

LEGAL AND FINANCE COMMITTEE MINUTES  
Rapid City, South Dakota

January 31, 2018

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, January 31, 2018, at 12:30 p.m.

A quorum was determined with the following members answering the roll call: Amanda Scott, Steve Laurenti, Laura Armstrong, Becky Drury and Chad Lewis. 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 Armstrong, second by Laurenti and carried to adopt the agenda.

**GENERAL PUBLIC COMMENT**

None.

**CONSENT ITEMS**

Motion was made by Drury, second by Laurenti and carried to approve Items 1-17 as they appear on the Consent Items.

- 1) Approve Minutes for January 10, 2017.

**MAYOR'S ITEMS**

- 2) LF013118-10 – Approve the New Appointments of Eric Zimmer and Hayley Brooks to the Museum Alliance of Rapid City (MARC) Board

**POLICE DEPARTMENT**

- 3) LF013118-06 – Approve Special Event Application for Annual RCPD Cruiser Car Show
- 4) LF013118-13 – Authorize Staff to Purchase Nine Vehicles Off State Bid from Liberty Dodge to Replace Aging Vehicles in the Police Department Fleet for the Total Amount of \$248,455.00

**FINANCE DEPARTMENT**

- 5) Acknowledge the Following Volunteers for Worker's Compensation Purposes: Connie Hobbs (RSVP+), Barbara Annan (Library), Kim D'Hont (Library), Nathalie Holberg (Library), Stacey Scholten (Library), Father Andrezej Wyrostek (Police Department), Lauren Eccarius (Police Department)
- 6) LF013118-01 – Approve Resolution No. 2018-004 a Resolution Declaring Miscellaneous Personal Property Surplus
- 7) LF013118-02 – Approve Resolution No. 2018-005 a Resolution Removing the Rapid City Special Assessment on Airport Addition, Block 31, S78.5' of W98.5', Less Lot H-1
- 8) LF013118-03 – Approve FY2018 Allied Arts Funding Allocation for Community Investments (Arts & Humanities)
- 9) LF013118-08 – Acknowledge December 2017 General Fund Cash Balance Report

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- 10) LF013118-09 – Approve Request for Property Tax Abatement as Follows: Owen Hawkins, 2017, \$786.78; City of Rapid City, 2017, \$213.20 [Total for Rapid City: \$999.98]
- 11) LF013118-11 – Authorize Mayor and Chief of Police to Sign the 2018 Federal Equitable Sharing Agreement
- 12) LF013118-12 – Approve Resolution No. 2018-006 a Resolution Establishing 2018 Encumbrances
- 13) LF013118-14 – Approve Resolution No. 2018-008, a Resolution Declaring Certain Real Property Located Along Promise Road Surplus and Appointing Freeholders to Appraise the Property Prior to Sale

**COMMUNITY DEVELOPMENT**

- 14) LF013118-05 – Approve FY2017 Community Development Block Grant Contract with Youth and Family Services

**METROPOLITAN PLANNING ORGANIZATION**

- 15) 18TP005 – Authorize Mayor and Finance Officer to Sign Consent to Assignment of Contract for the Digital GIS Base Map Development Services from Fugro Geospatial, Inc. to Fugro USA Land, Inc.

**CITY ATTORNEY'S OFFICE**

- 16) LF013118-07 – Approve Purchase of 2018 Dodge Durango for Risk Management Off State Bid from Liberty Superstore in the Amount of \$27,826.00
- 17) LF013118-17 – Approve Amended City DOT Drug/Alcohol Testing Policy to Reflect New DOT Opioid Testing Requirements

END OF CONSENT CALENDAR

**NON-CONSENT ITEMS – Items 18 – 23**

**Public Comment opened – Items 18 – 23**

Attorney Michael Whalen spoke on behalf of Red Rock Meadows subdivision which is located northeast of the Red Rocks subdivision that is covered in the proposed agreement in item number 19. They have had a bad experience in the past year or so as the City failed to enforce a 2005 street lighting agreement dealing with decorative lights which was made by the City with DKEA. After numerous months of generally being ignored, he met with Assistant City Attorney Wade Nyberg, Engineer Dale Tech, sent letters to Council members and the Mayor which have also been ignored. He would like to point out the track record of DKEA looking forward and looking at the proposed agreement. The City is now proposing to take an assignment of debt from the same developer who failed to fulfill his contractual obligations to the City over the course of 2005 through August of 2017. Attorney Whalen asked the Council, City Attorney and Finance Officer to look at the agreement and tell him where on the face of the agreement does it show the principal amount, the accrued interest, payments that have been made, allocation of past payments to principal and interest, and the schedule of future payments. Those items are not included in the proposed agreement. The proposed agreement makes reference to the old 2000 agreement, the old 2000 agreement makes reference to attached exhibits including the promissory note. Several questions come to mind; Is there a promissory note? Has it been reviewed in the course of trying to figure out what might be owed? Is DKEA already in default? Do you know what amount has already been paid? There are vague references in both the old and the current agreement to the prime interest rate, he stated there does not seem to be any kind of accounting here. Red Rocks Meadows HOA is suspicious of this developer. He would like the following questions answered: 1) When did the

