

LEGAL AND FINANCE COMMITTEE MINUTES  
Rapid City, South Dakota

February 15, 2017

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, February 15, 2017, at 12:30 p.m.

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

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

**GENERAL PUBLIC COMMENT**

Hani Shafai spoke regarding South Valley drive annexation and Johnson Ranch subdivision which was an item on the Public Works Committee agenda. During the presentation yesterday to the Committee, it was stated that the road is currently 23 feet wide without curb and gutter. They are proposing a subdivision in that area and was recommended by City staff to apply for an exception for improvements to the road which was denied. They then requested a WORP. They do intend to place sidewalk near the road. The drainage was not a concern of the residents up there, they are mainly concerned with the quality of the pavement. Shafai presented a few slides showing the existing section that is 23 feet wide with road ditches on both sides. Staff has required them to widen the road to 36 feet. City code only requires 32 feet. They are proposing 33 feet with curb and gutter and sidewalk on their side. By adding curb and gutter on the other side, will cause drainage problems for their neighbors and they do not intend to do that. The cost estimate is \$90,000-100,000. They intend to pay for everything but half of the pavement and half of the gravel. Their share will be approximately \$74,000. They have decided yesterday to widen the road now or give the City \$100,000 to widen the road when they see fit or sign the WORP.

**CONSENT ITEMS**

Community Advisory Coordinator Vaughn Vargas from the Rapid City Police Department spoke in favor of item number 3. Vargas stated the CAC has conducted numerous discussions and will continue to discuss the policies and benefits of body-worn cameras for evidentiary purposes. One specific topic discussed was body-worn cameras and the impact it will have for domestic violence type case. There is a high number of domestic violence occurrences but a very low prosecution numbers. He feels body cameras will change that because we have a hard time cooperating with the victims and they do not want to come and testify. CAC also feels the use of body-worn cameras will help with accountability purposes. CAC members have heard of officer complaints but they have yet to witness any officer misconduct during their ride along experience. In contrast, they have witnessed officers going above and beyond their civic duties. Chief Jegeris is confident his officers continuously exemplify public service and leadership. He is willing to validate that level of service by employing body-worn cameras for the sake of the community and the police department.

Rapid City Police Chief Karl Jegeris would like to clarify the timeline regarding item number 3. The application deadline is February 16<sup>th</sup>. It is their intent to submit the grant application and if the Council for some reason was not supportive on Tuesday night they would then retract that grant application. This grant is different than a typical Department of Justice grant in that this does not require them to receive Council approval prior to submitting for the grant. However, they feel it is good practice to make sure they have Council approval especially with something like this that will have an ongoing expense for the City's future. There will still be a couple of opportunities to reconsider this item if needed. One will be during the priority

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based budgeting and the second will be once we have completed the research and development prior to engaging in a contract with a technology provider they would require Council approval at that time too. He wanted to point out this is a preliminary approval at this time and there is a lot of research and development that needs to be done. But it is important to them to know that they have the Council's support to move forward because they will have to invest a significant amount of staff time in order to move forward.

Motion was made by Modrick second by Laurenti and carried to approve Items 1-13 as they appear on the Consent Items with the exception of Item No. 3, 9, and 13.

- 1) Approve Minutes for February 1, 2017

**MAYOR'S ITEMS**

- 2) LF021517-02 – Authorize Mayor to Increase the Starting Salary Range for the Public Works Director and the Community Planning Director Position Vacancies

**POLICE DEPARTMENT**

- 3) LF021517-06 – Modrick has felt as a citizen for many years and as our city has grown, that it was time for body-worn cameras. She is really impressed that there is an opportunity for a grant that can come into our community. This protects the officer and the community. She feels this is a successful program and this would be a great tool for the police department. Laurenti asked Chief Jegeris if we have any opportunities for benchmarking with other communities that you know of already in the state. Chief Jegeris stated several communities in our area already have body-worn cameras including Spearfish, Sturgis, Belle Fourche, Aberdeen, and the Oglala Sioux Tribe. This is an area that he would say we are slightly behind the curve and we need to consider moving forward to maintain a progressive nature with this technology. Modrick moved to Authorize Staff to Apply for and Accept if Awarded the 2017 Department of Justice Body-Worn Camera Implementation Grant. Second by Scott. Motion carried.

**FIRE DEPARTMENT**

- 4) LF021517-09 – Authorize Staff to Apply for and Accept if Awarded the FEMA Pre-Disaster Hazard Mitigation Grant
- 5) LF021517-11 – Approve Request to Purchase Fire Apparatus through National Joint Powers Alliance in the amount of \$465,634.00

