

LEGAL AND FINANCE COMMITTEE MINUTES  
Rapid City, South Dakota

September 15, 2021

A Legal and Finance Committee meeting was held at the City Administration Center in Rapid City, South Dakota, on Wednesday, September 15, 2021, at 12:30 p.m.

A quorum was determined with the following members answering the roll call: Lance Lehmann, Darla Drew, Ron Weifenbach and Jason Salamun Absent: Ritchie Nordstrom.

(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 Lehmann second by Weifenbach and carried to adopt the agenda.

**GENERAL PUBLIC COMMENT**

None.

**CONSENT ITEMS**

Motion was made by Salamun second by Weifenbach and carried to approve Items 1-6 as they appear on the Consent Items with the exception of Item Nos. 1, 3, and 4.

**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

**INFORMATION TECHNOLOGY**

- 1) LF091521-02 – Information Technology Director Jim Gilbert explained that this item is a contact with KT Connections to replace our aging audio system that includes a lot of labor and upfront costs that will produce a system that is mobile that we will be able to take to other rooms and other locations outside of the City. Drew noticed there is only one source for this, do we ever go outside the City for bids like this? Gilbert answered that the main component is a Shure product, you contact Shure, and they put you in touch with the Regional branch and then they put you in touch with a certified local vendor. There is guaranteed pricing that is given to people that are their partners so there is no meat on the bone for other people. Salamun moved to approve Authorize Mayor and Finance Director to Sign Contract Between KT Connections and the City of Rapid City and Authorize Staff to Purchase and Install Updates to the Council Chamber Audio System. Second by Weifenbach. Motion carried.

**FINANCE DEPARTMENT**

- 2) Acknowledge the Following Volunteers for Worker’s Compensation Purposes: Michelle Porter (Library), Sandy Gest (RSVP+), Monica Ingalls (RSVP+), Judith Luebke (RSVP+), Karen Muller (RSVP+), Vi Rosedahl (RSVP+), Thomas Secrest (RSVP+), Edward Shimp (RSVP+), Linda Shimp (RSVP+)
- 3) LF091521-01 – Finance Director Pauline Sumption wanted to clarify this item further as the County purchased an old building downtown on a tax deed and they are exempt from the downtown BID assessment. This item is to abate that amount for the County. Weifenbach moved to Approve

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Request for Property Tax Abatements as Follows: Pennington County (Tax ID 37602) 2020, \$1,441.12 [Total for City of Rapid City: \$1,441.12] Second by Lehmann. Motion carried.

- 4) LF091521-03 – Drew asked Interim Community Development Director Vicki Fisher how these properties end up on this list. Fisher explained that these are properties that the City received complaints on and the property owner failed to address the issue themselves. The City then abates the property to recover the fees for someone perform the duties. Drew is concerned that the City itself should be held accountable for our City lands to be maintained properly if we are going to expect the public to comply with this. Fisher further explained that the properties on this list are identified as public nuisances and we have given the owner time to rectify the situation before the properties are abated. The ones on the list simply have not complied and it got to the point that the City had to do something for safety. Weifenbach questioned whether or not our fees are high enough to deter frequent flyers on the list. Fisher said the main complaint is that our fees are too high, when in reality the City is trying to recover the money spent on the contractor to do the job. The City is not making any money on these assessments. Weifenbach asked if there is an elevated fee system for repeat offenders. Sumption clarified for Fisher that there is a fee elevation built in but it may not be sufficient enough to grab their attention. Weifenbach moved to Approve Resolution No. 2021-088 a Resolution Levying Assessment for Abatement of Nuisances. Second by Lehmann. Motion carried.

