

FINAL
LEGAL AND FINANCE COMMITTEE MINUTES
Rapid City, South Dakota

October 16, 2024

A Legal and Finance Committee meeting was held at the City Administration Center in Rapid City, South Dakota, on Wednesday, October 16, 2024, at 12:30pm.

A quorum was determined with the following members answering the roll call: Josh Biberdorf, Bill Evans, Kevin Maher, Pat Roseland, and Greg Strommen. 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

Evans moved to adopt Agenda. Second by Roseland. Motion carried unanimously.

GENERAL PUBLIC COMMENT

Alderman Strommen encouraged early voting and advised that November 5th less than 3 weeks away. Early voting is underway, and voter registration for the upcoming election closes on Monday, October 21st, and since the Public Administration building is closed on the Friday before, he encouraged people to plan accordingly.

CONSENT ITEMS – Items 1-13

Public Comment

Aaron Ude, board member of Rushmore Swim Team, in support of item no. 4 to enclose outdoor pool. Ude believes that TSP did a great job with their report, saying that he'd like to speak to the operation expenses to enclose the pool. Yes, each structure would cost the City more, but on the other hand, he believes there are a couple of ways the City could make up these dollars. In 2015, Sioux Falls invested in a company to pursue naming right of their swim center, and in return, Midco, the company that won, invested \$220k per year for ten years toward the operation of the facility. He believes Rapid City could possibly pursue something similar. In addition, which the TSP report doesn't address, the City should consider the added tax revenue and economic activity the facility could bring in through additional sporting events, saying that City was next in line to host the statewide swim meet in February, but due to inadequate facilities, the City was not allowed to host and had to opt out. Instead, the statewide meet was held in Mitchell. The water polo club would also like to expand their program and the indoor pool is inadequate for water polo because of depth. In closing, Ude quoted a Cornell study that read that investment in Parks & Recreation has a higher impact on economic growth than investments in infrastructure and school construction.

Lane Johnson, president of Rushmore Swim Team member, also in support of item no. 4 to enclose outdoor pool. He said the current lap pool is at compacity during prime times and is using both the City and YMCA facilities. The team uses all but one lane Monday through Friday 4:30-8:00, and an additional 3 lanes and the YMCA Monday through Thursday, as well as in the morning on Tuesdays and Thursdays and for a period of time on Saturday. Swimming lessons and the swim team has expanded all it can, and Johnson emphasized that he is speaking for the swim team itself. This is not accounting for the other 9 or 10 activities that use the swim center facilities and have a need, i.e., the master swim group, the scuba diving company, to the water polo club, etc. He acknowledged the concern of additional operational costs, but is hopeful that an option for enclosing the pool can be approved.

- 1) Roseland moved to Approve [Minutes for October 2, 2024](#). Second by Biberdorf. Motion carried unanimously.

Evans moved to approve items 2-13, with the exception of the presentation of item 3, which was discussed and acknowledged near the end of the meeting. Second by Biberdorf. Motion carried unanimously.

[Item 3 will not be heard at Council meeting on 10.16.24]

ATTORNEY'S OFFICE – *Joel Landeen, City Attorney*

- 2) [LF101624-10](#) – Authorize the Mayor and Finance Director to Sign Agreement between City of Rapid City and Local 1031, Council 65, American Federation of State, County, and Municipal Employees AFL-CIO for the period of January 1, 2025 to December 31, 2026

PARKS & RECREATION – *Doug Lowe, Director*

- 3) Roseland moved to acknowledge item 3. Second by Biberdorf. Motion carried unanimously. Landscape Architect Melissa Peterson introduced TSP representative Mark Ebert. He highlighted that TSP did use the swim team for much of their analysis. The initial dollar amount for the enclosure went up significantly from the amount that was allotted from the Vision Fund. TSP looked at five different options: update amenities, air-supported bubble, pre-engineered fabric structure, retractable aluminum polycarbonate structure, and a traditional construction-method building.

