

PUBLIC WORKS COMMITTEE MINUTES
Rapid City, South Dakota

September 10, 2019

A Public Works Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Tuesday, September 10, 2019 at 12:30p.m.

A quorum was determined with the following members answering the roll call: Evans, Armstrong, Roberts, Strommen, Modrick
Absent: None

City Staff present:

Ken Young, Community Development Director
Dale Tech, Public Works Director
Ted Johnson, City Engineer
Fletcher Lacock, Community Planner
Shannon Truax, Public Works Administrative Coordinator

(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 the Agenda

Motion was made by Modrick, second by Armstrong and carried to adopt the agenda.

General Public Comment

NO DISCUSSION

CONSENT ITEMS – Item 1-16

Motion was made by Armstrong, second by Evans and carried to approve Items 1-16 as they appear on the Consent Items with the exception of Item Nos. 16.

- 1) Approve minutes of August 27, 2019.

ITEMS FROM THE MAYOR'S OFFICE

- 2) PW091019-02: Confirm the new appointment of David Williams to the Historic Preservation Commission and confirm the appointment corrections for John Riker, Chris Wehrle, Patrick Roseland and Jeff Drahotka to the Historic Preservation Commission.

ITEMS FROM PUBLIC WORKS

ENGINEERING

- 3) PW091019-03: Approve Request for Stormwater Drainage Utility Fee Abatement for Daylight Investments III, LLC, for property located at 1700 Seger Dr., Tax ID 42318, in the amount of \$4,739.34 (2018 and 2019)
- 4) PW091019-04: Authorize Staff to Advertise Bids for Lion Drive Rehabilitation Project No. 18-2474/CIP No. 50549. Estimated Cost \$365,000.00
- 5) PW091019-05: Authorize staff to Advertise for Bids Project No. 2527 / CIP No. 51249 Star of the West Restrooms

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- 6) PW091019-06: Authorize Staff to Advertise for Bids for Park Drive Storm Sewer Repair, Project No. 19-2483 / CIP No. 51184, Estimated Cost \$60,000.
- 7) PW091019-07: Approve Change Order 1 F to Underground Construction, Inc. for 7th Street Water Extension St. Cloud to Franklin St. and St. James Sanitary Sewer Mt. Rushmore Rd to 9th St. Project #18-2433/CI P 51199 for an increase of \$12,891.95.
- 8) PW091019-08: Approve Correction to funding source identified in original award recommendation for bid of Hanover Drive Drainage Crossing, Project No. 18-2460 / CIP No. 51204 opened on July 30, 2019 to the lowest responsible bidder, R.C.S. Construction, Inc. in the amount of \$289,832.93
- 9) PW091019-14: Approve Correction to funding source identified in original award recommendation for bid of Joint Sealing/Panel Replacement Cambell Street, Project No. 18-2472 / CIP No. 50445 opened on May 28, 2019 to the lowest responsible bidder, J.V. Bailey Co., Inc. in the amount of \$387,710.80.
- 10) PW091019-11: Authorize Mayor and Finance Office to Sign Agreement between the City of Rapid City and Yasmeen Dream 111, LLC for Oversize Water Main Cost Reimbursement, not to exceed \$72,200.00, for approximately 1,280 linear feet within the future E Philadelphia Street Right-Of-Way.
- 11) PW091019-12: Authorize Mayor and Finance Office to Sign Agreement between the City of Rapid City and Yasmeen Dream 111, LLC for Oversize Water Main Cost Reimbursement, not to exceed \$191,000.00, to increase the size of low level water main from 8" to 20" for approximately 820 linear feet and upsize the high level water main from 12" to 16" for approximately 750 linear feet within future E. Anamosa Street Right-Of-Way.
- 12) PW091019-13: Authorize Mayor and Finance Office to Sign Agreement between the City of Rapid City and Yasmeen Dream 111, LLC to allow conversion of existing 12" Low Level Water Main to High Level Water Main (North Rapid Zone) and payment be made to the City for replacement of their share of the costs for original 12" pipe.

TRAFFIC OPERATIONS

- 13) PW091019-10: Authorize Mayor and Finance Officer to sign Joint Powers Financial and Maintenance Agreement with the Department of Transportation for Roadway Safety Improvement Project PH 000S(401) PCN 06C6 to install retroreflective backplates on 53 City-owned traffic signals.

SOLID WASTE

- 14) PW091019-01: Authorize the Solid Waste Division to purchase a recycling baler for the Material Recovery Facility (MRF) from Source Well with vendor Recovery Systems, Inc. for a total cost of \$537,287.00. Funding will be from the Solid Waste Division with a 50% reimbursement from a SDDENR Solid Waste Grant
- 15) PW091019-09: Authorize Mayor and Finance Office to sign Resolution No. 2019-072 to apply for and, if awarded, accept an SD DENR grant and loan for the Cell 16 Closure/GCCS System, Litter Control Netting Along Perimeter of Cell #18, and Cell #15 Project Analysis, and authorizing the Public Works Director or designee to administer the grant, if awarded.