### **COMMUNITY DEVELOPMENT**

- 5) LF091521-05 – Authorize Mayor and Finance Director to Sign funding Approval/Agreement for FY 2021 Community Development Block Grant Funding
- 6) LF091521-06 – Authorize Mayor and Finance Director to Sign the State of South Dakota Agreement/Letter of Agreement for the Air Quality Program

END OF CONSENT CALENDAR

### **NON-CONSENT ITEMS** – Items 7 – 12

**Public Comment opened** – Items 7 – 12

**Public Comment closed**

### **COUNCIL ITEMS**

- 7) WS090121-08 – Salamun asked Human Resources Director Nick Stroot to clarify this item since there are no attachments. Stroot explained that this item was brought to this Committee at the request of Alderman Nordstrom and that he did resend his original letter last week just to say that this is being considered here is my original letter for reference. Weifenbach stated this same agenda item was on the Council agenda and there is nothing here to move on, he is not sure what to do. City Attorney Joel Landeen explained that after the Council approved the hazard pay for Police and Fire, the AFSME Union president came forward to the Council and stated that the original this proposal that was made when you asked for a funding request from the undesignated cash or the surplus was for all employees employed during the pandemic to get a bonus. The Union is basically looking for a decision either way on the COVID bonus. This is how this item continues to get on the agenda. It becomes confusing when it is described as hazard pay rather than a bonus because then it the question is, who qualifies for hazard pay. At the Director level along with the Mayor the discussion to determine who qualifies for hazard pay became difficult. It got to the point to where they discussed not calling it hazard pay but simply calling it a bonus as a thank you for what you had to do during the pandemic and the fact that it was not an ideal environment. There was a bonus for the Police and Fire and the other employees are asking if they are going to be included. Mr. Stroot outlined who would qualify for the bonus in his original letter. If the Council would like to call it hazard pay, then we would have to decide who qualifies and that is another

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rabbit hole to go down. From the leadership executive side, we supported and what was brought forward was what Mr. Stroot originally proposed. Sumption clarified the title of the agenda item to show the intent to actually get a vote one way or the other. Weifenbach moved to send Reconsider Authorizing COVID Hazard Pay for Non-Public Safety City Employees to Council without recommendation. Motion died for lack of second. Drew said she has had a change of heart on how she has looked at this because she was on the Council during this time and she remembers how members on the Council would be berated by the public while discussing the mask mandate and that was only twice a month for a couple of hours. The City employees had to deal with these types of things every day and the City could not operate without all of the departments. She understands why the City employees deserve to have the bonus pay. Drew asked Sumption how much money we are talking about for these bonuses. Sumption believes that the original request for employees that were employed in 2020 and still employed by the City today. Stroot believes that in April the number was around 446 employees but that number has decreased since then. Salamun believes this is worthy of consideration and he noted that he appreciates the City employees and we need to value the good ones that stay. He does believe there is a distinction between hazard pay and bonuses. We want to retain those good employees who work for the City, there is a high cost of turnover and to replace an employee can cost up to \$15,000. This is a prudent reason to consider a bonus for employees. By keeping great employees it saves money in the long run, he is open to giving the bonuses for morale and an investment in the future. He does not believe it is in the same category as hazard pay though. He also does not believe that any elected officials should receive this bonus. Lehmann made a motion to pay a bonus of \$500 to all eligible City employees, other than the public safety employees who received the previous hazard pay bonus, from undesignated cash and he moved to take Reconsider Authorizing COVID Hazard Pay for Non-Public Safety City Employees to Council without recommendation. Second by Salamun. A roll call vote was taken with Salamun, Lehman and Weifenbach voting Yes and Drew voting No. Motion carried (3-1).

### **MAYOR'S ITEMS**

- 8) LF091521-07 – Chief Don Hedrick introduced Alan Solano, President and CEO of the John T. Vucurevich Foundation, Barry Tice, Director of the Pennington County Health and Human Services, as well as Pennington County Sheriff Kevin Thom. Chief Hedrick would like to commend the work that this group has been doing over the past year. We are trying to address a need locally for more mental health services. One thing that law enforcement runs into frequently is the lack of resources here but also if you have someone that needs long term care or long term services there are not a lot of great options and many times they have to be shipped across the state away from their support systems. Pennington County Sheriff Kevin Thom explained this project started back in 2015 Helmsley Charitable Trust funded a study on South Dakota mental health and then it went through a litany of things over the next five or six years. Chief Justice Gilbertson had a task force in 2016, and in 2017 legislature addressed some of it, 2018 and 2019 summer studies, and then legislative action in 2020 addressing mental health. The Helmsley Foundation through Barry Tice's office funded money for a study to look at mental health services in western South Dakota. Out of that report, the number one recommendation was a crisis stabilization unit in western South Dakota. Currently at the Sheriff's Office they transport many people a year to the human services center in Yankton and this would divert the vast majority of those. This would give us another immediate step up to a 5 day hold. The building will be placed on the Care Campus on County property. The cost to build skyrocketed so they are \$1.6 million short. The Legislature provided \$4.6 million through the last session, the County Commission approved \$300,000 and a local foundation is going to provide \$500,000. They are closing in on their goal amount but they are still short for the funding. They are asking the City to provide \$500,000 and they are working with other community partners to help make up the rest of the shortfall. Alan Solano, President and CEO of the John T. Vucurevich Foundation, this has been a long process and part of that was to get the State legislation to support this. In the 2020 summer study a bill was put in to allow a broader range of what is called an appropriate regional facility. Prior to that law taking effect July 1<sup>st</sup>, 2021, the only places a person put on a mental health hold could go was to Monument's Behavioral

