

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

August 26, 2019

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, Pete Laybourn, Mike Luna, Dr. Mark Rinne, Scott Roybal, Dicky Shanor and Jeff White. Absent: Ken Esquibel. Also present: Kris Jones, City Clerk. 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. Upon request by Mr. Shanor, and pursuant to support received by Mr. Luna and Mr. Case, agenda item #12 was removed from the Consent Agenda. Upon request by Dr. Rinne, and pursuant to support received by Mr. Shanor and Mr. Case, agenda item #22 (c) was removed from the Consent Agenda. Mr. Roybal moved to approve remaining items, seconded by Mr. White. Motion carried. Voting “yes” – all members of the governing body present.

[CA] Minutes from Regular Meeting of the Governing Body on August 12, 2019. Motion (per Consent Agenda) carried.

Mr. Roybal moved to approve payment of vouchers as presented, seconded by Mr. White. Upon inquiry, Amy Allen, City Engineer provided information available on vouchers payable to the following: Big Al's Towing (towing of vehicles during chip seal project) and Inberg Miller Engineers (monitoring of retainage wall at Civic Center Commons). Responding to an inquiry related to the voucher payable to Hansen, Allen & Luce, Inc., Ms. Allen explained there was a contractual increase for professional services for the College and Storey (Summit) Drainage Study, as project work is ongoing. She noted the contract amount will remain under \$35,000.00. Dr. Rinne moved to divide the question to allow for separate action on the voucher payable to Hansen, Allen & Luce, Inc. in the amount of \$875.27 for College and Storey (Summit) Drainage Investigation, seconded by Mr. Case. It was noted the motion is not debatable. Motion to divide the question carried. Voting “yes” – all members of the governing body present with the exception of Mayor Orr and Mr. Laybourn voting “no”. Motion to approve remaining vouchers carried. Voting “yes” – all members of the governing body present with the exception of Mayor Orr voting “no”. A point of order was raised related to the need to discuss and vote on the voucher payable to Hansen, Allen & Luce, Inc. separately. Comments were made related to a resolution that failed calling for a drainage study that relates to the voucher. Ms. Allen explained the work has been agreed to and a contract has been signed. The work has been and continues to be conducted and the contract was completed within the procurement process requirements. Mayor Orr further clarified the contract amount with Hansen, Allen & Luce, Inc. is under \$35,000.00. Upon inquiry, Michael O'Donnell, interim City Attorney, advised the City doesn't have authority to not pay

invoices for work performed. A contract holder has the right to go to court to collect money due as a judgement against the City. Discussion continued on the voucher approval process and the failed resolution calling for a drainage study related to the voucher. Motion to approve the voucher payable to Hansen, Allen & Luce, Inc. failed. Voting “yes” – Mayor Orr, Mr. Laybourn, Mr. Roybal and Mr. White. Voting “no” – Mr. Case, Mr. Cook, Mr. Luna, Dr. Rinne and Mr. Shanor.

Mayor Orr opened a public hearing for a proposed trade of real property owned by the City of Cheyenne, described as Lots 1 and 2, Block 1, Clear Creek Subdivision, 1st Filing, and Lot 1, Block 1, Clear Creek Subdivision, 2nd Filing, Laramie County, Wyoming, Consisting of 419.57 acres and having an appraised value of \$1,004,000.00, to Mariah, LLC, for real property owned by Mariah, LLC, described as all of Sections 11 and 14, lying north of the Union Pacific Railroad right-of-way, Township 12 North, Range 70 West of the 6th P.M., Laramie County, Wyoming, consisting of 543.76 acres and having an appraised value of \$1,060,000.00. Vicki Nemecek, Public Works Director, provided information on the proposed property trade and explained the proposal is for a monetary equal land trade. Eric Dalton spoke in favor of the proposed trade, commented on the Belvoir Ranch wind energy lease and expressed interest in some lease funding being dedicated to recreational use. 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 for a proposed sale of undeveloped public property described as a 1.46 acre portion of Lot 1, Block 1, Cheyenne Ice & Events Center, 1st Filing, City of Cheyenne, Laramie County, Wyoming, with an appraised value of \$293,000.00 to John J. Koehler. Teresa Moore, Community Recreation and Events Director, provided information on the proposed sale and property, stating it is for economic development purposes. Ms. Moore explained the property buyer intends to purchase the motel that is south of the property and that the Wasatch mini railroad line that was previously on the parcel has been removed. There being no further comments or input and purpose of the hearing having been met, Mayor Orr closed the hearing.

