

LEGAL AND FINANCE COMMITTEE MINUTES
Rapid City, South Dakota

June 14, 2017

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, June 14, 2017, at 12:30 p.m.

A quorum was determined with the following members answering the roll call: John Roberts, Jerry Wright, Lisa Modrick, Steve Laurenti, and Amanda Scott. 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 Wright, second by Modrick and carried to adopt the agenda.

GENERAL PUBLIC COMMENT

None.

CONSENT ITEMS

Motion was made by Laurenti, second by Modrick and carried to approve Items 1-9 as they appear on the Consent Items with the exception of Item No. 5, 7 and 8.

- 1) Approve Minutes for May 29, 2017

POLICE DEPARTMENT

- 2) LF061417-07 – Authorize Staff to Apply for and Accept if Awarded the Department of Justice Community Policing Development Grant

FINANCE DEPARTMENT

- 3) Acknowledge the Following Volunteers for Worker's Compensation Purposes: Ryan Brell, James Miller, Peggy Holmber
- 4) LF061417-01 – Approve Resolution No. 2017-043 a Resolution Declaring Miscellaneous Personal Property Surplus
- 5) LF061417-02 – Scott asked Deputy Finance Officer Tracy Davis to give further clarification on the effect on the SAB28 fund if this assessment is removed. Davis explained that the SAB28 amount shows the anticipated amount based upon the special assessments that have been approved. The total amount due is \$151,402.51 which includes the original assessment amount of approximately \$38,000 along with interest and penalties. It is her understanding that the owner has abandoned the property and there is no way to collect the money. Scott asked City Attorney Joel Landeen if it is possible to go after the owner of the property to recoup the amount. Landeen stated normally on an assessment the reason why we were able to place it on the property in the first place was because it was the only way we would be able to collect it. Even if we were to obtain a judgment against the owner, the likelihood that they would be able to pay would be slim. Depending on the circumstances such as, how old it is, tracking down the owners and having them appear in court and then determining their assets to see if there is any way for them to pay could pose an issue. Scott then asked how the City obtained this property. Assistant City Attorney Kinsley Groote explained the special assessment was placed on a property and then removed so the property could be platted. Somehow the special assessment was then placed on this property that we are

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dealing with now. She believes there was an agreement of some kind to allow for the moving of the special assessment from one property to the next. This property was obtained by the County by a tax deed. Scott's biggest concern is that if we cannot collect this money, and the amount of the SAB28 fund reduces, we do not have any way of replenishing this money that we use to do other special assessments. Laurenti asked for additional information on the history of this property for Monday night. Scott moved to send Resolution No. 2017-044A a Resolution Removing the Rapid City Special Assessment on Tract AR2 of Ridge Park Estates to Council without recommendation. Second by Laurenti. Motion carried.

COMMUNITY RESOURCES

- 6) LF051017-06 – Approve Y2016 Final Consolidated Annual Performance and Evaluation Report (CAPER) and Financial Report (*continued from the May 10, 2017 and May 31, 2017 Legal and Finance Committee Meetings*)

- 7) LF061417-04 – Scott asked Community Resources Director Jeff Barbier if the creation of this specific position part of the preparation work of reorganizing the Fire Department and the Ambulance service. Barbier stated he does not believe this position is part of that. He explained this position is being created so an individual can respond to certain situations without sending an entire unit. This will not increase the total amount of full time employees (FTE) for the Fire Department. Interim Chief Rod Seals gave a brief history on this position. Several years ago the Fire Department received the Vucurevich Grant to create the mobile medic program. A lead mobile medic was in place and we began providing services. After several months of providing services, the South Dakota Board of Osteopaths found that we were operating outside of our scope of practice. It has taken a couple of years in order to gain approval from the Board for the mobile medic program. The grant was to fund both positions, the lead mobile medic and this position. This position is already allocated in their FTE numbers. Modrick moved to Approve Resolution No. 2017-045 to Create Position of Fire Mobile Medic. Second by Laurenti. Motion carried.