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Health in Rapid City, Avera's Behavioral Health in Sioux Falls, St. Luke's Behavior Health in Aberdeen or to Human Services in Yankton. Otherwise an individual could be held in County or City jails whatever was available. This facility will be designated as an appropriate regional facility. In 2020, there were 1,531 petitions in Pennington County for involuntary mental health commitment. These petitions are discharged quickly less than 24 hour, 1 day, 2 day, 3 day. The Crisis Stabilization Unit would be able to serve people for up to a 5 day period. Of that 1,531 the Unit would cover all but 63 individuals that would have been put into in-patient care in Monument Health previously. When you look at those costs, the minimum out-patient hospital costs would have been just over \$3.5 million. You have a right to go through a mental health hearing at an estimated cost of \$75,000. The costs of law enforcement to transport the individual to and from Yankton there is a financial impact to our community. Someone that is struggling with a mental health crisis with going through in-patient hospitalization with the likelihood that they will have to be hundreds of miles away from their support system. Salamun asked Chief Hedrick and Sheriff Thom what is the frequency of what you see daily that might benefit from this type of program. Chief Hedrick noted specifically alcohol or drug usage that is one of the primary drivers behind a lot of the response to calls. We do have existing programs for those people, however it is a very short time period with limited options for those who need more or longer care. Having the option to provide longer term care services locally would be beneficial. Salamun stated some concerns he has heard in the community is that we are diverting criminals into mental health care or substance abuse programs rather than having them deal with the justice of their crime. Sheriff Thom responded that the Crisis Stabilization Unit itself and mental health this is not a jail diversion or a prosecution diversion program, that is a different discussion that substance abuse. Mental health is separate discussion than that. Weifenbach feels that he can support this, as long as he has been on the Council, he has only seen one opportunity for us to step up and help with mental healthcare in our community. And the people who have been effected by mental health, they realize the consequences and these people need help today, not tomorrow. How are we funding the employees and staff of the facility? Mr. Solano explained that we are already spending the money, we are just not spending it efficiently. Just in the in-voluntary commitment side of it, currently in Pennington County itself, the cost is about \$4.1 million. This can be done for significantly less. The western region is looking to partner with 11 other counties that this facility could serve. Drew asked about the size of the facility, how many beds will it have? Sheriff Thom said there will be 24 beds, 8 crisis care and 16 crisis stabilization beds. Drew asked who makes the determination on who goes to the facility. Mr. Solano explained that a person can file a petition, the petition goes to the mental health board and they determine if there is probable cause, if there is, the individual is taken into the appropriate facility. Law enforcement may encounter someone that they believe meets the definition and a physician in an ER has the same ability as law enforcement. Within 24 hours of the petition, the individual must be assessed by a qualified mental health professional to see if they meet the legal guidelines. Every 24 hours they are re-evaluated. Within 5 days per state statute the board of mental health they must conduct a hearing to determine if that person would be committed into long-term in-patient care which could be up to a 90 day stay. Drew also made a suggestion to change the name of the facility because no one knows what that is, she felt calling it something more direct would be easier. Salamun moved to approve Request for Funding for the Implementation of a Crisis Stabilization Unit at Pennington County's Care Campus to Supplement Funding from the State of South Dakota and Pennington County. Second by Weifenbach. Motion carried.