ORDINANCE – 3rd READING – Amending Chapter 8.64, Smoking in Public Places, within Title 8, Health and Safety, of the Municipal Code for the City of Cheyenne, Wyoming. Jason Mincer, Wyoming Government Relations Director, American Cancer Society Cancer Action Network, provided a hand out containing requested ordinance amendments and spoke in support of the addition of vaping devices to the smoking ban. He requested clarifying the definition of e-cigarettes which could help eliminate the possibility of business owners having to determine if e-cigarettes contain nicotine. Mr. Mincer presented a vaping device and explained how the device functions. Mr. Mincer requested consideration of the inclusion of hotels and motels, in-home care centers and private offices as smoke free businesses. He would like to see in-home care facilities smoke free at all times, even when customers aren’t present. He explained there is a petition containing close to 300 signatures in support of the ordinance changes. Upon inquiry related to how the City would require in-home care facilities to remain smoke free 24 hours a day, Mr. Mincer advised if a residence is utilized as any type of business (with the exception of a tobacco shop), he believes they should remain smoke free at all times. It was noted the approved amendment from the August 12, 2019 City Council meeting includes banning vaping devices whether or not they contain nicotine. Mr. Mincer explained his national office provided proposed language as the amendment may not be clear. Speaking in support of the ordinance were: Amy

Spieker, Director of Community Health, Cheyenne Regional Medical Center; Olivia Hardy; Nick Vaughn, Secondary Principal, Poder Academy; Marguerite Herman; Josh Hannes, Wyoming Hospital Association; Mike Mores, American Heart Association and Patti Reiland, Mayor's Council for People with Disabilities. Topics discussed included: priorities identified in a community health assessment including healthy behaviors related to vaping; vape use among teenagers; student vaping related disciplinary measures in area schools; public space smoking ban restrictions; vape use reaching epidemic levels; public health risk associated with vaping; importance of including nicotine free vape products in smoking ban; logical extension of existing smoking ban ordinance and statistics related to individuals with greatest risk of second hand vaping effects. Mayor Orr asked for everyone in attendance in support of the ordinance to rise. Astrid, Plains Hotel, requested clarification related to enforcing vape free hotel/motel rooms. Joe Chenchar, Assistant City Attorney, advised ordinance language that has been proposed would not make it illegal to use a vaping device in a hotel or motel room. Reporting for Public Services Committee, Dr. Rinne moved to approve on third and final reading, seconded by Mr. Roybal. Motion carried. Voting "yes" – all members of the governing body present with the exception of Mr. Shanor voting "no". (#4285)

ORDINANCE – 2nd READING – Annexing to the City of Cheyenne, Wyoming, the south one hundred fifty feet (150') of Tract 119, all of Tract 120, and those portions of Tracts 135 and 136 north of the right-of-way for U.S. Hwy. No. 30, and all of vacated Cheyenne Street (60'), and the west ½ (25') of vacated Fillmore Ave., adjacent to said tracts, Sunnyside Addition Fourth Filing, situate in a portion of the SE1/4 SE1/4 of Section 27, Township 14N, Range 66W of the 6th P.M., Laramie County, Wyoming. (located south of the intersection of Fillmore Avenue and Charles Street. Dr. Rinne reported there was no recommendation on the item from Public Services Committee. Dr. Rinne moved to approve on second reading, seconded by Mr. Shanor. Jack Studley, agent representing owner, advised the owner would like to withdraw the annexation application. Mr. Studley explained for the purpose of this annexation request he is representing his private practice and provided information on the request to withdraw the application. Motion failed. Voting "no" – all members of the governing body present.

ORDINANCE – 2nd READING – Pursuant to Section 2.2.2 - Planned Development Regulating Plan, Section 2.4.1 - Zoning Text Amendment, and Section 5.6.2 - Planned Unit Development amendment, amending the Sweetgrass Planned Unit Development (PUD) Regulating Plan for 2,349.54 acre Sweetgrass PUD, City of Cheyenne, Laramie, County, Wyoming (located south of West College Drive and east of Avenue C). Dr. Rinne moved to approve on second reading, seconded by Mr. Cook. Dr. Rinne moved to amend by substitute dated 8/19/2019, seconded by Mr. Cook. Dr. Rinne explained the substitute changes the location of the event center and raises the height restriction and would allow for increasing the building heights. Motion to amend carried. Voting "yes" – all members of the governing body present. Main motion as amended carried. Voting "yes" – all members of the governing body present.

