

RIFLE CITY COUNCIL MEETING

Wednesday, June 1, 2011

REGULAR MEETING

7:00 p.m. * Council Chambers

The regular meeting of the Rifle City Council was called to order at 7:00 p.m. by Mayor Keith Lambert.

PRESENT ON ROLL CALL: Councilors Alan Lambert, Jay Miller, Jen Sanborn, Jeanette Thompson, Randy Winkler, and Mayor Keith Lambert.

Councilor Winkler moved to excuse Councilor Jonathan Rice from attending tonight's meeting; seconded by Councilor A. Lambert.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

OTHERS PRESENT: John Hier, City Manager; Lisa Cain, City Clerk; Matt Sturgeon, Assistant City Manager / Director of Planning; Jim Neu, City Attorney; Jim Bell, Channel 10 Manager; Michael Churchill, Channel 10 Assistant Manager; Mike Braaten, Government Affairs Coordinator; Daryl Meisner, Police Chief; Charles Kelty, Finance Director; Nathan Lindquist, City Planner; Mike Braaten, Government Affairs Coordinator; Michael Langhorne; Marge Gerloff; Kathy Trapp; Tim Mayberry; Gil Frontella; Mark Sills; Keith Wood.

CONSENT AGENDA - APPROVE THE FOLLOWING ITEMS:

- A. Minutes from the May 18, 2011 Regular Meeting
- B. Liquor License Renewals – Red River Quick Mart; Sports Corner; 6&13 Quick Mart; Rocky Mountain Liquors
- C. Liquor License Renewal – Wal-Mart
- D. Authorize the Mayor and the City Clerk to sign all documents relating to the USDA Rural Development loan and/or grant
- E. April Financial Report
- F. April Sales Tax Report
- G. Accounts Payable
- H. Liquor License Renewal and Report of Changes – WingNutz Bar & Grill

Councilor Miller moved to approve Consent Agenda Items A, B, C, D, E, F, and G; seconded by Councilor Winkler.

Roll Call: Yes – A. Lambert (abstaining as to Item A), Miller (abstaining as to Item A), Sanborn, Thompson, Winkler, K. Lambert

With respect to Item H, Council discussed its options resulting from WingNutz Bar & Grill's admission that in October 2010, it failed a compliance check by the State Liquor Enforcement Division by selling an alcohol beverage to an underage purchaser. Based upon this licensee's lack of previous violations, and the cost to conduct a hearing, staff recommended that Council not impose sanctions on WingNutz Bar & Grill and that Council approve Item H.

Councilor Miller moved to approve Consent Agenda Item H; seconded by Councilor A. Lambert.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

CITIZEN COMMENTS AND LIVE CALL-IN

John Scalzo requested that the City improve the intersection of Railroad Avenue and 16th Street to make it easier to turn from the City Market parking lot to northbound Railroad Avenue when there is southbound Railroad Avenue traffic waiting to enter the City Market parking lot.

Rifle Regional Economic Development Corporation President Michael Langhorne and Country Attic owners Marge Gerloff and Kathy Trapp informed the public that the Country Attic is not closed nor will it close as a result of the Rifle Creek Plaza project.

There were no other citizen comments or live call-ins.

CONSIDER ACCEPTING AUDIT OF 2010 FINANCIAL RECORDS

Finance Director Charles Kelty and Tim Mayberry, representing Johnson, Holscher & Company, P.C., presented a draft audit of the City's 2010 financial records. They will present the final audit for Council action at a future meeting.

Councilor Winkler left the Council chambers.

CONSIDER PROPOSAL FOR THE CONSULTING AND DESIGN SERVICES OF ACOUSTICAL AND AUDIOVISUAL FOR THE NEW UTE THEATRE

City Manager John Hier said that the New Ute Theatre Society solicited proposals for consulting and design of acoustical and audio visual systems for the proposed theater renovation. Johnson-Carter Architects analyzed the proposals and recommended that the City award the contract to D. L. Adams Associates for an amount not to exceed \$41,200.

Councilor Miller moved to award a contract for consulting and design services of acoustical and audio visual systems for the New Ute Theatre to D. L. Adams Associates in an amount not to exceed \$41,200; seconded by Councilor A. Lambert.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, K. Lambert

Councilor Winkler returned to the Council chambers.

