashers, Richard Van Gorp, Bethany Van Gorp, Fred Walker, Mike Rape, Chad Huffman, Mike Miskovich, Dustin Burkdoll, Leah Cole, Louise Dahl

### **CALL TO ORDER**

Mayor J. David Reed called the meeting to order at 6:00 p.m.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

## **CHANGES TO THE AGENDA**

No changes were made to the agenda.

## **MONTROSE REDHAWKS FOOTBALL DAY PROCLAMATION**

Mayor J. David Reed and the Montrose City Council proclaimed Saturday, December 7, 2024, as Montrose Red Hawks Football Day in the City of Montrose. Mayor Reed presented the proclamation to senior defensive end Vinnie Mascia.

## **YOU MAKE A DIFFERENCE AWARD PRESENTATION**

Mayor J. David Reed presented You Make a Difference awards to the City of Montrose Animal Shelter volunteers.

## **CALL FOR PUBLIC COMMENT**

John Brown spoke in favor of a non-sanctuary city declaration by the City Council.

## **APPROVAL OF MINUTES**

City Council considered the minutes of the November 19, 2024, regular City Council meeting.

A motion was made by Dave Frank, seconded by Doug Glaspell, to approve the minutes of the November 19, 2024, regular City Council meeting as presented. All voted yes. Motion passed.

## **RESOLUTION 2024-23**

City Council considered Resolution 2024-23, a Resolution of the City Council of the City of Montrose, Colorado supporting the operation of a San Miguel Authority Regional Transportation commuter bus route within the City of Montrose.

Community Engagement Specialist Christopher Ottinger provided an overview of the request and introduced SMART Operations Manager Kari Distefano and Executive Director David Averill.

Ms. Distefano reviewed the background of the organization including the district boundaries, funding sources, and its mission. Ms. Distefano stated that SMART has been planning a route to serve Montrose and Ridgway for several years. New 40-passenger buses were purchased and funding for the new route was included in the budget. Ms. Distefano reviewed bus stop locations

considered within Montrose and said that the parking lot at N. Second Street and Cascade Avenue was selected as the best site. SMART is also negotiating with Target for another bus stop in the parking lot. The commuter bus will depart from Montrose at 6:00 a.m. and depart from Telluride at 5:05 p.m. Monday through Friday. Ms. Distefano said the fee per trip has not been determined yet, and signage will be coordinated with Montrose Public Works.

Public comment was accepted. No comments were received.

A motion was made by Judy Ann Files, seconded by Doug Glaspell, to adopt Resolution 2024-23 as presented. All voted yes. Motion passed.

### **ARTS LIQUOR LICENSE CHANGE OF LOCATION**

City Council considered the change of location of an Arts liquor license for Montrose Center for Arts, from 11 S. Park Avenue to 205 E. Main Street in Montrose. A hearing was held.

City Attorney Chris Dowsey reported that the file is in order, the fees have been paid, and a staff review of the application found nothing that would prevent approval of the request.

Mark Gregory, treasurer and board member for Montrose Center for Arts, stated that the change of location is to reduce the cost of rent by moving to a smaller venue. Mr. Gregory said the license allows for the sale of wine and beer during events. He said the liquor license has been in place for several years with no violations on record. Mr. Gregory said several employees have completed alcohol server training and said all employees will attend at the earliest opportunity.

Mr. Dowsey reviewed a summary of petitions circulated. A total of 56 signatures were submitted with 48 determined to be valid and in support of the license relocation.

Mayor J. David Reed opened the hearing.

Public comment was accepted. No comments were received.

Mayor Reed closed the hearing.

A motion was made by Doug Glaspell, seconded by Ed Ulibarri, to approve the change of location of an Arts liquor license for Montrose Center for Arts from 11 S. Park Avenue to 205 E. Main Street. All voted yes. Motion passed.

## **NEW LIQUOR LICENSED DRUG STORE APPLICATION**

City Council considered an application for a new Liquor Licensed Drug Store license at 16400 S. Townsend Avenue for Dillon Companies LLC, doing business as City Market #40, for consumption off of the licensed premises. A hearing was held.

Mayor J. David Reed reviewed the procedures for accepting testimony during the hearing. Mayor Reed stated that the local liquor licensing authority cannot consider evidence based on competition, alleged unfair competition, or the effect on a person's or entity's economic status according to the Supreme Court of the State of Colorado. Mayor Reed said that any comments received in this regard will not be considered in the approval or denial of the application.