ORDINANCE – 2nd READING – Submitting to the qualified property owners of real property within the boundaries of the Cheyenne Downtown Development Authority District of Cheyenne, Wyoming, excluding real property used exclusively for residential purposes, at a Special Election on Wednesday, October 16, 2019, the following Question: "Shall a Special

Assessment of twenty (20) mills be levied upon the assessed value of real property within the boundaries of the Cheyenne Downtown Development Authority District, excluding real property used exclusively for residential purposes, for a period of four (4) years pursuant to the provisions of Wyo. Stat. §15-9-217(b) for the purpose of (1) administrative costs; (2) landscaping or maintenance of public areas; (3) planning or management of development or improvement activities; (4) promotion of public events; (5) activities in support of business recruitment and development?” Reporting for Finance Committee, Mr. White moved to approve on second reading, seconded by Mr. Luna. Comments were made regarding the importance of taxations of businesses in the downtown area, evaluation of the DDA program including how funds are spent and how financial records are accessed in compliance with City code requirements. Motion carried. Voting “yes” – all members of the governing body present.

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. Mr. White moved to adopt, seconded by Mr. Case. Upon inquiry related to creating an account for unexpended funds, Robin Lockman, City Treasurer, advised there can only be one general fund and that a special revenue fund could be a line item or newly created “department” that holds unexpended funds such as payroll overages, etc. Ms. Lockman explained unexpended funds are transferred into reserves and further advised expenditures are being re-appropriated as the Traffic Engineer position wasn’t budgeted for originally. Motion carried. Voting “yes” – all members of the governing body present. (#6006)

[CA] RESOLUTION – Acknowledging receipt of the Archer Trails Connector Plan. Motion (per Consent Agenda) carried. (#6007)

[CA] RESOLUTION – Acknowledging receipt of the Parsley Boulevard Corridor Study. Motion (per Consent Agenda) carried. (#6008)

[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 – referred to Finance Committee. (Sponsor – Mr. White)

[CA] RESOLUTION – Re-appropriating the fiscal year 2020 budget of the City of Cheyenne according to the provisions of W.S. §§ 16-4-112 & 16-4-113 – referred to Finance Committee. (Sponsor – Mr. White)

[CA] RESOLUTION – Supporting the City of Cheyenne to complete the Avenues Greenway Connector Trail between Evans and Airport Parkway and supplement available WYDOT TAP Grants with 6th Penny Tax Receipts (6th Penny Greenway Funds) – referred to Finance Committee. (Sponsor – Mr. Case & Mr. White)

[CA] RESOLUTION – Accepting a grant of \$112,500.00 from the Recreation Mill Board for the renovation of the Jaycee Park Tennis Courts – referred to Finance Committee. (Sponsor – Mr. White)

[CA] RESOLUTION – Accepting a Hazard Mitigation grant from the Wyoming Office of Homeland Security, in the amount of \$191,430.85 for Dry Creek Drainage Planning – referred to Finance Committee. (Sponsor – Mr. White)

[CA] RESOLUTION – Authorizing submission of a Mineral Royalty Capital Construction Account Grant application to the State Loan and Investment Board on behalf of the Governing Body of the City of Cheyenne for the purpose of replacing Fire Station #5 – referred to Finance Committee. (Sponsor – Mr. White)

Preliminary Plat for Center Point Subdivision, 2nd Filing, a replat of Lots 1 through 7, Block 1, inclusive Center Point Subdivision, Cheyenne, Wyoming (located at the southwest corner of the intersection of Homestead Avenue and Eda Place). William Alexander, Eda Place resident, spoke in opposition of the preliminary plat and on behalf of several neighbors, voicing their concerns related to the possibility of increased traffic, access by Homestead, proposed increased dwelling units in the area, existing covenants and compromised safety. Gayleen Wyant, Homestead Avenue resident, spoke in opposition of the preliminary plat and commented on existing concerns in the area. Casey Palma, Steil Surveying Services, agent for the applicant, provided information on the following: issues concerning roads are being addressed, areas of land that are covered by covenants, review of emergency neighborhood access, areas of concern to be reviewed during final plat process, applicable codes having been met for the preliminary plat and the potential of a right-of-way connection being provided to vacant land. Dr. Rinne reported there was no recommendation on the item from Public Services Committee. Dr. Rinne moved to acknowledge receipt with staff conditions 1(a) through (g), seconded by Mr. Shanor. Comments were made related to a compaction test with a need to withstand a 75,000 lb. fire apparatus, concern regarding fill material that was used during an annexation and how it relates to site stability and issues with geotechnical reports for subdivisions. Amy Allen, City Engineer, explained in conjunction with the StratOp process, geotechnical requirements for major projects are currently being reviewed. She explained the City is also looking at requiring a third-party engineer to do compaction testing for streets and the need to implement these requirements during the design and development phases of projects. She provided information on subdivision issues that could have been addressed with geotechnical reports and advised the City can require a geotechnical report of the property prior to development. Upon inquiry, Mr. Palma advised the intent is to provide a geotechnical report of the subdivision and explained the project engineer has recommended fill be removed and recompacted. Ms. Allen advised she would like to be able to add recommendations during the final plat process related to geotechnical report requirements. Mr. Shanor moved to amend by adding staff condition #1 (h) that reads “Applicant will provide a geotechnical compaction report sufficient to satisfy the City Engineer and City Fire Plans Examiner Fire Inspector”, seconded by Dr. Rinne. Motion to amend carried. Voting “yes” – all members of the governing body present with the exception of Mr. Roybal voting “no”. Comments were made related to UDC requirements and the unlikelihood of vacant land in a neighborhood remaining vacant. Upon inquiry, Charles Bloom, Planning and Development Director, provided UDC information stating this proposal meets UDC and IFC requirements. Main motion as amended carried. Voting “yes” – Mr. Case, Mr. Cook, Dr. Rinne, Mr. Shanor and Mr. White. Voting “no” – Mayor Orr, Mr. Laybourn, Mr. Luna and Mr. Roybal.