- 9) LF091521-04 –Traci Hanson from Ketel Thorstenson thanked Sumption and Dave Yuhas for their efforts during the audit process. The process went well, the end result was unmodified opinion that is the clean opinion as the result of an audit process. They did have a couple of findings, one related to internal controls of the City, the second audit adjustments that were recorded during the process, and the third related to following state law in some certificates of deposits. In addition to the financial statement audit, they also conducted a compliance audit. They took a look federal funding including the Corona virus relief funds. There were no compliance findings. Drew asked

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what internal charges, is this our interdepartmental charges? Traci explained this is internal control meaning processes, is there adequate separation of duties between the departments. There were a couple of suggestions for improvement on those processes. Weifenbach moved to Approve Audit Report of City of Rapid City – 2020 Financial and Compliance Report. Second by Lehmann. Motion carried.

**COMMUNITY DEVELOPMENT**

10) 21OA003 – Interim Community Development Director Vicki Fisher prepared a presentation to explain how the zoning districts were established. This presentation will be presented on Monday at the Council meeting. Salamun gave kudos to Fisher and her team as well as the other Council members involved for creating a clear zoning without ambiguity without question marks. He is comfortable with the zoning the way it is. Fisher credits the City Council for this document being as clear as it is because of the work that the Council put in in providing the direction that they wanted to see. Weifenbach agreed to what Alderman Salamun said he appreciates Fisher’s work and this is what he foresees the Council and the Department heads to be able to move forward on things where we have concerns. Salamun moved to approve Introduction and First Reading of Ordinance No. 6500 an Ordinance to Adopt Comprehensive Zoning Regulations for Medical Cannabis Establishments by Amending Title 17 of the Rapid City Municipal Code. Second by Weifenbach. Motion carried.

**CITY ATTORNEY’S OFFICE**

11) WS090121-18 – Lehmann asked Landeen to clarify the small adjustment that was made to the ordinance. Landeen explained that in addition to the changes we were directed to make at the last meeting, we were looking at the timeline and it became apparent that the State was going to adopt the rules at their meeting last Monday. So the effective date of the rules would have been early October. We spoke to the Journal about publication and even if we published right away, the effective date of the ordinance would have been after the rules were effective. So he added in an emergency provision that says the ordinance is necessary to preserve the public health, welfare and safety of the community. The effect of that addition, is that if you approve the second reading it will make the ordinance effective upon publication and so it will be published before October making the City licensing rules will be in place before the State rules. Salamun asked for clarity on the options on the number of licenses. One we could have taken no limits on the amount of licenses, another option would be like Sioux Falls to have a very small number of licenses and expand that later, it looks like the Council at first reading settled on the number of 15 based on the number of pharmacies in town. How did we arrive at that number? Fisher explained that the working session members looked at the function of one of these establishments in that it is a medical cannabis establishment, you have to go to a physician, then you have to be certified for an allowed medical condition and then you go to the dispensary and purchase your product. This fell in line with how we would currently acquire other medications prescribed by a doctor. We currently have 18 pharmacies and the compromise that Council members came up with is that since the dispensaries are only selling one product, then lets lower that number and 15 was the number everyone felt comfortable with. Weifenbach added it boiled down to what Council agreed upon at first reading based upon the criteria of the zoning, the number of population and how many pharmacies. Our approach was to do more of what the State was doing. Weifenbach moved to approve Second Reading and Recommendation of Ordinance No. 6505 An Ordinance to Adopt Rules Governing Medical Cannabis Establishments by Amending Chapter 5.74 of the Rapid City Municipal Code. Second by Lehmann. Motion carried.

12) WS090121-22 – Lehmann moved to approve Second Reading and Recommendation of Ordinance No. 6507 an Ordinance Amending Chapter 2.64 of the Rapid City Municipal Code to Implement the Recommendations Made by the Human Relations Commission Task Force and Reflect the Terms of the Memorandum of Understanding with the Mniluzahan Okolakiciyapi Ambassadors. Second by Weifenbach Motion carried.

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**ADJOURN**

There being no further business to come before the Committee at this time, motion was made by Weifenbach second by Lehmann and carried to adjourn the meeting at 1:40 p.m.