

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

February 11, 2019

The Governing Body of the City of Cheyenne instead 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, Ken Esquibel, Pete Laybourn, Mike Luna, Dr. Mark Rinne (arriving at 6:06 p.m.), Scott Roybal and Dicky Shanor. Absent: Jeff White. Also present: Kris Jones, 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 present.

[CA] Minutes from Regular Meeting of the Governing Body on January 28, 2019. Motion (per Consent Agenda) carried.

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

Mayor Orr opened a public hearing to determine whether compliance of annexation conditions required by Wyoming Statute §15-1-402 exist for Lot 4, Block 2, Swan Ranch Rail Park Third Filing, and a Portion of adjacent Tundra Drive right-of-way, Laramie County, Wyoming (located at the southwest corner of Tundra Drive and Clear Creek Parkway). Tawn Hillenbrand, Planning and Development Department, advised the annexation request was submitted by the landowner, provided information on the property and reviewed requirements of and compliance with annexation conditions contained in state statutes. There being no further comments or input and purpose of the hearing having been met, Mayor Orr closed the hearing.

Mayor Orr opened a public hearing to determine whether compliance of annexation conditions required by Wyoming Statute §15-1-402 exist for Lots 6 and 7, Block 1, and all that 16’ alley located in Block 1, except east 8’ adjacent to Lots 3 and 4, Block 1 Countryside Addition, Laramie County, Wyoming (located at the southwest intersection of Countryside Avenue and Whitney Road). Seth Lloyd, Planning and Development Department, advised the applicant and City staff feel the annexation is not ready to proceed at this time, noting the ordinance has not been submitted to the City. Mr. Lloyd advised a second public hearing will be held on March 11, 2019,

and noted it is anticipated the annexation will be considered at that time. There being no further comments or input and purpose of the hearing having been met, Mayor Orr closed the hearing.

ORDINANCE – 3rd READING – Creating Chapter 12.28, Downtown Graffiti Abatement Pilot Program, of Title 12, Streets, Sidewalks and Public Places of the Municipal Code of the City of Cheyenne, Wyoming, and providing procedures for the operation thereof. Vicki Dugger, Executive Director, Cheyenne Downtown Development Authority, spoke in support of the ordinance, addressed a concern related to distributing information to property owners and advised the DDA has hired help to obtain property owner information from the Secretary of State’s office which will be maintained in a database. She provided ownership information on properties in the downtown district, stating 28% of owners are absentee. Ms. Dugger explained letters will be sent to owners giving the option to “opt-out” of the program. Ms. Dugger advised, upon inquiry, program funds will be taken out of the mill levy budget line item. Upon inquiry by Richard Johnson, Chief Brian Kozak, Police Department, advised property owners will not receive citations for graffiti. Upon inquiry related to the course of action for those who “opt-out” and are affected by graffiti, Mayor Orr explained Code Enforcement may become involved. It was noted the program is a two-year pilot program. Mr. Johnson discussed graffiti culture and suggestions provided by downtown property owners including public education and an area where graffiti is allowed. Reporting for Public Services Committee, Dr. Rinne moved to approve on third and final reading, seconded by Mr. Roybal. Upon inquiry, Ms. Dugger explained initial letters were sent through registered mail. Discussion followed and included: Proposed graffiti removal process, methods utilized to communicate with property owners and the importance of an updated property ownership database. Motion carried. Voting “yes” – all members of the governing body present with the exception of Mr. Shanor voting “no”. (#4259)

ORDINANCE – 3rd READING – Delegating the review authority authorized by W.S. §34-12-103(b) to the Director of the City of Cheyenne Planning and Development Department. Charles Bloom, Planning and Development Director, advised the County determined they will not enter into an MOU at this time and explained the review process going forward noting the City’s ability to comment on County plats and the review process does apply to stormwater. It was reported that County Commissioners are required to submit written notice if they disagree with City comments. Dr. Rinne moved to approve on third and final reading, seconded by Mr. Shanor. Discussion topics included: Concerns related to the ordinance and the way state statute is written, potential for future annexation requests that involve land that hasn’t met City standards, possible impact of not approving the ordinance and future discussions with legislature on the topic. Amy Allen, City Engineer, clarified when annexations occur, City standards must be met. Motion carried. Voting “yes” – all members of the governing body present with the exception of Mr. Cook, Dr. Rinne and Mr. Roybal voting “no”. (#4260)