[CA] Agreement between the City of Cheyenne, Office of Cheyenne Youth Alternatives, and Laramie County for Juvenile Probation Services (revenue to the City). Motion (per Consent Agenda) carried. (#7057)

Lease Agreement between the City of Cheyenne and the Airport Golf Club, Inc. Mr. White moved to approve, seconded by Mr. Roybal. Motion carried. Voting “yes” – all members of the governing body present with the exception of Mr. Laybourn voting “no”. (#7058)

Grant of access easement between the City of Cheyenne and Joseph M. Dyson for a 60 foot wide access easement across City-owned land in the NE1/4NE1/4 of Section 23, Township 13 North, Range 68 West, 6th P.M., Laramie County, Wyoming. Mr. White moved to approve, seconded by Mr. Luna. Jack Studley, City Surveyor, provided information on the location of the property, upon inquiry, stating a fragment of the property is part of the Belvoir Ranch and is north of Otto Rd. He explained there is an easement on an existing improved gravel road that has been in use for many years by Mr. Dyson and area energy companies and that Mr. Dyson has granted access agreements to the City for other purposes. Mr. Studley noted the Dyson’s are anticipating selling their home and the title company asked for the easement. Motion carried. Voting “yes” – all members of the governing body present. (Clerk’s note – agenda item discussed and voted on out of sequence) (#7059)

Following a brief recess, Mayor Orr reconvened the meeting at 7:55 p.m.

[CA] Professional Services Agreement between the City of Cheyenne and OpenCities, Inc., San Francisco, California, for the implementation of a Web-Enabled Content Management System which includes website re-design, development, maintenance and hosting of the City’s Website (General Fund). Motion (per Consent Agenda) carried (in an amount not to exceed \$81,900.00). (#7060)

[CA] Employment Agreement between the City of Cheyenne, Cheyenne Police Department, and Yolanda Ronnau for Crime Victim Assistance Services. (Wyoming Division of Victim Services Grant). Motion (per Consent Agenda) carried (in the base salary amount of \$10,800.00 plus eligible benefits). (#7061)

[CA] Employment Agreement between the City of Cheyenne, Cheyenne Police Department, and Brenda Johnson for Crime Victim Assistance Services. (Wyoming Division of Victim Services Grant). Motion (per Consent Agenda) carried (in the base salary amount of \$35,859.12 plus eligible benefits). (#7062)

[CA] Employment Agreement between the City of Cheyenne, Cheyenne Police Department, and Jessica A. Fritz for Crime Victim Assistance Services. (Wyoming Division of Victim Services Grant). Motion (per Consent Agenda) carried (in the base salary amount of \$31,200.00 plus eligible benefits). (#7063)

[CA] Employment Agreement between the City of Cheyenne, Cheyenne Police Department, and Leslie Burch for Crime Victim Assistance Services. (Wyoming Division of Victim Services

Grant). Motion (per Consent Agenda) carried (in the base salary amount of \$48,878.52 plus eligible benefits). (#7064)