CONSIDER APPROVING BLACK TAIL MINOR SUBDIVISION FINAL PLAT AND SUBDIVISION IMPROVEMENTS AGREEMENT - RESOLUTION NO. 8, SERIES OF 2011

City Planner Nathan Lindquist explained that the applicant, Mark Sills of Rifle HR, LLC seeks Final Plan approval for a minor subdivision at 2455 Airport Road. The 10-acre parcel is proposed to be subdivided into four lots to be zoned Light Industrial. This parcel is currently occupied by a modular housing unit and a garage near Airport Road. The remainder of the property is vacant. Staff recommended approval of Resolution No. 8, Series of 2011.

Councilor A. Lambert moved to approve Resolution No. 8, Series of 2011, approving the Final Plat of the Blacktail Minor Subdivision; seconded by Councilor Sanborn.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

CONSIDER AUTHORIZING DISTRIBUTION OF DISCOUNT PRESCRIPTION CARDS

Keith Wood, Broker, Mountain Insurance Solutions, requested the City's assistance in distributing discount prescription cards to the public. Council's consensus was that staff should analyze this proposal and report its findings to Council.

CONSIDER ADOPTING POLICIES FOR RIFLE COMMUNITY TELEVISION - RESOLUTION NO. 7, SERIES OF 2011

Rifle Community Television Channel 10 (RCT) Manager Jim Bell recommended that Council approve Resolution No. 7, Series of 2011 adopting the RCT Government Access Channel Policy.

Councilor A. Lambert moved to approve Resolution No. 7, Series of 2011 adopting the Rifle Community Television Government Access Channel Policy; seconded by Councilor Thompson.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

CONSIDER AWARDING CONTRACT FOR IRRIGATION AUDITS

City Engineer Dick Deussen and Government Affairs Coordinator Mike Braaten recommended that Council award the contract to provide irrigation system audits and improvement services for the Rebates and Audits for Irrigation Networks (RAIN) Program to Oasis Irrigation Company in an amount not to exceed \$22,489. Funds are available from a grant from Colorado Water Conservation Board.

Councilor Winkler moved to award the contract to provide irrigation system audits and improvement services for the Rebates and Audits for Irrigation Networks Program to Oasis Irrigation Company in an amount not to exceed \$22,489; seconded by Councilor Miller.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

CONSIDER AWARD OF CONTRACT FOR UNINTERRUPTIBLE POWER SYSTEM FOR RAILROAD AVENUE TRAFFIC SIGNALS

Mr. Deussen requested that Council award a contract to construct an Uninterruptible Power System (UPS) for Railroad Avenue traffic signals to Rifle Electric, Inc. in the amount of \$69,640. Funds are available from the Street Improvement Capital Fund. The work includes installing battery backup systems at signals on Railroad Avenue at 3rd, 5th, 7th (Middle School Crossing), 9th, 14th and 16th Streets. This will eliminate non-operational traffic signals upon power failures up to 4 hours in length.

Councilor Miller moved to award a contract to construct an Uninterruptible Power System (UPS) for Railroad Avenue traffic signals to Rifle Electric, Inc. in the amount of \$69,640; seconded by Councilor A. Lambert.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

CONSIDER PARTICIPATING AS A COOPERATIVE AGENCY FOR THE BLM'S OIL SHALE AND TAR SANDS PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT

Mr. Braaten explained that the Bureau of Land Management (BLM) is preparing a new Programmatic Environmental Impact Statement (PEIS) for tar sands and oil shale. This PEIS is a "fresh look" at commercial leasing for oil shale by the Obama Administration and will focus on reviewing decisions that were made during the last few months of the Bush Administration. The City of Rifle has participated in the past as a cooperating agency on the subject of oil shale regulations. Mr. Braaten recommended that Council approve the City's participation as a cooperating agency in the Bureau of Land Management's development of the new tar sands and oil shale PEIS.

Councilor A. Lambert moved to approve the City's participation as a cooperating agency in the Bureau of Land Management's development of the new tar sands and oil shale Programmatic Environmental Impact Statement; seconded by Councilor Miller.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

CONSIDER ACCEPTANCE OF DOLA HUD AND TIGER II GRANT AGREEMENTS

Assistant City Manager / Director of Planning Matt Sturgeon recommended that Council authorize the Mayor to sign two Department of Local Affairs (DOLA) Grant Agreements related to Rifle's participation in the Colorado Sustainable Main Street Program. The Department of Housing and Urban Development Community Challenge Planning Grant of \$420,000 and US Department of Transportation National Infrastructure Investments Discretionary (Tiger II) Grant of \$395,600 were awarded to fund a Transit Oriented Development (TOD) Strategic Plan for the Central Business District. These funds were not anticipated when preparing the FY2011 budget, therefore any grant funds spent in 2011 will require a supplemental appropriation; these funds will be budgeted to the Planning Department's Professional Services sub account.

