

LEGAL AND FINANCE COMMITTEE MINUTES
Rapid City, South Dakota

July 15, 2020

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, July 15, 2020, at 12:30 p.m.

A quorum was determined with the following members answering the roll call: Darla Drew, Lance Lehmann, Laura Armstrong, Jason Salamun and Pat Jones. 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 Armstrong, second by Salamun and carried to adopt the agenda.

GENERAL PUBLIC COMMENT

None.

CONSENT ITEMS

Motion was made by Jones, second by Armstrong and carried to approve Items 1- 9 as they appear on the Consent Items with the exception of Item Nos. 4 and 5.

- 1) Approve Minutes for July 01, 2020

FIRE DEPARTMENT

- 2) LF071520-07 – Authorize Staff to Apply for and Accept if Awarded a 2020 Fire Prevention Tools Grant Through FM Global Corporation in the Amount of \$7,015.00

FINANCE DEPARTMENT

- 3) Acknowledge the Following Volunteers for Worker's Compensation Purposes: Deb Looby (RSVP+), Donna Franke (RSVP+), Connie Husband (RSVP+), Mary Jones (RSVP+), Sheila Kenny (RSVP+), Aisha Malik (RSVP+), Aisula Malik (RSVP+), Aleeya Malik (RSVP+), Alysala Malik (RSVP+), Asea Malik (RSVP+), Charlene Miller (RSVP+), Carol Vercoe (RSVP+), Gordon Vercoe (RSVP+), Janice Williams (RSVP+), Robert Williams (RSVP+), Janelle Jones (RSVP+), Frances Sanders (RSVP+), Kris Stewart (RSVP+), Shawn (Scott) Stewart (RSVP+), Amanda Dahl (Library)
- 4) LF071520-03 – Salamun asked Community Development Director Ken Young to explain where most of the fee changes are coming from in this particular resolution. Young said the State Electrical Commission recently adopted an increase to the electrical fees for electrical permitting and the City has to charge the new rates which have to be put into place immediately to follow the state mandate. Salamun asked for clarification regarding the change of license renewals from 3 to 2 years. Finance Officer Sumption believes this change has already been completed the last time updates were made that became effective July 1, 2020, but was just inadvertently not updated on this document. Lehmann moved to Approve Resolution No. 2020-060 A Resolution Amending Certain Fees to be Charged in 2020 for Various Licenses, Permits and Applications. Second by Jones. Motion carried unanimously.
- 5) LF071520-04 –Drew asked Sumption to review the sales tax report. Sumption indicated the report is through the month of May which shows less than a 1% decrease from the same five month period last year. She reported that when the COVID budget amendments where completed, the City estimated an average of a 12 1/2% decrease for the year. The original budget was for an

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approximate 2 1/2% increase, so the City is only down about 3 1/2% over what was originally budgeted. She noted that a lot more will be known as the tourism season continues. Jones asked Sumption what type of things went up and what types went down. Sumption relayed that the Bed Booze and Board tax (BBB), was down about 50% for the month of May but the City budgeted 75% down, so that was better than expected. The City has been seeing businesses such as Walmart, Lowes, Menards, and the grocery stores being extremely busy which she believes have made up some of that difference, but also conveyed that she does not receive the details specifically to know that for sure, but that is her speculation. Lehmann moved to Acknowledge May 2020 Sales Tax Report. Second by Jones. Motion carried unanimously.

- 6) LF071520-05 – Approve Resolution No. 2020-061 A Resolution Levying Assessment for Abatement of Nuisances
- 7) LF071520-06 – Approve Resolution No. 2020-052B A Resolution Levying Assessment for Downtown Business Improvement District 2020

COMMUNITY DEVELOPMENT

- 8) LF071520-08 – Authorize the Mayor and Finance Officer to Sign Contract for Construction of Public Improvements by Private Developer for Tax Increment District 82 Between Yasmeen Dream, LLC and the City of Rapid City
- 9) LF071520-09 – Authorize the Mayor and Finance Officer to Sign the Assignment Agreement with Bank West for Contract for Construction of Public Improvements by Private Developer for Tax Increment District 82 Between Yasmeen Dream, LLC and the City of Rapid City

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Items 10 – 15

Public Comment opened – Items 10 – 15

Carol Merwin of 1920 Fremont Street apt 100, spoke in favor of item number 15 as it helps with fertilizing gardens and insect removal.

Avery Craven of 400 South Berry Pine Road spoke in favor of item number 15 stating that she is a college student with many health issues so having fresh eggs would be very convenient, saves her money and the fertilizer is great for her garden.

Britta Craven of 316 Berry Blvd spoke in favor of item number 15. She believes having hens will provide some food security. She is the administrator of “Rapid City Hens” Facebook page which has been around for about eight years. She indicated that through time it has been demonstrated that there has been no trouble with fostering hens, which seems to be the number one concern. If there was someone who could no longer take care of their hens for whatever reason, within two days people have had a place for them.