Each option was analyzed at the same square footage so that comparisons were the same. Comparisons were for maintenance costs, initial project costs, annual expenses, revenue, energy efficiency, user comfort, flexibility, warranties, lifespan, lifecycle cost analysis, site considerations, etc. An **amenity upgrade only** would simply make facilities nicer, but would not enclose the pool, would cost an estimated \$260,968. An **air-supported structure** needing to be stored during warmer months would cost an estimated \$2,364,337. A **pre-engineered fabric structure**, also needing to be stored in warmer months, would cost an estimated \$3,559,770. A **retractable structure** with a frame that slides open during warmer months would cost an estimated \$6,692,091. And finally, a **traditional structure** would cost an estimated 16,140,721.

To recap each of the 5 options: the amenities option would not enclose the pool, the air-supported and pre-engineered fabric structures would each have to be set up and torn down each year and need to have another structure designed for storage purposes. The retractable and traditional structures are the costliest of the options, but would not need storage facilities or service contracts for setup and teardown.

Maher asked about yearly maintenance cost of each, particularly with heating costs. Ebert said that all the structures heat well and that the biggest cost will be the dome teardown or setup every year. Strommen asked Ebert if the dome fabric would fail due to snow, and how much confidence he has in the fabric of the dome in Rapid City climate. Ebert responded that, believe it or not, the air-supported system has the most support because it moves with wind and such, whereas the other structures are more rigid. Evans asked about the material of the retractable structure. Ebert responded that the material itself is very tough, but the only concern is that the material will yellow over time. Evan's believes that the retractable structure is the way to go. Maher asked if there was any consideration was given to another stand-alone facility and leaving the Roosevelt structure the way it is. Evans asked about the cost of the Sioux Falls structure. Ebert said he didn't know. Strommen asked if Ebert himself would rate these systems as far as need, capacity, and affordability. Ebert responded that this was a difficult question to answer, and that TSP purposefully did not include a recommendation in the study, with the intention of leaving the decision entirely up to the City.

[LF101624-03](#) – TSP Presentation: Findings for Options to Enclose Roosevelt 50-M Outdoor Pool

- 4) [LF101624-04](#) – Acknowledge Roosevelt Pool Enclosure Feasibility Study by TSP for Project PR24-6194 to Enclose Roosevelt 50-M Outdoor Pool

FINANCE DEPARTMENT – *Tracy Davis, Assistant Director*

- 5) Acknowledge the Following Volunteers for Worker's Compensation Purposes: Linda Smith (RSVP+)

- 6) [LF101624-01](#) – Approve Special Council Meeting for December 23, 2024 at 7:30AM to Handle End of Year Business
- 7) [LF101624-05](#) – Approve Resolution No. 2024-072, a Resolution Levying Assessment for Abatement of Nuisances
- 8) [LF101624-06](#) – Approve Resolution No. 2024-082, a Resolution Declaring Property Surplus
- 9) [LF101624-09](#) – Approve the Mayor and Finance Director to Sign Two (2) Copies of the FY24 Community Development Block Grant Subrecipient Contract, and One (1) Copy Each of the Indenture of Restrictive Covenants, 30 Year Forgivable Mortgage, and Promissory Note for Dolan Holdings, LLC
- 10) [LF101624-07](#) – Authorize the City to Accept the City of Spearfish Grant Award in the Amount of \$7500 to Support the RSVP+ Program
- 11) [LF101624-08](#) – Authorize the City to Accept the Gwendolyn Stearns Grant Award in the Amount of \$10,000 to Support the RSVP+ Program
- 12) [LF101624-12](#) – Authorize the City to Accept the Highway Safety Grant in the Amount of \$131,648.02 from the South Dakota Department of Public Safety
- 13) [LF101624-13](#) – Authorize the City to Accept the Community Oriented Policing Services (COPS) Hiring Program Grant in the Amount of \$375,000 from the Department of Justice

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Items 14-16

Public Comment

None.

COMMUNITY DEVELOPMENT – *Vicki Fisher, Director*

Biberdorf moved to approve item 14. Second by Maher. Motion carried unanimously.

- 14) No changes have been made since first reading. This is just a cleanup. It is not creating any new regulations. These are just errors found over the years that have referenced something incorrectly. [24OA007](#) – Second Reading and Recommendation of Ordinance No. 6636, an Ordinance Amending Clerical Errors and Redundancy in Chapters 17.28.040, 17.50.020, and 17.50.250 of the Rapid City Municipal Code
[item 14 to be heard at City Council Meeting on October 21, 2024]

FINANCE DEPARTMENT – *Tracy Davis, Assistant Director*

Biberdorf moved to approve item 15. Second by Roseland. Motion carried unanimously.

