

LEGAL AND FINANCE COMMITTEE MINUTES
Rapid City, South Dakota

September 30, 2020

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, September 30, 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 Jones second by Armstrong to adopt the agenda. Motion carried unanimously.

GENERAL PUBLIC COMMENT

None.

CONSENT ITEMS

Motion was made by Armstrong, second by Lehmann to approve Items 1-6 as they appear on the Consent Items. Motion carried unanimously.

CONSENT ITEMS -- Items 1 – 6

Public Comment opened – Items 1 – 6

Public Comment closed

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

- 1) Approve Minutes for September 16, 2020

MAYOR’S ITEMS

- 2) LF093020-05 – Confirm the Appointment of Shawna Retka and Domico Rodriguez to the Public Parking Advisory Board

FIRE DEPARTMENT

- 3) LF093020-02 – Authorize Staff to Apply for and Accept if Awarded a Hazardous Materials Emergency Preparedness (HMEP) Grant in the Amount of \$38,786.00

FINANCE DEPARTMENT

- 4) Acknowledge the Following Volunteers for Worker’s Compensation Purposes: Nancy Harder (RSVP+), Shery Perry (RSVP+), Molly Salcone (RSVP+)
- 5) LF093020-01 – Acknowledge July 2020 General Fund Cash Balance Report
- 6) LF093020-03 – Approve Resolution No. 2020-076 a Resolution Declaring Miscellaneous Personal Property Surplus to be Donated

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Items 7 – 10

Public Comment opened – Items 7 – 10

Justin Herreman spoke on Item No. 7, his request to approve a resolution supporting the creation of a recreation area in the Upper Rapid Creek Watershed. Several companies from outside South Dakota who seek to profit from the gold that they think is buried in the rock in the National Forest above Pactola. Dr. Jerry Wright calculated that every gallon of water stored in Pactola and flowing down Rapid Creek has a value of \$2.9 billion dollars per year. The value of that water in a year far out values any positive economic impact that mining operations in that Upper Rapid Creek Watershed action might ever generate over its lifetime. Our economy is based in agriculture and tourism. Both of which are highly dependent upon this water. No hard rock mining operation in the Black Hills has ever not negatively impacted water quality downstream. Colorado's Gold King Mine spill in southwestern Colorado caused the river to turn orange. The City closed their water intakes, farmers and ranchers closed off irrigation and lost crops and livestock, and the active tourism industry was crushed for a season. What would happen to Rapid City if this happened to Pactola and Rapid Creek? With the contamination how would are city survive? Who is going to pay for the cleanup once the company declares bankruptcy and walks away from that mine. The damage claims from that spill in Colorado exceeded \$2.4 billion dollars, they have spent \$75 million dollars just to clean up the mine site in the last four years and plan to spend another \$65 million in the next 3-5 years. You as Council members have a moral and fiduciary responsibility to our community to please pass this resolution, secure the water and the future of our community.

Jim Franz spoke on Item No. 8, the proposed Ordinance No. 6445 regarding the keeping of hens on residential properties. He strongly disagrees with the statement in part, "the benefits outweigh any potential issues they may cause." He would like to address three issues: 1) reduction of property values; 2) disease potential; and 3) the ability to enforce and the role of the Humane Society. He fears that someone who has chickens in their back yard will affect his property value as their coop could potentially be closer to his home than their own. He suggested changing the wording in section C3 that coops "should" be well ventilated, coops "should" provide for at least 2 square feet per bird, every other reference throughout the ordinance uses the word "shall", he would like that changed. According to the CDC website there has been 1,340 cases of salmonella related to contact with poultry in backyard flocks. We need to protect our children, they must be supervised around the hens. He is personally not that concerned with the chickens, he is more concerned about the vermin that will come into our neighborhoods because they will know the hens will be back there. He is wondering who will enforce the ordinance on the criteria of the coops. The Humane Society has already had 22 chickens surrendered, 6 were seized and 3 strays. They are not equipped for poultry. They need to provide food, a medical exam and to rehome them which further strains their budget.

Jerry Steinley, Director of the Humane Society of the Black Hills spoke in opposition to Item No. 8. To echo some of the talking points Mr. Franz stated, the Humane Society is against the ordinance. They are not equipped for chickens, currently they put chickens in dog kennels. It's not a good environment for them, they bring health concerns, which increases their cleaning needs. Increase on enforcement, they will have to hold them for a three day stray period until the owner picks them up or they put them up for adoption. They will see an increase in noise complaints, dogs chasing chickens, vermin and smell complaints. There is a lot of gray areas in the ordinance that their officers will try to enforce.

Corey McKenna spoke in favor of Item No. 8. He noted the concerns are cleanliness, noise and where the chickens will go if they are not cared for. He feels that this ordinance's purpose is to regulate all of those concerns. Through COVID he has noticed that there are certain items that are not on the shelves and there is a panic in that and he believes more people need to be self-

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sustaining. He feels that in this uncertain time this is a good time to get creative and put some rules on this and manageable.

Cody Brown spoke in favor of Item No. 8. He assists with the RC Hens Facebook page and helping spread knowledge about the ordinance. He is a realtor here in Rapid City and he knows people are looking to move to our community and are looking for sustainability. Those people find it interesting that Sioux Falls allows chickens, Rapid City does not. He understands the cleanliness concern, but he does not believe people will go out and spend the money to set up the coop and then not take care of them. He feels that the ordinance will help control the people that do not. He has personally seen some setups that are in town and how they are kept responsibly. He would love the opportunity for his son to do 4-H and this would allow them to do so without having to drive outside of the City. He has agreed to volunteer along with many others from the Urban Hen group and neighboring farms to help with stray chickens. They would be responsible to go pick them up and hold them in their coops. He feels this is healthy for the community and has the potential to bring neighbors together.

