

LEGAL AND FINANCE COMMITTEE MINUTES
Rapid City, South Dakota

November 13, 2019

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, November 13, 2019, at 12:30 p.m.

A quorum was determined with the following members answering the roll call: Lisa Modrick, Darla Drew, Lance Lehmann, Chad Lewis and Ritchie Nordstrom. Absent: Becky Drury.

(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 Nordstrom, second by Lehmann and carried to adopt the agenda.

GENERAL PUBLIC COMMENT

None.

CONSENT ITEMS

Motion was made by Modrick, second by Lewis and carried to approve Items 1-12 as they appear on the Consent Items with the exception of Item Nos. 4, 9 and 12.

CONSENT ITEMS -- Items 1 – 12

Public Comment opened – Items 1 – 12

Public Comment closed

Remove Items from the “Consent Items” and Vote on Remaining Consent Items

- 1) Approve Minutes for October 30, 2019

MAYOR’S ITEMS

- 2) LF111319-02 – Confirm the New Appointment of Valeria Big Eagle to Fill the Unexpired Term of Hayley Brooks to the MARC Board, Also Known as the Journey Museum Board of Directors
- 3) LF111319-07 – Authorize Staff to Purchase One 2020 Dodge Ram 1500 Extended Cab, Short Box Pickup Truck in the Amount of \$23,906.09 for the City Hall Maintenance Department

FIRE DEPARTMENT

- 4) LF111319-03 – Nordstrom asked Fire Chief Rod Seals, for the interest of the public, to summarize the memo attached to the agenda including the breakdown of numbers, the reasons for the write off, and also to clarify no tax dollars were used. Chief Seals explained that these write offs typically occur once or twice a year with one write off last year and only one write off again this year. He shared information from the memo beginning with the amount of the write off requested this year of \$790,207.06, (which is less than last year), and put it in perspective by identifying that over 14,000 ambulance bills are sent out annually, so this amount represents only 1,190 ambulance bills spanning from 2005 to 2019. He broke down the numbers of those 1,190 bills: 827 are due to the 6 year statute of limitations that has expired and the debt is uncollectable according to the debt collection agency; 316 are due to the patient being deceased with no estate; 21 are mandatory write offs per Medicaid; 18 are due to Bankruptcies; 5 are due to the patient be incarcerated; and 3 are due to mandatory write-offs per private insurance. The Fire Department follows best practices and all accepted accounting principles which are set forth by the Governmental Accounting

November 13, 2019

Standards Board which are used by state and local governments. Chief Seals also clarified that the ambulance is an enterprise fund, therefore, no taxpayer dollars have ever gone into fund the ambulance side of the business. Seals said the ambulance budget is approximately 4 million dollars a year and the ambulance enterprise fund supports 37 employees and all of the equipment. Drew asked if these costs (losses) are incorporated into the budget. Seals said this is an unfortunate cost with this type of business as there will always be people who are either deceased or that do not pay their bill for one reason or another and many times patients say they can't pay the bill because it is so expensive, but one of the reasons it is so expensive is because many don't pay, resulting in a vicious cycle. Lewis believes some of the collection issues are statewide and are partly due to some insurance companies paying the insured individuals directly, which in turn removes the ability for the ambulance service to negotiate directly with the insurance company, leaving the municipality to deal with and eventually have to write off. Modrick moved to Approve Resolution No. 2019-087 a Resolution to Write Off Uncollectable Ambulance Billing Accounts. Second by Lehmann. Motion carried.

FINANCE DEPARTMENT

- 5) Acknowledge the Following Volunteers for Worker's Compensation Purposes: Haleigh Timmer (Library)
- 6) LF111319-06 – Approve Resolution No. 2019-088 a Resolution Levying Assessment for Abatement of Nuisances
- 7) LF111319-08 – Authorize the Mayor and Finance Officer to Sign Renewal Ready Subscriber Agreement with Black Hills Power, Inc., dba Black Hills Energy
- 8) LF111319-09 – Acknowledge September 2019 Sales Tax Report
- 9) LF111319-10 – Nordstrom asked Finance Officer Pauline Sumption to define suspension and debarment for the public and how this item originated. Sumption said this finding came forward as a result of the 2018 audit with regard to federal grant dollars. She explained that if any department is purchasing with federal dollars, they must make sure the vendor they are purchasing from has not been suspended or debarred from doing business with the federal government. This requirement ensures any departments receiving federal funding are verifying that the vendor is not listed on the SAMS.gov website as either suspended or debarred. Sumption clarified that this requirement applies only to purchases \$25,000 or over. Lewis moved to approve the Addition of Suspension and Debarment Policies and Procedures to the City's Uniform Grant Guidance Policies/Procedures. Second by Lehmann. Motion carried.

