

LEGAL AND FINANCE COMMITTEE MINUTES
Rapid City, South Dakota

September 28, 2016

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, September 28, 2016, at 12:30 p.m.

A quorum was determined with the following members answering the roll call: John Roberts, Steve Laurenti, Lisa Modrick and Jerry Wright. Absent: Amanda Scott.

(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 Laruenti, second by Modrick and carried to adopt the agenda.

GENERAL PUBLIC COMMENT

None.

CONSENT ITEMS

Debra Jensen, President of the Mount Rushmore Road Group spoke in favor of Item #10. Last July the Mount Rushmore Road Group gave unanimous approval to a resolution to extend the name Mount Rushmore Road to the end of city limits. The process began by sending letters to effected business owners, an open house was held, and several one-on-one conversations, emails and telephone calls were conducted and each conversation ended positively. Jensen asked on behalf of the Mount Rushmore Road Group that Resolution No. 2016-063 be approved.

Motion was made by Laurenti, second by Modrick and carried to approve Items 1-10 as they appear on the Consent Items.

- 1) Approve Minutes for September 14, 2016

MAYOR'S ITEMS

- 2) No. LF092816-05 – Confirm the Appointments of Todd Hollan, Nick Patton, Don Hedrick, Kelly Gibson and Lisa Denherder to the Downtown Business Improvement District (BID) Board

FINANCE DEPARTMENT

- 3) No. LF092816-06 – Acknowledge August 2016 General Fund Cash Balance Report

COMMUNITY RESOURCES

- 4) No. LF092816-01 – Authorize Mayor and Finance Officer to Sign FY2016 Community Development Block Grant Contract – Behavior Management Systems
- 5) No. LF092816-02 – Authorize Mayor and Finance Officer to Sign FY2016 Community Development Block Grant Contract – Pennington County Health & Human Services
- 6) No. LF092816-03 – Authorize Mayor and Finance Officer to Sign FY2016 Community Development Block Grant Contract – Youth and Family Services
- 7) No. LF092816-04 – Authorize Mayor and Finance Officer to Sign FY2016 Community Development Block Grant Contract – Lutheran Social Services – Arise Youth Center

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- 8) No. LF092816-07 – Approve Canyon Lake Senior Center’s Request for Additional FY2016 Community Development Block Grant (CDBG) Contingency Funds
- 9) No. LF092816-08 – Approve Cornerstone Rescue Mission Request for FY2016 Community Development Block Grant (CDBG) Contingency Funds for Bathroom Remodel Additional Compliance Costs

COMMUNITY PLANNING & DEVELOPMENT SERVICES

- 10) No. 16RD001 – Resolution No. 2016-063 Renaming S. Highway 16 to Mount Rushmore Road

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Items 11 - 14

Public Comment opened – Items 11 - 14
Public Comment closed

Bob Brant spoke in opposition of Item No. 11 on the agenda. Brant stated proponents of the ordinance feel this will help small home owners to pay their property taxes when in reality a non-owner occupied home could be rented out 365 days a year to different people, this is a definition of a motel. But motels are only allowed in commercial or highway service areas not quiet residential areas. Brant feels the best tool that the City already has in place is the conditional use permit. The permit allows non-conforming uses in zoning districts but it also notifies the neighbors that someone wants to do something in their home that is out of the norm in their neighborhood. He feels there are other issues the City needs to look at before putting an ordinance like this in place. He would like the Committee to reject this ordinance, leave it the way it is and let people file for a conditional use permit so everyone gets a say if it is allowed.

Hani Shafai stated he is available for questions on Item #12.

COMMUNITY PLANNING & DEVELOPMENT SERVICES

- 11) No. 16OA003 – Introduction and First Reading of Ordinance No. 6140 to Adopt Regulations Governing Short Term Rentals By Adopting and Amending Provisions in Title 17 of the Rapid City Municipal Code. Modrick questioned how code enforcement will monitor these properties and how the neighbors are notified if someone in their neighborhood has applied for a permit. Cushman stated the ordinance sets forth two levels – 1) every home that is being used as a bed and breakfast or vacation home rental would require a permit from the City. This permit does not require notification to the neighbors, it is an application made to Community Planning, reviewed by staff and then it would be issued by the Director 2) larger operations that have several bedrooms for rent would require a conditional use permit. The conditional use permit process does include notifying neighbors, a sign which eventually ends up at a public hearing before the Planning Commission. Currently it is staff’s interpretation that everything requires a conditional use permit and this new ordinance was designed to make it simpler for the smaller operations and not require that level of oversight. Concerning neighborhood complaints after a permit is issued, neighbor complaints can be made to code enforcement just like they are today. The permit is good for one year and if there has been complaints, the director has the ability to revoke or suspend the permit or deny the renewal request. Wright is concerned that if we are going to charge \$250 for a permit what are we doing with it? Can we enforce it, do we have the staff to enforce it? Wright feels the simpler the better, minimal paperwork. He would like to see a permit that once it is issued it stays with that person and is non-transferrable. Cushman clarified the fee amounts as they are proposed. Currently a conditional use permit fee is \$250. Under the new ordinance it has been proposed that if an owner needs a permit they would pay \$250 initially and then \$100 to renew annually. If the