Lennon Held, a young citizen spoke in favor of Item No. 8. He has witnessed other citizens who already have coops and they are very cared for quiet and clean. He thought it was important to speak for something he is interested in having himself.

Jay Davis spoke in support of Item No. 7, the resolution supporting the creation of a recreation area in the Upper Watershed Area. Water is precious and critical to our economy. Pactola is a recreational gem for the Black Hills and for Rapid City. We all need clean water and Rapid Creek is our source of water. Our congressional delegation could sponsor legislation to permanently protect the Upper Rapid Creek Watershed. There is precedent for this in other parts in the U.S., public lands in a national forest in Washington was withdrawn permanently from potential mining and designated a recreational area partly because there was a large ski resort nearby.

Public Comment closed

ITEMS FROM THE PUBLIC

- 7) LF093020-06 – Jones asked Mr. Herreman what the status is on the request of the congressional delegation at this time. Herreman stated they have received positive feedback from all three congressional representatives. They are looking for local support from the government entities and once that has been given then he will take action on the request. The representatives said they need the resolution from the Council and the legislation will follow. Armstrong wanted to clarify that we did pass a resolution protecting Rapid Creek, but this one is different because it pertains to the Pactola area. She feels that most, if not all of the Committee either ran on economy, infrastructure, and/or quality of life and this fits in very well. We have fiduciary and ethical duty to protect our water sources. She commends Mr. Herreman, Mr. Davis and the group behind this and fully supports this resolution. Salamun clarified with City attorney Joel Landeen what this resolution accomplishes. Landeen explained that the resolution does not commit you to anything other than it will be used as a tool stating the City supports this action. This is more than a statement of support from the Council protecting the water, it is a statement that supports the creation of a recreation area. Salamun is 100% behind this resolution and effort. Pactola is a reservoir for our water and if this helps to send a message to our congressional delegation then so be it. Jones asked as far of legal authority, because Pactola Lake is not in City limits we do not have legal authority to do anything at Pactola Lake. Landeen confirmed. Jones also asked if there is any downside of supporting the resolution. Landeen does not feel that is a legal question, it is more of a political position. Jones supports this resolution. Armstrong moved to approve the Request from Justin Herreman on Behalf of Rapid Creek Watershed Area to Approve the Attached Resolution Supporting the Creation of a Recreation Area in the Upper Rapid Creek Watershed. Second by Jones. Motion carried unanimously. Drew is very proud of this committee for passing this resolution.

CITY ATTORNEY

- 8) LF093020-04 – Salamun understands this is a very controversial issue that is very split opinions. Since he returned to Council he has felt open to the discussion as long there are proper guidelines in place and he feels that this ordinance does a good job. He did contact Sioux Falls to discuss their experience and any issues that have come up with allowing hens in residential areas. Sioux Falls has had very few major issues. A few roosters have come up and people not following the ordinance. He does feel that the enforcement part of this still needs to be worked out. He appreciates that the Rapid City Hens group is willing to work with the Humane Society on enforcement. Keep in mind, if you live in a home owners association, they govern those areas so be sure to check with them before purchasing a coop. Salamun stressed to be respectful to your neighbors. Lehmann asked to hear from his constituents regarding this ordinance and he received an overwhelming number of responses against it in his Ward, therefore he will not be voting in favor of this ordinance. Armstrong echoes Salamun’s sentiments, she also contacted Sioux Falls, and they have not had any problem with enforcement, no significant drop property valuation, and no mass salmonella cases. She does not foresee masses of people going out and buying items, to have chickens. HOA’s and their restrictions and covenants will weed through this. This is a good opportunity to be a good neighbor, she supports this ordinance. Jones also put word out to his constituents that discussion of this ordinance was going on and he wanted to know what people had to say. He received several emails and phone calls and the outcome was 70% against and 30% in favor, which is overwhelming to him. Their main concerns were noise, smell and predators. He feels the timing of this is an issue, right now many people are barely hanging on the day to day they are financially, emotionally and employment insecure. Based on that and everything else he has observed and heard, it seems to him that the time to bring on something like this, is when things are better and people are more willing to try to do something different rather than at the height of fear and concern and distress most people are in right now. Because of all of that he will not support the ordinance. Drew disagrees that our community is in that much stress, she feels Rapid City is doing pretty well. She feels the time is now, Drew does support the ordinance. Young people want it and they are our future, they are worth it, it’s not rocket science, its chickens. Drew feels we can solve this and we have people that want them to have some control over what they eat. Salamun moved to approve the Introduction and First Reading of Ordinance No. 6445 an Ordinance Authorizing the Keeping of Hens on Certain Residential Properties in the City by Amending Section 6.08.020 of the Rapid City Municipal Code. Second by Armstrong. A vote was taken with Salamun, Drew, and Armstrong voting “yes” and Jones and Lehmann voting “no”. Motion carried (3-2).

COMMUNITY DEVELOPMENT

- 9) 20OA007 – Salamun moved to approve the Second Reading and Recommendation of Ordinance No. 6439 an Ordinance Amendment to Amend Fence Height Provisions by Amending Section 17.50.340 of the Rapid City Municipal Code. Second by Jones. Motion carried unanimously.
- 10) 08TI004 – Lehmann move to Approve Resolution No. 2020-075 a Resolution to Dissolve Tax Increment District No. 68 for Property generally described as being located at the eastern terminus of Homestead Street. Second by Jones. Motion carried unanimously.

Point of Privilege – Laura Armstrong reminded everyone that early voting is going on now. You can register to vote by going to the Secretary of State website or you can go to the Auditor’s office until November 2nd. In addition, the Council has an open seat for Ward 1, so please make sure to go out and vote.

ADJOURN

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