ITEMS FROM COMMUNITY DEVELOPMENT

- 16) 19VR004: Young advised that the City does not have jurisdiction in this request. Motion by Modrick to Acknowledge Tabling - Murphy Ranch Estates and Murphy's Subdivision – Acknowledge the Tabling of Resolution 2019-067 - A request by Davis Engineering, Inc for Murphy Brothers Partnership, LLC to consider an application for a Vacation of Right-of-Way for right-of-way adjacent to Lots 1 and 2 of Murphy's Subdivision and Tract F of NW1/4 of Section

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14, T1N, R8E, BHM, Pennington County, South Dakota, more generally described as being located south of the current terminus of Knuckleduster Road.

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Item 17-18

Public Comment opened

Speaker request: Ted Wolk, commenting on Item 18 PW091019-15: Mr. Wolk questioned how the new resolution would impact him personally, specifically the exception which disallow reimbursement if you receive any funds from an insurance claim, as he received approximately \$5,800 from his insurance company. Wolk stated that he believes the City should quantify the actual cost of paying for property damage, instead of relying on numbers he believes are conjecture, before deciding not to cover property damages. Mr. Wolk advised that he believes the City has liability for the damages that are caused by the sewer system backup because the City is in breach of their duty to protect the homeowners. Mr. Wolk requested the committee research setting up a compensation fund to assist homeowners.

Speaker request: James Bialota, commenting on Item 18 PW091019-15: Mr. Bialota claimed that the sewer back up problem is a major failing of the Water Reclamation Division. Mr. Bialota stated that no City employee ever advised him of the existing claim process. Mr. Bialota claims that the City is liable because the system was engineered incorrectly, with problems dating back to the 1980's.

Public Comment closed

ITEMS FROM COMMUNITY DEVELOPMENT

- 17) 19VR003: Modrick asked for explanation of denial. Lacock explained that this right of way is identified as necessary within the Major Transportation Plan. Airport Addition - Denial of Resolution 2019-058 - A request by Fisk Land Surveying and Consulting Engineers, Inc for David Ritter to consider an application for a Vacation of Right-of-Way for that portion of Wood Avenue right-of-way adjoining Blocks 11 and 12 of Airport Addition, located in the NW1/4 of Section 25, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota, more generally described as being located within Wood Avenue lying south of Knollwood Drive.
- Planning Commission Recommendation: DENY**

Motion by Modrick to DENY. Second by Armstrong. Motion Carried Unanimously.

ITEMS FROM CITY ATTORNEY

- 18) PW091019-15: Modrick asked Landeen to answer questions raised by citizens. Question 1 How does an insurance claim effect reimbursement. Landeen explained if there is insurance coverage, then the City will pay for the insurance deductible, in lieu of a square foot reimbursement. Landeen explained that there would be no need to provide receipts or arrange for professional cleaning. Modrick stated that she believes employees should hand out the claim form to every citizen when responding to a reported sewer back up. Landeen stated that the current resolution does not have a built in inflationary increase. Question 2. How are the claims funded? Landeen stated the funds come out of the liability fund, not an insurance policy. Landeen clarified that the City would need to setup a special fund and identify a revenue source if they want to fund reimbursement for property damages. Landeen advised that the City's current policy is generous in comparison to other communities. Modrick stated that she wants to see a plan, similar to Bismarck's policy, instituted in Rapid

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City. Armstrong asked how claims are processed. Tech advised that crews respond to call about a backup, evaluate the situation and provide documentation. Tech advised that the City is evaluating an electronic tracking software package. Armstrong suggested public service announcements or open house forums to share information with citizens, once the policy is clarified. Armstrong requested clarifications on the blockages referenced during public comment. Tech clarified that there was one area, near Copper Ridge, that reported debris in the back up, which indicated they may have been related to nearby construction. Tech advised that all systems are subject to these types of issues. The city was rated highly by the EPA during the last review and the expectation that the system function perfectly at all times is unreasonable. Armstrong asked about the question of liability. Landeen commented that all systems are engineered to a certain tolerance, and if exceeded will fail. Landeen stated that the City is not liable for historical design standards which are no longer sufficient. Landeen stated that it can be difficult to determine the cause, and thus difficult to prove the City was negligent and therefore liable. Strommen asked Landeen if the City has a duty to the individual homeowner, or whether the City has a duty to the taxpayer in general. Landeen explained that there would be liability if the City was negligent. Courts have determined that there must be clear cut negligence caused by the actions of the City, not a negligence by default. Landeen advised that sovereign immunity does not apply to proprietary functions or areas where the City has insurance. Resolution No. 2019-080 Amending the Policy of the City of Rapid City to Defray the Cost of Cleaning of Property Damaged by Sewer Backups
Staff Recommendation: APPROVE

Motion by Armstrong to APPROVE. Second by Strommen. Motion Carried Unanimously.

ADJOURN

Motion by Armstrong to Adjourn. Second by Evans. Motion Carried Unanimously.