

CITY OF BOX ELDER COMMON COUNCIL MEETING MINUTES
Tuesday, January 17, 2017
7:00 pm – City Council Chambers, 420 Villa Drive, Box Elder

1. Call meeting to order: Mayor Larson called the meeting to order at 7:00 pm

2. Moment of Silence/Pledge of Allegiance

3. Roll Call: Present were: Council Members: Scott Allen, Steve Cowley, Bruce Hegel, Jeff Hollinshead, and Tricia Weathers. Also present were: Legal Counsel Rex Hagg, Police Chief Jason Dubbs, City Administrator/Finance Officer Nicole Schneider, Public Works Director Bob Kaufman, and Planning & Zoning Coordinator Ron Koan.

4. Approve Agenda: Motion by Weathers, seconded by Cowley to approve the agenda for January 17, 2017 as presented. Vote aye: Unanimous.

CONSENT AGENDA: Agenda items 5 through 9 on the Consent Agenda are meant to be approved as a group with a single motion. Questions may be asked of any Consent Agenda items, but may not be debated. Any Consent Agenda item may be removed from the Consent Agenda for separate action at the request of any Council Member or anyone present. All questions are to be directed to the Department Head.

5. To approve the reading of the January 3, 2017 Common Council Meeting Minutes.

6. To approve Payroll 2 (Dec 25 to Jan 7) Total Payroll \$53,670.27; General Government: \$2,760.38; Finance Office: \$5,609.42; General Finance: \$3,108.09; Police Dept: \$21,893.53; PW Street Maintenance: \$5,257.64; PW Animal Control: \$1,106.58; PW Parks: \$1,092.35; Planning & Zoning: \$3,521.70; Planning & Zoning Board: \$785.00; PW Water Production: \$2,742.99; PW Water Distribution: \$4,557.22 PW Sewer Collection: \$1,235.37.

7. To approve the claims, loan payments, and hand checks.

8. To approve business license #1715 for St. Vincent De Paul Thrift Outlet, Mark Schwartz, to be located at 640 Box Elder Road West.

9. To approve business license #1716 for Legendary Limousine, Chris Welch, to be located at 104 Box Elder Road.

To discuss and decide action on Consent Agenda Items 5-9. Motion by Allen, seconded by Hegel to approve Consent Agenda Items 5-9. Vote aye: Unanimous.

CITY BUSINESS:

10. COUNCILMEMBER WEATHERS: To discuss and decide action on Event Coordinator – temp/part time. Motion by Hollinshead, seconded by Cowley to defer until the meeting of 2/07/17 pending information from Rapid City Journal regarding cost and information on success of campaign. Vote aye: Unanimous.

11. LEGAL DEPARTMENT: To discuss and decide action on first reading of Ordinance 570. Item was deferred from 1/3/17 council meeting. Based on the recommendation made by Council, City Attorney Hagg prepared changes to abide by the City and State statutes and removing any inconsistencies the old version of the ordinance created in the Cities laws. Per the prior meeting discussion regarding Department Head's authority to dismiss a staff member, changes were proposed providing the City Administrator and the Department Heads the proper authority in accordance with the City's ordinances, policies and procedures. Council member Hollinshead clarified that the City Finance Officer is appointed by the Mayor, the City Administrator is appointed by the Council and that one individual can hold both positions. He further clarified that in the scenario of the individual holding both roles, the Mayor could move to dismiss them from the Finance Officer position but could not remove them as the City Administrator. City Attorney Hagg concurred with Council member Hollinshead statement and further clarified that it is good to make that clarifying statements because it could be an issue that could come up with an individual holding a dual role. Council member Hollinshead comment that this option protects the person holding the dual role from being dismissed by a new Mayor and clarified that the City Administrator has the authority to suspend any employee until reviewed by Department Head or Mayor in addition to the authority provided Department Heads in section 32.01 of the City's ordinance 570. Motion by Weathers, second by Cowley to approve the changes. Vote aye: Unanimous.