Councilor Sanborn moved to authorize the Mayor to sign 2 DOLA Grant Agreements related to Rifle's participation in the Colorado Sustainable Main Street Program; seconded by Councilor Thompson.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

CONSIDER AMENDING SECTION 18-9-30 OF THE RIFLE MUNICIPAL CODE (2003 IFC AMENDMENT) – ORDINANCE NO. 5, SERIES OF 2011 (FIRST READING)

Mr. Hier and Mr. Sturgeon explained that proposed Ordinance 5 would amend Rifle Municipal Code Section 18-9-30 to only require buildings located in the Central Business District or in attached buildings with multiple ownership interests to comply with the standards established by said section. All other buildings would need to comply with the 2003 International Fire Code (IFC). This amendment is proposed because there is no demonstrated reason justifying the current amendment to the 2003 IFC; however, to protect the more densely constructed historic core and other environments where there are attached structures with multiple ownership interests, staff recommends the amendment be kept for these specific situations.

Councilor A. Lambert moved to approve Ordinance No. 5, Series of 2011, on first reading as presented and to order it to be published by title as required by Charter; seconded by Councilor Sanborn.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

CONSIDER AMENDING MUNICIPAL CODE REGARDING MEDICAL MARIJUANA BUSINESS LICENSING, AND DECLARING MORATORIUM ON TRANSFER OF LICENSED MEDICAL MARIJUANA BUSINESSES INTO THE CITY – ORDINANCE NO. 3, SERIES OF 2011 (SECOND READING)

Mr. Neu reminded Council that the Colorado Legislature passed significant legislation in 2010 regarding the regulation of medical marijuana businesses and the Department of Revenue, which oversees the state's regulation of medical marijuana businesses, promulgated extensive regulations. The legislation created a dual licensing system with a state and local licensing authority, similar to liquor licensing, that becomes effective July 1, 2011. Prior to the adoption of that legislation, the City enacted local regulations of medical marijuana businesses by Ordinance No. 33, Series of 2009, codified in Chapter 6 of Article VIII of the Rifle Municipal Code (RMC). The state's statutory scheme fits very well with what the City enacted, but some of the terminology in the RMC needs to be changed to match state statute and regulations, such as changing "permit" to "license" and "dispensary" to "center," etc. In addition, the state created three separate licensed activities: medical marijuana centers, optional premises cultivation operations, and infused products manufacturers. Proposed Ordinance No. 3, Series of 2011

amends the RMC accordingly and includes new and amended definitions to conform to the state's regulations. In addition, Ordinance No. 3 adopts the state's regulations by reference and any violation of those regulations is also a violation of this Chapter subject to local enforcement.

The State's regulations include a provision prohibiting medical marijuana businesses from being located within 1,000 feet of a school, an alcohol or drug treatment facility, or a residential child care facility. Following first reading Ordinance No. 3 has been amended to adopt this 1,000 foot distance requirement, and RMC §6-8-200 exempts existing establishments giving them a non-conforming status. In addition, the state statute at C.R.S. 12-43.3-308 that contains the location restriction states in part "the provisions of this section shall not affect the renewal or re-issuance of a license once granted...."

The State Legislature recently passed additional clean-up legislation in HB 11-1043 that contains an additional 1 year moratorium on new medical marijuana businesses through June 30, 2012; however, the City may see a request to transfer an existing license from a jurisdiction that has banned medical marijuana into the City. This provision may cause an influx of requests to transfer licenses into the City, so Ordinance No. 3 includes a moratorium on such transfers through June 30, 2012. This will allow the City some breathing room while the state's regulations take full effect on the industry.