City Attorney Chris Dowsey reported that the file is in order, the fees have been paid, and a staff review of the application found nothing that would prevent approval of the request. Mr. Dowsey said that City Council can make a decision following the hearing or defer a decision for up to 30 days.

Mr. Dowsey stated that a Liquor Licensed Drug Store license would allow for the sale of beer, wine, and liquor for off-premises consumption. Mr. Dowsey stated that the applicant must transfer two Retail Liquor Store licenses that were in place on or before May 1, 2016. The application identifies Corks Fine Wines & Spirits and Drive In Liquor. Mr. Dowsey said the premises must be more than 1,500 feet from another Retail Liquor Store or Liquor Licensed Drug Store. Because the license for Corks Fine Wines & Spirits is active, the application indicates that the premises are within 1,500 feet of City Market #40. Mr. Dowsey said that if this license is approved, the license for Corks will be dissolved. Mr. Dowsey stated that the application also documents that more than 20 percent of gross annual income in the past 12 months is from retail food sales. Mr. Dowsey said that a maximum of eight Liquor Licensed Drug Store licenses are allowed per owner, and if approved, this will be the eighth license for Dillon Companies LLC.

Mr. Dowsey stated that City Council's decision must be made based on the evidence presented, and the applicant must show that the applicant is of good moral character, the needs of the neighborhood are not being met, and the neighborhood inhabitants desire this license.

Attorney Adam Stapen was present representing the applicants. Alina Brusilovsky, adult beverage specialist for City Market and King Soopers stores, was also present, along with Eva Garretson of Liquor Pros.

Mr. Stapen agreed to the designation of the neighborhood as the City of Montrose and said this license will help meet the needs and desires of the neighborhood. Mr. Stapen stated that the applicants are familiar with liquor laws of the State of Colorado, policies for compliance are in place, and employees are trained. Mr. Stapen said the applicants are familiar with alcohol server training classes, and said the applicants, managers, and employees will complete the training if not already certified.

Mr. Stapen called Eva Garretson as his first witness, and Mayor Reed administered an oath. Ms. Garretson stated that she is an owner of Liquor Pros, a third party petitioning company for liquor and marijuana licenses. Ms. Garretson stated she is hired by applicants statewide to conduct petition processes without guaranteed results. Ms. Garretson reviewed the methods and criteria for circulating third-party, unbiased petitions and reviewed the results of the petition process for the application being considered.

Ms. Garretson said petitioners attempted to contact 384 business owners, managers and residents. A total of 124 signatures were collected with 115 in support of the license and 9 opposed. Seven of those opposed declined to provide a reason and two said a need did not exist. Ms. Garretson stated that petitions circulated for Liquor Licensed Drug Store licenses usually have an approval rate in the mid to high 80s, and this process had an approval rate of 93 percent.

Ms. Garretson stated that traffic and population growth were researched. Montrose experienced a 5.1 percent increase in population since 2020 and increased traffic was reported at every intersection.

Alina Brusilovsky was administered an oath. Ms. Brusilovsky reviewed her work experience as an adult beverage manager for Dillon Companies which has 156 stores within Colorado. Ms. Brusilovsky stated that City Market #40 currently has a Fermented Malt Beverage and Wine License which will be surrendered if the Liquor Licensed Drug Store license is approved. Ms. Brusilovsky said demand is high here, and City Market #40 is a top 10 store in the state. Ms. Brusilovsky said customer requests, population growth, and tourism factor into this request for the new license.

Ms. Brusilovsky said the premises for the new license are within the footprint of the existing City Market #40. Ms. Brusilovsky said the display of spirits will include gates to control sale times, and the amount of shelf space for food items will not be reduced.

Ms. Brusilovsky reviewed training for employees as well as measures in place to prevent sales to minors. Ms. Brusilovsky addressed the moral character, record and reputation of the owners, officers and directors. She said compliance is taken very seriously, and the applicants are master file licensees with the state.

Ms. Brusilovsky said everyone who purchases alcohol and/or tobacco is carded and the application shows 12 violations on record for the applicants. Ms. Brusilovsky said training is provided upon hiring and annually thereafter. She also stated that if a store experiences a violation, the entire staff is retrained.