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owner is required to have a conditional use permit in addition to the first permit, only the \$250 conditional use permit fee would apply. They would not be required to pay for the permit fee and the conditional use permit fee. Laurenti questions our ability to issue the permit and enforcement. If we do not renew a license and someone continues to operate, what kind of enforcement is there for the City? Cushman stated if someone is operating without a permit it would be a criminal violation like any violation of a City ordinance would be. If they do have a permit and they operate outside of the permit, our enforcement options would be to suspend it and allow them the opportunity to come into compliance or revoke it entirely or refuse to renew. Wright does not disagree with a fee, but the fee must be levied and there are stipulations within the permit that have to be met. To clarify, the fee is for paperwork and the inspection? Cushman stated the ordinance does not require an inspection. Wright has a problem with that, he does not understand how we are not inspecting the properties to ensure safety. If we are going to charge a fee, there should be an application fee and permit and then it is verified by inspection. Then the permit is renewable automatically unless there is a problem then it is revoked. Wright feels we need to be tougher on this than code enforcements typical process. Laurenti would like to know if there is something in the renewal process before they receive their renewal that we are looking at any code enforcement issues from the prior year. Cushman stated it is not written in the ordinance as such but there is a renewal application process. The property would then be looked into the same way it was before and that information from code enforcement would come up as part of the process. Laurenti feels there should be something in the ordinance that states the property is automatically reviewed annually to ensure there are no issues. Cushman stated the State also regulates these establishments and she believes they do inspect the properties. She will look into this and confirm on Monday night whether or not that happens. After further discussion, Laurenti moved to take Introduction and First Reading of Ordinance No. 6140 to Adopt Regulations Governing Short Term Rentals By Adopting and Amending Provisions in Title 17 of the Rapid City Municipal Code to council without recommendation. Second by Wright. Motion carried.

- 12) No. 16TI004 - Section 9, T1N, R8E – A request by KTM Design Solutions, Inc for Yasmeen Dream, LLC to consider an application for a Resolution creating the Unnamed Tributary Channel Tax Increment District and a Resolution approving the Project Plan for property generally described as being located east and west of Elk Vale Road between E. Highway 44 and the current terminus of East Fairmont Street. Sarah Hanzel, City Long Range Planner presented a short slideshow on this item. Hanzel stated the Tiff Committee directed staff to prepare a project plan and the Planning Commission has recommended the approval of this plan. This particular tiff has a proposed 10 year life span instead of a typical 20 year life span. The City's portion of the oversizing would also be repaid at the end of the life of the tiff in the last few years. Laurenti asked developer, Hani Shafai why they did not apply for the tiff prior to beginning the development to include the existing six homes. He stated we are missing out on all of the increment of those homes to help pay off this tiff even quicker. Shafai stated all of the homes that are being built in that area will be included in the tiff with the exception of the six homes that have already been built. Laurenti also questioned why we would annex part of the highway to include the light that was going to happen with or without this tiff. He feels at a minimum the light portion should be excluded from this tiff. Wright asked if there are any unobligated funds available to pay for this instead of doing the tiff. Dale Tech stated the only funds available are the oversized funds, there are no additional funds available to construct the whole thing. Laurenti moved to approve a request by KTM Design Solutions, Inc for Yasmeen Dream, LLC to consider an application for a Resolution creating the Unnamed Tributary Channel Tax Increment District and a Resolution approving the Project Plan for property generally described as being located east and west of Elk Vale Road between E. Highway 44 and the current terminus of East Fairmont Street. Second by Modrick. A vote was taken and the motion carried with Roberts, Wright and Modrick voting "yes" and Laurenti voting "no."
- 13) No. 16CA005 – Laurenti moved to Approve Amendment to the Comprehensive Plan by adopting the Downtown Area Master Plan (Final). Second by Modrick. Motion carried.

CITY ATTORNEY'S OFFICE

- 14) No. LF091416-05 – Laurenti moved to approve Second Reading and Recommendation of Ordinance No. 6138 an Ordinance Amending the Code Enforcement Appeal Procedure by Repealing Chapter 8.01 of the Rapid City Municipal Code, Adopting Section 2.24.065 of the Rapid City Municipal Code, and Amending Sections 2.24.020, 8.16.050, 10.56.060, and 10.56.065 of the Rapid City Municipal Code. Second by Wright. Motion carried.

ADJOURN

There being no further business to come before the Council at this time, motion was made by Laurenti , second by Wright and carried to adjourn the meeting at 1:19 p.m.