

LEGAL AND FINANCE COMMITTEE MINUTES
Rapid City, South Dakota

July 27, 2016

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, July 27, 2016, at 12:30 p.m.

A quorum was determined with the following members answering the roll call: John Roberts, Amanda Scott, Steve Laurenti, Jerry Wright and Lisa Modrick. 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 Modrick to add Item No. 18A, second by Wright and carried to adopt the agenda as amended.

GENERAL PUBLIC COMMENT

None.

CONSENT ITEMS

Motion was made by Laurenti, second by Scott and carried to approve Items 1-11 as they appear on the Consent Items with the exception of Item No. 11.

- 1) Approve Minutes for July 13, 2016

MAYOR'S ITEMS

- 2) No. LF072716-03 – Confirm the Reappointment of Chris Connelly to the Hotel Business Improvement District (BID) Board
- 3) No. LF072716-06 – Confirm the Appointment of Ross McKie and Lisa Modrick and the Reappointment of Anna Huntington to the Performing Arts Board

FIRE DEPARTMENT

- 4) No. LF072716-04 – Authorize Fire Chief to Sign Mutual Aid Agreement with Ellsworth for Ambulance Mutual Aid

FINANCE DEPARTMENT

- 5) Acknowledge the Following Volunteers for Worker's Compensation Purposes: Elyse Jensen, Julianna Miller, Madison Romeo, Ashley Parr, Ashton Parr, Al Calderon
- 6) No. LF072716-02 – Acknowledge June 2016 General Fund Cash Balance Report
- 7) No. LF072716-07 – Approve Request for Property Tax Abatement as Follows: Alan Skeen, 2015, \$192.50
- 8) No. LF072716-11 – Resolution No. 2016-054A Fixing Time and Place for Hearing on Assessment Roll for Cleanup of Miscellaneous Property

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COMMUNITY RESOURCES

- 9) No. LF072716-09 – Authorize Mayor and Finance Officer to Sign FY2015, SF-424 and Certifications and Approve Final Consolidated Annual Performance and Evaluation Report (CAPER)

- 10) No. LF072716-12 – Authorize Mayor and Finance Officer to Sign Master Service Agreement, Addendum to Master Service Agreement and Two Service Orders with Midcontinent Communications

CITY ATTORNEY'S OFFICE

- 11) No. LF072716-08 – Laurenti moved to acknowledge Update to Council Regarding Ordinance Regulating Short Term Rentals. Second by Wright. Motion carried.
Scott asked Assistant City Attorney Carla Cushman if she will be giving a presentation on Short Term Rentals. Cushman stated this item is on the agenda today because previously Council directed staff to bring back an ordinance within 90-120 days. That deadline is tomorrow, so in an effort honor the deadline this item was placed on the agenda. The City Attorney's Office is still in the process of drafting an ordinance and intend to have it ready for the Planning Commission's meeting at the end of August.

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – **Items 12 - 18**

Public Comment opened – **Items 12 - 18**

Public Comment closed

Dennis Halterman, citizen of Rapid City who owns a residence in the neighborhood of the Dove Christian Center spoke against the planned motocross event during their fair in August. Halterman stated the issue is not about religion at all this is about the location of the church and types of events in which they have. The Dove conducts many events that are good for the community and does not affect the neighborhood as much as these larger events do. This motocross event is beyond the boundaries of what the low density residential area zoning allows. There is one lane of traffic in and out of the neighborhood which become clogged when these larger events occur.

Mike Quasney, citizen of Rapid City, 1512 Lark Drive, a neighbor of the Dove Christian Center also voiced his concerns about the planned motocross event. Quasney feels this type of an event should not be held in an area which is zoned as low density residential. An event of this size should be held at a more appropriate location such as the Civic Center or the fairgrounds which can facilitate the larger groups and can accommodate parking.

Adam Foote, Administrator for the Dove Christian Center was present and available to answer any questions with regard to Item No. 18.

Timothy Stuen, Senior Pastor of the Dove Christian Center spoke in favor of the Dove County Fair "freestyle motocross event" which is not a racing event. The event will be approximately four people on motorcycles doing jump which he believes will help people see the Lord. He feels their church is there represent the Lord and let as many people as possible see it through whatever avenue they see fit. There is no regulation biblically on how to preach the gospel other than you just make sure Jesus is glorified and that the body of believers are excited about that and so that is what the Dove wants to portray and display a let people have an avenue that is family fun and supports our values. The event is also planning to honor law enforcement at the event and to let them know we appreciate their services.

