

**RECORD OF PROCEEDINGS FOR THE GOVERNING BODY
OF THE CITY OF CHEYENNE
Office of City Clerk**

March 12, 2018

The Governing Body of the City of Cheyenne met in regular session on this date beginning at 6:00 p.m. in Council Chambers. Present were: MAYOR – Marian J. Orr; COUNCIL MEMBERS – Rocky Case, Bryan Cook, Richard Johnson, Pete Laybourn, Mike Luna, Scott Roybal, Dr. Mark Rinne, Dicky Shanor and Jeff White. Also present: Carol Intlekofer, City Clerk, and Sylvia Hackl, City Attorney. The pledge of allegiance was recited.

Consent Agenda. (All agenda items listed with the designation of [CA] are considered to be routine items by the governing body and will be enacted by one motion. There will be no separate discussion on these items unless a member of the governing body so requests and support by two other members is received. Any item removed from the Consent Agenda will be considered in its normal sequence on the agenda.) Mr. Roybal moved to approve, seconded by Mr. Luna. Motion carried. Voting “yes” – all members of the governing body.

[CA] Minutes from Special Meeting of the Governing Body on February 19, 2018. Motion (per Consent Agenda) carried.

[CA] Minutes from Regular Meeting of the Governing Body on February 26, 2018. Motion (per Consent Agenda) carried.

Mr. Cook declared a conflict of interest (personal interest in voucher payable to Mr. Cook) and vacated Council Chambers. Mr. Luna moved to approve payment of vouchers as presented, seconded by Mr. Roybal. Motion carried. Voting “yes” – all members of the governing body present in Council Chambers. Following announcement of the vote, Mr. Cook returned to Chambers.

ORDINANCE – 2nd READING – Amending Section 1.16.050, Off-Site improvements – Requirements, of Chapter 1.16, Annexation and Infrastructure Improvements, of Title 1, General Provisions, of the code of the City of Cheyenne, Wyoming. Reporting for Public Services Committee, Mr. Roybal moved to approve on second reading, seconded by Mr. Johnson. Mr. Roybal moved to amend Section 1.16.050 (B) Section #4 by removing the language “... at the time of the construction of the off-site infrastructure improvements” and in its place inserting “... in the amount deposited with the City consistent with this chapter.”, seconded by Mr. Johnson. It was noted if the amendment was approved the section would read: If such refund is paid and the recipient is no longer the current record property owner, such person or persons shall not be relieved from the responsibility for the cost of the infrastructure improvements in the amount deposited with the City consistent with this chapter. Motion to amend carried. Voting “yes” – all members of the governing body. Mr. Shanor moved to amend Section #3 to reflect similar amendment language regarding the amount deposited with the City, seconded by Mr. Roybal. Motion to amend carried. Voting “yes” all members of the governing body. Main motion, as twice amended, carried. Voting “yes” – all members of the governing body.

[CA] RESOLUTION – Authorizing the City of Cheyenne to approve and file the Wyoming Division of Victim Services funding application State Fiscal Year 2019 and 2020, July 1, 2018 to June 30, 2020. Motion (per Consent Agenda) carried. (#5919)

[CA] RESOLUTION – Authorizing the Mayor and the City Clerk to sign a County Final Plat for Mountain View Homes Subdivision, 2nd Filing, a replat of Tracts 3 and 4 of Mountain View Homes Subdivision being situated in a portion of the SW¹/₄ Section 12, Township 13 North, Range 67 West, of the Sixth Principal Meridian, Laramie County, Wyoming (located west of and adjacent to Southwest Drive, north of West College Drive) – referred to Public Services Committee. (Sponsor – Mr. Roybal)

[CA] RESOLUTION – Creating the Municipal Court Building Process Review Committee – referred to Finance Committee. (Sponsor – Mr. Laybourn)

[CA] Memorandum of Understanding between Laramie County, City of Cheyenne and the Board of Public Utilities for the purpose of purchasing a small unmanned aerial system and necessary software through the Cheyenne/Laramie County Geographic Information Systems Cooperative, and providing rules for governing the operation of the system. Motion (per Consent Agenda) carried (amount as specified in the MOU). (#6797)