12. LEGAL DEPARTMENT: To discuss and decide action on first reading of Ordinance 571, an ordinance to amend Chapter 33 to repeal Section 33.04.02 of the Box Elder code. City Attorney Hagg prepared changes to abide by the recommendations made by Council to move the Police Chief to a "for hired" position to be consistent with the prior changes to the ordinances to make all Department Head positions a for hired position except for the Finance Officer position, which is appointed by the Mayor in accordance with State statute. Motion by Hollinshead, second by Allen to

approve the changes. Vote aye: Unanimous.

13. LEGAL DEPARTMENT: To discuss and decide action on Resolution 17-03, a resolution to amend City policy and procedure manual, Policy 9 – disciplinary action. City Attorney Hagg prepared changes to abide by the recommendations made by Council to update the City's policy manual, policy 9, disciplinary action. Council member Weathers recommended an additional change to policy 9, section 9.8, to strike the word "Police" in the event the City acquires an additional union in the future. City Attorney Hagg concurred with that change and added a change in section 9.8, "the Union contract..." to "a Union contract...". Council member Weathers requested changes to resolution 17-03 and ordinance 570 to clarify the authority to impose discipline to a Department Head. Council member Hollinshead recommended the change to ordinance 570, section 32.02.03 (3), to allow the Mayor and the City Administrator the authority to give disciplinary action to Department Heads. Motion by Allen, seconded by Hollinshead to defer resolution 17-03 until changes are made to include an amendment to ordinance 570 to clarify the authority to impose discipline to a Department Head. Vote aye: Unanimous.

14. PUBLIC WORKS DEPARTMENT: To discuss and decide action on Assessment District request for Seger Drive Development. Motion for staff to move forward on the research to consider the proposed Seger assessment district. Motion by Allen, seconded by Weathers to give staff the authority to begin the research for the Seger assessment district.

Council member Hollinshead ask the City Attorney if he could consider the assessment fairly and equitably although his family firm and family members have considerable investments in the area. City Attorney Hagg stated that he didn't think any of the property they have involvements is around this area but does want the Council to have a comfort level and there is statutory requirements and public hearings. If there are concerns, he does not feel offended or disrespected either way. If the Council wants it done independently it will cost the City more that way and he doesn't intend on weighing in on whether the City should do it or not, he just wants the City to understand what they are getting into. However the City wants to do it, he is ok with the decision the Council makes. Council member Hollinshead stated that no offense would be intended, but he understands that there is competition between developers in that area. City Attorney Hagg clarified that the City Attorney's family investments are in Rapid City except for the Cheyenne area, but other than that they don't have anything over in that area. With that being said, the last thing he wants is for anyone to point the finger at them, he is good either way. Vote aye: Unanimous.

15. PUBLIC WORKS DEPARTMENT: To discuss and decide action on authorization request for Public Works Department to purchase tractor/mower combination for Parks and Street Department. Council member Hollinshead clarified the warranty period of the mower and the anticipate delivery date. Public Works Director Kaufman clarified that the warranty will be good two years from the time the mower went into service which is July of last year (July 2016 through July 2018) and delivered immediately. Motion by Hollinshead, second by Weathers to approve the purchase of the mower. Vote aye: Unanimous.

16. FINANCE DEPARTMENT: To discuss and decide action on request submitted by Rapid City Journal regarding Ellsworth Support Sponsorship. Council member Weathers asked that the Journal to provide statistics on how the Ellsworth book promotes the City. Council member Hollinshead clarified that the constituents made it clear during the budget season to not approve tax dollar donations. Council member Weathers asked what is the estimate of exposure. Rapid City Journal employee stated that they print 50,000 books were sold last year and this is the first year they will donate a book to ever airman on the base. Council member Weather asked that the Rapid City journal to provide potential return on investment for the books to the Finance Department. Motion by Allen, seconded by Hagel to defer to allow Council to consider the information that was provided by the Rapid City Journal. Vote aye: Unanimous.

