

LEGAL AND FINANCE COMMITTEE MINUTES
Rapid City, South Dakota

July 29, 2020

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, July 29, 2020, at 12:30 p.m.

A quorum was determined with the following members answering the roll call: Darla Drew, Lance Lehmann, Laura Armstrong (telephonically), Pat Jones and Jason Salamun. 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 Jones second by Lehmann to adopt the agenda. Roll call vote taken with Drew, Lehmann, Jones, Salamun and Armstrong voting “yes”. Motion carried unanimously.

GENERAL PUBLIC COMMENT

None.

CONSENT ITEMS

Motion was made by Lehmann, second by Salamun to approve Items 1-9 as they appear on the Consent Items. Roll call vote taken with Drew, Lehmann, Jones, Salamun and Armstrong voting “yes”. Motion carried unanimously.

CONSENT ITEMS -- Items 1 – 9

Public Comment opened – Items 1 – 9

Public Comment closed

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

- 1) Approve Minutes for July 15, 2020

MAYOR’S OFFICE

- 2) LF072920-03 – Confirm the Appointment of Rita Conklin to the Retired Senior Volunteer Program (RSVP) Advisory Council

POLICE DEPARTMENT

- 3) LF072920-06 – Authorize Staff to Apply for and Accept if Awarded the 2020 JAG Grant for an Amount of \$88,762.00 to be Evenly Split Between RCPD and the Pennington County Sherriff’s Office to Replace Aging Radios

FINANCE DEPARTMENT

- 4) Acknowledge the Following Volunteers for Worker’s Compensation Purposes: Sue Aker (RSVP+), Betty Goddard (RSVP+), Harlene Hill (RSVP+), Bernard Iszler (RSVP+), Laura Iszler (RSVP+), Candace Laursen (RSVP+), Maren McKelvie (RSVP+), Diana Metzger (RSVP+), Cleo Miller (RSVP+), Don Paklin (RSVP+), Mary Pavlicek (RSVP+), Robert Pavlicek (RSVP+), Jerelyn Riemer (RSVP+), Ralph Riemer (RSVP+), Robert Schneider (RSVP+), Kathleen Schneider (RSVP+), Ruth Ann Schwartz (RSVP+), Albert Setera (RSVP+), Laceta Setera (RSVP+), Richard Tinker (RSVP+), Romona Tinker (RSVP+), Sharon Thorman (RSVP+), Rena Boersma (RSVP+), Sandy Prante (RSVP+), Terry Prante (RSVP+), Sharon (Sherry) Scudder (RSVP+), Lori Lois Kunka (RSVP+)

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- 5) LF072920-01 – Acknowledge Annual TID Report to Council
- 6) LF072920-02 – Acknowledge June 2020 General Fund Cash Balance Report
- 7) LF072920-07 – Acknowledge Report on Retail (on-off sale) Malt Beverage Licenses Eligible for Video Lottery

COMMUNITY DEVELOPMENT

- 8) LF072920-04 – Approve Final FY19 Consolidated Annual Performance and Evaluation Report (CAPER)
- 9) LF072920-05 – Approve Preliminary FY20 Amendment to Resident Participation Plan

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Items 10 – 14

Public Comment opened – Items 10 – 14

Public Comment closed

FINANCE DEPARTMENT

- 10) LF071520-01 – Salamun moved to approve the Second Reading and Recommendation of Ordinance No. 6432 Regarding Supplemental Appropriation 4 for 2020. Second by Jones. Roll call vote taken with Drew, Lehmann, Jones, Salamun and Armstrong voting “yes”. Motion carried unanimously.
- 11) LF071520-02 – Jones move to approve the Second Reading and Recommendation of Ordinance No. 6433 Regarding Supplemental Appropriation 5 for 2020. Second by Salamun. Roll call vote taken with Drew, Lehmann, Jones, Salamun and Armstrong voting “yes”. Motion carried unanimously.