Councilor Winkler moved to approve Ordinance No. 3, Series of 2011, on second reading as presented and to order it to be published in full as required by Charter; seconded by Councilor Miller.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

CONSIDER AMENDING MUNICIPAL CODE REGARDING MAIL BALLOT ELECTIONS – ORDINANCE NO. 4, SERIES OF 2011 (SECOND READING)

Mr. Neu explained that general municipal and special municipal elections in the City are conducted pursuant to Chapter 2, Article I of the Rifle Municipal Code and Article II of the Rifle Home Rule Charter. Section 2.1 of the Charter states that City elections shall be governed by the Colorado Municipal Election Law except as otherwise provided in the Charter or by ordinance. The Colorado Municipal Election Code permits any municipality to provide by ordinance or resolution that it will utilize the requirements of the Uniform Election Code of 1992, articles 1 to 13 of title 1, C.R.S. as an alternative procedure for any election. The provisions of the Uniform Election Code include the Colorado Mail Ballot Election Act at C.R.S. §1-7.5-104. In recent years, the popularity of mail ballot elections has both increased voter participation and decreased election costs throughout the state, and many local governments have moved to an exclusively mail ballot format, rather than offering a polling place option. In the past Rifle has authorized the use of mail ballots by resolution, but still retained the Municipal Election Code procedure, including election day polling places. The majority of Rifle voters have chosen the mail ballot option.

The procedures and timelines of the Municipal Election Code and the Uniform Election Code do not coincide, creating some confusing choices for the Clerk when using mail ballots under the Municipal Election Code regime. The City Clerk would also like the option of conducting a mail ballot-only election without polling places, which requires adopting by ordinance the option to use the Mail Ballot Election Act procedures. Ordinance No. 4, Series of 2011 would resolve these issues by amending RMC Section 2-1-10 to add the option of following the procedure outlined in the Mail Ballot Election Act. The City Council will continue to call a mail ballot election at its discretion by resolution, so the option of utilizing the Municipal Election Code procedure, including polling places, remains intact.

Councilor Miller moved to approve Ordinance No. 4, Series of 2011, on second reading as presented and to order it to be published in full as required by Charter; seconded by Councilor Sanborn.

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

ADMINISTRATIVE REPORTS

Mr. Hier reported to Council on the following issues: privatization of solid waste collection services; staff shortages; wastewater collection and treatment issues; Colorado Municipal League annual conference; upcoming community survey; strategic planning retreat; Hyland Enterprises proposal; and planning for flooding from runoff.

Council's consensus was not to meet in workshop session on June 8.

Mr. Sturgeon dispelled the rumor that the City will be building, owning, and operating the theater at Rifle Creek Plaza; the private sector will perform these actions. He reported on the following: progress at Rifle Creek Plaza; 2009 International Building Codes; and Mr. Lindquist's acceptance into the Roaring Fork Leadership Program.

Mr. Braaten informed Council about the upcoming community survey; Ennovate energy performance contract; and legislative update.

Police Chief Daryl Meisner reported on the library burglary; American National Bank robbery; and the need for residents to be aware of flooding hazards.

COMMENTS FROM MAYOR AND COUNCIL

Council Members emphasized that downtown merchants must have 2 to 4 weeks' notice of street closures for special events.

Councilor A. Lambert pointed out how much paper the Council was saving by using iPads to view their meeting packets.

Councilor Thompson expressed appreciation for Centennial Park's water play feature.

EXECUTIVE SESSION

EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS UNDER CRS 24-6-402(2)(F) AND NOT INVOLVING: (1) ANY SPECIFIC EMPLOYEES WHO HAVE REQUESTED DISCUSSION OF THE MATTER IN OPEN SESSION; (2) ANY MEMBER OF THIS BODY OR ANY ELECTED OFFICIAL; (3) THE APPOINTMENT OF ANY PERSON TO FILL AN OFFICE OF THIS BODY OR OF AN ELECTED OFFICIAL; OR (4) PERSONNEL POLICIES THAT DO NOT REQUIRE THE DISCUSSION OF MATTERS PERSONAL TO PARTICULAR EMPLOYEES

Councilor Miller moved to adjourn to executive session to discuss personnel matters; seconded by Councilor A. Lambert (9:20 p.m.).

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

Councilor Sanborn moved to adjourn from Executive Session; seconded by Councilor A. Lambert (9:59 p.m.).

Roll Call: Yes – A. Lambert, Miller, Sanborn, Thompson, Winkler, K. Lambert

COMMENTS FROM MAYOR AND COUNCIL

Councilor Miller will ask staff for information about Rifle events for the senior newsletter.

Council received an update on code enforcement actions.

Councilor Sanborn noted that other countries are considering a ban on hydraulic fracturing (“fracking”).

Meeting adjourned at 10:07 p.m.

Lisa H. Cain
City Clerk

Keith Lambert
Mayor