

LEGAL AND FINANCE COMMITTEE MINUTES
Rapid City, South Dakota

March 14, 2018

A Legal and Finance Committee meeting was held at the City/School Administration Center in Rapid City, South Dakota, on Wednesday, March 14, 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 Laurenti, second by Drury and carried to adopt the agenda.

GENERAL PUBLIC COMMENT

None.

CONSENT ITEMS

Motion was made by Drury, second by Armstrong and carried to approve Items 1-11 as they appear on the Consent Items with the exception of Item No. 6, 7, 8, 9, 10 and 11.

- 1) Approve Minutes for February 28, 2017.

MAYOR'S ITEMS

- 2) LF031418-02 – Approve the Appointment of Harry Christianson to the Hotel BID Board

FINANCE DEPARTMENT

- 3) Acknowledge the Following Volunteers for Worker's Compensation Purposes: Robert Hodgens (RSVP+), Easton Stout (RSVP+), Connor Gronski (RSVP+), Chris Linder (RSVP+), Heidi Weis (RSVP+), Jim Jeffries (RSVP+), Alice Mensinger (RSVP+), Tessa Mitchell (Police Department), Hung Pham (Library)
- 4) LF031418-01 – Approve Resolution No. 2018-013B a Resolution Levying Assessment for Cleanup of Miscellaneous Property
- 5) LF031418-04 – Approve Resolution No. 2018-024 a Resolution Declaring Miscellaneous Personal Property Surplus
- 6) LF031418-08 – Scott pulled this item to discuss her concern with item number 3 listed on the report where it states the City has violated State law. Scott asked Finance Officer Pauline Sumption to explain a little further on this item and discuss if this is truly a violation. Sumption explained that the City has invested in brokered CDs and there is a disagreement between the City, the State and the auditors on whether or not his qualifies as an appropriate investment under State statute. All of these CDs are FDIC insured which means the money is protected and backed by the Federal Government which is also a requirement if we are to do any investments. There is no risk, actually we receive a higher interest rate on these than if we went to a local bank and buy a normal CD that most entities would buy. The City feels we are in compliance with the allowable investments that we are able to make as a municipality. City Attorney Joel Landeen has been in contact with the Attorney General's office in attempt to understand this further. Sumption has been in contact with the Department of the Legislative Audit and she has been in contact with other municipalities in similar situations and they also disagree that we are in violation. While it is listed that we are in

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violation, in substance we are not. Laurenti asked City Attorney Joel Landeen to expound further on the violation, what specifically are we violating? Landeen described the disagreement is on whether we can buy these brokered securities. The City is limited somewhat on what it can invest in and the goal is to make sure the public money is protected and that we are not investing in risky investments. We have been doing this and other communities are as well. The reason we do this is because we earn a higher interest rate than the ones that are traditionally allowed to invest in. Since they are backed by FDIC insurance, it is our belief we are covered under the language of the statute. He does not know if this is just an effort by the State to say this is not clear and we need to get this cleaned so they have taken this position. At this point we have one of two options, we can either continue to debate the legality of the issue or likely we will go to the legislature to discuss it. They are already aware of it and we have begun discussions, it was too late to get on this legislative session. At this point, because we are earning more interest, the money is protected he does not feel we are inclined to withdraw the money. If the legislature says no or does not fix it, we would have to reassess and evaluate our options. Lewis moved to approve Audit Report of City of Rapid City – 2016 Financial and Compliance Report. Second by Drury. Motion carried.

- 7) LF031418-09 – Laurenti asked Sumption to comment on the 4.62% growth, is there anything in this number that has lifted it that we didn't have last January? Sumption stated the details are not available as to why, but she would like to note the Stock Show and Rodeo sometimes will overlap January and February it just depends on when the vendors report their sales tax. Armstrong moved to acknowledge January 2018 Sales Tax report. Second by Laurenti. Motion carried.