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ALDERMAN ITEMS & COMMITTEE REPORTS

- 12) No. LF072716-01 – Wright moved to acknowledge Update on Summer Nights. Second by Laurenti. Motion carried. Sandy Schwan, President of Rapid City Summer Nights, presented an update on Summer Nights. Schwan stated they just completed week 8 of 14 of the series this year and for the most part everything is going well. There were a couple minor issues in the beginning with the timing of street closures and the method they use to clear the cars from parking spots but after working with the Rapid City Police Department and downtown business owners, most of these issues have been resolved. Summer Nights also purchased refrigerated beverage trailers this year which has helped dramatically. The purchase has allowed them to keep the road open until 3:30 p.m. since it has cut their set up and tear down time by 30 minutes. Schwan reported there has been a larger crowd than previous years with no major alcohol related issues that she is aware of. Schwan stated that their revenues are up and as of June 30th they have collected approximately \$8,900 in sales tax and they hope that continues throughout the rest of the summer.
- Scott stated the City Council approved a three year permit for Summer Nights and confirmed that this year is year two of that permit. She asked if Schwan feels the relationship with the Summer Nights board and the downtown business owners have improved over the last 18 months. Schwan believes the communication has improved. They have worked together with the business owners to address any issues that have come up and before the season started they went door to door to remind the owners when they would be starting Summer Nights and to give them contact information should they need to get in touch with them. Scott asked Schwan to return on Monday to give her update to the full City Council. Scott asked Schwan for an update on a monetary donation that Summer Nights was to give to downtown. Schwan stated there was a memorandum of understanding (MOU) between the Summer Nights Board of Directors and the RCDA's Board of Directors. The MOU between Summer Nights and RCDA contained that Summer Nights would make a contribution to their organization in exchange for volunteer help from RCDA. But since RCDA was dissolved and is now a committee of Destination Rapid City that also dissolved the MOU. Summer Nights' legal counsel advised there should be a new MOU put into place. A letter was sent to Destination Rapid City requesting a new MOU with the new organization. Currently there is not an MOU in place but the door is still open to discussion. Wright would like to see Summer Nights and Destination Rapid City have some communication regarding the MOU before Monday's City Council meeting. Laurenti thanked Schwan for everything she and her team are doing with Summer Nights. He asked Schwan what measures they are taking to improve Summer Nights so it continues to grow. Schwan stated with regard to the business owners, she feels it gets better when they shorten their setup and tear down time so the streets are not closed as early as previous years. With regard to the public, they are planning to add more family friend booth type events to go along with the concert and the beverages.
- Scott asked Dan Senftner from Destination Rapid City Downtown to weigh in on the MOU and letter that Summer Nights has sent. Senftner stated it is obvious that he and Schwan need to communicate. He agrees they need to get together, resolve this and get a new MOU. He believes there is some miscommunication between he and Schwan and both parties are willing to get an MOU in place.

MAYOR'S ITEMS

- 13) No. LF072716-05 – Mayor Steve Allender asked for the Committee's support to eliminate the RapidRide public transportation fee for K-12 students. He feels by implementing this it will be very beneficial to Rapid City. One of the major talking points in our community is protecting our future workforce development. There are barriers to getting around in this town and he hopes this plan will encourage mobility to our K-12 children and benefit by the City's resources. The Mayor proposes to adjust the fee schedule, implement the program immediately, have a check-up in December and then conduct a full evaluation at the end of the school year to see how the program went. The estimated total cost reduction is \$32,000 which then will be subsidized by the Federal Government. The Rapid City Public Transit will go up approximately \$16,000 around 3%. Scott feels this program would also help to reduce the individual cars on the streets. She questioned the current amount of room on the buses and if we implement this

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program, will the buses be able to accommodate the extra riders. Mayor Allender stated there is room to grow within the buses. Wright asked if this program will include all students, all times of every day, and college students. Mayor Allender confirmed this will be for all K-12 students, all day and all times. For this program he feels it would be best to start with K-12 only. Laurenti likes the idea of this program but has a few funding questions. How will the \$16,000 loss be covered for FY2016. The Mayor believes the Federal government will cover that portion depending on where the numbers fall at the end of the year. Laurenti asked for more information on how the success of this program will be measured. Mayor Allender stated the numbers will be based on school attendance, volume of ridership within that age group. Laurenti would like to see data on this to know for certain that the program is working. Scott moved to approve Request to Eliminate RapidRide Public Transportation Fee for K-12 Students. Second by Wright. Motion carried.

COMMUNITY PLANNING & DEVELOPMENT SERVICES

14) No. 16CA003 – City Long Range Planner Sarah Hanzel presented a report of the Downtown Area Master Plan (Draft). Hanzel projects that the final plan will be ready at the end of September, early October. Brad Segal with Progressive Urban Management Associates (PUMA) walked through the study of downtown and the recommendations they intend to make. The study area has looked at the core of downtown, the historic core, School of Mines and north up to the Civic Center. Part of this plan contains a market assessment focusing on housing, office space, job growth, hotel, and retail. Top priorities they have heard from the community were housing, arts & culture, safety, connections, employment, parking, key streets, mixed use development, School of Mines linkages. The plan itself is anchored by core values. These are the five values they are attempting to achieve downtown – Livable, Prosperous, Connected, Active and Welcoming. There are approximately 60 different recommendations coming out of this plan. The recommendations have been set by priority – Economy (housing, jobs and SD Mines Linkages) Experience (arts & culture, parking, safe & clean) and Environment (key streets, connections & gateways and land use & zoning). Scott expressed her concern with this plan that it is very City driven. She feels if this is going to be a master plan, she wants to make sure it is run by private owners. She is very excited for this plan and for the downtown area. Segal agrees, the City cannot do this alone and there has to be a strong private sector. Dan Senftner stated the key to the success of this plan starts with the City by changing the zoning and laws that regulate the downtown area. The zoning downtown has not changed since 1972. The Central Business District needs to be expanded. This plan is not asking the City for money and funding, it's asking for permission for building and growth. Wright feels the City Council is an important part of this plan and we need to be more progressive and open minded when considering this plan. Laurenti moved to Acknowledge Report and Presentation of the Downtown Area Master Plan (Draft). Second by Scott. Motion carried.