17. PLANNING/ZONING DEPARTMENT: To discuss and decide action on first reading of Ordinance 572, Title 93 – General Nuisances. City Attorney Hagg stated that the changes made were to remove any mention of fireworks since it appears in another City ordinance. Council member Allen requested the removal of section U "Fireworks; (See section 93.08)." Planning & Zoning Director Koan also stated that anything that speaks to pyrotechnics will be removed from the ordinance. Motion by Allen, seconded by Cowley to remove anything that makes mention of Fireworks or Pyrotechnics. Vote aye: Unanimous.

18. PLANNING/ZONING DEPARTMENT: To discuss and decide action on single family home project at 493 Coyote Trail, building permit has expired. Legal Council Hagg recommended declaring the home a nuisance, secure the property and the City has the option to put a lien on the property. Planning and Zoning Director Koan recommended putting up a temporary construction site grade chain linked fence. Council member Weathers asked what is the City's responsibility based on the perceived danger. Council member Weathers and Hollinshead commented that a person could climb over a standard size fence, so if the City is going to move in that direction it should be a substantial fence to deter people from climbing over it. Council member Weathers asked what specifically is the Cities duty to it's citizens on how to proceed with the property. City Attorney Hagg stated that it depends on how much the Council wants to invest in the problem? In the short term, make the area safe so that we remove the danger. Council member Hollinshead commented that it would also be a good idea to consider the home owner's association. City Attorney Hagg said it may be a good idea to look at the covenants. Council member Hollinshead stated that he reviewed the covenants of the neighborhood and said it is

specific to completed property, it does not speak to developing property. Planning and Zoning Director Koan stated that if the Council moves to put up the fencing that we would fence the perimeter of the property, which would be my recommendation, in sixty days fill the hole in then when he comes in to pay the permit that he be required to leave the fence up until the house is built and accessible requiring the area be secured. If he walks away from the project, at least the area is secured and he can work through the fence then after that we can access the same cost back to him. Council member Weathers stated what if he states that he cannot work with the fence in place? Council member Allen stated that this fiasco has been going on for two years, we should lock down the property and make him show up at the next meeting. Motion by Weathers, seconded by Allen that the property has been declared a nuisance and a letter be sent to give him 72 hours to erect a fence or the City will erect a fence with the following specifications (chain link, like material and a minimum of six feet tall), that he needs to come a see Council, a new building permit needs to be paid in full or the hole will be filled and approval of the expenditures in the event the City needs to erect the fence. he is required to come see Council. Vote aye: Unanimous.

19. PLANNING/ZONING DEPARTMENT: To discuss and decide action on floodplain development permit application for the construction of the Harvest Time Baptist Church at 616 Box Elder Road West. Planning and Zoning Director Koan stated that this is regarding the Baptist Church that caught fire about a year and half ago; they have met all their obligations for the preapplication for flood plan development to building their new church. Motion by Hollinshead, second by Cowley to approve the permit. Vote aye: Unanimous.

20. PLANNING/ZONING DEPARTMENT: To discuss and decide action on rezoning a portion of Northern Lights Subdivision from Commercial and Agricultural to Highway Service. Planning and Zoning Director Koan stated that this portion of land is south of the Cheyenne boulevard from where the new well and tank is built back to the Rapid City, city limits. It is within our Master and Comprehensive plan and goes right along with the zoning. Mr. Estes stated that he is here to answer any questions. We held a public hearing in Planning Committee and there were no opposing comments. Its right in line with giving the same uses with the Rapid City mixed use commercial. Our recommendation is to recommend that zoning change. Mr. Estes state that he is here in case the Council has any questions. Council member Allen asked that he clarify how the drive way was going to go into that lot which was the discussion at the Planning and Zoning Committee meeting. Mr. Estes states that this piece will abut the piece of property at the Cheyenne circle, his thinking is to have the access to the west since it is a quite difficult crossing to the south of Cheyenne. Planning and Zoning Director Koan stated that access to the actual lot we platted a week ago, would come in on the road that goes up to the well tank into this property, which is east of the roundabout some distance. Other development back to the west inside the City limits would be a parallel road to Cheyenne boulevard anterior road. Motion by Hagel, second by Weathers to approve the rezoning. Vote aye: Unanimous.

