

LEGAL AND FINANCE COMMITTEE MINUTES  
Rapid City, South Dakota

November 16, 2016

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, November 16, 2016, at 12:30 p.m.

A quorum was determined with the following members answering the roll call: John Roberts, Amanda Scott, Steve Laurenti, Lisa Modrick and Jerry Wright. Absent: None.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Agenda.)

**ADOPTION OF AGENDA**

Motion was made by Wright, second by Laurenti and carried to adopt the agenda.

**GENERAL PUBLIC COMMENT**

None.

**CONSENT ITEMS**

Motion was made by Wright, second by Laurenti and carried to approve Items 1-12 as they appear on the Consent Items with the exception of Item No. 3, 6, 8, 9 and 12.

- 1) Approve Minutes for November 2, 2016

**AIRPORT**

- 2) LF111616-06 – Approve Rapid City Regional Airport Rates and Charges for FY 2017

**POLICE DEPARTMENT**

- 3) LF111616-09 – Scott moved to Approve 2017 Budget Supplement Report and identify the funding source as transferring \$50,000 from the City Council contingency fund and accept the remaining balance from the existing 2017 police budget. Second by Laurenti. Scott stated this was a program by the police department to get a matching grant fund to increase our police force. Since they just approved the 2017 budget and they did not take any reduction out of that budget, she believes the police department can make up the roughly \$25,000. Modrick asked Assistant Chief Don Hedrick to respond to Scott's statement on this item. Assistant Chief Hedrick added that they were not able to include this in to their 2017 budget because part of the grant is that you cannot have funding set aside for items. We have to prove that we are using this funding for officers that would be doing above and beyond our normal services. So if we had the money set aside in the 2017 budget for this, it would have hindered our chances to obtain the grant. The document that Finance Officer Pauline Sumption sent to Alderwoman Scott does show the police department does not have additional funding left over on an annual basis. He just wants to make the Committee aware that these are for funds above and beyond what we had scheduled for 2017. Scott wanted to point out that over the last three years the police department came in under their wage line but their overtime line came in exceptionally heavy. Even the budget amount for their overtime they did not even corrected that, so it looks like they have some flexibility in their budget to make up those funds. At this time, general fund already shows that we are low in our cash fund, lower this year than we have been in the past five years. The 2017 budget is already using \$3.5 million dollars of undesignated cash to balance it. She would hate to start adding additional undesignated cash to the budget until we can see that the need is there, she feels we have more time. Modrick stated as a City, we are obligated to come in with a match. She asked Assistant Chief Hedrick if this will put our grant funding opportunity in jeopardy if we do not show it on the budget. Assistant Chief Hedrick stated both of these grants have been awarded. We were not awarded the COPS grant the past

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couple of years. The Federal share of the COPS grant is over \$375,000 and the State Highway Safety grant contributes \$130,000 plus a well. We have to be able to show that we will be using these resources for additional items or additional things we are not currently doing. Knowing all of that we were not able to incorporate that into the 2017 budget until we knew what was happening with these grants. Modrick asked if the additional officers will help reduce the amount of overtime hours. Assistant Chief Hedrick stated that's the goal but crime has gone up in our city and the potential is there for it to remain the same. Modrick feels that this is just a reinvestment into the public safety in our community. Modrick made a substitute motion to approve the 2017 Budget Supplement Report. Second by Wright. Mayor Allender added that we can put this off and fund it later because we are going to be required through the grant process to show that we have hired the employees, their wage and we are receiving 25% less so at the end of the year he believes the books can be balanced. However, he does want to make the Committee aware that they are taking additional full time employees out of the existing budget and he is calculating that they will be very thin in the wages and benefits column at the end of 2017. A vote was taken and the substitute motion failed with Wright and Modrick voting "yes" and Laurenti, Roberts and Scott voting "no". Scott restated her original motion to Approve 2017 Budget Supplement Report and identify the funding source as transferring \$50,000 from the City Council contingency fund and accept the remaining balance from the existing 2017 police budget. Second by Laurenti. Motion carried.