CITY ATTORNEY'S OFFICE

15) No. LF060116-10A – Scott clarified with Assistant City Attorney Jessica Rogers that this version of the ordinance does not contain subsection D which applied the ordinance to any property that was vacant for more than three months. Rogers confirmed this version of the ordinance does not contain that subsection. This ordinance only applies to properties that are in foreclosure. Wright moved to approve Introduction and First Reading of Ordinance No. 6122 Adopting Section 16.090 of the Rapid City Municipal Code Requiring Registration of Vacant Residential Properties. Second by Scott. Motion carried.

16) No. LF071316-06 – Scott moved to approve Second Reading and Recommendation of Ordinance No. 6132, an Ordinance to Modify the Procedure for Approval of Vision Account Projects by Amending Section 3.16.090 of the Rapid City Municipal Code. Second by Laurenti. Laurenti made a substitute motion to split the question moving to approve Second Reading and Recommendation of Ordinance No. 6132, an Ordinance to Modify the Procedure for Approval of Vision Account Projects by Amending Section 3.16.090 of the Rapid City Municipal Code and Laurenti moved to approve a One (1) year Plan Period for 2017 Vision Account Revenue. Second by Modrick. Motion to approve second reading carried. Motion to approve one (1) year plan period carried.

- 17) No. LF071316-07 – Scott asked for clarification on the ordinance itself, this ordinance is written to say that the City of Rapid City will do what is mandated by the State so there is not a dollar amount listed in the ordinance. Assistant City Attorney Wade Nyberg stated the ordinance has been updated so that it is automatic with the bid limits. Scott moved to approve Second Reading and Recommendation of Ordinance No. 6133, an Ordinance to Update the Contracting Authority Delegated to Department Directors by Amending Section 3.04.090 of the Rapid City Municipal Code. Second by Laurenti. Motion carried.
- 18) No. LF072716-10 – Modrick reviewed the 2013 issue that came before the Council and stated that there were statements that the City was going to address this so it did not come up again. And here we are three years later and the neighborhood is feeling that there is going to be an effect on their neighborhood from events that are extreme in nature. Modrick questioned if the use and review of 1987 automatically moves into the conditional use permit or is it because this is a church that it is automatically conditional use permit. She is attempting to clarify where low density residential begins and moves into use on review. Nyberg stated the use on review from 1987 was a similar process or equivalent of a conditional use permit. It provides a list of permitted uses and also a list of things you need to get approval for. The use on review was granted back in 1987 for a church. There is not a need to renew the permit. Three years ago the neighbors felt this would be a onetime major event. How can we as a Council address this so we don't have a neighborhood coming before us every year no matter what the event is. An event of 2,000 people in a small neighborhood is a pretty large event. Wright asked that this item be on the City Council agenda and that the City Attorney's Office be prepared to brief the Council on what we can and cannot do in this matter and what authority the City has. Scott asked for clarification from Attorney Nyberg regarding what the City Council can do at this point. She stated the City Council cannot go against property ownership rights, it is trying to put up that "good neighbor" fence. At this point since the City Council cannot intervene at this point, does it become a civil matter between the parties in order to get that clarification of what is reasonable for a church hold for an event. Nyberg stated it is difficult to answer because at this point the conditional use permit is for a church, there is no definition of church with a list of limitations. Part of that is because we do not get into what is considered business of the church. If the Council would like to look into something for low density residential and conditional use permits to put limitations on outdoor events such as noise, traffic and parking. Roberts asked if the only time the conditions can be set for a conditional use permit is at the time it is created, meaning we cannot change one that is in effect already. Attorney Nyberg stated there are issues with trying to change a permit that has been granted. The major issue is defining what a church is and does. After further discussion, Laurenti moved to acknowledge Discussion Regarding 2K16 Dove Family Fair Freestyle Motocross Event. Second by Wright. After further discussion a vote was taken and the motion carried with Laurenti, Wright, Scott and Roberts voting "yes" and Modrick voting "no."
- 18A) Scott moved to take Authorize Mayor and Finance officer to Sign Letter Agreement with Crown Castle LA for Cell Tower Lease Amendment to the August 1, 2016 City Council meeting without Recommendation. Wright second. Motion carried.

ADJOURN

There being no further business to come before the Council at this time, motion was made by Laurenti, second by Scott and carried to adjourn the meeting at 2:17 p.m.