Co-Sponsorship of a Grant Agreement along with Laramie County and the Cheyenne Regional Airport Board with the Federal Aviation Administration for Federal Aviation Grant for the Planning and Engineering Designing work to reconstruct the main runway at the Airport – referred to Finance Committee. Mr. White advised due to timing, the item was reviewed under other items for the agenda at the August 19, 2019 Finance Committee meeting, therefore, provisions of Title 2 of City Code had been met. Mr. White moved to approve, seconded by Mr. Luna. Tim Barth, Director of Aviation, Cheyenne Regional Airport, explained funding involved with the project noting there is no financial commitment from the City and only airport funds will be utilized. Mr. Barth advised the Cheyenne Airport Board is a joint powers board and it is a requirement that the governing body approve the grant agreement as it is a public improvement. Mr. White advised staff received a letter from the FAA outlining requirements to receive the grant and provided the grant deadline date. Motion carried. Voting “yes” – all members of the governing body present. (#7065)

[CA] Real Estate Purchase Agreement between the City of Cheyenne and John J. Koehler, for the sale of undeveloped public property described as a 1.46 acre portion of Lot 1, Block 1, Cheyenne Ice & Events Center, 1st Filing, City of Cheyenne, Laramie County, Wyoming, for the appraised value of \$293,000.00 – referred to Finance Committee.

[CA] Agreement for the trade of real property owned by the City of Cheyenne, described as Lots 1 and 2, Block 1, Clear Creek Subdivision, 1st Filing, and Lot 1, Block 1, Clear Creek Subdivision, 2nd Filing, Laramie County, Wyoming, consisting of 419.57 acres and having an appraised value of \$1,004,000.00, to Mariah, LLC, for real property owned by Mariah, LLC, described as all of Sections 11 and 14, lying north of the Union Pacific Railroad right-of-way, Township 12 North, Range 70 West of the 6th P.M., Laramie County, Wyoming, consisting of 543.76 acres and having an appraised value of \$1,060,000.00 – referred to Finance Committee.

[CA] Contract Modification #3 to Contract No. 6839 between the City of Cheyenne and Reiman Corporation, Cheyenne, for final construction of the Civic Center Commons Project. (1% Sales Tax 2019-2022). Motion (per Consent Agenda) carried (in an amount not to exceed \$86,545.52). (#6839)

[CA] Consideration of Bid #S-22-19 for a contract between the City of Cheyenne and American Contracting of Wyoming, Cheyenne, Wyoming, for the Cheyenne Regional Airport Fountain Partial Restoration Project. (Certified Local Government Grant, Wyoming Cultural Trust Fund Grant, Historic Preservation Board, and Leadership Cheyenne Class of 2016). Motion (per Consent Agenda) carried (accepted the bid from American Contracting of Wyoming, Cheyenne, Wyoming in an amount not to exceed \$45,400.00). (#7066)

[CA] Report of Community Facility Fees Fiscal Year 2018-2019. Motion (per Consent Agenda) carried.

Appointment of Michael R. O'Donnell as City Attorney for the City of Cheyenne. Mr. Luna moved to approve, seconded by Mr. White. Appreciation was expressed to Mr. O'Donnell and to current City Attorney staff for their efforts during the absence of a City Attorney. Motion carried. Voting "yes" – all members of the governing body present with the exception of Mayor Orr who did not vote (mayoral appointment).

Mr. Shanor moved to acknowledge receipt of revenues as presented, seconded by Mr. Luna. Appreciation was expressed to City staff on implementation of revenues as a reoccurring agenda item pursuant to new ordinance requirements. Motion carried. Voting "yes" – all members of the governing body present.

Announcement of a Public Hearing was made to be held September 9, 2019 at 6:00 p.m. in City Council Chambers, 2101 O'Neil Avenue, Cheyenne, Wyoming, for a transfer of ownership for a retail liquor license application filed with the City Clerk's Office for AB Cheyenne, WY, LLC d/b/a/ Applebee's Neighborhood Grill & Bar, 1401 Dell Range Blvd., Cheyenne, Wyoming.

Announcement was made that due to the Labor Day holiday on Monday, September 2, 2019, the 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, September 3, 2019 at 11:00 a.m. and Public Services Committee will meet Wednesday, September 4, 2019 at Noon.

Under other business:

Vince Bodiford, The Cheyenne Post, provided information on the weekly community newspaper that has recently launched in Cheyenne.

Ed Melko spoke in opposition of \$250,000.00 that was recently allocated for repairing potholes and the importance of the bid process for this type of project.

Mr. Laybourn commented on the recent Edge Fest event that was held at Civic Center Commons, voiced concern regarding the former airport terminal building related to its current condition and possible future use and expressed appreciation to Police Chief Kozak regarding his response to the Community Conversation Report.

Mr. Luna voiced concern regarding observed pothole work near his residence and the allocation of funds for pothole repair.

There being no further business to come before the governing body, the meeting was officially adjourned at 8:04 p.m.

Submitted by,

Kristina F. Jones, City Clerk

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

Published: Wyoming Tribune-Eagle
September 6, 2019