CITY ATTORNEY'S OFFICE

- 8) LF061417-03 – Scott explained the County is taking this property on a tax deed and it contains a house that needs demolition. The City plans to take ownership of this property so the City can use Community Development Block Grant (CDBG) funds to demolish the home. She asked Assistant City Attorney Kinsley Groote what the waiting period is from the time the City takes ownership to the time it is demolished. An environmental impact study must be conducted prior to demolition which takes approximately 45 days. Scott asked if it is the intent of the City to use this lot for affordable housing. Groote confirmed that is the intent. Modrick moved to Approve Request for Transfer of 248 Curtis Street from Pennington County to the City of Rapid City and Authorize the Mayor to Accept and Record Deed when Transferred. Second by Scott. Motion carried.

COMMUNITY PLANNING & DEVELOPMENT SERVICES

- 9) 11TI001 – Approve Resolution No. 2017-039 a Resolution Dissolving Tax Increment District No. 71 for Property Generally Described as Being Located East of U.S. Highway 16, West of S.D. Highway 79 and North and South of Catron Boulevard

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Items 10 – 12

Public Comment opened – Items 10 – 12

President of Scenic Rapid City, Andy Ainslie spoke in opposition of item number 12. Ainslie urged the Committee to reject the proposed settlement agreement with Epic Outdoor Advertising. One of Scenic Rapid City's purposes listed in their bylaws is to promote and carryout programs and initiatives that protect natural beauty in the environment, preserve and enhance landscapes and

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streetscapes, protect historical and cultural resources, promote enhancement of scenic approaches, improve community appearance and foster establishment and the preservation of scenic road systems. Ainslie stressed the proposed settlement will not be good for our fine City and its beautiful surroundings for principally three reasons: 1) the proposed settlement goes against the spirit of our existing Rapid City sign code and ordinance 2) the proposed settlement goes against the citizens initiatives that were passed in 2011 by over 2/3 of those who voted and 3) the proposed settlement is inconsistent with our City's comprehensive plan. He was a part of the citizen sign committee back in 2007 and the committee did not want this. This agreement goes against the initiative. The citizens spoke loud and clear in 2011 that we want fewer billboards, fewer digital billboards to preserve scenic beauty and safety. This proposed settlement agreement goes against the public will. The community is looking to the elected officials to represent us in this way by voting against this proposal. There is a specific section in the City's comprehensive plan that details gateways and entrance corridors and signage. The premise behind the comprehensive plan is that we have a plan and that we stick to it. Why do we have ordinances, why do we have plans, why do we have elected officials if we are not going to stick to these plans? The oath of office you took as an elected official to represent and defend the constitution and to represent us as citizens. The Mayor has previously stated "the City Council is the City of Rapid City" and you are, you are our representatives, we have no other voice. The Mayor has voiced his annoyance with the dismal turnout in the recent election. With This proposed settlement, essentially what you are saying is, if you are a concerned citizen to the point that you go out and get enough signatures to get an issue on the ballot and you succeed in that by over two out of three voters, only to have it all turned around as this proposal suggest several years later might explain why we have some voter apathy in this town. The Mayor and City Council's vision statement mentions enjoying the quality of life. He does not believe that more billboards will support more quality of life. Does appeasing the billboard industry and capitulating to their demands represent integrity and excellence? How responsible are you being to the citizens that entrusted you to vote for our interests by going along with this settlement offer? This settlement is not going to bring the end to anything. Ainslie urged the Committee to reconsider what you are approving for future generations. He asked that they vote no on this proposed settlement.

Secretary of Scenic Rapid City Debra Jensen also spoke against item number 12. Jensen stated this issue has come up time and time again over the years, Rapid City leaders and citizens have all wrestled with the billboard issue. Some of the first attempts to control and reduce the number of billboards were made by previous City Councils with the introduction of sign credits. Nearly every attempt to regulate off premise billboards has ended up in court or court action has been threatened. Because of concerns of costly litigation previous City Councils have settled despite the wishes of the public and certainly the best interest of the citizens. Law suits are a reality and they are an unfortunate consequence of citizens, tax payers, civic, and city leaders just trying to do the right thing. History shows that settlements do not stop law suits and rarely resolve long standing issues. In this particular case, Federal highway laws state that a 30 foot maximum height for billboards is not allowed. A consequence could be a Federal highway funding penalty, it is certainly rechecking that interpretation as they have received an interpretation from a few different sources that say this is an issue. A City wide election a few years ago showed that 66% of Rapid City voters said the community wants reasonable regulation of this industry to preserve, protect and to improve the lives of all citizens. She urges the Committee to not agree to this proposed settlement as it is written.