**FINANCE DEPARTMENT**

- 6) Acknowledge the Following Volunteers for Worker's Compensation Purposes: Ramona Beck, Monna Hatle
- 7) LF021517-05 – Approve Resolution No. 2017-012A a Resolution Fixing Time and Place for Hearing on Assessment Roll for Cleanup of Miscellaneous Property
- 8) LF021517-07 – Approve Resolution No. 2017-006B a Resolution Levying Assessment for Cleanup of Miscellaneous Property
- 9) LF021517-08 – Laurenti asked City Finance Officer Pauline Sumption regarding the \$340,000 deficit from what we were projecting from budget year to budget year. He asked Sumption to clarify that because he believes there are some mitigating circumstances that the public needs to know. Sumption explained when we budgeted for 2016, the only final numbers we had were 2014 sales tax revenue numbers. We billed in a 2% increase in 2015 and another 2% increase for 2016. While the percent is 2%, the 2015 actuals would be about that number, but when you look at the actual dollars it would be about \$178,000 that we were short in sales tax revenue projections. If you look at the overall projections in general fund revenue and looking what was receded in at the end of the year we actually exceeded in total

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what our general fund revenues were projected to be. In addition, there were various vacancies throughout the year that helps offset that revenue deficit. Scott asked if we had those positions filled that we would have been short or we would have netted zero? Sumption stated if those positions were filled we would not have netted to zero. We would have been short the \$178,000 plus whatever in addition to, but other general fund revenues also made up the difference. It's more complicated than just comparing the two. Scott asked if there is any concern that the trend is going to maintain at less than projected expectations at 4%? Sumption stated they are always concerned when it is less than what we average. We average close to a 5% increase in a 10 year period. For 2017 we will be continuing to monitor the sales tax to see if we need to make any adjustments in our spending for the year and then will take that into consideration moving forward. Scott wanted to remind everyone that we did balance the 2017 budget using cash of \$3.5 million dollars. Modrick moved to Acknowledge December 2016 Sales Tax Report. Second by Scott. Motion carried.

- 10) LF021517-10 – Approve Resolution No. 2017-010 a Resolution Declaring Miscellaneous Personal Property Surplus
- 11) LF021517-12 – Approve Request for Property Tax Abatement as Follows: Richard Lundeman, 2016, \$272.14; City of Rapid City, 2016, \$1,107.38; Dawn Mazzio, 2016, \$887.00; Keystone Homes LLC, 2016, \$902.40; William DeWall, 2016, \$1,216.41; Geraldine Sterkel, 2016, \$540.06; South Dakota Department of Transportation, 2016, \$911.50; City of Rapid City, 2016, \$176.06; Tim Shatraw, 2016, \$571.58; Dennis Haar, 2016, \$1.81 (Total for City of Rapid City: \$6,586.34)
- 12) LF021517-13 – Approve Resolution No. 2017-014A a Resolution Fixing Time and Place for Hearing on Assessment Roll for Countryside Water System Conversion Project

**COMMUNITY DEVELOPMENT**

- 13) LF021517-15 – Scott wanted to clarify for the public that by approving this letter of support, this does not obligate the City to contribute any funds. This is simply our governmental agency showing that we do support our non-profits in our community. Scott moved to Approve Request from Black Hills Habitat for Humanity for a Local Governing Body Support Letter for their South Dakota Housing HOME Funds Application. Second by Laurenti. Motion carried.

END OF CONSENT CALENDAR

**NON-CONSENT ITEMS – Items 14 - 20**

**Public Comment opened – Items 14 - 20**

Susan Fedell from Youth and Family Services spoke on item number 14. She again encouraged the Committee to begin the Vision Fund process early this year so they may have an opportunity to apply for new market tax credits funding to expand their campus. They are completely out of space and need this expansion to help accommodate the increase in numbers. They have already raised approximately \$4 million dollars. If they were able to secure \$2 million from the City Vision Funds they have the opportunity to obtain \$2.5 million and an additional \$2 million from outside sources.

**Public Comment closed**

**ALDERMAN ITEMS AND COMMITTEE REPORTS**

- 14) LF021517-14 – Modrick asked City Attorney Joel Landeen to provide more information regarding the possibility of beginning the Vision Fund process earlier this year. Landeen stated it is up to the Council and the Mayor to decide when to begin the process for 2018 funding. He wanted the Council to keep in mind that it is a long process starting with the Mayor selecting a committee and bring the names forward to the Council for approval. One of the key factors is determining how much money the Council was going to expend. Once the committee is selected, they solicit proposals there needs to be a minimum of 30 days between the solicitation period and the hearing

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on those proposals. The other steps also take some time to implement as well. If you were to start the process now, it would take several months. Scott stated the Council has a retreat working session scheduled for Thursday, February 23<sup>rd</sup>. She feels this would be an excellent topic to have at that working session to discuss as a group what the Council is looking at for those funds. Scott moved to continue this item to the March 1, 2017 Legal and Finance Committee meeting Discussion on Vision Funds (*continued from the February 6, 2017 City Council Meeting*). Second by Laurenti. Motion carried.