Professional Services Agreement between the City of Cheyenne and Trihydro Corporation, Laramie, Wyoming, for Happy Jack Landfill environmental monitoring services (Solid Waste fund). Craig LaVoy, Public Works Department, provided information on the number of proposals received through the Request for Proposals process and the recommendation to enter into an agreement with TriHydro. Reporting for Finance Committee, Mr. Luna moved to approve in an amount not to exceed \$153,930.00, seconded by Mr. Case. Mr. Luna moved to amend by substitute dated March 1, 2018 in an amount not to exceed \$171,912.00, seconded by Mr. Johnson. Upon inquiry, Mr. LaVoy explained the increase in the amount was due to the initial sampling amount numbers not being correctly multiplied relative to the number of tests required. Motion to amend carried. Voting “yes” – all members of the governing body. Main motion, as amended, carried. Voting “yes” – all members of the governing body. (#6798)

Purchase Agreement and Settlement and Release of All Claims between the City of Cheyenne and Mary Rose Ramirez for acquisition of real property located at 2247 East 19th Street, Cheyenne, Wyoming, in conjunction with the Pershing Boulevard/Converse Avenue/19th Street Roundabout Project (2007-2010 1% Sales Tax). Mary Rose Ramirez read a statement detailing her experiences and concerns as a homeowner and resident having a home adjacent to the Converse roundabout intersection. Her concerns included: Personal safety; lack of parking; property access/egress; number of roundabout vehicle crashes; loss of property value, and past communications with the City that have not resolved her concerns. Mr. Luna moved to approve in an amount not to exceed \$185,000.00, seconded by Mr. Case. Discussion included the following topics: Roundabout signage; City sanitation worker and general safety concerns; “righting a wrong”, other properties adjacent to the roundabout that had been purchased for the project, and a claim filed by Ms. Ramirez that had been denied. Upon inquiry, Ron Downey, City Treasurer, advised of the amount of project funds that were still available. Mr. Case moved to amend by

substitute dated March 5, 2018 which would increase the amount of compensation to \$198,950.00, seconded by Mr. Luna. Sections proposed to be changed pursuant to the proposed substitute were reviewed. Discussion on the proposed amendment included: Payment of Ms. Ramirez' attorney fees; market analysis vs. property appraisal; timing of the roundabout design involving the property; unsubstantiated documentation involving the amount to be paid by the City relative to attorney fees and personal loss, and property access concerns. During discussion and upon inquiry, Sylvia Hackl, City Attorney, provided information available regarding payment of attorney fees; roundabout design involving Ms. Ramirez' property and two other properties the City purchased; history of Ms. Ramirez' concerns expressed to the previous administration, and discussions that had been held with Ms. Ramirez and her attorney on the additional expenses being requested. Ms. Hackl noted the amounts outlined in the proposed amendment did not include moving expenses. Ericka Smith, attorney for Ms. Ramirez, advised state statutes pertaining to eminent domain scenarios provide for payment of attorney fees, and explained how the amount being requested in the substitute was computed. Motion to amend failed (due to a tie vote). Voting "yes" – Mr. Case, Mr. Laybourn, Mr. Luna, Mr. Roybal and Mayor Orr. Voting "no" – Mr. Cook, Mr. Johnson, Dr. Rinne, Mr. Shanor and Mr. White. Mr. Shanor, seconded by Mr. Case, moved to amend Section 2 (b) by including a sentence indicating the seller may retain and remove kitchen appliances including the refrigerator, stove, washer and dryer, and adding a new Subsection (e) which states the City also agrees to compensate seller for the following costs incurred in resolving this matter as supported by proper documentation: (i) reasonable relocation costs as may have been required by law; and (ii) reasonable attorney's fees as may have been required by law. During verification of wording of the motion, Dr. Rinne raised a point of information inquiring whether the phrase "as supported by proper documentation" was to be included in the motion with Mr. Shanor confirming that wording is intended to be part of the motion. For clarification, Ms. Hackl inquired whether a defined dollar amount of compensation was intended to be included in the amendment with Mr. Shanor explaining if the amendment passed an additional amendment could be made to include a "not to exceed amount". Upon inquiry, Ms. Hackl advised, outside of a court case, the closest legal application regarding attorney's fees may be the eminent domain state statutes, and that nothing in law pertains to determining the amount of relocation expenses but that legal research on the topic could be conducted. Comment was made on the governing body's responsibility involving relocation costs. Upon inquiry, Ms. Smith provided information on attorney's fees relative to whether a lawsuit were involved through inverse condemnation, which is part of the eminent domain statutes, and stated that would not be the cause of action they would bring forward. Ms. Smith expressed there was nothing that would allow for relocation costs as may be required by law, therefore, the amendment would "strip" Ms. Ramirez of those costs. Motion to amend carried. Voting "yes" – all members of the governing body with the exception of Mr. Johnson and Mr. Laybourn voting "no". Mr. Cook move to amend the amendment by adding language that the costs (i.e. relocation costs and attorney's fees) shall not exceed the amount of \$15,000.00, seconded by Mr. Case. Pursuant to Dr. Rinne raising a point of order, Mr. Cook restated his motion as a motion to amend instead of a motion to amend the amendment. Comment was made on the intent of the amendment, which provides for dollar amount flexibility for costs which are currently unknown. Motion to amend carried. Voting "yes" – all members of the governing body with the exception of Mr. Johnson and Mayor Orr voting "no". As a clerical housekeeping measure, it was noted that references in Section 16 (h) indicating "Western Standard or Western Daylight Time" should be corrected to "Mountain Standard or Mountain Daylight Time". Following comments on handling this issue through the courts (judicial process) vs. the governing body, main motion,