ORDINANCE – 3rd READING – Pursuant to Section 2.2.2 Planned Development Regulating Plan and Section 5.6.2 PUD – Planned Unit Development District, of the Cheyenne Unified Development Code (UDC) amending Ordinance Number 3741, which established The Village Planned Unit Development (PUD), by adding indoor entertainment as a land use category permitted by right for Lot 28 of Block 2 of The Village PUD, adding a new Section 5.11 to defer to the UDC standards where the PUD is silent on Development Standards, and, pursuant to Section

2.2.1 of the UDC, amending The Village PUD map to reflect Lot 28 instead of Lots 30 and 31 of The Village Subdivision for the subject parcel, Cheyenne, Wyoming, (located west of and adjacent to Powderhouse Road, south of Old Town Lane). Eric Nelson, Principal Owner, Wyoming Downs, provided history of Wyoming Downs business operations including community tax revenues, noted average age of customers, explained the company's interest in the proposed location, provided information on calls responded to by Police Department at their existing location (report on file with Clerk's office) and stated their first priority is customer and employee safety. Mr. Nelson discussed a future open house to be held at the proposed location to provide public information and, upon inquiry, explained the difference between gambling and pari-mutuel wagering. He advised it is his understanding that other nearby and adjacent properties are correctly zoned for indoor entertainment. Joe Svec, #1 Properties, explained the process of acquiring the property and reported beginning in 2018, signatures were collected for the zone change petition from nearby property owners and provided information relating to petition requirements. Upon inquiry, Mr. Svec advised the former Jackson's building has been vacant for 2 years with minimal interest in the building. Eric Cook, Chief Operations Officer, Wyoming Downs, provided and reviewed handouts (on file with Clerk's office) discussing: Business customer base, proposed restaurant environment including alcohol and reported a recent decline in business at the existing location. Upon request for clarification relating to a letter included in the handout, Mr. Cook confirmed the letter is undated and stated it was prepared on November 9, 2018. Mr. Cook provided additional information relating to desire to expand, details of the proposed building layout and operation, incident report involving Police Department calls for service at existing location, projected tax revenues, and potential for ordinance postponement to allow for additional public input at a future open house. Upon inquiry, Mr. Nelson explained physical altercations occurred outside of the facility according to an internal control report. Speaking in opposition of the ordinance were: Mike Konar, Frank Cole, Evan Asher, Paul Wood, Scott Weaver, Gloria Milmont, Laramie Ringolsby, Maresa Hilton, Candis Pickard, CRMC Davis Hospice Center, Crystal Lewis, Trisha Smedley, Bryan Young, Joe Fiedler, Holly Fiedler and Kim and Conner Shumway. Comments and concerns discussed included: Proposed location proximity to homes, churches, schools, daycares, hospice center, and other businesses, notification to nearby property owners required for zone change, incidents occurring in the existing location parking lot vs. inside the establishment, importance of a safe neighborhood, potential long term financial impacts relating to current and future residents and businesses, Police Department recommended criteria, data provided by Wyoming Downs, client base, future alcohol service at the proposed location, zone change petition process and zoning criteria. Mr. Case advised there are six lots that are appropriately zoned for the business directly north and northwest of the proposed location. Donn Edmunds spoke in favor of a secondary location with a six-month provision.

Following a brief recess, Mayor Orr reconvened the meeting at 8:20 p.m. Jeff Dierksen spoke about neighbor's concerns and voiced support for discontinuation of problematic behavior. Dr. Rinne reported there was no recommendation on the item from Public Services Committee. Dr. Rinne moved to approve, seconded by Mr. Luna. Discussion topics included: Neighborhood safety, community need for entertainment options, incidents at existing location isolated to the immediate area of the business, and potential positive financial revenue impact. Mr. Case distributed and discussed a zoning map of the area (on file with Clerk's office). Mr. Case moved to postpone to February 25, 2019, seconded by Mr. Luna. Motion to postpone carried. Voting

“yes” – all members of the governing body present with the exception of Mayor Orr and Mr. Laybourn voting “no”. (City Clerk note: Dr. Rinne left the meeting due to a previous commitment at 8:33 p.m., prior to the vote).