COMMUNITY DEVELOPMENT

- 10) LF111319-04 – Authorize the Mayor and Finance Officer to Sign the FY2020 Performance Contract for the City of Rapid City and Black Hills Council of Local Governments (BHCOLG)
- 11) LF111319-05 – Authorize the Mayor and Finance Officer to Sign Funding Approval/Agreement for FY2019 Community Development Block Grant Funding
- 12) LF111319-11 – Nordstrom asked Deputy City Attorney Wade Nyberg to explain the movement of funds (\$265,521.79 for the gravity line) on the project. Nyberg explained the sewer line was not included in the original project plan, but rather a lift station was contemplated. A project plan amendment was approved a week and a half ago at the City Council meeting, so this is cleaning up the agreement to match the project plan. Modrick moved to Authorize the Mayor and Finance Officer to Sign First Amendment to Contract for Construction of Public Improvements Through Private Developer for Tax Increment District Number Seventy-Eight. Second by Lewis. Motion carried.

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Items 13 – 16

Public Comment opened – Items 13 – 16
Public Comment closed

FINANCE DEPARTMENT

- 13) LF111319-01 – Lewis moved to approve the Introduction and First Reading of Ordinance No. 6371 Regarding Supplemental Appropriation #8 for 2019. Second by Lehmann. Motion carried.
- 14) LF103019-01 – Lehmann moved to approve the Second Reading and Recommendation of Ordinance No. 6367 Regarding Supplemental Appropriation #7 for 2019. Second by Lewis. Motion carried.

COMMUNITY DEVELOPMENT

- 15) 19OA007 – Rachel Caesar from the Planning Commission shared with the committee information she obtained from a study published in the American Economic Journal of Macroeconomics regarding housing flexibility and its economic impact on communities. The cities included in the study were New York, San Jose and San Francisco. The study, which included an economic analysis of each city, discussed what happens when cities become a little more lenient with their housing policy and land use policy, and found that it opens up the door for more housing for more people to fit and increases the ability to attract people to your city. Caesar identified the study determined if these cities relaxed their land use restrictions, they could actually increase the national GDP by 3.7%. She believes if Rapid City is a little bit more lenient on its land use policies, it would attract more people to come and the ADU ordinance amendment is one of the ways to do that. She also pointed out that when this item passed at the Planning Commission on Thursday 6-3, two of those who voted against it were on opposite ends of the spectrum; one believed it was too restrictive and another felt it was not restrictive enough. Caesar expressed that this ordinance amendment should be looked at as maybe a happy medium, and if most of the opposing people can't agree on why they oppose it, that attention should be payed to that as well. Ken Young, Director of Community Planning, added that this item has come before the Planning Commission twice with recommended approval both times, but having a bit of a split vote, emphasizing that the reasons are on the opposite ends of the spectrum and feels strongly that with all of the time that has been spent on this over the last couple of years with open houses, work sessions, media coverage, and public participation, it has been refined to a good middle ground proposal. He reiterated that it meets the objectives of the comprehensive master plan; it meets many of the objectives that are in various areas and plans of the City; it is also one of the strong components of the targeted strategies in the recently approved affordable housing policy; and it is needed. Sarah Hanzel from the Division of Long Planning provided a presentation that included the definition of an accessory dwelling unit, the policy reasons as to why it is an important policy for the City to make in order to improve housing conditions, along with an overview of what is in the ordinance, and the criteria that has been created to establish this middle ground for how this particular ADU policy can help Rapid City to meet the housing needs, without being too restrictive and not too lack. Hanzel began by defining an accessory dwelling unit as an additional living space that has its own separate eating, sleeping and sanitation facilities that fits functionally and aesthetically in a lot that would generally otherwise only be a single-family home and must have a permanent foundation. She stated that all across the country communities are responding to the housing crisis, starting to peel back restrictions, and recognizing ADU's as important living units within neighborhoods. She shared some photographic examples of what units can look like, whether they are internal, attached or detached. She expects basement ADU's will be fairly common. Hanzel pointed out that the comprehensive plan addresses expanding the variety of housing available and also identifies

November 13, 2019

different strategies that can be taken for affordable housing. The action plan specifically recommends removing barriers to housing diversity and to allow accessory dwelling units with criteria. In September, the City Council adopted the Rapid City Affordable Housing Policy, Resolution No. 2019-070, that directs the City to pursue providing as many practical and necessary strategies to promote affordable housing situations. ADU's are a good step to take to provide some units within new and existing neighborhoods. Hanzel said the City is recommending these units be allowed in all of the residential zoning districts where units "fit the criteria that has been put in place". One of the criteria is that either the primary dwelling or the ADU must be owner occupied according to the Pennington County Tax Assessment roll. She pointed out that there are some neighborhoods that have covenants in place today that would restrict this use and the City does not get involved in those private covenants. There is a large section in the ordinance that describes specific area regulations which cover:

- 1) Lot size setbacks
- 2) Height regulations
- 3) Location of structures must be in the back yard not the front
- 4) Lot coverage requirements (generally 30%)
- 5) detached ADU's cannot cover more than 10% of the lot area-if you need to exceed that 10% area, then a variance must be requested from the Zoning Board of Adjustment
- 6) An existing ADU on a lot that is less than 6500 square feet, must be internal to the home, not detached.