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interest begin accruing under the 2000 agreement; 2) Were the installments paid in accordance of the old agreement or are they in default; 3) Where is the promissory note; 4) Is the City releasing the secured letter of credit provided for in the original agreement in the proposed agreement? Attorney Whalen feels these are fair comments and questions.

**Public Comment closed**

**ALDERMAN ITEMS AND COMMITTEE REPORTS**

- 18) LF013118-15 – Drury moved to send Human Relations Commission – Semi-Annual Update to Council without recommendation. Second by Lewis. Motion carried.
  
- 19) LF013118-16 – Scott explained the City Council did pass this agreement on approval however due to some clerical errors, no attachments were available at that time. Laurenti asked Finance Officer Pauline Sumption if we can have those items mentioned by Attorney Whalen attached before the Council meeting on Monday night. Sumption stated absolutely. Scott asked City Attorney Joel Landeen what options the Council has at this point for reconsideration since this item is just a ratification. Assistant City Attorney Wade Nyberg stated the Council has rules for reconsidering approvals. He does not see anything wrong with the Council approving the agreement without an attachment at the last meeting. Generally we would pull it off the agenda to discuss the item and describe the general idea of the agreement. It is not uncommon for the Council to delegate signature authority to the Mayor and Finance Officer. If you decided to not approve this agreement at this point the general result would overrule what happened last time and it would cause some issues. Drury asked if the attachments that will be provided for Monday answer Attorney Whalen’s questions. Sumption stated she will add the original agreement, the addendum to the agreement, the original promissory note, and a history of payments made by the property owners. Sumption further explained there is accounting for it, unlike what the speaker mentioned, otherwise we would not be able to include it in our audit information. This new agreement does not release them from any other obligation, everything that is part of the original agreement still stands. As far as final payment of this loan whether it is all platted or not has to be either upon the final plat or ten years after substantial completion. Substantial completion of the projects within the IDPF loan was designated in July of 2008 therefore, in July 2018, this has to be paid in full according to the original agreement. The agreement also states interest will begin accruing five years after substantial completion, which means the interest began accruing in July of 2013. We keep track of that, it gets added to their bill, when we get a payment we allocate some to principal, some to interest based on what has been accrued up to that point. Lewis wanted to point out this is not a conspiracy, there is nothing hidden here. This was simply an oversight, all of the information is available. Scott reiterated this item is strictly on this agenda and going to Council Monday night for ratification. The Council has already approved this with the information Staff provided. This is a way for the City to actually get payment based on the original agreement, as the lots sell we will get the money if not by July 2018 this has to be paid according to the agreement. Lewis moved to acknowledge Ratify Agreement for Assignment of Proceeds of Real Estate Sales by Red Rock Development Company, LLC, to the City of Rapid City – Jason Salamun. Second by Drury. Motion carried.

**COMMUNITY DEVELOPMENT**

- 20) 17OA003 – Scott asked Community Development Director Ken Young to confirm this ordinance amendment is to update our codes up to the latest unified codes. Young confirmed that it is basically a housekeeping item, as they are noticing several things out of sync with other codes and this is one of a few that will be coming forward to clean them up. Laurenti moved to approve Introduction and First Reading of Ordinance No. 6220 an Ordinance Amendment to Clarify Uses in Residential Districts by Amending Title 17 of the Rapid City Municipal Code. Second by Armstrong. Motion carried.

**FINANCE DEPARTMENT**

- 21) LF011018-07 – Laurenti moved to approve Second Reading and Recommendation of Ordinance No. 6221 Regarding Supplemental Appropriation #1 for 2018. Second by Drury. Motion carried.
- 22) LF013118-04 – This ordinance is brought forward yearly to update the annexations and de-annexations that have occurred in the past year for the upcoming voting season. Laurenti moved to approve Introduction and First Reading of Ordinance No. 6224 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 Armstrong. Motion carried.
- 23) LF013118-18 – Lewis moved to approve Authorize Mayor and Finance Officer to Sign Municipal Advisor Agreement with Dougherty & Co. in Regard to the Rushmore Plaza Civic Center Barnett Arena Project. Second by Laurenti. Motion carried.

**ADJOURN**

There being no further business to come before the Council at this time, motion was made by Drury, second by Armstrong and carried to adjourn the meeting at 12:53 p.m.