ORDINANCE – 1<sup>ST</sup> READING – Annexing to the City of Cheyenne, Wyoming, Lot 4, Block 2, Swan Ranch Rail Park Third Filing, and a portion of Tundra Drive, Laramie County, Wyoming (located at the southwest corner of Tundra Drive and Clear Creek Parkway) – referred to Public Services Committee. (Sponsor – Dr. Rinne)

ORDINANCE – 1<sup>ST</sup> READING – Pursuant to Section 2.2.1 Zoning Map Amendments, Section 5.1.2 Zoning Districts Established, and Section 5.1.3 Official Zoning Map, of the Unified Development Code, changing the zoning classification from County Swan Ranch PUD Planned Unit Development to City Swan Ranch PUD Planned Unit Development (Ordinance No. 3989) for Lot 4, Block 2, Swan Ranch Rail Park Third Filing, Laramie County, Wyoming (at the southwest corner of Tundra Drive and Clear Creek Parkway) – referred to Public Services Committee. (Sponsor – Dr. Rinne)

ORDINANCE – 1<sup>ST</sup> READING – Pursuant to Section 2.2.1 Zoning Map Amendments, Section 5.1.2 Zoning Districts Established, and Section 5.1.3 Official Zoning Map, of the Unified Development Code, changing the zoning classification from CB Community Business to LI Light Industrial for Hutchins Corner 2<sup>nd</sup> Filing Lots 4 & 5, Laramie County, Wyoming (located south of and adjacent to Campstool Road, west of Hutchins Drive) – referred to Public Services Committee. (Sponsor – Dr. Rinne)

[CA] RESOLUTION – Re-appropriating the Fiscal Year 2019 budget of the City of Cheyenne according to the provisions of W.S. §16-4-112 & 16-4-113. Motion (per Consent Agenda) carried. (#5975)

RESOLUTION – Authorizing submission of a Federal Mineral Royalty Capital Construction Account Grant Application to the State Loan and Investment Board on behalf of the Governing Body for the City of Cheyenne for the purpose of funding the finish of the second floor of a new Municipal Courthouse. Ron Downey, City Treasurer, provided information on the amount requested and the grant application due date (2/21/2019). Upon inquiry, Mr. Downey confirmed the proposed grant is to finish the second floor of the new Municipal Court Building and advised if the grant is awarded and the second floor is not completed, half of the amount awarded would need to be returned. Joe Dougherty inquired as to the specified government purpose of the proposed second floor space. Mayor Orr advised the use hasn’t been determined to date and will be specified in the near future. Upon inquiry, Mr. Downey explained project funding (general fund reserves and 6<sup>th</sup> Penny fund overages), current general fund amount and 60-day reserves requirement. Reporting for Finance Committee, Mr. Luna reported there was no recommendation on the item from Finance Committee. Mr. Roybal moved to adopt, seconded by Mr. Esquibel. Mr. Shanor abstained from discussion and voting (business affiliation with Wyoming State Loan and Investment Board) and vacated council chambers. Comment was made related to the affiliation of the resolution and the upcoming contract modification and the intended use for the space. Mayor Orr advised for the purpose of the grant, specifics are not currently

needed for space. Upon inquiry, Ben Hornok, TC Solutions, explained evolving space utilization of the second floor involving discussions with architects and governing body input on the use of the second floor. Upon inquiry related to a possible postponement of the resolution, Mr. Downey advised a postponement would interfere with the grant submittal deadline. Mayor Orr explained her representation of the governing body before the State Loan and Investment Board and voiced concern about missing a grant opportunity. Comments were made related to the resolution's positive impact on the grant application and determining what will be located in the space. Motion carried. Voting "yes" – all members of the governing body present in Council Chambers. Following announcement of the vote, Mr. Shanor returned to Chambers. (#5976)

[CA] RESOLUTION – Authorizing the Cheyenne Police Department to apply for Office on Violence Against Women OVW-2019-15743 Improving Criminal Justice responses to Domestic Violence, Sexual Assault, and Stalking Grant Program CFDA Number 16.590-Grants to Encourage Arrests Policies and Enforcement of Protection Orders Program. Motion (per Consent Agenda) carried. (#5977)

[CA] RESOLUTION – Directing the delivery of a comprehensive report on the status of the completion of the 26<sup>th</sup> Street Storm Sewer Interceptor Project. Motion (per Consent Agenda) carried. (#5978)

[CA] RESOLUTION – Authorizing submission of a Capital Construction loan application to the State Loan and Investment Board on behalf of the Governing Body of the City of Cheyenne to fund the replacement of Fire Station #3 – referred to Finance Committee. (Sponsor – Mr. White).

[CA] RESOLUTION – Authorizing submission of a Capital Construction loan application to the State Loan and Investment Board on behalf of the Governing Body of the City of Cheyenne to fund the replacement of Fire Station #5 – referred to Finance Committee. (Sponsor – Mr. White).

[CA] RESOLUTION – Directing the availability of the production of Tchaikovsky's The Nutcracker Ballet at the Cheyenne Civic Center -- referred to Finance Committee. (Sponsor – Mr. Case).