**COMMUNITY PLANNING & DEVELOPMENT SERVICES**

- 15) 16AN006 – Long Range Planner Sarah Hanzel wanted to point out the options the Council needs to consider regarding payment to the Rural Fire District. Staff does need direction on how to handle that payment and they ask for it to be specifically indicated in the motion. Scott asked Hanzel to provide the public with the options for payment. Hanzel stated Option #1 is to include payment to the Rapid Valley Fire District, Option #2 is to approve the annexation but to deny payment to the Rapid Valley Fire District and Option #3 would be not approve the annexation itself. There is another option to approve the annexation and indicate another amount between 0 and the payment amount. Scott asked Hanzel to explain why this is so important to a fire district in a county. Hanzel stated the fire districts in the county apply for grants and obtain loans to acquire equipment and other aspects to their operations. The way they repay their loans is by establishing debt or fire districts which are managed by the county auditor they levy property taxes on owners in those areas. The people who live in that area currently are already paying into a rural fire district and they are already being assessed based on their property taxes for this. When the City removes property from their district we are essentially removing some of their tax base and therefore removing their ability to pay their debts. The Planning Commission did approve the intent to annex with option 1. Sumption wanted to clarify that this is not something that we typically budget for every year so this money would come from undesignated cash in the general fund. Laurenti asked Sumption if there is another way that we typically do this, is this out of the ordinary when we do an annexation. Sumption stated this is not out of the ordinary. What is different about this one is this is such a large area and they have a good sized debt due to the new fire station they just built. Up until this point we have used council contingency funds or the Community Planning budget would absorb it. Laurenti moved to approve Resolution No. 2016-106 a Request by City of Rapid City to Consider an Application for a Resolution of Annexation for Property Generally Described as Being Located East of Elk Vale Road, North of Twilight Drive, West of Reservoir Road and South of Homestead Street with payment Option #1. Second by Modrick. Motion carried.

**FINANCE DEPARTMENT**

- 16) LF021517-04 – Scott moved to approve Introduction and First Reading of Ordinance No. 6156 an Ordinance Repealing Chapter 1.08 of the Rapid City Municipal Code Relating to Wards and Precincts and Adopting a New Revised Chapter 1.08 of the Rapid City Municipal Code. Second by Laurenti. Motion carried.
- 17) LF021517-01 – Scott moved to approve Resolution No. 2017-011 a Resolution Amending Certain Fees to be Charged in 2017 for Various Licenses, Permits and Applications. Second by Laurenti. Motion carried.

**PARKS AND RECREATION**

- 18) LF011117-02 – Modrick wanted to thank Parks and Recreation and the staff who put together the handbook which was designed to create a guideline so they are able to manage all of these events. Modrick moved to approve Special Event Permitting Process for Activities in the City of Rapid City Including those using Public Park Land and/or Open Space (*continued from the January 17, 2017, City Council Meeting and February 1, 2017, Legal and Finance Committee Meeting*) Second by Scott. Motion carried.

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**CITY ATTORNEY'S OFFICE**

- 19) LF011117-12 – Scott moved to approve Second Reading and Recommendation of Ordinance No. 6153 an Ordinance to Amend Provisions Concerning Permitting for Parades and Special Events by Amending Chapter 12.20 of the Rapid City Municipal Code (*continued from the February 1, 2017, Legal and Finance Committee Meeting*) Second by Laurenti. Motion carried.
  
- 20) LF021517-03 – Modrick asked City Attorney Joel Landeen to provide his comparison of State laws versus this proposed ordinance. Landeen attached a memo to this item which compared State law and this ordinance. Generally it does follow State law, the rationale for approving this ordinance would be that State law the statutes are spread out a bit and this would organize all of the rules related to due process in one place and would be a little easier for Council to see or understand. However, when you already have State laws in place sometimes it is a valid question to ask if we should adopt ordinances that essentially mimic State law. There were a few areas where the ordinance did differ a little bit. One being if someone was aware of an ex-parte communication that occurred and the decision maker in question had not disclosed that communication and it came out that there had been these communications then they could be automatically disqualified. It is not laid out that way in State law. State law makes clear that if there is actual bias or an unacceptable risk of actual bias that a decision maker should be disqualified anyway. The other difference is that the ordinance allows the decision makers to decide if someone has actual bias or an unacceptable risk of actual bias and can prohibit them from participating in the discussion on that issue. State law sets a standard of clear and convincing evidence but it was not clear who makes that determination. Landeen states for the most part the ordinance follows State law. Scott asked Landeen if the City Council is considering something and the City Council decides that someone on the City Council has bias or an unacceptable risk of actual bias, don't they already have that ability to vote and remove someone from a discussion? Landeen is not completely sure, he sated there is in conflict. This is complicated issue and it is an area where everyone struggles. The conflict ordinance contains a provision in there but this is not the same as a conflict of interest. A conflict of interest presumes you have a relationship or a financial interest in the outcome that prevents you from being fair. This ordinance covers that you are not being impartial or fair based on reasons other than a financial or relationship. The conflict may not cover everything and this ordinance would basically cover anything that was outside a direct financial interest or relationship. Scott feels at this point we are covered by State law. Scott moved to deny Introduction and First Reading of Ordinance No. 6157 an Ordinance Adopting the Appearance of Fairness Doctrine for Quasi-Judicial Proceedings by Adding Section 2.04.130 to the Rapid City Municipal Code. Second by Modrick Motion carried unanimously.

**ADJOURN**

There being no further business to come before the Council at this time, motion was made by Scott, second by Laurenti and carried to adjourn the meeting at 1:18 p.m.