**FIRE DEPARTMENT**

- 4) LF111616-03 – Authorize Staff to Apply for and Accept if Awarded Additional Funding for a South Dakota Hazardous Materials Emergency Preparedness Training Grant in the Amount of \$474.08 for a Hazardous Materials Training Course

**FINANCE DEPARTMENT**

- 5) LF111616-01 – Approve Resolution No. 2016-085A a Resolution Fixing Time and Place for Hearing on Assessment Roll for Cleanup of Miscellaneous Property
  
- 6) LF111616-04 – Laurenti wanted to bring this to everyone's attention that we are looking at a 1.46% increase over the previous year in sales tax. The 2017 budget is based on a 2% projection so we are more than .5% below. He noted we should get a lift over the next couple of months and he hopes it will cover that 2%. But he wants to make sure everyone is taking a closer look at this and that we as a Council are prepared to make the necessary cuts in order to live within our budget. Scott moved to Acknowledge September 2016 Sales Tax Report. Second by Laurenti. Motion carried.
  
- 7) LF111616-08 – Resolution No. 2016-089 Resolution Declaring Miscellaneous Personal Property Surplus
  
- 8) LF111616-12 – Scott asked Deputy Finance Officer Tracy Davis to clarify a couple of items in this report. She stated this report is showing a \$3.5 million dollar deficit and would like to confirm that this report does not include our property tax funds from the County. Davis confirmed this October report does not include those funds. Davis expects roughly \$8 million dollars to come in November from property tax funds. Scott moved to Acknowledge October 2016 General Fund Cash Balance Report. Second by Laurenti. Motion carried.

**COMMUNITY RESOURCES**

- 9) LF110216-04 – Laurenti was pleased with the additional information provided to the public regarding this position. He feels the public needs to be able to see for themselves what this position is all about. Laurenti moved to Approve Resolution No. 2016-079 Creation of Budget Analyst Position. Second by Scott. Motion carried. *(continued from the November 2, 2016, Legal and Finance Committee Meeting)*

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**METROPOLITAN PLANNING ORGANIZATION**

- 10) 16TP024 – Approve the 2017 Unified Planning Work Program for the Rapid City Area Metropolitan Planning Organization
- 11) 16TP025 – Authorize Mayor and Finance Officer to Sign Agreement Between the City of Rapid City and the SDDOT for Accomplishing the Rapid City Area Transportation Planning Process in the Amount of \$582,035

**ATTORNEY’S OFFICE**

- 12) LF111616-11 – Scott asked Deputy Finance Officer Tracy Davis if the concern Finance Officer Pauline Sumption had with this item has been resolved. Davis stated she does not believe it has been resolved. Sumption is looking for interest information. Assistant City Attorney Carla Cushman stated she has not changed any interest rate information in the agreement for some time. It states the information should be provided to the finance officer similar to other TIF agreements. Hani Shafai from Yasmeen Dream, LLC stated the interest rate has not been finalized yet. If you wish to continue this item that would be fine with them and it will not hold up their project. Scott moved to continue Authorize Mayor and Finance Officer to Sign Contract for Construction of Public Improvements Through Private Developer Tax Increment District Number Seventy-Eight Between Yasmeen Dream, LLC and the City of Rapid City until the November 30, 2016 Legal and Finance Committee meeting. Second by Wright. Motion carried.