These criteria are put in place to make sure that these units will be compatible with neighborhoods. The principal unit and ADU will have different address numbers. There is also a provision stating ADU's exceeding 500 square feet shall have a residential appearance. Parking was addressed and a requirement was established with a minimum of one off street parking space provided (3 total since the primary dwelling is required to have 2). Hanzel explained that ADU's cannot be used for short term rentals and registration under this ordinance requires a minimum rental term of 28 days or longer. To register an existing ADU, the ADU must meet the minimum requirements: 1) definition 2) owner occupancy 3) zoning district 4) number of units (only 1), 5) parking. People will not be penalized for units that were previously built (example: 1940) to meet the current standards. Hanzel relayed that existing, remodeled and new units must be registered with the Community Development Department. Registration will require a site plan and floor plan submitted, they must show that the requirements listed above are met, and there will be a small fee set by the City Council (amount yet to be determined). Modrick asked about the history of ADU's and how Code Enforcement will be able to enforce the code. Vicki Fisher, Planning Manager, said the City's first ordinance was adopted in 1935 and ADU's were not a provision within the ordinance from the start, but they did exist and many also existed before the 1968 regulations when the City looked at mandating the number of units on each lot, so several are legal non-conforming and several of them are not legal. The hope is that the City can get them legal ensuring that they meet some minimum design standards to minimize the impact to the neighborhood. Fisher disclosed that Code Enforcement currently does not really receive many calls on existing ADU's today so overall they are not an issue; however, looking at new ADU's, the occupancy, location, parking, and size will all be reviewed before issuing a registration and then similar to any residential structure, noise or other obtrusive calls would go to the police. If Code Enforcement does receive those calls, the regulation is set up so the Director of Community Development can suspend that ADU registration and if the property owner feels it is unfair they can appeal to the City Council. Fire Chief Seals said the fire department is ready regarding the safety aspect of the ADU's. Fisher explained that once the ordinance is in place and the City Council has a fee established for the registration application, keeping in mind that there are some provisions that existing ADU's will not have to meet, they should be registered within that first two years but will encourage them to register immediately. If they do not register within that two year window, it would become "not a legally permitted use" which would put them in violation of the code, then when they came in to register, they would have to make provisions to meet the code or would have to seek a variance from the Zoning Board of Adjustment. Regardless if it is a new or existing ADU, if all criteria is not met, it is an automatic

November 13, 2019

variance before the City Council and the Director does not have authority to grant exceptions. Fisher also added that if the unit is owner-occupied and they move out and we receive a complaint, this gives the City the ability to suspend it and eventually revoke it if the regulations are not abided by. Fisher wants to make sure that everyone understands that there are many things that will limit the number of ADU's and they are not meant to fit everywhere. She also told the committee there will only be one service line (water/sewer) so the owner remains responsible for it. Lewis voiced his concerns regarding why registration is needed, short-term rentals/Airbnb's, and also the 500 square foot rule for residential, which he feels becomes subjective to say that it is not residential in its appearance. Hanzel responded by saying this was left somewhat open so they can kind of see whether it is an issue or not. Lewis asked for the definition of family. Fisher said for purposes of this ordinance, a family related by blood, has no limitation to the number of people that can live in a dwelling, but if you are unrelated, then it is a maximum of five. Drew voiced her support for the ordinance. For additional information the presentation is located on the City website attached to the meeting agenda. Modrick moved to approve the First Reading and Introduction of Ordinance No. 6310 - A request by City of Rapid City to consider an application for an Ordinance Amendment to Allow for Accessory Dwelling Units in Residential Districts by Amending Title 17 of the Rapid City Municipal. Second by Nordstrom. Motion carried.

ADDENDUM NO. 1

CITY ATTORNEY'S OFFICE

16) LF111319-12 – Megan Gould, Rapid Transit Division Manager, said there are no changes to the policy, the only change is the state now mandates there is a written policy. Lehmann moved to Approve Rapid Transit System (RTS) Procurement Policy per Federal Transit Administration Regulations. Second by Lewis. Motion carried.

ADJOURN

There being no further business to come before the Council at this time, motion was made by Lewis second by Lehmann and carried to adjourn the meeting at 1:25 p.m.