Bill Evans, alderman for Ward 2, who is a member of the sustainability committee, spoke on item number 15. Evans said Western Dakota Tech has offered to create a class that would allow certification to provide education on having hens for people that want to understand what they are getting into. Evans said he has no pros or cons on having hens, but would like to know where the general public stands on this a bit better before voting or making a decision. He also does not want to force the Humane Society to take on a responsibility they do not want, before we go down this road.

Cody Brown, a real estate agent, of 4110 Brookside Drive spoke in support of having hens for sustainability. He has been speaking to people in the community and have found support from local

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farms that are willing to take hens if people find they are not able to care for them, or they were taken away for whatever reason, or that escaped. Brown also noted that with the pandemic, eggs are a highly purchased item leaving the really expensive eggs left on the shelves that people cannot always afford; therefore, it would put the City in a much better place by having people with hens and eggs who have the ability to share those eggs with the community. He reiterated that hens are good for pest control and provide a good fertilizer. Brown also agrees with Mr. Evans, that there should be a class and that could be a requirement of getting hens, and feels everyone is open to learning more and it would help in making sure people are being responsible.

Madison Hoffman of 3411 Hall Street spoke in favor of item number 15. She would like to have hens and fresh eggs and noted that even the Denver metro area allows hens. She said having hens would allow people to be self-reliant and self-sustaining. She added that South Dakota is an agricultural state and should allow children to experience what that is like and learn how to be responsible.

Public Comment closed

FINANCE DEPARTMENT

- 10) LF071520-01 – Armstrong moved to approve the Introduction and First Reading of Ordinance No. 6432 Regarding Supplemental Appropriation 4 for 2020. Second by Jones. Motion carried unanimously.
- 11) LF071520-02 – Jones moved to approve the Introduction and First Reading of Ordinance No. 6433 Regarding Supplemental Appropriation 5 for 2020. Second by Armstrong. Motion carried unanimously.

COMMUNITY DEVELOPMENT

- 12) 20OA003 – Salamun moved to approve the Second Reading and Recommendation of Ordinance No. 6423 an Ordinance Amendment to Recodify Establishment and Organization of the Historic Preservation Commission by Removing Section 17.54.010E and Adding Chapter 2.62 to the Rapid City Municipal Code. Second by Lehmann. Motion carried unanimously.
- 13) 20OA004 – Armstrong moved to approve the Second Reading and Recommendation of Ordinance No. 6434 an Ordinance Amendment to Revise the Requirement for a Planned Development Overlay by Amending Section 17.50.050 of the Rapid City Municipal Code. Second by Lehmann. Motion carried unanimously.

CITY ATTORNEY'S OFFICE

- 14) LF071520-10 – Salamun said he believes this project has already been vetted and approved but there is more information coming with regards to the details. He has every intention of moving it forward but wants to make sure the Council has all the information possible before making a recommendation. City Attorney Joel Landeen reiterated to the committee that this is not new money, but an acknowledgement to help the bank with money the Council has already previously agreed to put towards this project. One of the issues when the project was fully funded is that some of the money is not available until 2023 or 2024. One of the goals was to try to get the project constructed in a single season so there would be less disruption. In order to have enough cash to pay the contractor by 2021, Black Hills Sports has obtained a commitment to obtain financing to pay the balance for the construction costs. Black Hills Sports is asking the City to put into writing the commitment to pay the bank the money that was appropriated for 2023 and 2024 to help retire that debt. Landeen said there may be a gap where that money is not going to be sufficient to cover the entire loan amount and Black Hills Sports and the banks have accepted that Black Hills Sports will be responsible for that. The purpose of these documents is to commit to the bank that the Council will appropriate that money in 2023 and 2024 which will give the bank a level of comfort they need in order to issue the loan to Black Hills Sports. Landeen said what he is looking for in the

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agreement is to make absolutely clear that the City's commitment to this project legally, is the money the Council has previously appropriated and it is clear to the bank and to Black Hills Sports that the City is not guaranteeing the loan in its entirety, only the amount the City currently allocated. The original bank documents did not really fit this situation, so late last week Landeen drafted a Memorandum of Understanding (MOU) that spells everything out, which is currently in the banks legal department. Landeen will forward the draft documents to the entire Council later this afternoon and will be linked for the Council meeting on Monday, July 20, 2020. He feels that finalized documents will be received by the end of day on Friday, July 17, 2020. Armstrong asked Landeen if this is something unusual or have we done something similar in the past. Landeen said part of the issue is that with vision funds, there is a vision fund agreement with the particular organization because they are actually constructing the project, but Fitzgerald Stadium is a city owned facility, so there is no vision fund agreement with Black Hills Sports since the City is essentially managing and administering the construction contract. The bank is wanting in writing a formal commitment from the City that says the City will honor that obligation into the future. Landeen said if for some reason this item is continued on Monday at City Council, it is not necessarily a problem since the money has been allocated to cover it, but obviously the contractor wants to get paid before 2023 or 2024. Landeen is highly confident that Black Hills Sports is going to obtain the loan and believes this agreement serves more of an insurance policy for both the City and the financial institution two or three years down the road. Jones asked Landeen to explain the funding source. Landeen said a lot of this project got moved into the CIP fund (Community Improvement Projects) because it is a City facility along with some vision funding, but no general fund money is being used. Drew asked Landeen why the financial institution financing a portion of this has not been disclosed. Landeen said his understanding is that this is a participation loan so the risk will be spread out among several institutions but First Interstate Bank will be the lead institution. He does not know what the other institutions are but he has been dealing with First Interstate Bank. Salamun moved to send "Authorize Mayor to Execute Certain Documents Which will Commit the City to Pay Monies Previously Allocated for the Renovation of Fitzgerald Stadium to a Financial Institution Financing a Portion of the Project on Behalf of Black Hills Sports, Inc." to City Council without recommendation. Second by Lehmann. Motion carried unanimously.