as twice amended, carried. Voting “yes” – all members of the governing body with the exception of Mr. Johnson voting “no”. (#6799)

[CA] Juvenile Housing Agreement between the City of Cheyenne and Laramie County for the housing of juvenile detainees in the Laramie County Juvenile Services Center located at the Archer Complex – referred to Finance Committee.

[CA] Agreement between the City of Cheyenne, Laramie County Sheriff’s Department and Laramie County, Wyoming, for housing City prisoners at the Laramie County Detention Center – referred to Finance Committee.

[CA] 2018–2019 Collective Labor Agreement between the City of Cheyenne and Cheyenne Firefighters Local Union No. 279, International Association of Firefighters – referred to Finance Committee.

[CA] Agreement between the City of Cheyenne and Josh Cossitt to provide tennis services and instruction at City-owned tennis facilities (revenue to City) – referred to Finance Committee.

[CA] Agreement between the City of Cheyenne and HollyFrontier Cheyenne Refining LLC for designation of the title of sponsorship of SuperDay and the Tour de Prairie events – referred to Finance Committee.

[CA] Memorandum of Understanding between the City of Cheyenne, and Laramie County School District No. 1 to provide transportation service for the Recreation Division “REC Camp Program” – referred to Finance Committee.

[CA] Consideration of Bid #S-6-18 for a contract between the City of Cheyenne, Community Recreation and Events Department, and Reiman Corp., Cheyenne, Wyoming, for the Lions Park Pavillion Project (Land and Water Conservation grant and Parks Projects funds). Motion (per Consent Agenda) carried (amount not to exceed \$277,600.00). (#6800)

[CA] Consideration of Bid #S-4-18 for a contract between the City of Cheyenne, Community Recreation and Events Department, and Borderline Fencing, Inc., Cheyenne, Wyoming, for the Backstop Fence Removal and Replacement at Converse Athletic Complex Project (Cheyenne Community Recreation District and Parks Projects funds). Motion (per Consent Agenda) carried (amount not to exceed \$149,580.00). (#6801)

[CA] Consideration of Bid #E-14-18 for furnishing one new 2017-2018 low ground pressure/waste handling dozer for the City of Cheyenne Landfill (Solid Waste management) – referred to Finance Committee.

[CA] Consideration of Bid #E-19-18 for furnishing 95-gallon and 65-gallon automated refuse carts for the City of Cheyenne Sanitation Division (Solid Waste management) – referred to Finance Committee.