[CA] Agreement to retain the OCHS Law Firm as outside legal counsel to represent the City of Cheyenne as a Plaintiff in litigation against manufacturers of opioid prescriptions drugs. Motion (per Consent Agenda) carried. (#6946)

[CA] Professional Services Agreement between the City of Cheyenne and High West Energy, Pine Bluffs, Wyoming, for services dealing with removal of a power line. (2015-2018 1% Sales Tax Funding). Motion (per Consent Agenda) carried (amount not to exceed \$432,000.00). (#6947)

[CA] Agreement between the City of Cheyenne and Cheyenne Umpires Association for providing services for the 2019-2021 softball seasons. Motion (per Consent Agenda) carried. (#6948)

[CA] Professional Services Agreement between the City of Cheyenne and Summit Engineering, LLC, for providing design services for five Greenway segments and 35% design services for

segment No. 6. (1% Specific Purpose Sales Tax). Motion (per Consent Agenda) carried (amount not to exceed \$124,750.00). (#6949)

[CA] Agreement between the City of Cheyenne, Cheyenne Laramie County GIS Cooperative and Aero-Graphics, Inc., Salt Lake City, Utah, for aerial photography and LiDAR services for the 2019 Aerial Imagery and LiDAR Project. (2015-2018 1% Sales Tax). Motion (per Consent Agenda) carried (amount not to exceed \$38,452.00). (#6950)

[CA] Professional Services Agreement between the City of Cheyenne and Terracon Consultants for landfill leachate pump maintenance (Solid Waste fund) – referred to Finance Committee.

[CA] Memorandum of Understanding between the City of Cheyenne, Laramie County Conservation District, Rotary Clubs of Cheyenne and Frog Creek Partners, LLC, Casper, Wyoming, to install and maintain gutter bins at identified locations in the Capitol Basin to trap waste in stormwater and reduce pollutants entering Crow Creek – referred to Finance Committee.

[CA] Lease agreement between the City of Cheyenne and Wyoming Cattle Co., LLC, Pine Bluffs, Wyoming, for cattle grazing on the Belvoir Ranch – referred to Finance Committee.

[CA] Professional Services Agreement between the City of Cheyenne and Short Elliott Hendrickson Inc. for engineering design services for the Miller Lane and Sunset Drive Reconstruction Project (2015-2018 1% Sales Tax) – referred to Finance Committee.

[CA] Professional Services Agreement between the City of Cheyenne and Short Elliott Hendrickson Inc. for engineering design services for the Airport Parkway Pavement Rehabilitation Project (2015-2018 1% Sales Tax) – referred to Finance Committee.

Contract Modification #2 to Contract #6892 between the City of Cheyenne and Noel Griffith Jr. & Associates Architects for Architectural and Engineering Services for finish of the second floor of the Cheyenne Municipal Court Project (1% Specific Purpose Sales Tax and General Fund reserves). Joe Dougherty commented on the elements of the project and voiced concern regarding costs affiliated with the project. Vicki Nemecek, Director of Public Works, explained the amount of the modification is approximately \$95,000. Ben Hornok, TC Solutions, stated a work session for utilization of the second floor will be scheduled immediately, as this is a time sensitive aspect of the project. Comment was made regarding determining priorities for the space. Mr. Luna moved to approve, seconded by Mr. Roybal. Mr. Luna moved to postpone to February 25, 2019, seconded by Mr. Laybourn. Mr. Laybourn advised the postponement is to allow for further discussion related to space utilization. Mr. Hornok advised upon inquiry, that a postponement could potentially delay the project. Jaimie Winters, Noel Griffith & Associates, provided a review of the project to date, explained the only component approved for the second floor is the shell and provided suggestions for second floor use such as office spaces required, conference room space, etc. Comments were made and included potential uses for the second floor and opposition of the postponement. (Clerk's note: Dr. Rinne returned to the meeting at 9:03 p.m.) Motion to postpone failed. Voting "yes" - Mr. Laybourn and Mr. Cook. Voting "no" – Mr. Case, Mr. Esquibel, Mr. Luna, Mayor Orr, Dr. Rinne, Mr. Roybal and Mr. Shanor. Discussion continued relating to the following topics: Future City department occupancy and possible