OPPORTUNITY CAPTURE FUND COMMITTEE

- 8) LF031418-03 – Scott asked Sumption since this is just an acknowledgement, does that mean the City Council cannot make any changes to what is presented? Sumption stated that is correct, there is an ordinance and bylaws in place which dictates how requests are handled but she believes if the Council made a recommendation they would consider that as well. The Council has to be updated before the Committee can release the funds. The application from Economic Director Ben Snow who is working with the company, was for a grant of \$250,000. Originally in September of 2017 the money was to be allocated into three phases. The first one was supposed to be released upon a phase one building permit, another \$75,000 was to be released upon occupancy of that building and then the remaining \$100,000 was supposed to be released upon pulling the building permit for phase two. Since then the company has relocated and where they relocated already has a 100 square foot building on the property. They do plan to pull a building permit to add 50,000 square feet to the building. The recommendation to the Committee is that they go ahead and release the full \$250,000 grant upon the issuance of the building permit for the addition. Scott supports this project, has been in the works for a long time but she has some recommendations for the Committee in the future. The company reports there will be an increase in the workforce by 200 jobs. Approximately 107 station employees and the remaining 93 jobs are supervisor type positions. This project started before the income tax for corporations was reevaluated at the Federal level and their tax has been drastically reduced. A lot of businesses have stated they would reinvest that money into the workforce. Currently this company lists their frontline workers salary pay range as \$29,000 to \$45,000 which means an employee at the low end of that range is earning less than \$14 per hour. She is looking for a higher wage primarily is because we consider industry is considered a high wage business coming into our area. The Council has come across the issue of creating workforce housing. If you are looking at \$60,000 as a dual income for this workforce they are looking for a home at \$180,000 and that is maxing out their three times their gross revenue. If we have businesses coming into our area, please join our conversation in making sure we have livable wages. She would like to see that starting wage at \$15.50-16.00 per hour to make our affordable housing issue a little easier to manage. Lewis commented that we cannot control what their entry level wages are all we can do is our best to promote these businesses. Laurenti supports this Committee does however he also feels this needs to be questioned what we are spending the money on. If someone is bringing a business to Rapid City, that is great. But when you are bringing

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a business to Rapid City and then asking for public funds to build said business, then there is oversight that needs to be done because you are using tax payer dollars. There is a big difference between a private business not going after public funds to go into business and another business that does take a lot of public funds and the people who represent the tax payers need to make sure that we are looking at what they are going to provide for our city. Drury moved to acknowledge Update from the Opportunity Capture Fund Committee. Second by Laurenti. Motion carried.

COMMUNITY DEVELOPMENT

- 9) LF031418-05 – Scott asked Barb Garcia to explain this request in more detail. Garcia generally described that with a subordination, we have a lien against the property and we have been asked to drop our lien to a lower position on the list to allow someone else to be ahead of us. In this case, Youth and Family Services (YFS) has an opportunity to access some additional funds from new market tax credits that will help in paying off and finishing their project. In order to do that, the new market tax credits require to be in first place which is normal. Subordination of CDBG funds is not unusual, we have done it in the past. We do not subordinate for cash out, we do not subordinate to allow them to pull the money and go. These are grant funds and we want this facility to be used. We ask that the facility continue to meet the national objective it was originally funded. We would not subordinate if they were not a strong agency that was not financially sound. In this case a subordination is not something we have a problem with. There may be some change in the language on the documents that were attached to this item. The changes are minor language changes pertaining to the leasehold part of it. Scott asked if YFS is still able to apply for CDBG funds since they are using new market tax credit funding. Garcia stated as long as their project is eligible and meets the criteria they are able to apply for CDBG funding. Laurenti moved to approve FY2013 & FY2017 Community Development Block Grant – Youth & Family Services CDBG Grant Funds Subordination Request with minor language changes made by the City Attorney’s Office. Second by Armstrong. Motion carried.

- 10) 18TP011 – Long Range Planner Kelly Brennan explained to the Committee that the attached agreement went to the respective legal departments and there will be some minor legal language changes. Nothing else will change regarding the scope or the main parts of the project. A new agreement will be linked for Council on Monday night. Laurenti moved to Authorize Mayor and Finance Officer to Sign the Professional Services Agreement for the Coordinated Public Transit – Human Services Transportation Plan with Nelson-Nygaard Consulting Associates, Inc. in an amount not to exceed \$83,330 with the minor legal language changes. Second by Drury. Motion carried.

CITY ATTORNEY’S OFFICE

- 11) LF031418-07 – Lewis moved to approve Authorize Mayor and Finance Officer to Sign Contract for Construction of Public Improvements Through Private Developer Tax Increment District Number Eighty Between The North Atlantic Developers, LLC and the City of Rapid City. Second by Armstrong. A vote was taken with Armstrong, Drury and Lewis voting “yes” and Scott and Laurenti voting “no”. Motion carried 3-2.

END OF CONSENT CALENDAR

NON-CONSENT ITEMS – Items 12 – 13

Public Comment opened – Items 12 – 13
Public Comment closed

COMMUNITY DEVELOPMENT

- 12) LF022818-05 – Lewis moved to approve Second Reading and Recommendation of Ordinance No. 6225 an Ordinance to Amend Provisions Concerning Appeals to the Building Board of Appeals by

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Amending Sections 15.04.120 and 15.04.130 of the Rapid City Municipal Code. Second by Laurenti. Motion carried.

FINANCE DEPARTMENT

13) Laurenti moved to approve LF031418-06 – Introduction and First Reading of Ordinance No. 6243 an Ordinance Regarding Supplemental Appropriation #2 for 2018. Second by Drury. Motion carried.

ADJOURN

There being no further business to come before the Council at this time, motion was made by Armstrong second by Laurenti and carried to adjourn the meeting at 1:11 p.m.