END OF CONSENT CALENDAR

**NON-CONSENT ITEMS** – **Items 13 - 17**

**Public Comment opened** – **Items 13 - 17**  
**Public Comment closed**

**ALDERMAN ITEMS & COMMITTEE REPORTS**

- 13) LF111616-02 – Discussion on Solid Waste Rate Increase – Modrick stated this was originally brought forward at a Public Works Committee meeting by a constituent who expressed their concern over the large increase in shingle rates. She wanted to give Karl Merbach an opportunity to speak on this increase so it will go out to the public. Solid Waste Division Superintendent Karl Merbach provided a memo of the research and reasoning behind the increases. It does appear like a huge increase on the shingles from \$16 up to \$59 per ton. In order to receive the \$16 rate, it would have to be only shingles and tar paper. Everything else had to be separated from that load or it was charged that \$59 rate. After discussions with staff, it was easier to raise that rate to \$59 equal to other construction debris. Knowing that contractors and homeowners still have an option outside of the city to bring shingles at a lower rate than we have at the landfill. Laurenti asked Merbach to list the other resources available to the public. Merbach stated Hills Materials will accept shingles and tar paper at a lower rate however, there is a limit on poundage. Also, there are two restricted use (rubble sites) sites that charge by the cubic yard. Modrick moved to acknowledge the Discussion on Solid Waste Rate Increase. Second by Lauenti. Motion carried.
- 14) Discussion on New Hazardous Tree Removal Program – Laurenti believes this was previously brought forward to Council and was sent back to staff and the Council has been waiting for something to come back. He asked Parks and Recreation Director Jeff Biegler to provide further information on this item and what is happening now. Biegler stated a proposal was brought forward a couple of times over the summer. It was a cost sharing program with homeowners for removal of dead and diseased trees on private property as well as removal of trees on public property. Both times the proposed program was denied. There was some discussion from Council members that we should be taking care of the dead trees on City property before we come up with a program to assist private property owners with removal of their trees. Parks and Recreation is in the process

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of removing those trees now. All of the trees that are being removed are on City owned property, right of way and parks. According to ordinance, the property owner is responsible for the maintenance of the grass and the area of right of way between the curb and sidewalk which includes trees and shrubs that could be in there. They are not removing any trees on private property. Once all of the trees on City property are removed, they will come back to the Council and propose an agreement for private property. Laurenti questioned who is responsible for a tree that the homeowner plants in the right of way. Biegler stated in order for a homeowner to plant a tree in the right of way the owner must obtain approval from the City before doing so. The homeowner is responsible for maintaining the tree. Laurenti asked Assistant City Attorney Carla Cushman if a homeowner plants a tree in the right of way and there is eventually a new homeowner, what is the situation with requiring that homeowner to maintain that particular tree. What is our liability when it comes to maintaining these trees? Cushman stated the ordinances addresses two levels of responsibility, we say the homeowners are responsible up to the street and it also says the City can maintain the trees in the right of way. She believes this reflects joint responsibility for these trees. If there is a situation that damages occur, who is liable will depend on the circumstances. Wright is upset about these actions. His understanding was a program was going to come back to Council. He does not remember the City assuming the responsibility of the trees. He feels this should be stopped until this can be addressed. Scott asked if there has been any property damage that the City has had to cover due to a dead tree. Risk Manager Trevor Schmeltz said he is not aware of claims of trees since he has been with the City. Wright moved to cease and desist this operation until it can be straightened out. Second by Laurenti. Motion carried

- 15) LF111616-10 – Scott shared why this is before the Legal and Finance Committee today. She stated it is a way to streamline the Council’s thought process on their mission and vision. The goal was to make the statement short and memorable and that it aligns with the comprehensive plan. Laurenti wanted the public to understand that the statement is intended to be very broad and general. He believes overall it is very good but there may be a few changes we can make. Wright moved to take Discussion on Revised 2016 City Council Mission and Vision Statement to Council without recommendation. Second by Laurenti. Motion carried.

**FINANCE DEPARTMENT**

- 16) No. LF110216-05 – Laurenti moved to approve Second Reading and Recommendation of Ordinance No. 6147 Regarding Supplemental Appropriation #4 for 2016. Second by Wright. Motion carried.
- 17) LF111616-05 – Scott wanted to clarify with Deputy Finance Officer Tracy Davis that the \$913,000 coming out of undesignated cash is not another deficit off of the cash balance because it is already been paid. So this is more of a paperwork cleanup to get our budget straightened out. Davis confirmed Scott is correct. Scott moved to approve Introduction and First Reading of Ordinance No. 6148 Regarding Supplemental Appropriation No. 5 for 2016. Second by Wright. Motion carried.

**ADJOURN**

There being no further business to come before the Council at this time, motion was made by Scott, second by Laurenti and carried to adjourn the meeting at 1:41 p.m.