- 15) This ordinance is in relation to closing of the City’s 2023 books since the audit was completed in September. These were all items that were still open at the end of the 2023 year and needed to come forward in the year 2024 to be paid. Most, if not all, have already been paid out, so it is just a bookkeeping-type item. Maher asked for confirmation that the items paid out were budgeted. Davis explained that the money is adding to the 2024 budget to be paid, but yes, it was budgeted and available in 2023.
[LF101624-02](#) – Introduction and First Reading of Ordinance No. 6638, an Ordinance Regarding Supplemental Appropriation #6 for 2024
[item 15 to be heard at City Council Meeting on October 21, 2024]

MAYOR’S OFFICE

Biberdorf moved to approve item 16. Second by Maher. Motion carried unanimously.

16) City Attorney Joel Landeen, presented item requested by the Mayor. This is a version of the same resolution that the South Dakota Municipal League has asked cities to consider passing. His understanding is that a number of South Dakota cities have already passed a similar resolution. The basis for the objection is concern over what this measure will do to the City’s sales tax revenue, which is of course the largest source of the City’s revenue. While the language in the initial measure says that Cities can continue to collect this tax, there are a couple of issues with the way the measure was drafted that can create potential conflict.

Landeen listed several of the unknowns on how this initiated measure may impact the City. For example, there is a law that says the City’s ability to collect sales tax is identical to the State’s ability, except for the rate. It is unclear if individual City will be able to collect sales tax because the measure would reduce the State’s ability to collect sales tax on food to 0%. Even though proponents of the measure asked that Cities still be able to collect sales tax, the Attorney General refused to address this, which Landeen believes is in part because it is unclear if cities will do so.

Another issue is that it prevents the State to collect taxes on anything for “human consumption” with the exception of alcohol and prepared foods. Human consumption isn’t well defined. There are estimates on the impact of this measure, but it’s difficult to estimate impact based on what is defined as human consumption.

And lastly, collecting the City tax currently doesn’t cost the City anything because it is collected along with the State sales tax. It is unclear what will happen if the State is no longer collecting sales tax on these items. Will the City need to contract with the State to collect sales tax on its behalf, or will the City have to stand up its own collection? This may require more staff to regulate and it is not something the City has ever had to do. Sales tax licenses are held by the State. Would the City then have to issue its own sales tax licenses?

Landeen does not expect that the State will continue to collect this tax for the City and no cost to the City. If this goes through, the States revenue will be reduced by over \$100M, so he doesn’t see the State dedicating its resources to collect sales tax on behalf of the cities unless cities were to pay them to do so. Even if the City is able to collect the entire 2% sales tax that it is used to collecting, the net revenue will likely not be the same because of the overhead administrative costs to collect it. No one knows the exact impact, but it could be in excess of \$6-7M, and the City would likely have to eliminate a number of staff positions or delay projects. This resolution isn’t in opposition to any consideration for a reduction in grocery tax, but more of an objection based on the unknowns and deficiencies in the measure.

Strommen referenced a panel he was able to sit in on at the South Dakota Municipal League, saying that the impact of this measure could be devastating, particularly for small towns, but even in towns like Rapid City which will have to make cuts based on the impacts of the measure.

[LF101624-11](#) – Resolution No. 2024-086, a Resolution Expressing the City of Rapid City’s Opposition to the Adoption of Initiated Measure 28
[item 16 to be heard at City Council Meeting on October 21, 2024]

ALDERMAN ITEMS

Strommen said RCAS serves lunch to every student, regardless of their meal ticket balance. Today, Taco Johns in raising funds to pay off negative meal fund balances by pledging 20% of all sales. The Council is dedicated to matching these funds. Evans wanted to acknowledge the women’s Raiders tennis team who won the State tournament, and their coach who has been put in the Hall of Fame. Strommen added that St. Thomas Moore also won and said that the new facility has put out some great tennis.

ADJOURN

There being no further business to come before the Committee at this time, motion made by Biberdorf, second by Roseland and carried to adjourn the meeting at 1:11pm.