21. PLANNING/ZONING DEPARTMENT: To discuss and decide action on Resolution 17-02, approving the zoning changes to the City official zoning map related to Northern Lights Subdivision, Zoning Amendment Application #160155. Motion by Allen, second by Hagel to approve the zoning changes. Vote aye: Unanimous.

22. DEPARTMENT HEAD REPORTS:

Mayor: Attended the Mayor's meeting at the Rapid City breakfast item that was discussed the change in the room tax. Discussion on Canyon state park; Attended meeting that recognized the City of Box Elder for entertaining the "In God We Trust" petition to our Council chambers. Attended the Ellsworth task force meeting where Matt McGrath and the biggest thing was the passage of the National Defense Authorization Act which authorizes which will infuse 619 billion for the Department of Defense. This will include 1.3r billion for long range Strike Bomber they are hoping they will come to the base. There will be no base closures 2017 and the upgrades to the B1 to the new system. Attended legislative breakfast on the Base which was basically a Q&A event. Most of what was discussed is all the new things that are going on in Box Elder (straightening the road Prairie view, new housing, new apartments, hotels and East Mall Drive project.

Police: 285 calls for service; of those calls for service 52 cases were generated; of those cases there were 11 arrest, of those 11 arrest there were several warrant arrest for possession of controlled substance, methamphetamine and possession of paraphernalia; there was on assault on one of our officers, the officer was not seriously injured however it did result in the first department deployment of our less lethal shot gun which was successful; there was one vehicle pursuit; there were 26 citations; 32 warnings and 22 accidents responded to. Now that I figured out how to run our statistics it's just in time because we have hired our Administrative Specialist who begins work tomorrow morning. She will plug into our training pipeline with some partner agencies dispatch, State's Attorney's office, Clerk of Courts and first and foremost with her counterparts at Finance. We are about half way through interviews for the new officer position; we had some promising candidates. So far, we have 11 candidates that pasted the testing and we should be done with interviews on Friday and make our final decision in the next two weeks.

Public Works: Received the completed water and sewer studies from KLJ Engineering; we have copies of those for whoever wants them; I will be putting together a summary page for Council; we also received back the Thunderbird drain study report; provided the City Attorney Hagg the copy of the Ferber Engineering contract for East Mall Drive this evening and clean-up week is scheduled for the week of April 7-27.

Finance: An updated sales tax report was provided for FY16 which reflect a hirer sales tax collection then what was anticipated. Council seat petition will be available to begin circulating on Friday, January 27. Signatures required are as follows: Ward 1 (including America's Way) 50 signatures, Ward 2, 50 signatures and Ward 3, 32 signatures. Hopefully, everybody got to see the Council Update for Finance, we are extremely busy and we have had a lot of staff out sick. We are very anxious to get FY15 and FY16 wrapped up. On the Council Update, there is mention that we are completing the Outstanding items report, that was completed today and entered into the system. Per the auditor recommendation (instead of waiting until we move into our new bank accounts), we have made the required updates to the bank accounts that we hope will be realized on our statements by the end of the month.

Planning & Zoning: Last year we had over 18 million dollars of value of building put into the community. Other than the anomalies (base housing) we are doing very well; we built 32 new homes; Liberty Landing is progressing with utilities; Preconstruction meeting with the developers with Freedom Landing tomorrow and then Cheyenne Pass will be expanding from the preliminary approvals they received from last year within the next couple of weeks; Mr. Estes is looking into expanding his area in the northern lights we will keep you updated on their progress.

City Attorney: None

23. COUNCIL REPORTS:

Allen: None

Cowley: None

Curry: None

Hegel: None

Hollinshead: None

Weathers: None

24. OTHER REPORTS:

Economic Development: Next meeting on January, Thursday 19.

25. CITIZEN INPUT: Allegations brought against Fire Board (meetings held on the 3rd) of business by the Fire Chief. If anybody has any questions about the businesses that the Fire Board patronizes we ask that people come to the Fire Board meetings.

26. EXECUTIVE SESSION: No need for an executive session.

27. ADJOURNMENT: There being no further business to be considered in front of the common council at 9:09 pm; motion by Weathers, seconded by Allen to adjourn. Vote aye: Unanimous.