ALDERMAN ITEMS

15) LF071520-11 – Drew communicated to everyone that she has been working with community development on this item for several months. She read the preliminary items as recommendations required for a possible ordinance to go forward so they can be debated and discussed.

- 1) Licenses would be obtained from the Black Hills Humane Society for the keeping of domestic hens (Side note-the Humane Society is not in favor of domestic hens);
- 2) Hens will only be allowed on property zoned for single-family dwelling;
- 3) No more than four chickens or hens shall be kept on a licensed premise;
- 4) Roosters are prohibited;
- 5) Hens will be housed in secure predator-proof and well ventilated roofed structure;
- 6) A secure mesh style fence shall be constructed around the hen enclosure;
- 7) The fenced area and structure cannot be located in the front or side yard that abuts a street or within a drainage area and must be kept in a neat and sanitary condition at all times;
- 8) Hens shall have continuous access to food and water; the feed shall be stored in a predator and rodent-proof container and chicks shall be maintained in a healthy condition.

Drew said ten comments have been received regarding this item with nine being in favor of the hen ordinance and only one opposed.

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Salamun said his personal stance is that he wants to find a way to say yes with proper guard rails in place to make sure there are no negative effects on neighbors or infringing on anyone else's rights and of course being humane to the hens themselves. He mentioned Sioux Falls has passed something in that last few years and is wondering if the City Attorney's Office would use this as a to help craft an ordinance resembling Sioux Falls. Landeen said the Sioux Falls ordinance has been looked at and would probably be look at it again but a lot of the work has already been done since this is not the first go around which included some drafts of a pilot project; so if the Council wants to proceed, probably the appropriate way is for Planning and the Attorney's Office to work with alderman Drew or some other stakeholders and bring something back to be vetted for the Council. Salamun stated his concerns such as it being new to the community, the Humane Society not being in favor of it and their licensing, minimum requirements for distance from other houses should be included. He also brought up that HOA's can still prohibit this in their areas even though the City allows it. Landeen brought up that there are people who already have chickens now and it doesn't seem to be causing too many problems but obviously if you legalize it you will see an increase in the number of problems. He noted that at least if they are licensed, the City has some recourse. He said a pilot program to see how it goes may be a good way to start and there is already a draft of that. Salamun is in support of this with proper guidelines but have to be mindful of all of the neighbors. He asked Director of Planning Ken Young if there is a minimum square footage or acreage required as part of the draft. Young said they do have some suggestions on that and will want to continue discussions on that but does not have that information here today. Jones said his concerns are neighborhood approval which he believes should be considered as part of the ordinance, and the additional workload to the Humane Society. He would like to see the Council proceed cautiously and make sure there is time for public input. Armstrong thanked Alderman Drew for bringing this item forward and everyone who has put in the time and work on it. She is confident a healthy resolution will be found. Lehmann expressed that he is not at a yes or a no at this point but would like to hear more from the community and all of the stakeholders involved in this process. Drew added that the City funds the Black Hills Humane Society at a rate of approximately \$300,000 a year and hopes that they could find a way to be cooperative with the City if Council determines to go forward with this. She said if the Humane Society charges a substantial fee for permitting or licensing, it could actually be a money maker for them. Drew also mentioned that there will be ways that people can lose their license as well. Drew feels we are far enough along to direct staff to look into creating an ordinance or a pilot. Drew asked the committee if they would support directing staff to get some more information and an ordinance ready to look at. Salamun would be in support of beginning that discussion. Jones is in favor of moving forward, Lehmann is in favor of further discussion to see what City staff can bring forward and open more dialogue for the stakeholders involved in this and his constituents. Armstrong is in favor of more discussion. New Ordinance Allowing for Urban Hens with Restrictions-Chair Darla Drew. The committee recommends staff to begin drafting a New Ordinance Allowing for Urban Hens with Restrictions and sending to City Council for further discussion.

ADJOURN

There being no further business to come before the Council at this time, motion was made by Salamun second by Lehmann and carried to adjourn the meeting at 1:18 p.m.