COMMUNITY DEVELOPMENT

- 12) 200A005 – Salamun asked for clarification on this ordinance amendment. Assistant City Attorney Kinsley Groote said this amendment removes the front setback restriction for RV’s and trailers that would be parked in that setback because a large number of properties are not in compliance given that people currently keep their RV’s, boat trailers, or other trailers there. City Attorney Joel Landeen speculated that the original ordinance was probably put in place for aesthetic reasons so things were not parked in front of houses within the setback making that area clear. He said many of the older homes had detached garages and were set back a ways. Generally the setback is the front of the house; therefore, since most houses built now have the garage right at the front yard setback along with the rest of the house, it is hard to be in compliance, being that anything parked in front of the house is in violation of that ordinance. He said any camper or boat parked in your driveway even if it is not blocking the sidewalk and is off of the street, is technically still in violation. Jones asked if there is a certain length of time an RV/camper/boat can be parked in front until it has to be moved. Groote reported that with the change, there would be no time requirement as long as it meets the other provisions, such as being on a graveled or hard surface. Landeen added that time restrictions can be an enforcement nightmare and they also encourage people to game the system. He used an example of the current restriction for length of time a car can be parked “on-street” (24 hours) with it being apparent that people simply drive around the block, park it again, say they moved it and are compliant, but the car essentially stays on the street all of the time. He believes enforcement would be somewhat difficult because if there were to be a three or four day requirement in place, then someone would have to go out each day and document that it wasn’t moved and prove that it wasn’t moved. Drew asked about cars/trailers parked on both sides of the

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street. Groote said the police department enforces the “on-street” parking provisions. Interim Police Chief Don Hedrick said they do receive calls regarding on street parking and RCPD does go out, take a look, and a large majority are resolved just by talking with the owner. He added that if it becomes a chronic problem there are methods the police department can use to address those. Salamun moved to approve the Introduction and First Reading of Ordinance No. 6388 an Ordinance to Amend Provisions of the Rapid City Municipal Code Relating to the Storage and Parking of Certain Vehicles and Trailers. Second by Lehmann. Roll call vote taken with Drew, Lehmann, Jones, Salamun and Armstrong voting “yes”. Motion carried unanimously.

- 13) PW072820-06 – Sarah Hanzel from Long Range Planning provided a brief presentation with an update on the Historic Preservation Commissions grant projects they are currently working on with education and outreach projects in the community. The Commission has been working on hosting the biannual conference of SD Historic Preservation Commissions which was originally scheduled for March 2020 but has now been postponed to March 2021. Another grant funded project in the works is updating the Historic Context Document and Historic Preservation Plan, which are quite outdated. Once Phase III has been completed of this project, an update will be presented to the City Council. She mentioned other projects/activities include working on social media, working with other institutions to provide presentations and partnering with Downtown Rapid City to help update downtown interpretive signs. Hanzel also shared the number of historic reviews that have been completed with 18 residential applications, 2 commercial applications, and 1 case report in 2019; and 6 residential applications, 2 commercial applications and 0 case reports thus far in 2020. Drew asked Hanzel to explain why the Commission is important to Rapid City and what it brings to the community economically. Hanzel said the commission is important for a lot of reasons especially with the City being a tourism based community. She said telling the story of our community is something that does have a real economic draw with our historic downtown, but it is also about our sense of place here, who we are as a community, the quality of life, our community identity and how we have developed over time. Salamun moved to acknowledge the Update and Report from the Historic Preservation Commission Regarding Current Projects and Activities. Second by Lehmann. Roll call vote taken with Drew, Lehmann, Jones, Salamun and Armstrong voting “yes”. Motion carried unanimously.

ITEMS FROM THE PUBLIC

- 14) LF072920-08 – Todd Gagne shared photos of the building he and partner Matt Ehlman purchased at 406 St. Joseph Street and presented his request for a no build easement over city-owned property located at 416 St. Joseph Street. The owners feel the building does not have much natural light and have added garage doors on both ends to help in adding more natural light. He mentioned that there are not a lot of professional buildings downtown that are housing 50 to 100 people that make \$60,000.00 to \$80,000.00 a year. Their goal with this building is to build something that will be able to bring 100 people downtown with an average salary of \$75,000.00 that can spend their money downtown. The owners started working with architects and found that a big selling point is having a lot of glass on the western side. They feel with it being dark on both sides, it is difficult to make an inviting environment for a hundred people. City Attorney Joel Landeen explained that the lots that are adjacent are currently a parking lot and at this point it would not harm the parking lot, but the problem is as staff looks at this request, when considering the long term, it probably will not remain a surface lot. He went on to say that if the City has now put an easement across it, it prevents someone from building to the property line impeding their ability to develop that property, which then decreases the value of that property in the future. Landeen said that any business that is going to devalue their property would ask for compensation for that or expect something in return. He noted that a discussion has taken place with the owners who are seeking the easement and they were not interested in doing that. Landeen said his understanding is that the owners did offer to purchase the lots but because the City needs that parking right now, the City is not ready to sell that lot. He conveyed that selling the lot is a potential option but then there are people that lease space there that may not have a spot to park. Landeen said during staff discussions another option