Mr. Stapen stated that approval of the application does not add a liquor license to the community since two existing liquor licenses will be dissolved.

Testimony was accepted from City residents and owners and managers of businesses within the City.

Dominick LaJoy, owner of House of Spirits Montrose spoke in opposition to the license due to concerns about safety and said the community does not need this license.

Sophano Kan, owner of Pour House spoke in opposition to the license due to the impact on local businesses.

Fangling Kousoum, owner of Palace Liquor, spoke in opposition to the license and in favor of supporting local businesses that have connections to the community.

Liz Schmidt, manager of The Liquor Store, spoke in opposition to the license and in favor of supporting local businesses with connections to the community.

Jason Gordon and William Gordon, owners of The Liquor Store, spoke in opposition to the license stating that the City's needs are being met by existing licensees. They also raised concerns regarding community health and safety.

Leah Cole, founder of Mrs. Claus for a Cause, spoke in opposition to the license stating that her nonprofit receives support from local businesses and not from the big box stores.

Kevin Williams spoke regarding the petitions circulated and said that the applicants' petitions should be discounted as evidence.

Dave Bowman spoke in favor of delaying a decision and encouraged City Council to consider a special election to let the voters decide.

Dustin Burkdoll spoke in opposition to the license stating that the needs of the community are already met.

Chad Huffman spoke in opposition to the license stating concerns for theft by underage employees and the potential for sales to minors.

Mike Miskovich spoke in opposition to the availability of hard alcohol in grocery stores and provided examples of alcohol displays near toys and near nonalcoholic beverages.

David Fishing, owner of Storm King Distilling Company spoke in opposition to the license stating that the demand is being met by existing businesses. Mr. Fishing also questioned the moral character of the large grocery stores.

Luke Schlaefter spoke in opposition to the license due to safety concerns and spoke in favor of allowing county residents to voice opinions on this topic.

Mr. Dowsey reviewed a summary of petitions circulated in opposition to the license and stated that 557 of the 741 signatures submitted were determined to be valid and opposed to the license being issued.

Mr. Stapen provided a closing statement addressing the testimony given.

## **BRIEF RECESS**

A brief recess was taken at 8:08 pm. The meeting reconvened at 8:16 pm.

City Council discussed postponing the decision. Mr. Dowsey stated that a decision can be deferred for up to 30 days and cautioned that the decision must be made on the evidence presented at this hearing and information included in the meeting packet.

### **ORDINANCE 2677 – FIRST READING**

City Council considered Ordinance 2677 on first reading, an Ordinance repealing and reenacting Chapters 4, 5, 7, 8, 10, 11, 13, AND 15 of Title 11 of the Montrose Official Code and making conforming amendments to Chapters 3, 6, 12 and 14 in connection therewith. A hearing was held.

Community Development Director Jace Hochwalt introduced consultants Gerald Dahl and Martin Landers.

Mr. Hochwalt reviewed the timeline and background of the project that began with adoption of the Envision 2040 Comprehensive Plan in 2021. A housing needs assessment was completed in 2023 followed by Phase 1 and Phase 2 of the code updates and modernization of the newly created Title 12 in 2023.

Mr. Hochwalt provided an overview of the updates and stated that links to redline versions of the revisions are included in the meeting packet. Concerns regarding changes to the R-2 zoning district were addressed. Mr. Hochwalt said HOAs can restrict duplexes in subdivisions if desired, and allowing duplexes does not double the density due to minimum lot sizes. Mr. Hochwalt stated that allowing for duplexes does not require that they be built but allows flexibility of housing types.

Mayor J. David Reed opened the hearing.

Public comment was accepted.

Ken Otto spoke in favor of deferring the decision to allow for more public outreach and to allow concerned citizens to negotiate modifications. Mr. Otto spoke in opposition to allowing duplexes in the R-2 zoning district.

Sue Ellen Gary spoke in opposition to allowing duplexes in the R-2 zoning district. Ms. Gary expressed concern regarding a previous decision by the Planning Commission and City Council without disclosure of the changes to the R-2 zoning district.

Fernando Belair spoke in opposition to the changes to the R-2 zoning district stating concerns that the City is siding with developers instead of constituents.