renovations relating to proposed second floor of the new Municipal Court Building and the Municipal Building located at 2101 O'Neil Ave and status of general fund reserves. Upon inquiry, Sylvia Hackl, City Attorney, suggested language for amending Section II of the contract modification relating to second floor occupancy involving specific city departments. Mr. Laybourn moved to amend Section II of the contract modification by striking the following: "The second floor will be designed to accommodate the following suites of offices: Mayor's Office, City Attorney's Office, and City Council" and replacing with: "The second floor will be designed to accommodate such offices as may be designated by Council.", seconded by Mr. Roybal. Mr. Hornok clarified that temporary housing of City departments can occur if the second floor is constructed as general office space if future Municipal Building renovations are made. Motion to amend carried. Voting "yes" – all members of the governing body present. Comment was made regarding the potential expenditure of additional funds on the project and the possibility of having just the shell for the second floor. Main motion as amended carried. Voting "yes" – all members of the governing body present with the exception of Mr. Case, Mr. Luna, Dr. Rinne and Mr. Shanor voting "no". (#6892)

[CA] Contract Modification #2 to Contract #6839 between the City of Cheyenne and Reiman Corporation for partial release of retainage for the Civic Center Commons Park Project (1% Specific Purpose Sales Tax, SLIB, FEMA and Parks funds). Motion (per Consent Agenda) carried. (#6839)

[CA] Amendment No. 5 to Contract #5930 between the City of Cheyenne and Kone, Inc. for the addition of 2 Kone traction elevators located at the Timothy E. Wilson Board of Public Utilities' Administration/Engineering Building, 2416 Snyder Avenue (BOPU funding) – referred to Finance Committee.

[CA] Contract Modification #1 to Contract No. 6932 between the City of Cheyenne and Asbestos & Technical Services for asbestos abatement services for 2247 East 19<sup>th</sup> Street to extend the completion date – referred to Finance Committee.

[CA] Contract Modification #3 to Contract No. 6743 between the City of Cheyenne and River Oaks Communications Corporation for drafting and negotiation of Charter Communications Cable Franchise Renewal and CenturyLink Cable Television Franchise Agreements to extend the completion date – referred to Finance Committee.

[CA] Consideration of Bid #S-13-19 for a contract between the City of Cheyenne, Engineering Department, and Reiman Corp. for the Christensen Railroad Overpass & Corridor Project (1% Specific Purpose Sales Tax) – referred to Finance Committee.

[CA] Consideration to purchase a mobile stage from Stageline Mobile Stage, Inc., Quebec, Canada, for the Community Recreation & Events Department – referred to Finance Committee.

[CA] Consideration to purchase traffic paint from Vogel Paint and Wax Co., Orange City, Iowa, per WYDOT Bid #18-260CS (2015-2018 1% Sales Tax) – referred to Finance Committee.

Appointments of Lisa Kindel, Justine Whitacre and Jared Dixon to the Mayor's Council for People with Disabilities. Mr. Luna moved to approve, seconded by Mr. Case. Motion carried. Voting "yes" – all members of the governing body with the exception of Mayor Orr who did not vote (mayoral appointments). Mayor Orr commented on the amount of applications submitted for the Mayor's Council for People with Disabilities.

Announcement was made of a Public Hearing to be held February 25, 2019 at 6:00 p.m. in the City Council Chambers, 2101 O'Neil Avenue, Cheyenne, Wyoming, for renewal applications for existing City liquor licenses (retail, restaurant, limited retail, resort, bar and grill licenses, microbrewery, satellite distillery and special malt beverage permits) filed with the City Clerk's office.

Announcement was made that due to the President's Day Holiday on Monday, February 18, 2019, regularly scheduled City Council Committee meetings will instead be held in the Municipal Building, Room 104, 2101 O'Neil Avenue, Cheyenne, Wyoming, as follows: Finance Committee will meet Tuesday, February 19, 2019 at 11:00 a.m. and Public Services Committee will meet Wednesday, February 20, 2019 at Noon.

Under other business:

Rod Stone voiced concern with flooding issues in the Summit Drive area relating to development of the Thomas Heights addition and inquired on the status of previous discussions with City and County staff regarding initiating a review and analysis of the drainage plan from a third-party engineer. Upon inquiry, Mr. Stone advised he has been in contact with an engineer that has agreed to provide review and analysis services and confirmed the individual is not licensed in the State of Wyoming. Mr. Laybourn voiced concerns relating to flooding in that area and the need to resolve the draining issues.

Jeff Dierksen distributed information related to a recent Police Department high visibility patrol on Pinto Lane (on file with Clerk's office) and upon inquiry, advised he hasn't been in contact with the new City Traffic Engineer. Ms. Allen reported the Traffic Engineer has looked at some data concerning traffic in the area.

There being no further business to come before the governing body, the meeting was officially adjourned at 10:03. p.m.

Submitted by,

Kristina F. Jones, City Clerk

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

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