Treasurer of Scenic Rapid City Mike Quasney, joined with Ainslie and Jensen to oppose the proposed settlement agreement with Epic Outdoor Advertising. Quasney stated it is the Committee's job as elected officials to compare comprehensive plan and this agreement to determine why the agreement does not work. The Comprehensive plan refers to signage such as, reducing size, bringing the signs lower and points to entry points of our City. He asks the Committee to consider what this proposed settlement agreement does to negate what we are trying to

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accomplish with our comprehensive plan. Why can't we expect the industry to join us and not fight against us at every turn? Why doesn't the sign industry change with the community's plans? Keep signs smaller, minimize digital signs, we need to decide what we want. He is publicly asking the sign industry to participate in the City's comprehensive plan. He urged the Committee to commit to the comprehensive plan.

Attorney for Epic Outdoor Advertising Mike Sabers spoke for item number 12. He wanted to clarify a few topics as they were discussed today. First of all, in this settlement agreement there are no new sign locations. Second, regarding the Federal highway funds, the maximum sign face cannot exceed 30 feet in height and length that includes the boarder in trim but not supports or apron. This is a compromise settlement agreement. This settlement agreement has been in the works for quite some time, both parties have compromised to end long litigation before it becomes more expensive. Epic asks this proposed agreement be approved and sent to Council for a vote.

Public Comment closed

CITY ATTORNEY'S OFFICE

- 10) LF053117-09 – Scott moved to approve Second Reading and Recommendation of Ordinance No. 6180 an Ordinance to Update the Life Safety Loan Program Funding and Process by Amending Chapter 3.28 of the Rapid City Municipal Code. Second by Laurenti. Motion carried.

- 11) LF061417-05 – Scott moved to send Authorize Mayor and Finance Officer to Sign Settlement Agreement Between the City of Rapid City and President's Plaza, LLC to Council without recommendation. Second by Wright. Motion carried.

- 12) LF061417-06 – City Attorney Joel Landeen addressed the comment regarding Federal highway funds and the interpretation of the 30 foot. He wanted to reiterate what Attorney Sabers said and he has reviewed the statute and he does not believe there is any question that it is talking about the sign face. Since he was aware of Ms. Jensen's interpretation, Landeen called South Dakota Department of Transportation Chief Legal Counsel Carla Engel and she confirmed that Mr. Sabers and his interpretation of the statute is the correct interpretation. It is the sign face, the settlement agreement does not violate State law or the Federal Highway Beautification Act it will not affect Federal funding. Modrick asked Landeen where there are 672 feet digital billboards in the state. Landeen cannot answer that. The State of South Dakota does not prohibit digital and does not regulate if it is on the interstate or not. When the initiated ordinances went through there was a push in the State Legislature to prohibit City's from banning digital billboards and that passed pretty handedly thought the legislature and was not implemented because the Governor vetoed it. Nothing related to digital signage is changing due to this settlement. It is the intent of Epic to convert these signs to digital along the interstate and he is not aware of digital along the interstate so to that point, it will change the digital along the interstate. With regard to the actual ordinance changes you are agreeing to, do not change anything to do with video. That is already allowed but at 250 square feet which is too small on the interstate. Modrick stressed the comprehensive plan is important to all of us. The citizens are insured by the initiative that they brought forward and the City of Rapid City has a responsibility to endorse and follow through with it. She does not feel this is the way to go forward with this. Scott moved to send Authorize Mayor and Finance Officer to Sign Settlement Agreement Between the City of Rapid City and Epic Outdoor Advertising, Inc. to Council without recommendation. Second by Laurenti. A vote was taken with Scott, Wright, Laurenti and Roberts voting "yes" and Modrick voting "no". Motion carried.

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 1:20 p.m.