Renewal applications for existing City liquor licenses and permits (retail, restaurant, limited retail, resort, bar and grill licenses and microbrewery and satellite distillery permits) filed with the City Clerk's office. Mr. Luna moved to approve, seconded by Mr. Roybal. Mr. Luna moved to divide the question to provide for a separate vote on the renewal liquor license application filed by Keg, Inc., d/b/a D.T.'s Liquor Mart and Tusker Bar, 3310 Ridge Road, seconded by Mr. Case. Mayor Orr advised a motion to divide the question was not debatable. Motion carried. Voting "yes" – all members of the governing body. Mayor Orr stated as the motion carried, the governing body was now back on the main motion as divided to act upon the renewal liquor license application filed by D.T.'s Liquor Mart and Tusker Bar. Upon inquiry, Office Josh Hedum, Police Department, provided information on annual compliance checks and the number of compliance failures involving D.T.'s. Upon inquiry, Kevin Georges, Keg, Inc., provided information in response to non-compliance, employee involvement in the "failures", employee TIPS certification training, and steps they have taken to address future compliance issues. He expressed concern with the compliance check process utilized by police officers, use of fake ID's by underage individuals attempting to purchase alcohol, and unreliability of ID electronic scanners. Mr. Georges verified local liquor licensees utilize a communication "phone tree" and advised of training and topics of discussion, including deterrence of underage acquisition of alcohol, through the Laramie County Beverage Association. Mayor Orr relinquished duties of the chair to Council President Dr. Rinne to allow her the opportunity to discuss the motion on the floor. Discussion included: Observation of youth on D.T.'s outdoor premises; TIPS training requirements and licensee responsibility, and objection to comments Mr. Georges had made during earlier discussion regarding police department compliance check practices. Motion to approve the renewal liquor license application for Keg, Inc., d/b/a D.T.'s Liquor Mart and Tusker Bar carried. Voting "yes" – all members of the governing body with the exception of Mayor Orr voting "no". Following announcement of the vote, Dr. Rinne returned duties of the chair to Mayor Orr. Dr. Rinne declared a conflict of interest (family member interest in a license) and vacated Council Chambers. Mayor Orr stated the governing body was now back on the main motion to approve the remaining liquor license and permit renewal applications. Discussion include: Availability of high quality fake ID's through the internet and electronic ID readers/scanners. Upon inquiry, Chief Kozak and Officer Hedum provided information on fake ID's, effectiveness of ID scanners, holder of the fake ID being held responsible for use violations, Real ID Act and use of fake ID's compared to other states, and benefit of licensees' sharing of confiscated fake ID's with the department. Main motion to approve the remaining liquor license and permit renewal applications carried. Voting "yes" – all members of the governing body present in Council Chambers. Following announcement of the vote, Dr. Rinne returned to Chambers.

[CA] Consideration to purchase Motorola digital portable radios for the Cheyenne Fire and Rescue Department from Wireless Advanced Communications, Evans, Colorado (Homeland Security funds) – referred to Finance Committee.

[CA] Consideration to purchase a replacement engine for a loader for Street and Alley Division from Tri-State Truck & Equipment, Casper, Wyoming – referred to Finance Committee.

Announcement was made of a Public Hearing to be held March 26, 2018 at 6:00 p.m. in City Council Chambers, 2101 O'Neil Avenue, Cheyenne, Wyoming, for a retail liquor license transfer of location application filed with the City Clerk's Office for Steamboat's, LLC d/b/a

Steamboat's Wyoming Steak and Smoke House, from 1947 Dell Range Blvd. to 115 E. 17th St., Cheyenne, Wyoming.

Under other business:

Mr. Case stated at the February 26, 2018 City Council meeting, the motion to accept the proposal for the new Municipal Court site from Chuck West, #1 Properties, Inc. of Cheyenne in an amount not to exceed \$275,000.00 failed, and, having voted on the prevailing side and pursuant to Chapter 2.04 of City Code, moved to reconsider the vote on the main motion, seconded by Mr. Shanor. For clarification of the February 26th agenda item proposed to be reconsidered, Carol Intlekofer, City Clerk, read the agenda entitlement into the record as follows: "Consideration of RFP-14-18 for the new site of the City of Cheyenne Municipal Court (1% Specific Purpose Sales and Use Tax)." Motion to reconsider carried. Voting "yes" – Mr. Case, Mr. Johnson, Mr. Luna, Mr. Roybal, Mr. Shanor, Mr. White and Mayor Orr. Voting "no" – Mr. Cook, Mr. Laybourn and Dr. Rinne. Mr. Shanor moved to amend the main motion to read "that we accept the proposal from Chuck West, #1 Properties, Inc., of Cheyenne in an amount not to exceed \$275,000.00 for the purchase of the property located at the corner of 17th St. and Carey Avenue, known as the Carey Building. The closing on the property shall not occur until and unless an analysis of the site, along with estimates to demolish the building, remediate the site and construct a one story building is completed, and such analysis concludes this can be completed within the \$9,000,000.00 allowed by the ballot proposition. If not, then that site will be rejected and a new RFP shall be issued seeking new proposals." The motion was seconded by Mr. Luna. Mr. Shanor explained his reasons for proposing the amendment. Upon inquiry regarding a letter received by governing body members on this date, Chuck West, #1 Properties, Inc., advised a previous contract involving the Affinity Group's potentially purchasing the Carey Building property had been rescinded, and that the owner is reaffirming his RFP response to sell the property to the City in the amount of \$275,000.00. He noted a date in which the owner would receive an answer from the City on its decision to purchase the property was contained within the owner's letter so the matter would not be "floating forever". Mr. West expressed his belief that the property owner would be open to a reasonable amount of time needed by the City to conduct its analysis. Upon inquiry, Amy Allen, City Engineer, stated, based upon her previous experience, the time frame proposed by the property owner was "a bit tight". Upon inquiry concerning which RFP proposals received completely met all of the RFP minimum requirements, Craig LaVoy, Public Works Department, advised he was not familiar with specific proposal contents, and Steve Gaer, Assistant Director, Facilities Maintenance, stated only one proposal (i.e. Carey Building a/k/a former Fowlers Building) closest met the minimum requirements. Discussion included: RFP criteria and minimum requirements generally; proposed closing date; City Council procedures; property being vacant and dormant for several years, and no specific date for closing on the property included in the motion to amend. Upon request, Mr. Shanor reiterated the wording of his motion to amend. Upon inquiry, Sylvia Hackl, City Attorney, expressed, based upon wording of the proposed amendment, the due date would be the closing date, however, with respect to the owner's letter that the building be under contract by March 26th with a closing date of April 30th, it may or may not be possible to get a closing done by that date due to City Council's governmental process in acting upon a purchase contract, and legal staff time to review and prepare a contract document. Ms. Hackl further expressed her belief that the City may need a minimum of another month to review conditions and prepare an agreement.

Mr. West explained the property owner's position relative to agreeing to take the property off the market to the City's benefit, and owner's willingness to work on a reasonable time table as long as the City is acting in good faith, and stated another month may be considered reasonable. Discussion followed on constructability review pursuant to the proposed amendment and whose responsibility it would be to conduct and fund; services by Noel Griffith Jr. and Associates; use of 1% Specific Purpose funds; past use of 1% funds relative to conducting project due diligence, and single story vs. two story facility and parking availability at the site. During discussion, Mayor Orr provided information in response to comments and inquiry, and Ron Downey, City Treasurer, advised of potential funding sources that may be available for due diligence costs. Joe Dougherty spoke in support of conducting due diligence if funding was available and the need to acquire cost information, historical aspects of the Carey Building, and stated an artist's rendition should be provided to show the public what the new building would look like. Motion to amend carried. Voting "yes" – all members of the governing body with the exception of Mr. Cook and Mr. Laybourn voting "no". Pursuant to query, Carol Intlekofer, City Clerk, explained governing body meeting procedures involving a motion to reconsider in which the public previously had the opportunity to provide input on the main motion. Discussion included: Rationale for remediation of the site; short term vs. long term "view"; minimal impact of the Municipal Court office in the downtown area, and private/public partnerships involving downtown rehabilitation projects. In response to a point of order called by Mr. Roybal, Ms. Intlekofer advised procedurally discussion on the main motion, as reconsidered and amended, by City Council members was in order. Mr. Johnson requested consideration to hear comments from those in the audience who wished to speak on the motion with Mayor Orr agreeing to the request. Offering public comments were Major Dorr, who spoke against the proposed Carey Building location and in support of building the new Municipal Court on the north side of the Municipal Building property, or upon a vacant lot, and Pat Lane, St. Mary's School, who spoke in support of the Carey Building site, and against building on Municipal Building property. Main motion, as amended, carried. Voting "yes" – Mr. Case, Mr. Johnson, Mr. Luna, Mr. Roybal, Mr. Shanor, Mr. White and Mayor Orr. Voting "no" – Mr. Cook, Mr. Laybourn and Dr. Rinne.

There being no further business to come before the governing body, the meeting was officially adjourned at 8:35 p.m.

Submitted by,

Carol Intlekofer, MMC
City Clerk

This notice is available in alternative, accessible formats upon request.

Published: Wyoming Tribune-Eagle
March 23, 2018