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presented was entering into a covenant agreement allowing the owners to obtain a permit to install windows but if at some point in the future that property is developed and those owners want to build a building up to the property line, then they would have to remove the windows at their own expense. The City does not have any specific development plans right now, so that would allow the owners to do what they are proposing to do and then if that property never develops, the City has not decreased the value of the property and preserves that for the taxpayers and for anyone who would be interested in purchasing that property. Staff prefers that if the City is going to give up the ability to develop or it decreases the value of this lot in the future, there should be some type of compensation; or look for an alternative that potentially allows the owners to move forward with their project in a way that does not decrease the value of the property; or at least keeps the options open in the future for development. Gagne said Mr. Ehlman told him that \$20,000.00 was offered but nothing came back from the City, so they are trying to understand that if there was a compensation offer out there, how they can get back to that because if it is something that is reasonable, Gagne believes they are open to that option. Finance Officer Pauline Sumption commented that unless the conversation happened between only Wade and Matt, there was no conversation during their discussions about the owners paying any money and that Mr. Ehlman was rather adamant that he was not interested in paying for the easement. Gagne said that is different from what Mr. Ehlman had told him and if it is a miscommunication, after talking to Mr. Ehlman since the discussions with the City, Gagne feels they would be interested in talking about that if that were an option. Landeen said unlike a purchase, it is a little harder to come up with a value for an easement, but if it is something that the owners are now open to having that discussion, it would be easier for the Council to decide if they want to pursue that or not. Drew asked Landeen and Gagne if the item should be continued and allow them to come back and present a different option. Landeen said he would like some guidance from the committee as to what their view is currently, because even if the City obtains \$20,000 or \$30,000 now, it is going to impact the ability to develop that property. He said the dilemma the Committee has is that there is a sure project ready to go now that the Committee probably thinks is a good idea, and it is hard to sacrifice that for some vision of the future that may or may not come true; but one of the things that should be considered is the vision for that corridor and the vision is not to have a lot of surface parking but more development like you see on Main and St. Joe now, between Rushmore Road and 5th Street. Landeen said the question the committee has to ask themselves is: do you want to sacrifice the sure project right now for that vision, because it is not going to allow someone to build right up to the property line. Jones asked Gagne if they have to have windows on that side of the building and is it a no windows no project deal or what are the other options. Gagne said it certainly detracts from what they can do inside, but does not know if it kills the project in total, but it would send them back to the drawing board to figure out what else they can do to create light in there. Gagne added that adding windows now, but the possibility of having to remove them later, is not something they want to do because if they ever want to sell the building, that is something that detracts from the resale value. Salamun added his comments regarding the positive impact of this business and believes this is actually in line with the vision of what the City wants for this area. He would personally like to see a negotiation for the easement at a reasonable rate. Landeen asked Gagne about his timeline for the project and if the item can be continued for two weeks to have further discussions. Gagne feels that would be fine since this is a pretty important milestone for them. Salamun wants to make sure all of the information is out there so the owners don't feel like they are wasting their time. Salamun is leaning towards option three on the current list of items presented from city staff, but would like to make this happen one way or another and would like the owners to have the ability to come back with a pretty clear agreement, but at the same time being careful that the City does not just give that part of the parking lot for nothing either. Drew asked Landeen if there is any obligation to window size or can they put smaller windows in or are there no fireproof windows? Landeen said windows are expensive and if windows are put in, it does create problems because even if you buy really expensive windows that are fire rated so you can obtain the permit, if in five years the City sells that lot and somebody builds up against it, now the window is just black because it is up against a building, which is not an ideal solution for them either. Lehmann moved

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to continue the Request from 11 Main, LLC for No Build Easement Over City-Owned Property Adjacent to 415 St. Joseph Street to the August 12, 2020 Legal and Finance meeting. Second by Salamun. Roll call vote taken with Drew, Lehmann, Jones, Salamun and Armstrong voting "yes". Motion carried unanimously.

Jones asked the Chair for a point of privilege. Jones is concerned that there is still a tremendous amount of fireworks going off in the neighborhood in Ward 1. He is going to use every possible platform to bring attention to this issue. He is hopeful that something can be done to address this because it is causing a major amount of disruption in their neighborhood and many of the residents are very tired of it and are calling and asking help from the City to get this resolved. He is looking for directions to try to solve this.

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 1:16 p.m.