Chad Huffman spoke regarding concerns related to allowed building heights and in opposition to allowing landscaped medians to count as open space.

Tim Clifford spoke in favor of a combination approach and in favor of proceeding with the updates.

David Fishing questioned whether the Land Use Map will reconcile with the new code update and zoning categories.

Mayor Reed closed the hearing.

Mr. Hochwalt addressed the comments received. He stated that none of the lots within the Brookside Meadows development is large enough to accommodate a duplex. Building height was increased to 40 feet in the R-3A and R-4 zoning districts to accommodate architectural styles for multifamily developments. Mr. Hochwalt said the next step in the project is to look at strategic updates to the Comprehensive Plan.

Mr. Landers said the proposed changes to the R-2 zoning district will provide affordable rentals and a diversity of housing types within residential housing developments.

Mr. Hochwalt said that affordability of single family homes is currently out of reach for 78 percent of residents and housing diversity addresses that issue.

A motion was made by Dave Frank, seconded by Doug Glaspell, to pass Ordinance 2677 on first reading as presented. Ed Ulibarri voted no. All others voted yes. Motion passed.

## **ORDINANCE 2678 – FIRST READING**

City Council considered Ordinance 2678 on first reading, an Ordinance of the City of Montrose, Colorado, amending Ordinance No. 2645 which appropriated funds for defraying the expenses and liabilities of the City of Montrose, Colorado, during the fiscal year beginning January 1, 2024; said expenditures of the City of Montrose over and above those anticipated at the time of adoption of the original budget for the fiscal year beginning January 1, 2024. A hearing was held.

Finance Director Shani Wittenberg reported that the Ordinance appropriates additional funds for the 2024 budget that were unanticipated during the formation of the 2024 budget. Ms. Wittenberg reviewed the list of items including purchases of real property, economic incentives, software purchases, contributions to the CMU Endowment Fund, URA projects, community events, and the relocation of Otter Pond water and sewer lines via a special improvement district.

Mayor J. David Reed opened the hearing.

Public comment was accepted. No comments were received.

Mayor Reed closed the hearing.

A motion was made by Doug Glaspell, seconded by Judy Ann Files, to pass Ordinance 2678 on first reading as presented. All voted yes. Motion passed.

## **VALLEY RANCH PRELIMINARY PLAT**

City Council considered the Valley Ranch Preliminary Plat.

Planner II William Reis reviewed the location of the 96.03 acres south of Ogden Road at Bridges Drive. The Preliminary Plat includes 15 residential lots within the R-3A, Medium High Density District, and a large outlot for future development within the R-2, Low Density District, and R-1, Very Low Density District.

Mr. Reis reviewed the zoning of the surrounding area, subdivision review standards, and zoning regulations. Mr. Reis stated that this subdivision requires the extension of Bridges Drive from Ogden Road to Otter Road in accordance with the Comprehensive Plan.

Mr. Reis recommended conditional approval stating that the Valley Ranch Preliminary Plat is in compliance with subdivision regulations and the Comprehensive Plan, and the proposal meets the intent of the "R-3A" Medium High Density zoning district.

City Engineer Scott Murphy provided an overview of the extension of Bridges Drive.

Public Comment was accepted. No comments were received.

A motion was made by Dave Frank, seconded by Ed Ulibarri, to approve the Valley Ranch Preliminary Plat expressly conditioned upon City staff ensuring that all policies, regulations, ordinance and Municipal Code provisions are met and that the Applicant adequately addresses all of staff's concerns prior to execution of the Final Plat. The City staff is not authorized by this approval to execute the Final Plat prior to all conditions being satisfied. All voted yes. Motion passed.

#### **STAFF REPORTS**

No staff reports were provided.

#### **YOUTH CITY COUNCIL COMMENTS**

No Youth City Council comments were provided.

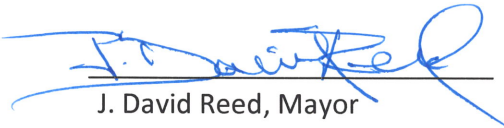
#### **CITY COUNCIL COMMENTS**

No City Council comments were provided.

#### **ADJOURNMENT**

At 9:34 p.m., the meeting adjourned with no further action taken.

ATTEST:

  
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J. David Reed, Mayor

  
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Lisa DelPiccolo, City Clerk